RESIDENTIAL EVICTION INFORMATION FOR LANDLORDS

COURT CLERKS CANNOT GIVE LEGAL ADVICE!

Landlord/Tenant law is *very* complex and detailed. Most of the laws are in chapters 90 and 105 of the Oregon Revised Statutes (ORS). You must also follow other laws, procedures, and prior appellate court decisions, including the Oregon Evidence Code (OEC), the Uniform Trial Court Rules (UTCR), and the Oregon Rules of Civil Procedure (ORCP). (*www.courts.oregon.gov/rules/Pages/default.aspx*). If you do not follow the laws *exactly*, the court may order you to pay the tenant's lawyer fees. You are strongly urged to talk to a lawyer before you try to file an eviction on your own.

Contact the Oregon State Bar at 503.620.0222 or (in Oregon) 800.452.8260 or go to *www.oregonstatebar.org* for information and help finding a lawyer.

Following these instructions *will not* guarantee that you win your case. These instructions are general and may not apply in a given situation. YOU are responsible for getting legal advice about how to properly evict a tenant. These forms do NOT provide legal advice and the Oregon Judicial Department is not responsible for the outcome of your case if you rely on these forms.

The landlord is the *plaintiff*, and the tenant is the *defendant* throughout the case

A judgment for the plaintiff (landlord) will be for return of the property and the costs of filing and serving the complaint. To collect back rent or damages, you must file a separate civil complaint. A judgment for the defendants (tenants) generally means that they do not have to move out of the property. It may also include the cost of responding to the complaint and lawyer fees.

Court procedures may vary. Check with your local court

If the eviction is for nonpayment of rent, the court is required to dismiss your complaint if:

- You do not include the required *Notice re: Eviction for Nonpayment of Rent* available at www.courts.oregon.gov/forms
  - **NOTE:** The *Notice re: Eviction for Nonpayment of Rent* must also be served on the defendants. See "*How do you "serve" the defendant (tenant)"* section below.
- You cause the tenant to not pay rent, including failing to reasonably participate with a rental assistance program, *or*
- The unpaid amount is paid by the tenant or rental assistance. You can still collect filing fees from the tenant in this case.

First Appearance Date

The court clerk will usually set a court date for 7 -14 days (15 days for certain claims for nonpayment of rent) from the judicial day *after* you file and pay the filing fee. A judicial day is a day that the court is open for regular business.

If you eFile:

If you eFile your *Complaint* (see below for more information about eFiling), you can go online after your filing has been accepted to get the first appearance date.

To get your First Appearance date:

- Go to *https://publicaccess.courts.oregon.gov/PublicAccess/default.aspx*
- Select your filing county in the "All Locations" drop list
- Click "Search Calendar"
- Enter the case number you received in your confirmation email
- Enter a date range of about 2 weeks using MM/DD/YYYY format
- Click "Search"

Complete the *Summons* with the case number and the first appearance date and time, and any location information provided. Then serve it on the defendant along with the *Complaint* and any other documents you submitted to the court *(see next section about service)*.

If you print and file at the courthouse:

The clerk will give you the original *Summons* with the first appearance date on it, and copies of the *Complaint* for service on the defendant (tenant). Write the case number on the bottom of each page of each document.

HOW DO YOU "SERVE" THE DEFENDANT (TENANT)?

You must officially notify all defendants (tenants) that a case has been filed. This is known as service. Service rules are different for FED cases than for other cases. You must complete service by the end of the judicial day after the day you filed your *Complaint*.

1. **Personal Service:**
   a. By Process Server: Take a copy of the *Summons* and *Complaint* to the sheriff's office in the county where the property is located and have a sheriff's officer serve the defendant (tenant). 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 serve the papers. The server must be a resident of Oregon or the state where the defendant is. The server cannot be a party to the case (plaintiff or defendant), or the lawyer for a party. The server cannot be an employee of anyparty. If you have safety concerns, have the sheriff serve the papers.

