



Oregon Rules of Civil Procedure
Legislative Amendments 1979-2023

ORCP 69



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Lewis & Clark Law School | Oregon Council on Court Procedures

Rule 69 – Default Orders and Judgments

§	Latest Amendment
A	Or. Laws 2003 c.194 § 13.
B	Or. Laws 2003 c.194 § 13
C	Or. Laws 2019 c.17 § 2
D	Unamended
E	Unamended

Or. Laws 1981 c.898 § 8

Amends Rule 69(B)

- A. [Unamended]
- B. **Entry of default judgment.**
- By the clerk.** [Full section text unamended]
 - [Unamended]
 - [Unamended]
 - [Unamended]
 - The party against whom judgment is sought is not **an infant a minor** or **incompetent an incapacitated** person and such fact is shown by affidavit;
 - [Unamended]
 - [Unamended]
 - Summons was personally served within the State of Oregon upon the party, or an agent, officer, director, or partner of a party, against whom judgment is sought pursuant to Rule 7 D.(3)(a)(i) ~~or~~, 7 D.(3)(b)(i), **7 D.(3)(e) or 7 D.(3)(f)**. The judgment entered by the clerk shall be for the amount due as shown by the affidavit, and may include costs, **and** disbursements, **and** attorney fees entered pursuant to Rule 68.
 - By the court.** In all other cases, the party seeking a judgment by default shall apply to the court therefor, but no judgment by default shall be entered against **an infant a minor** or **incompetent an incapacitated** person unless they have a general guardian or they are represented in the action by another representative as provided in Rule 27. If the party against whom judgment by default is sought has appeared in the action, ~~such party~~ **or if the party seeking judgment has received notice that the party against whom judgment is sought is represented by an attorney in the pending proceeding, the party against whom judgment is sought** (or, if appearing by representative, such party's representative) shall be served with written notice of the application for judgment at least 10 days, unless shortened by the court, prior to the hearing on such application. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearing, or make an order of reference, or order that issues be tried by a jury, as it deems necessary and proper. The court may determine the truth of any matter upon affidavits.
 - [Unamended]
- C. [Unamended]
- D. [Unamended]

H.B. 3261

Or. Laws 1981 c.898 § 8

House Introduction

6/5/81

A-Engrossed Bill

6/23/81 – Passed unamended in House

7/17/81 – Passed with amendments in Senate (per Justice Committee recommendation)

7/24/81 – House refused to concur with Senate Amendments; Conference Committee formed

Conference Committee Bill

8/1/81 – House adopted and repassed Conference Committee Bill

8/1/81 – Senate adopted and repassed Conference Committee Bill

Governor signed Enrolled Bill

8/22/81

Or. Laws 1995 c.79 § 406
Amends Rule 69(B)

- A. [Unamended]
- B. **Entry of default judgment.**
 - 1. **By the court or the clerk.** [Full section text unamended]
 - a. [Unamended]
 - b. [Unamended]
 - c. [Unamended]
 - d. The party against whom judgment is sought is not a minor or an incapacitated person as defined by ORS 126.003 (↔) and such fact is shown by affidavit;
 - e. [Unamended]
 - f. [Unamended]
 - g. [Unamended]
 - 2. **By the court.** In all other cases, the party seeking a judgment by default shall apply to the court therefor, but no judgment by default shall be entered against a minor or an incapacitated person as defined by ORS 126.003 (↔) unless the minor or incapacitated person has a general guardian or is represented in the action by another representative as provided in Rule 27. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearing, or make an order of reference, or order that issues be tried by a jury, as it deems necessary and proper. The court may determine the truth of any matter upon affidavits.
 - 3. [Unamended]
 - 4. [Unamended]
- C. [Unamended]
- D. [Unamended]

S.B. 851 [Passed Unamended]
Or. Laws 1995 c.79 § 406

Or. Laws 1995 c.664 § 101
Amends Rule 69(B)

- A. [Unamended]
- B. **Entry of default judgment.**
 - 1. **By the court or the clerk.** [Full section text unamended]
 - a. [Unamended]
 - b. [Unamended]
 - c. [Unamended]
 - d. The party against whom judgment is sought is not a minor or ~~an incapacitated person as defined by ORS 126.003 (4)~~ **a person who is incapacitated or financially incapable, as defined by section 1 of this 1995 Act**, and such fact is shown by affidavit;
 - e. [Unamended]
 - f. [Unamended]
 - g. [Unamended]
 - 2. **By the court.** In all other cases, the party seeking a judgment by default shall apply to the court therefor, but no judgment by default shall be entered against a minor or ~~an incapacitated person as defined by ORS 126.003 (4)~~ **a person who is incapacitated or financially incapable, as defined by section 1 of this 1995 Act**, unless the minor or ~~incapacitated~~ person has a general guardian or is represented in the action by another representative as provided in Rule 27. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearing, or make an order of reference, or order that issues be tried by a jury, as it deems necessary and proper. The court may determine the truth of any matter upon affidavits.
 - 3. [Unamended]
 - 4. [Unamended]
- C. [Unamended]
- D. [Unamended]

