

MOTION TO SET ASIDE DEFAULT JUDGMENT ENTERED IN TRAFFIC INFRACTION CASE; APPEARANCE BOND

WHEN SHOULD THIS FORM BE USED?

If a default judgment has been entered against you in a traffic infraction case, and you believe that you can show good cause or excuse for your failing to take action necessary to prevent the default judgment from being entered against you, you can use this form to request that the court set aside the default judgment. Pursuant to Rule 18(b) of the Hawaii Civil Traffic Rules, a default judgment “may not be set aside after ninety (90) days unless there is an exceptional circumstance.”

HOW DO I MAKE SURE THAT MY MOTION IS COMPLETE?

- ◆ This form should be typed or printed clearly in black ink. Do not leave any items blank.
- ◆ Print your name in the case caption on the line above the word “Defendant.”
- ◆ Write in the citation number of the notice of traffic infraction (commonly referred to as a “traffic ticket”) for which a default judgment was entered against you and that you wish to set aside.
NOTE: YOU MUST COMPLETE A SEPARATE MOTION FOR EACH CASE ID NUMBER.
- ◆ In the space provided, explain why you did not answer a traffic ticket by the deadline or appear at a scheduled court hearing. If you need additional space, you may attach an 8 ½ x 11 inch sheet of paper or write on the back of the motion.
- ◆ When you file your motion, **you must post an appearance bond using the Appearance Bond form.** The bond amount will be equal to the monetary assessment indicated on your notice of traffic infraction plus any late penalties (if applicable).

After completing this form, you should sign the form, make a copy for your records, and file the original motion and the appearance bond with the clerk of the district court where the default judgment was entered.

WHAT HAPPENS NEXT?

If you indicate that you will appear at the hearing in person, you will receive a Notice of Hearing (mailed to the address you provide on the Motion to Set Aside Default Judgment) specifying the date and time you are required to appear in court. **If the judge grants your motion to set aside default judgment,** the hearing for the notice of traffic infraction will commence immediately.

If you submit a written statement or explanation in lieu of appearing at a hearing, the court will notify you of its decision in writing within 30 days of the date your motion was filed.

3. Attached is an appearance bond secured by cash equal to the total monetary assessment(s) imposed against me by the default judgment.
4. I request (CHECK ONE BOX ONLY):
 - the court schedule a hearing on my motion to set aside default judgment and I be allowed to appear in person at that hearing; or
 - the court consider my written explanation in support of my motion to set aside default judgment (attached hereto).

I DECLARE THAT THE STATEMENTS ABOVE ARE TRUE TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF.

Name of Defendant/Agent/Payor (Print)

Signature of Defendant/Agent/Payor

Address: _____

City, State, Zip: _____

Telephone Number: _____

BOND ID NO.: _____

IN THE DISTRICT COURT OF THE STATE OF HAWAI'I
DIVISION **CIRCUIT**

STATE OF HAWAI'I,)
)
)
 vs.)
)
 _____)
 Defendant.)
 _____)

Case ID/Citation No:

APPEARANCE BOND FOR TRAFFIC INFRACTION

License Plate No.: _____

1. I, the named Defendant, have filed a motion to set aside a default judgment entered against me in the traffic infraction cases set forth above.

2. In accordance with Hawaii Revised Statutes (HRS) § 291D-7(e), I hereby post this appearance bond, secured by cash in the amount of \$ _____, which is equal to the total monetary assessment(s) imposed against me by the default judgment.

3. I understand that by filing the motion to set aside default judgment and this appearance bond, the court will take action to remove any restriction that has been placed on my driver's license or motor vehicle registration and title in this case.

4. I further understand that if the court determines that good cause or excuse exists for my failure or neglect to take action necessary to prevent the entry of the default judgment and sets aside the default judgment, I will be entitled to dispose of the notice of traffic infraction under HRS chapter 291D. The cash posted to secure this appearance bond, however, will not be returned unless I am ultimately found not responsible for the traffic infraction.

5. If the court does not set aside the default judgment, I understand that the security posted will be applied to satisfy the judgment.

This bond is signed on _____ at _____.
(Date) (Place)

Name of Defendant/Agent/Payor (Print) _____
Signature of Defendant/Agent/Payor

Address: _____ Telephone: _____

This bond is accepted by the court.

_____ \$ _____
Date Cash Posted Receipt No.

Clerk of the Above-Entitled Court