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

A ***Certificate of Service*** must be completed and filed with the court by whoever serves the defendant (tenant). If the server is not a sheriff's officer, then you must also include the address and phone number of the server. This form is available online or at the court.

2. **Posting:** If the defendant (tenant) cannot be personally served, the process server may post the notice at the main entrance of the defendant (tenant)'s part of the premises. This means that if the property is an apartment, it must be posted on the front door of the *apartment*, not of the whole building.

Service must be completed by the end of the judicial day *after* you file the *Complaint*

Eviction laws have changed significantly in recent years. Be sure you review the laws and understand both your obligations and the tenant's rights at each stage of the process.

FIRST APPEARANCE and MEDIATION

- If the defendant (tenant) leaves the property before the court date, you have two options:
  - Go to court on the date specified and request a judgment and money award for your costs of filing and service ***or***
  - Have the case dismissed. Send a written notification *with your signature* to the court clerk, directing the court to dismiss your complaint.

You must appear at the time noted on the *Summons*. If you do not appear, the court will dismiss your case.

- If the defendant (tenant) does not move, does not appear in court, and has not reached an agreement with you, the judge may require the defendant (tenant) to leave the property and pay your costs. See the next section about the Servicemembers Civil Relief Act.
- If the defendant (tenant) *does* appear in court to oppose the eviction, the judge may require that you try to reach an agreement. Some courts may have a mediator available. Check with your local court to see if it offers this service. A mediator can help you resolve your dispute, but *cannot* make decisions for you or order either party to do anything. Mediation is confidential. If you do not reach an agreement, the defendant (tenant) will have to file an answer with the clerk, who will provide you with a copy. The case will then be set for trial on another day.
- **NOTE:** if you get a money judgment and the defendant (tenant) pays it, you MUST file a ***Satisfaction of Money Award*** with the court. This form is available online or at the court.

Servicemembers Civil Relief Act

The Servicemembers Civil Relief Act (SCRA) may apply to your case. This federal law may not allow you to get a default judgment if the defendant (tenant) does not respond. This law starts at 50 U.S.C. 3901. Your local law librarian can help you find it, or go to *www.law.cornell.edu*[*] (under *Get the Law* click *U.S. Code*, then click *Title 50* and *Chapter 50*). You must provide a ***Declaration of Non-Military Service*** before a judge can order a default. SCRA does not apply to all military servicemembers at all times. If a servicemember has signed the lease, you should see a lawyer before trying to evict.

If you know the defendant (tenant) is *not* in the military, you must state *facts* that explain how you know. Some things that are *not* supporting facts are: he has long hair, he has problems with authority, she does drugs, she's too old, or he is not a U.S. citizen. **Be aware** that if you make false statements about the defendant (tenant)'s status, you may face both federal and state penalties.

If you have the defendant (tenant)'s Social Security Number or date of birth, go to the Department of Defense website at *https://scra.dmdc.osd.mil/scra/#/home* to find out if the defendant (tenant) is in active service. This site can give you a free statement of service status that you can print out (called a "certificate of service" on the website). Bring this statement or a

[*] This is an outside site maintained by Cornell University. The Oregon Judicial Department is not responsible for any information on this site. Links may have moved.

printout of the screen to court. You can also call 571.372.1100 for military verification. Put the date and the name of the person you spoke with on your motion. If you don't have the Social Security Number or date of birth, commercial websites may be able to provide information.

If you don't know whether the defendant (tenant) is in the military and have checked the website, or don't have the necessary information, check "I am unable to determine whether this person is in military service" and add any facts that you *do* know. The judge will decide whether to grant the default.

YOU ARE STRONGLY ADVISED TO TALK TO A LAWYER IF A DEFENDANT (TENANT) IS IN THE MILITARY! Contact the Oregon State Bar at the number on Page 1 for help finding a lawyer.

TRIAL

At trial, the judge will hear evidence and testimony, and will make a decision (called the "judgment"). Both parties may present physical evidence (like photographs, rental agreements, and the eviction notice) and call witnesses. You may read from a prepared statement or refer to notes, but do not expect the judge to read your notes or any witness statements.