S.B. 61

Or. Laws 1995 c.664 § 101

Senate Introduction

1/9/95

A-Engrossed Bill

4/14/95 – Passed with amendments in Senate (per Judiciary Committee recommendation)

5/29/95 – Passed with amendments in House (per Judiciary Committee and Civil Law and Judicial Administration Subcommittee recommendation)

B-Engrossed Bill

6/1/95 – Senate concurred with House amendments and repassed bill

Governor signed Enrolled Bill

7/18/95

Or. Laws 2001 c.418 § 1
Amends Rule 69(B)

- A. [Unamended]
- B. **Entry of default judgment.**
 - 1. **By the court or the clerk.** [Full section text unamended]
 - a. [Unamended]
 - b. [Unamended]
 - c. [Unamended]
 - d. ~~The party against whom judgment is sought is not a minor or a person who is incapacitated or financially incapable, as defined by ORS 125.005, and such fact is shown by affidavit;~~ The party seeking judgment submits an affidavit stating that, to the best knowledge and belief of the party seeking judgment, the party against whom judgment is sought is not incapacitated as defined in ORS 125.005, a minor, a protected person as defined in ORS 125.005 or a respondent as defined in ORS 125.005;
 - e. [Unamended]
 - f. [Unamended]
 - g. [Unamended]
 - 2. ~~By the court. In all other cases, the party seeking a judgment by default shall apply to the court therefor, but no judgment by default shall be entered against a minor or a person who is incapacitated or financially incapable, as defined by ORS 125.005, unless the minor or person has a general guardian or is represented in the action by another representative as provided in Rule 27.~~ **By the court.** In cases other than those cases described in subsection (1) of this section, the party seeking judgment must apply to the court for judgment by default. The party seeking judgment must submit the affidavit required by subsection (1)(d) of this section if, to the best knowledge and belief of the party seeking judgment, the party against whom judgment is sought is not incapacitated as defined in ORS 125.005, a minor, a protected person as defined in ORS 125.005 or a respondent as defined in ORS 125.005. If the party seeking judgment cannot submit an affidavit under this subsection, a default judgment may be entered against the other party only if a guardian ad litem has been appointed or the party is represented by another person as described in Rule 27. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearing, or make an order of reference, or order that issues be tried by a jury as it deems necessary and proper. The court may determine the truth of any matter upon affidavits.
 - 3. [Unamended]
 - 4. [Unamended]
- C. [Unamended]
- D. [Unamended]

H.B. 2382

Or. Laws 2001 c.418 § 1

House Introduction

1/12/01

A-Engrossed Bill

4/27/01 – Passed with amendments in House (per Judiciary Committee and Civil Law Subcommittee recommendation)

5/30/01 – Passed unamended in Senate

Governor signed Enrolled Bill

6/18/01

Or. Laws 2003 c.194 § 13
Amends Rule 69(A) & (B)

A. Entry of order of default.

1. **In general.** When a party against whom a judgment for affirmative relief is sought has been served with summons pursuant to Rule 7 or is otherwise subject to the jurisdiction of the court and has failed to plead or otherwise defend as provided in these rules, the party seeking affirmative relief may apply for an order of default. If the party against whom an order of default is sought has filed an appearance in the action, or has provided written notice of intent to file an appearance to the party seeking an order of default, then the party against whom an order of default is sought shall be served with written notice of the application for an order of default at least 10 days, unless shortened by the court, prior to entry of the order of default. These facts, along with the fact that the party against whom the order of default is sought has failed to plead or otherwise defend as provided in these rules, shall be made to appear by affidavit, **declaration** or otherwise, and upon such a showing, the clerk or the court shall enter the order of default.
2. **Certain motor vehicle issues.** Notwithstanding subsection A(1) of this section, no default shall be entered against a defendant served with summons pursuant to subparagraph D(4)(a)(i) of Rule 7 unless the plaintiff submits an affidavit **or a declaration** showing:
 - a. [Unamended]
 - b. [Unamended]

