

FILING FOR CONTEMPT



Important Contact Information

CLACKAMAS COUNTY CIRCUIT COURT –

<https://www.courts.oregon.gov/courts/clackamas/Pages/default.aspx>

Oregon State Bar Lawyer Referral Service - <https://www.osbar.org/public/>

Phone: 503.684.3763 or toll-free in Oregon at 800.452.7636



If you are deployed or about to be deployed, contact the Oregon State Bar Military Assistance Panel (www.osbar.org/docs/ris/militaryflier.pdf) for information about special rights and rules that may apply to you.

What these forms do

These contempt forms may be used when one party thinks that another party has failed to comply with (obey) a court order or judgment. The other party may be able to avoid contempt sanctions by complying with that order or judgment.

These forms are for “remedial” sanctions only. “Punitive” sanctions may be requested only by certain authorized lawyers. (*Remedial sanctions that can be requested are listed in paragraph 3 of the Complaint, Declaration in Support, and Ex Parte Motion for Order to Show Cause Re: Contempt.*)

In a contempt proceeding, the party filing the Complaint is the Plaintiff. The other party is the Defendant.

NOTE: Oregon Law does not allow contempt actions for the nonpayment of money, except for support and attorney fees in family law matters. You may have other remedies for a Defendant’s failure to pay other money owed to you under a court order or judgment.

If Both Parties Already Agree

If you both agree on a remedy for the violation, you may be able to file a stipulation (agreement). Call the court to find out how to do that.

IF YOU ARE THE COMPLAINING PARTY (Plaintiff):



Information about Contempt (Remedial)

- 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. Some child-related payments may have a longer deadline for filing.

- In a domestic relations (family law) case:
 - These forms **may** be used to enforce:
 - spousal support awards
 - orders or judgments about payment of a child's uninsured medical costs
 - other extra child-related payments separate from the monthly child support amount
 - orders requiring delivery or return of personal property or a party's signature on documents
 - These forms **may not** be used to enforce:
 - cash child support awards
 - If you have cash child support award enforcement issues, the Oregon Child Support Program may be able to help
 - If you are already receiving services from the Oregon Division of Child Support, contact the office handling your case, Customer Service at (800) 850-0228 (inside Oregon) or (503) 378-5567 (outside Oregon), or ask through your online account.
 - If you are receiving services through a District Attorney's office, contact that office
 - If you would like to enroll in child support services, contact the Oregon Child Support Program Customer Service at (800) 850-0228 or enroll in services online at <http://www.oregonchildsupport.gov>
 - You also could contact a lawyer or licensed paralegal for assistance.
 - custody or parenting time orders
 - For issues about parenting time enforcement, you can use other forms available on the Oregon Courts website for that purpose. Otherwise, contact a lawyer or licensed paralegal for custody or parenting time issues.
 - any of the following orders or judgments, and you should contact a lawyer or licensed paralegal for these issues:
 - dissolution (divorce) judgments that require either party to pay the other party money as a part of the division of property and debts
 - Any other judgment involving nonsupport money awards (except for attorney fees)

- If you ask for a sanction of confinement (jail):
 - Even if you do not have a lawyer, Defendant has the right to a court-appointed lawyer, if Defendant cannot afford to pay for a lawyer. The process to appoint a lawyer could delay the proceeding.
 - You will need to attend additional court dates. If the court hears testimony at a hearing, the Defendant may have the right not to testify.
 - The court will determine whether confinement should be ordered. You should be aware that confinement is usually not ordered in remedial contempt proceedings.

STEP 1: FILLING OUT FORMS

- **Use black or dark blue ink. Print or type when you fill out your forms.**
- **File the original forms with the clerk.** You should always make yourself an extra copy before you file any form with the clerk.
- **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.
- **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 are the Plaintiff, and the other party is the Defendant.
- **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.
- **Underlying Case.** In the first paragraph of the Complaint, you must include the case number from the underlying judgment or order you are seeking contempt about, and say whether you are the petitioner or respondent in that case.
- **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. The court may instead waive (cancel) your fees.

You must fill out the following forms:



Starting your Case. You must fill out the following forms:

1. *Complaint, Declaration in Support, and Ex Parte Motion for Order to Show Cause re Contempt.* Fill in the case caption at the top of the page and each section of the form. 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. Sign and date the form.

2. When you file the forms with the court, the clerk will issue an *Order to Show Cause* which will order the responding party to appear in-person for a court hearing.



Have your documents reviewed

You may want to have your documents reviewed before you file. For information about how to find a lawyer or licensed paralegal, call the Oregon State Bar at the number on Page 1. If you are low-income, you might be able to get your documents reviewed for a smaller fee through the Oregon State Bar's Modest Means program. Your local Legal Aid office might review documents for free if you qualify. Facilitators may be available for free in your court; you may have to make an appointment. Call your court for information.