The plaintiff (landlord) must prove the case, so be prepared to show that you own or manage the property, and facts supporting eviction, including proof of proper notice. Anything you present to the court may be viewed by the other party and may become part of the public record. It may be possible to protect certain kinds of information from disclosure. Talk to a lawyer if you are concerned.

The Oregon Evidence Code (OEC) and Oregon Rules of Civil Procedure (ORCP) govern how to admit your evidence and what you need to prove. Talk to a lawyer about how to properly prove your case. You may believe that the facts are on your side, but if you don't follow proper court procedures, you may lose anyway. Links to these rules are on Page 1 of this form.

If the judge decides in favor of the defendant (tenant), the court may dismiss the case and require the plaintiff (landlord) to pay the defendant (tenant)'s costs and lawyer fees.

If the judge decides in favor of the plaintiff (landlord), the court may order the defendant (tenant) to leave the property (move out). The defendant (tenant) may also have to pay the plaintiff (landlord)'s costs and lawyer fees.

Go to *www.osbar.org/public/legalinfo/tenant.html* for information about what may happen after your judgment

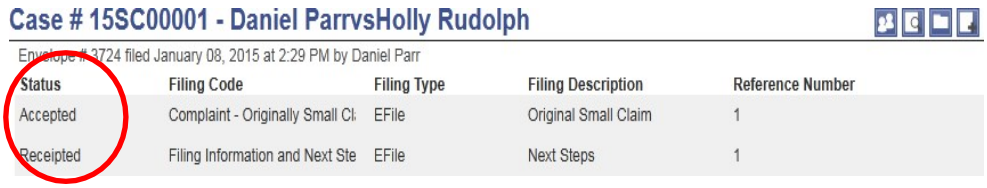
COURTROOM RULES: *These are general court rules. Judges may have additional rules.*

** Appropriate dress is required (see UTCR 3.010 and local court rules)*
**Caps and hats must be removed upon entering the courtroom*
**Food and drink are not allowed in the courtroom (including gum)*
**Weapons are not allowed in any part of the courthouse*
**Pagers, cell phones, and all other electronic devices that may disrupt court proceedings must be turned off (not just silenced, signals interfere with recordings)*
** Audio and video recording is not permitted without advance permission from the judge*

OJD eFiling Next Steps

If you chose to electronically submit your documents to the court, there are a few things you need to know.

1) eFiling happens through the Oregon Judicial Department File and Serve (File and Serve) system. Your Guide and File account gives you access to File and Serve, you don't have to register separately.
2) eFiled documents can take up to 3 business days to process.
3) You can view the status of your filing by logging into the File and Serve website at https://oregon.tylerhost.net/ofsweb


Case # 15SC00001 - Daniel ParrvsHolly Rudolph

Envelope # 3724 filed January 08, 2015 at 2:29 PM by Daniel Parr

Status	Filing Code	Filing Type	Filing Description	Reference Number
Accepted	Complaint - Originally Small Cl	EFile	Original Small Claim	1
Receipted	Filing Information and Next Ste	EFile	Next Steps	1

The statuses you might see are:

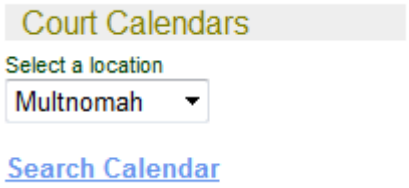
a. Submitting - The filing is in the process of being submitted to the court.
b. Submitted - You filing has been submitted to the court and is waiting for court staff to review your filing for acceptance.
c. Under Review - The court has begun reviewing your filing.
d. Accepted - The court has accepted your filing.
e. Rejected - The court has rejected the filing because it fails to comply with court rules or procedures. Review the rejection email for details. Speak to a lawyer if you don't understand why your filing was rejected or don't know how to fix it. NOTE: be aware of any filing deadlines that may apply to your case. Court staff cannot give you legal advice. If you have a deadline coming up, talk to a lawyer about how to handle your filing.
f. Processing - The filing is being added to the court's case management system.
g. Receipted - The filing is not a "filed" document, just information that is not sent to the court or part of the case record.

