

CAO CivInfPi INSTRUCTION 4-1
FILING A MOTION TO SET ASIDE A DEFAULT JUDGMENT ON A CIVIL INFRACTION
USING CAO FORM CivInfPi 4-1

Talk to an attorney, if possible.

WARNING: These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. We always recommend you talk to a lawyer about your problem before filing your paperwork. If you cannot afford to hire an attorney to represent you, you may be able to pay a lawyer to give you advice and review your paperwork for a lesser cost. Contact the Idaho State Bar Lawyer Referral Service (208-334-4500) for the name of an attorney in your area who will provide an initial half-hour consultation for \$35. Contact the Court Assistance Office for information about resources for low-income people, or visit the Idaho Supreme Court's Self-Help Center at <http://www.courtselfhelp.idaho.gov/>.

When to use form CAO CivInfPi 4-1 Motion to Set Aside Default Judgment on a Civil Infraction: This form can be used to set aside a default judgment on a civil infraction which was entered because you failed to appear on the citation. It is designed strictly for the following civil infractions which by law, are dismissed if you provide the required proof at or before trial on the infraction:

1. Failure to provide certificate of liability insurance (I.C. § 49-1232)
2. Failure to carry and produce vehicle registration card (I.C. § 49-427)
3. Failure of vehicle owner to maintain liability insurance (I.C. § 49-1229)
4. Operating a vehicle not covered by liability insurance (I.C. § 49-1428)

Note: You cannot use this form to set aside judgments of convictions for misdemeanors. A second violation of 1, 3, or 4 can be charged as a misdemeanor instead of an infraction. You should only use this form if you received a Default Judgment and Notice of Noncompliance (Duty to Pay or Suspension of Driver's License) for one of the listed civil infractions. If you want to confirm your citation was for a civil infraction and not a misdemeanor, you can do so by contacting the clerk of the court where your citation was filed.

Completing form CAO CivInfPi 4-1

Fill in the forms by typing or by printing neatly and legibly in **black ink**.

At the top left-hand corner of page 1, fill in your full legal name, mailing address and telephone number.

The Court Heading. Fill in the county and judicial district in capital letters (for example, "IN THE DISTRICT COURT OF THE SIXTH JUDICIAL DISTRICT, IN AND FOR THE COUNTY OF BANNOCK") exactly like it is in the Default Judgment and Notice of Non-Compliance.

The Caption. On the left side of the caption, fill in your name exactly as it appeared in the Default Judgment. Insert your date of birth, driver's license number, and the state which issued your license. On the right side insert the case number and citation number for the infraction you are asking to set aside.

Note: There may be different numbers for the case number and for the citation number if you received more than one citation or had other charges. Refer to your citation for the citation number. Compare that number with the case number listed in the Default Judgment and Notice of Noncompliance. If the case number listed in the Default Judgment is different, use it for the Case Number and use the number from the citation you received for the Citation Number.

Paragraph 1. Insert the citation number where indicated. Check the box to indicate which infraction the default judgment covered.

Paragraph 2. Insert the reason or explanation for your failure to appear on the citation.

Note: A request to set aside a default judgment must be made within six months from the date the judgment was entered. Make sure this statement is true before signing and filing this Motion.

Paragraph 3. Check the appropriate box indicating the proof you are providing which would have required a dismissal of the infraction had that proof been presented prior to the Default Judgment. Attach a copy of the proof to the Motion.

Date and sign the Motion in front of a Notary Public or a court clerk, swearing/affirming that the statements in the Motion are true.

File the signed Motion with the Clerk of the Court where the Default Judgment was entered and follow the instructions of the clerk on how to submit and obtain an Order from the Judge.