Make copies

Make one copy of **all** of the forms for your records. **You will also need one or two extra copies:** one copy to serve on Defendant, and one copy to serve on Defendant's lawyer if Defendant has a lawyer in the underlying circuit court case. You will need copies of your *Complaint, Declaration, and Motion*, as well as the *Order to Show Cause* once the clerk issues it.

STEP 2: FILING AND SERVICE



File your forms

- **Where to File** - File in the circuit court that entered the judgment or order you are trying to enforce
 - Talk to a lawyer or use the forms packet for Changing Venue (County) for Trial, available on the court's website, if you want your complaint heard in another county.

File your forms with the court clerk. You will have to pay the filing fee when you file your papers. Go to http://courts.oregon.gov/OJD/selfhelp/pages/fee_information.aspx for the filing fee.

- If you are low income, you may ask the court to defer (postpone) or waive your filing fee. You must complete an ***Application and Declaration for Deferral or Waiver of Fees*** and an ***Order Regarding Deferral or Waiver of Fees*** and file them with your papers. If the fee is deferred, you will have to pay the fee later. If the fee is waived, you don't have to pay it now. However, the judge may reconsider waived and deferred fees at the end of the case.



Serving Defendant and Defendant's Lawyer or Licensed Paralegal.

After the judge has signed the *Order to Show Cause re: Contempt*, you must make sure Defendant is "served" with a "true copy" of the *Complaint, Declaration in Support, and Ex Parte Motion for Order to Show Cause re Contempt*. This delivery to Defendant, called "service," tells the Defendant that the court will hold a hearing and that they have a right to appear and challenge your *Complaint*. Service must be done **after** the *Order* is signed.

If Defendant is represented by a lawyer or licensed paralegal in the underlying case, you must also mail the papers to the lawyer or licensed paralegal. Complete the *Service on Defendant's Lawyer or Licensed Paralegal* section.

Acceptance of Service – Defendant can agree to accept service of the *Complaint*. If Defendant agrees to accept service, you must have them sign an *Acceptance of Service* form when you give them the papers. If Defendant signs an *Acceptance of Service* form, no other type of service is required (unless they have a lawyer or licensed paralegal). Signing the *Acceptance of Service* does *not* mean Defendant agrees with anything in your *Complaint*, only that they received the papers. You must still file the papers with the court before you give the copies to Defendant.

Formal Service

If Defendant does not sign the *Acceptance of Service*, you must use another method

More information about service (including how to serve someone in jail and special rules for military personnel) is available here:

<https://www.courts.oregon.gov/programs/family/selfhelp/Documents/HowToServeLegalPapers.pdf>

****3 CRITICAL POINTS****

1. If you serve before you file and before the judge has signed the *Order to Show Cause re: Contempt*, you will have to serve the papers again
2. You **CANNOT** serve the papers yourself
3. If Defendant has a lawyer or licensed paralegal in **this contempt case**, you should also mail a courtesy copy of the papers to the lawyer or licensed paralegal

Personal Service:

- a. **By Process Server:** Take a copy of your papers to the sheriff's office in the county where the other party 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

other party is outside of Oregon, the server can be a resident of the state where the other party 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.

If you are not able to have Defendant personally served in either of the ways above, you may ask a judge to allow you to use another service method ("Alternative Service"). Forms to make this request are available online at <http://courts.oregon.gov>.

Substitute Service:

If Defendant previously signed a *Waiver of Personal Service* as part of the judgment or order that you're enforcing, use "substitute service" instead. Have a qualified process server leave the papers at Defendant's residence (where they normally live) with someone 14 or older who lives there. The process server must also mail a copy of the papers (with a statement of the date, time, and place that the papers were served) to the other party by first class mail. The date of service is the day the first class mailing is put in the mail.

Note: if the Waiver of Personal Service specifies a different type of service, follow what the waiver says

A ***Certificate of Service*** must be filed with the court by whoever serves the other party. The certificate must include the date of service and the name of the person served. The Certificate is your *proof of service*. If a certificate of service is not received by the court within **63 days** of filing your *Complaint*, the court may send you a notice of dismissal.

STEP 3: RESOLVING YOUR CASE

Go to court and attend the hearing at the time it is scheduled with the witnesses and evidence you want the Judge to consider. 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 make the other party appear in court. At the hearing, the judge will either grant or deny the relief requested in whole or in part. You are required to attend all scheduled court appearances.

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

Case No:

Plaintiff,

and

Defendant.