4) You will receive an email from File and Serve when your filing is submitted, and when it is accepted or rejected.
   a. If your filing is rejected your will need to resubmit your filing. OJD recommends you deliver a hard (paper) copy of your filing to the court if your eFiling is rejected.
   b. Emails come from no-reply@tylerhost.net. Make sure these emails do not go to your spam folder. Ask your internet or email provider about how to do this.
5) You can return to File and Serve directly to eFile your proofs of service and other documents later in your case. To learn more about how to use File and Serve go to https://oregon.tylerhost.net/ofsweb and watch the videos under the **TRAIN** section. There are specific court rules that apply to electronic filings. Those rules can be found at: http://www.courts.oregon.gov/utcr, under Uniform Trial Court Rules, Chapter 21.
6) You can also sign up to receive eService notifications through File and Serve. Follow the instructions on the next page. EService is NOT for court notifications, it allows other parties to serve you by email when they file something in this case. More information is below.

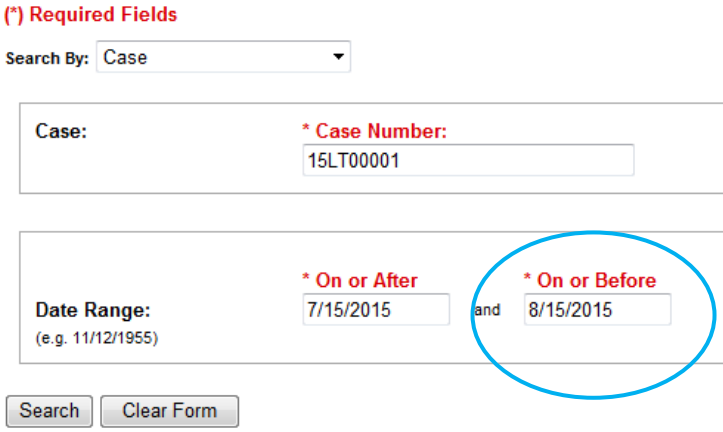
Completing the Summons

Once your filing is accepted by the court you will receive your case number and the court will schedule a hearing. After you receive your case number from the court, follow these steps to complete the ***Summons*** for service on the defendant:

1) On the *Residential Eviction Complaint* and *Summons* documents that you intend to serve the tenant, write in the case number.
2) You need to serve the *Residential Eviction Complaint* and *Summons* documents within certain timelines (See the information above for timelines). You will need to access the court's calendar or contact the court to find out your hearing date.
    a. To access the court's calendar:
        i. Go to: https://publicaccess.courts.oregon.gov/PublicAccess/default.aspx
        ii. Under Select a Location, select the court where you filed your case.



        iii. Click **Search Calendar**
        iv. In the **Case Number** field type your case number
        v. In the **On or Before** field, add 1 month to search for upcoming hearings (the "On or After" field should show the current date)

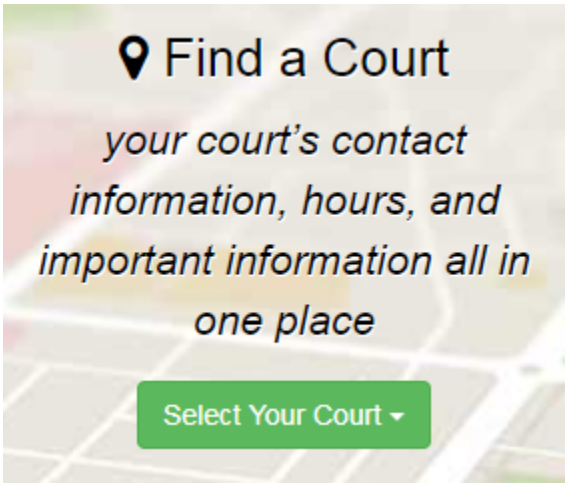


        vi. Click **Search**
        vii. The system will display the date, time and courtroom for the hearing
        viii. Write this information on the *Summons* in the appropriate area.
3) You can also find out your hearing date by contacting the court. Be sure to have your **Case Number** ready.