B. Entry of default judgment.

1. **By the court or the clerk.** [Full section text unamended]
 - a. [Unamended]
 - b. [Unamended]
 - c. [Unamended]
 - d. The party seeking judgment submits an affidavit **or a declaration** stating that, to the best knowledge and belief of the party seeking judgment, the party against whom the judgment is sought is not incapacitated as defined in ORS 125.005, a minor, a protected person as defined in ORS 125.005 or a respondent as defined in ORS 125.005;
 - e. The party seeking judgment submits an affidavit **or a declaration** of the amount due.
 - f. An affidavit **or a declaration** pursuant to subsection B(3) of this rule has been submitted; and
 - g. [Unamended]
2. **By the court.** In cases other than those cases described in subsection (1) of this section, the party seeking judgment must apply to the court for judgment by default. The party seeking judgment must submit the affidavit **or declaration** required by subsection (1)(d) of this section if, to the best knowledge and belief of the party seeking judgment, the party against whom judgment is sought is not incapacitated as defined in ORS 125.005, a minor, a protected person as defined in ORS 125.005 or a respondent as defined in ORS 125.005. If the party seeking judgment cannot submit an affidavit **or a declaration** under this subsection, a default judgment may be entered against the other party only if a guardian ad litem has been appointed or the party is represented by another person as described in Rule 27. If, in order to enable the court to enter judgment or to carry it into effect, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearing, or make an order of reference, or order that issues be tried by a jury, as it deems necessary and proper. The court may determine the truth of any matter upon affidavits **or declarations**.
3. **Amount of judgment.** The judgment entered shall be for the amount due as shown by the affidavit **or declaration**, and may include costs and disbursements and attorney fees entered pursuant to Rule 68.
4. **Non-military affidavit or declaration required.** No judgment by default shall be entered until the filing of an affidavit **or a declaration** on behalf of the plaintiff, showing that the affiant **or declarant** reasonably believes that the defendant is not a person in military service as defined in Article 1 of the "Soldiers' and Sailors' Civil Relief Act of 1940," as amended, except upon order of the court in accordance with that Act.

- C. [Unamended]
- D. [Unamended]
- E. [Unamended]

Or. Laws 2017 c.13 § 2
Amends Rule 69(C)

- A. [Unamended]
- B. [Unamended]
- C. **Motion for order of default.**
 - 1. The party seeking default must file a motion for order of default. That motion must be accompanied by an affidavit or declaration to support that default is appropriate and contain facts sufficient to establish the following:
 - a. [Unamended]
 - b. [Unamended]
 - c. [Unamended]
 - d. [Unamended]
 - e. whether the party against whom the order is sought is or is not a person in the military service, or stating that the movant is unable to determine whether or not the party against whom the order is sought is in the military service as required by **Section section** 201(b)(1) of the Servicemembers Civil Relief Act, 50 ~~App. U.S.C. §521~~ **U.S.C. App. 521**, as amended.
 - 2. If the party seeking default states in the affidavit or declaration that the party against whom the order is sought:
 - a. is incapacitated as defined in ORS 125.005, a minor, a protected person as defined in ORS 125.005, or a respondent as defined in ORS 125.005, an order of default may be entered against the party against whom the order is sought only if a guardian ad litem has been appointed or the party is represented by another person as described in Rule 27; **or**
 - b. [Unamended]
 - c. [Unamended]
 - 3. [Unamended]
 - 4. [Unamended]
- D. [Unamended]
- E. [Unamended]

H.B. 2601

Or. Laws 2017 c.13 § 2

House Introduction

1/9/17

A-Engrossed Bill

2/13/17 – Passed unamended in House

3/29/17 – Passed with amendments in Senate (per Judiciary Committee recommendation)

4/3/17 – House concurred with Senate amendments and repassed bill

Governor signed Enrolled Bill

4/13/17

Or. Laws 2019 c.17 § 2
Amends Rule 69(C)

- A. [Unamended]
- B. [Unamended]
- C. **Motion for order of default.**
 - 1. [Unamended]
 - a. [Unamended]
 - b. [Unamended]
 - c. [Unamended]
 - d. [Unamended]
 - e. whether the party against whom the order is sought **is or is not** a person in the military service, or stating that the movant is unable to determine whether or not the party against whom the order is sought is in the military service as required by section 201(b)(1) of the Servicemembers Civil Relief Act, 50 U.S.C. ~~App-~~ **521 3931**, as amended.
 - 2. [Unamended]
 - 3. [Unamended]
- D. [Unamended]
- E. [Unamended]

S.B. 355

Or. Laws 2019 c.17 § 2

Senate Introduction

1/14/19

A-Engrossed Bill

1/31/19 – Passed with amendments in Senate (per Judiciary Committee recommendation)

3/20/19 – Passed unamended in House

Governor signed Enrolled Bill

3/27/19