**COMPLAINT, DECLARATION IN
SUPPORT, AND 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. The _____ County Circuit Court entered an order or judgment the Defendant has failed to follow.
 - A. Title of Order or Judgment: _____
 - B. Date Entered: _____
 - C. The underlying case number is _____, in which I am Petitioner/Plaintiff Respondent/Defendant.
 - D. I describe below how the Defendant has failed to follow this order or judgment.
 - E. Defendant has had the power to follow the court's order or judgment.
 - F. I seek remedial sanctions as set forth below.
 - G. 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 (Allegations):

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

Allegation 1: On or about _____ (date), the Defendant failed to comply with the terms of the order or judgment as follows: _____

Allegation 2: On or about _____ (date), the Defendant failed to comply with the terms of the order or judgment as follows: _____

Allegation 3: On or about _____ (date), the Defendant failed to comply with the terms of the order or judgment as follows: _____

Additional Page Attached (*if needed to list more allegations*)

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: _____

- 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.
- C. An order designed to ensure compliance with a prior order of the court. Explain type of order requested: _____

- D. Payment of all or part of attorney fees incurred by Plaintiff as result of Defendant's contempt of court in the amount of \$ _____
- E. Other: _____

I therefore request the relief set forth above. The allegations in my Complaint and Declaration are true, my Motion is based on those allegations, and it is just and reasonable to grant the relief requested.

Statement of Points and Authorities

ORS 33.015(2)(b) defines "contempt" as the willful disobedience of court orders or judgments. ORS 33.105(1)(a, c-f) allows the court to impose one or more of the following sanctions: payment of a sum of money sufficient to compensate a party for the loss, injury, or costs suffered by the party as the result of contempt; 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; an order designed to ensure compliance with a prior order of the court; payment of all or part of attorney fees incurred by a party as the result of contempt; and a sanction other than the sanctions specified in (a) to (e) if the court determines that the sanction would be an effective remedy for contempt.

Ex Parte Motion

I, Plaintiff request that the Court issue an Order to Show Cause requiring Defendant to appear in the _____ County Circuit Court, Oregon to show cause why this court should not find Defendant in contempt of court and so should impose remedial sanctions for non-compliance with the above-referenced order or judgment entered by the Court.

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

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

Case No: _____

Plaintiff

v.

CERTIFICATE OF SERVICE

Defendant

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

I certify that:

- The person served who is described in the "Service on Defendant" section is the Defendant named above, and
- (check if applicable) The person served who is described in the "Service on Defendant's Lawyer or Licensed Paralegal" section is Defendant's lawyer or licensed paralegal in the underlying circuit court case

I certify that I served a true copy of the *Complaint, Declaration in Support, and Ex Parte Motion for Order to Show Cause Re: Contempt*, and the *Order to Show Cause Re: Contempt*

and (name any other forms or documents served) _____

Service on Defendant, by

Rule 7 **Service on Defendant by:**

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

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.

Substitute service was permitted because the Defendant waived personal service.
(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.)

Also, 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 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).

Other service as ordered on (date) _____, at _____ a.m./p.m., by (explain): _____

and

(Complete if applicable)

Service on Defendant's Lawyer or Licensed Paralegal, by:

Rule 9 **Service on Defendant's lawyer or licensed paralegal in the underlying circuit court case:**

(name) _____

By first class mail at (address) _____

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:

(Address of server)

(Phone number of server)

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

Plaintiff
v.

Defendant

Case No:

**GENERAL JUDGMENT
Re: REMEDIAL CONTEMPT**

THIS MATTER CAME BEFORE THE COURT

On Plaintiff's Complaint and Motion for Order to Show Cause Re: Remedial Contempt, at a hearing held on _____, at which the following persons were present:

- Defendant APPEARED with counsel without counsel
 Defendant was advised of the right to counsel waived the right to counsel

FINDINGS:

The court considered the: Documents on file herein; Evidence presented, and found that

- a. Plaintiff's action for the imposition of remedial sanctions for contempt was was not commenced within two years or less of the act(s) or omission(s) constituting the contempt.
- b. 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

c. In relation to the allegations in Plaintiff's Complaint, the Defendant is found:

- Allegation 1: In contempt Not in contempt
Allegation 2: In contempt Not in contempt
Allegation 3: In contempt Not in contempt

Additional Allegations are listed on the next page, labeled "Allegations continued..."

THE COURT ORDERS

The relief requested in the *Remedial Contempt Complaint* is:

- DENIED. The Complaint is DISMISSED.
- GRANTED. The following remedial sanctions shall be imposed upon Defendant for 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 ensure 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 \$_____ or
 as determined under ORCP 68 procedures.

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)		
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"/> _____ _____ _____	
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	

Post-judgment Interest	WHO PAYS <input type="checkbox"/> Defendant	Nine percent (9%) 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	
Attorney 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)