Residential Eviction (FED)

IMPORTANT: Your court may have specific procedures for **Residential Evictions (FED)** cases. For information on court-specific procedures go to: www.courts.oregon.gov

1) In **Find a Court**, click **Select Your Court .**



2) Click on the court's website link

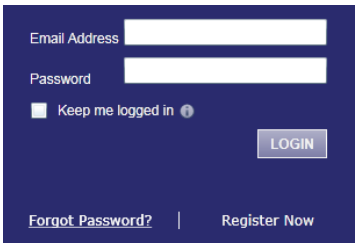
The court's website may have additional information regarding local **Residential Eviction (FED)** procedures. Check the blue list on the left-side of the page.

HOW TO SIGN-UP FOR ELECTRONIC SERVICE

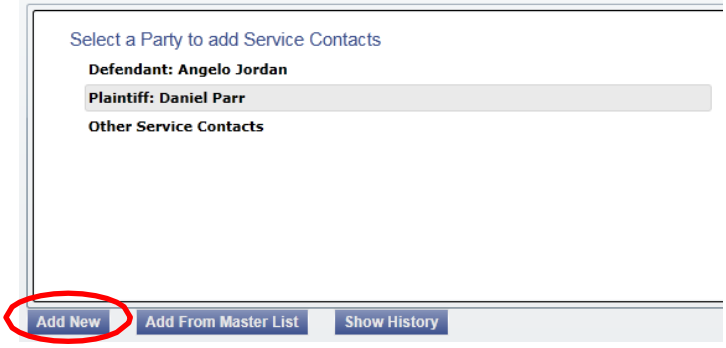
After you submit your filing electronically, you can choose to receive service from other parties on the case by email. File and Serve will send you emails when another party submits a response, motion, or other filing with the court and chooses to eServe you.

Follow these steps if you want other parties to be able to serve you electronically[1]:

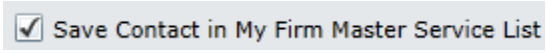
1) Go to the File & Serve website at https://oregon.tylerhost.net/ofsweb
2) Sign into File and Serve using the same user name and password you used when submitting your filing in Guide and File.



3) File and Serve will display a list of your filings.
4) Select the **Service Contacts** button  next to your filing to add your service contact information to the case. The *Manage Case Service Contacts* box will appear.
5) Select your name and click **Add New**.



6) Add your first and last name, and your email address. This is the email where you will receive *service* information from other parties. The court cannot send you notice of hearings or other information electronically.
7) To save your contact information to use in future cases select



8) Click **Save.**
9) You are now signed up to receive service of documents by email for that case.

[1] Note: eService will only apply to individual cases where you have selected eService by following these directions. If you have other cases – even with the same parties – you will continue to receive non-electronic service.

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

Case No:_____

Plaintiff (Landlord or Agent)

v.

RESIDENTIAL EVICTION SUMMONS

Defendant (Tenant or Occupant)

TO:_____
Street Address of Property Occupied by Defendant City State ZIP

_____
Mailing Address (if different)

NOTICE TO TENANTS:
READ THESE PAPERS CAREFULLY!
YOUR LANDLORD WANTS TO EVICT YOU

ON_____ AT_____A.M./P.M., you must come to court at the location below. You do not have to pay any fees to the court for this first hearing.

