

# Vacate Judgment/Order of Dismissal or Order for Default Instructions

This packet is for a person who is requesting to remove the Judgment of Dismissal or an Order for Default from their case.

## STEP 1

- Fill out the *Motion for Order to Vacate Judgment/Order of Dismissal/Order of Default and Declaration in Support* (**MOTION**).
- Fill out the Certificate of Mailing (**CERTIFICATE**).
- Fill out and sign the Notice of Proposed Judgment or Order (**NOTICE**).
- Make two copies of the **MOTION**, **CERTIFICATE**, and **NOTICE**. One copy will need to be sent to the other party and the other copy is for your records.

## STEP 2

- File the **original MOTION** and **CERTIFICATE** with the court clerk.

## STEP 3

- Wait 7 days from mailing the **MOTION** to the other party.
- Fill out the *Order to Vacate Judgment of Dismissal/Order of Default* (**ORDER**).
- Make two copies of the **ORDER**. One copy will need to be sent to the other party and the other copy is for your records.
- File the **ORDER** with the Court.

## STEP 4

- Contact the Courts to see if your **ORDER** was signed. Your case is reopened if the judge allowed your request and signed your **ORDER**. You may now continue your case.

If the judge did not allow your request, you may need to consult an attorney if you do not know how to proceed.



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

Case No: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

and

\_\_\_\_\_  
Respondent

and

\_\_\_\_\_  
Unmarried children 18, 19, or 20 years old (per ORS 107.108) (full names)

**MOTION FOR ORDER TO VACATE**  
 **JUDGMENT/ORDER OF DISMISSAL**  
 **ORDER OF DEFAULT**  
**and DECLARATION IN SUPPORT**

**Motion**

The court **dismissed the petition/motion on** \_\_\_\_\_;  
(Date Judgment/Order of Dismissal was signed)

**OR**

The court granted the **Motion for Default on** \_\_\_\_\_;  
(Date Order of Default was signed)

The  petitioner  respondent moves for an order vacating the  **Judgment/Order of Dismissal**  
 **Order of Default** and has set forth good cause for a finding of excusable neglect.

**Statement of Points and Authorities**

**ORCP 71 – (B)** Mistakes; inadvertence; excusable neglect; newly discovered evidence, etc.  
**ORS 107.431 – (a)** Motion to set aside, alter or modify is made by the parent having parenting time rights.

**Declaration**

I request the court vacate the  **Judgment/Order of Dismissal**  **Order of Default** because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I did not file the appropriate documents by the agreed or ordered deadline because:

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**Certificate of Document Preparation.** Check all that apply:

- I chose this form for myself and completed it without paid help
- A legal help organization helped me choose or complete this form, but I did not pay money to anyone
- I paid(or will pay) \_\_\_\_\_ for help choosing, completing, or reviewing this form

**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

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Contact Address

\_\_\_\_\_  
City / State / ZIP

\_\_\_\_\_  
Contact Phone

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

Case No: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

**CERTIFICATE OF MAILING**

and

\_\_\_\_\_  
Respondent

and

\_\_\_\_\_  
Unmarried children 18, 19, or 20 years old (per ORS 107.108) (*full names*)

I certify that on \_\_\_\_\_, 20\_\_\_\_\_, I mailed a true copy of: Motion to Vacate  Judgment/Order of Dismissal  Order of Default previously filed in this case:

to the other party directly, at the following address, because s/he has no attorney:

to the other party's attorney \_\_\_\_\_ at the following address  
(Name of other party's attorney)

Mailing was done by  first class mail and by  certified or  registered mail, return receipt requested, or  express mail.

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- I paid(or will pay) \_\_\_\_\_ for help choosing, completing, or reviewing this form

**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

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Contact Address

\_\_\_\_\_  
City / State / ZIP

\_\_\_\_\_  
Contact Phone

## **NOTICE OF PROPOSED JUDGMENT OR ORDER**

*To be sent to all other parties before submitting proposed Judgment or Order to the court for signature. Send the Judgment or Order to the other party with this Notice at least 7 days before submitting it to the court. This does not apply to judgments submitted with a Motion for Order of Default or after and Order of Default has been granted.*

This notice is to inform you that you can object to the attached proposed *Judgment* or *Order*.

Uniform Trial Court Rule (UTCRR) 5.100<sup>a</sup> allows you to object to the proposed judgment or order. If you have no objections, you can sign the last page and return it to me.

**If you do object to any of the terms of the judgment or order, you may:**

**1) Contact me within 7 days of the date of this notice.** If you contact me and we are not able to resolve your objections after reasonable efforts, I will include your objections with the proposed judgment or order when I submit it to the court.

or

**2) Submit your objections directly to the court.** If you intend to submit your objections directly to the court, notify me within 7 days of the date of this notice so that I can inform the court of your intentions when I submit the proposed judgment or order. If you do object to the proposed order or judgment, you must contact me within 7 days of the date of this notice.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Address

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

\_\_\_\_\_  
Phone

<sup>a</sup> <http://courts.oregon.gov/OJD/programs/utcr/pages/utcrrules.aspx>

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

Case No: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

and

\_\_\_\_\_  
Respondent

**ORDER TO VACATE**

**JUDGMENT/ORDER OF DISMISSAL**

**ORDER OF DEFAULT**

and

\_\_\_\_\_

Unmarried children 18, 19, or 20 years old (per ORS 107.108) (*full names*)

**The court finds that:**

the moving party requested this relief **less than 30 days** after the Judgment/Order of Dismissal/Order of Default was entered and has set forth good cause for a finding of excusable neglect;

the moving party requested this relief **more than 30 days** after the Judgment/Order of Dismissal/Order of Default was entered and has set forth good cause for a finding of excusable neglect; and the court further finds that there is good cause to grant the relief despite the passage of more than 30 days since the dismissal/default in this case

NOW, THEREFORE, the  Judgment/Order of Dismissal  Order of Default entered on \_\_\_\_\_ is hereby vacated and the proceeding is reinstated.

The motion is **denied**.

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

\_\_\_\_\_  
Circuit Court Judge

**Certificate of Readiness under UTCR 5.100**

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

Each party affected by this order has **stipulated** to or **approved** the order, as shown by the signatures on the order, or by written confirmation sent to me.

I have **served** a copy of this order and the *Notice of Proposed Judgment or Order* on all parties entitled to service. **And:**

No objection has been served on me within the 7-day 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 (*name*) \_\_\_\_\_ 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 *order* in the United States mail to *(name)* \_\_\_\_\_ at *(address)* \_\_\_\_\_

**Certificate of Document Preparation.** Check all that apply:

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- A legal help organization helped me choose or complete this form, but I did not pay money to anyone
- I paid (or will pay) \_\_\_\_\_ for help choosing, completing, or reviewing this form

**Submitted by:**

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Submitting Party, *Print Name* Telephone or Contact Telephone

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Address or Contact Address City / State / Zip