- If you *do not* appear in court and your landlord does, your landlord will win automatically and can have the sheriff physically remove you from the property.
- If you *do* appear in court and your landlord does not, the court will dismiss this case.
- If both of you appear in court:
  - The judge may ask you to try to reach an agreement with your landlord, but this is voluntary. Trained mediators may be available for free to help you resolve disputes.
  - If you and your landlord do not reach an agreement, the court will schedule a trial.
- If you are a veteran, help may be available from a county veterans' service officer or community action agency. Contact information is included below.
- Low-income tenants who have received a court summons about an eviction case may contact the Eviction Defense Project to seek free legal defense at (888) 585-9638 or e-mail *evictiondefense@oregonlawcenter.org*

IF YOU WANT A TRIAL, YOU MUST:

- Be in court at the time scheduled above. Allow time to get through security;
- On the same day, file an *Answer* with the court giving a *legal* reason why you should not be evicted. The court can give you a form or you can use the interactive form that can be efiled by going to *www.courts.oregon.gov/iforms*;

- Give a copy of the *Answer* to your landlord (or your landlord's agent or lawyer); **and**
- Pay a filing fee. The judge may defer payment if you are low-income. Go to *www.courts.oregon.gov* to see what the filing fee will be.

GO TO THIS LOCATION:

IF YOU HAVE QUESTIONS, YOU SHOULD SEE A LAWYER IMMEDIATELY. If you need help finding a lawyer, call the Oregon State Bar's Lawyer Referral Service at 503.684.3763 or toll-free in Oregon at 800.452.7636 or go to *www.oregonstatebar.org*. Veterans (and others) can call 2-1-1 for information and resources including veteran's services and community action agencies.

_____ _____
Signature of Plaintiff (landlord or agent) Dated

_____
Name of Plaintiff (printed)

_____
Address of Plaintiff

_____
Phone Number

(To be completed by Plaintiff)

Contact information for:

- **County veteran's service officer for the county where Defendant lives**

_____

_____

_____

_____ Phone: _____

- **Community action agency for the area where Defendant lives**

_____

_____

_____

_____ Phone: _____

NOTICE RE: EVICTION FOR NONPAYMENT OF RENT

THIS IS AN IMPORTANT NOTICE OF WHERE TO GET HELP IF YOU ARE FACING POTENTIAL EVICTION FOR NONPAYMENT

(Spanish) Este formulario está disponible en español en:
(Russian) Бланк этого документа можно получить на русском языке в:
(Vietnamese) Đơn này có bằng tiếng Việt tại:
(Traditional Chinese) 本表格的繁体中文版在:
(Korean) 한국어로 번역된 양식은 다음 웹 싸이트에서 찾을 수 있습니다:
https://www.courts.oregon.gov/forms/Pages/landlord-tenant.aspx

You must comply with deadlines identified in a notice of nonpayment or you risk losing your housing

Rental assistance and support services may be available. Dial 2-1-1 or go to www.211info.org to find a local service provider.

If you have a child under 1 year old living with you and you have been approved for rent assistance through Medicaid, you may be able to delay the eviction. See https://www.courts.oregon.gov/forms/Pages/landlord-tenant.aspx for more information.

Low-income tenants may be able to receive free or low-cost legal advice by contacting a legal aid organization. Go to https://oregonlawhelp.org/association-legal-aid-programs-oregon to find an office near you. The Oregon State Bar provides information about legal assistance programs at www.osbar.org/public

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

Case No: _____

_____
Plaintiff

v.

_____
Defendant

CERTIFICATE OF SERVICE
(ORCP 7D(2))

☐ (a) Personal Service
☐ (b) Substitute Service
☐ (c) Office Service
☐ (d) Service by Mail

I, *(name)*_____, declare that I am a resident of the state of _____. I am a competent person 18 years of age or older and not a party to or lawyer in this case. I certify that the person served is the person named below.

I served true copies of the original *Petition*, *Claim*, or *Complaint* and *Summons* (with attached notices of mediation and other information provided by the court clerk) and: *(name any additional forms served)* _____
_____

by (check a, b, c, or d and complete all information):

(a) ☐ **Personal Service** on *(date)*_____, at _____ a.m./p.m., to {☐ Plaintiff ☐ Defendant } _____ (*name*) in person at the following address _____ in the County of _____, State of _____.

(b) ☐ **Substitute Service** on *(date)*_____, at _____ a.m./p.m., by delivering them to the following address _____ in the County of _____, State of _____ . Delivered to (*name*)_____ _____, who is a person age 14 or older and who lives there.
(*Complete the section below only if the server also did the follow-up mailing required by ORCP 7D(2)(b). If a person other than the server did the follow-up mailing, that person must complete a separate Certificate of Service Mailing.)*

☐ On *(date)*_____, I personally deposited a true copy of the same documents served with the U.S. Postal Service, via first class mail, in a sealed envelope, postage paid, addressed to the party to be served: ☐ Plaintiff ☐ Defendant _____ _____(*name*), at the party's home address listed above, together with a statement of the date, time and place that the documents were hand-delivered to the party's dwelling (residence).

(c) ☐ **Office Service** on *(date)*_____, at _____ a.m./p.m., by delivering them to the office of the party to be served, located at: _____ _____ (*address*), during normal working hours for that office, where I left the documents with _____ (*name*), who is a

person apparently in charge, to give the documents to the party to be served.
(*Complete the section below only if the server also did the follow-up mailing required by ORCP 7D(2)(c). If a person other than the server did the follow-up mailing, that person must complete a separate Certificate of Service Mailing.)*

☐ On *(date)*_____, I personally deposited a true copy of the same documents served with the U.S. Postal Service, via first class mail, in a sealed envelope, postage paid, addressed to the party to be served: ☐ Plaintiff ☐ Defendant (*name*) _____ _____, at the party's: ☐ home address at: _____ _____, ***OR*** ☐business address above, together with a statement of the date, time and place that the documents were hand-delivered to the party's office.

(d) ☐ **Service by Mail, Return Receipt Requested** on *(date)*_____, I personally deposited **two** true copies with the U.S. Postal Service. **One** by first class mail, and the **other** by certified or registered mail, Return Receipt Requested, or by express mail, postage paid, addressed to the party to be served: ☐ Plaintiff ☐ Defendant _____ (*name*), at the party's home address located at:_____ _____(*address*). *(NOTE: If mailed Return Receipt Requested, the return receipt must be attached to this Certificate of Service.)*

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

_____ _____
Date Signature of Server

_____
Print Name

If person serving is NOT a sheriff or sheriff's deputy, address and phone number of server:

_____

_____

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

_____

_____
Plaintiff

v.

_____

_____

_____

_____
Defendant

Case No: _____

DECLARATION OF NON-INCAPACITATED DEFENDANT and NON-MILITARY SERVICE

To my knowledge, the following defendant *(full name)*_____ was served with a *Summons*, initial pleading (*Complaint, Petition*, etc.) and other documents required by law. Defendant has not made an appearance within the time required by law or notified me of intent to appear ***and*** *(check all that apply)*:

Capacity Status:

☐ Defendants is not now, and was not at the time of service, incapacitated, a minor, a financially incapable person, a protected person, or a Respondent in a fiduciary protective proceeding, as defined by ORS 125.005

Military Status:

☐ Status reports attached confirming that Defendant is not in active military service of the United States

or

☐ I am unable to confirm if Defendant is in active military service of the United States. *Provide facts you do know*

For residential evictions only: ☐ Defendant is not a dependent of someone who is in active military service of the United States a*nd* the monthly rent amount does not exceed the CPI-adjusted limit of *(enter current year rental cap)* $_____[1]

☐ Defendant is in active military service of the United States and has waived SCRA default protections. A waiver of protection is attached.

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

_____ _____
Date Signature

_____
Name (printed)

_____
Contact Address City, State, ZIP Contact Phone

[1] Consumer Price Index (CPI) - This amount is updated annually and published in the Federal Register. Go to https://www.federalregister.gov/ and search for "servicemember's civil relief act rent." Be sure you select the link for the year in which you file your *Complaint*.