



State Support Unit
522 SW Fifth Ave. Suite 812
Portland, OR 97204
503-473-8314
efox@oregonlawcenter.org

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BY EMAIL ONLY

Dear Presiding Judge,

We are grappling with a public health crisis and recession unprecedented in modern history. While everyone is struggling to cope, it is our clients – low-income Oregonians – who will disproportionately bear the brunt of the economic fallout from COVID-19. We write to you today to urge you to relieve the hardest hit of one major burden: court-imposed fines and fees.

As you know, the Oregon Judicial Department has made sweeping changes to the way it will handle court debt during the public health emergency. OJD will no longer impose late fees for nonpayment, suspend driver licenses for nonpayment, send delinquency notices, refer cases to collection, or issue garnishment orders. In addition, Chief Justice Walters issued CJO 20-006, which “strongly encourage[s]” circuit courts “to waive or suspend fines, fees, and costs for persons with limited financial resources” and CJO 20-010, which expressly grants courts authority to waive payment plan fees under ORS 1.202.

We applaud Chief Justice Walters’s leadership, and write to you to suggest concrete actions you can take to put her orders into action.

Our client, Tracy, lost her driver license twenty years ago because she was unable to pay a traffic ticket. Her license remained suspended over the ensuing decades, and her debt to Oregon courts ballooned, primarily due to new tickets for driving while suspended. She has spent the last year working with an Oregon Law Center attorney to address debt she owes to seven different Oregon courts. She now is paying a total of \$80 per month to several courts and is sewing baby quilts for Ronald McDonald House to discharge some of her debt through community service.

Until the current crisis, Tracy was hopeful that she might have her driving privileges reinstated by April. The pandemic changed Tracy’s prospects. Tracy, who works as a bartender, was laid off last week after business at the restaurant dramatically slowed. Now, Tracy has to prioritize. The prospect of missing a payment deeply saddens Tracy. “I’ve come so far and do not want to fall behind again, but if it comes right down to buying food or paying the court, there’s no question about what I would do.”

You can help people like Tracy. Consistent with the recommendation of the nonpartisan Fines and Fees Justice Center, we urge you to **discharge all outstanding fines, fees, and court debt other than restitution**. Alternatively, we you ask you to take one or more of the following actions:

1. Offer all individuals currently making payments on their debt the option to stop payments during the public health crisis, and make clear that their debts will be frozen and will accrue no interest, fees, or penalties during this time;
2. Waive all payment plan fees;

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3. For individuals who want to keep making payments, offer flexible payment plan terms, including monthly payments as low as \$1 per month;
4. Send clearance notices to the DMV for all cases with an active notice of suspension issued due solely to nonpayment of court debt; and
5. Publicize these actions on your court website, in particular on the section of your website that contains information about how to make a payment to the court.

In addition to the power granted by CJOs 20-006 and 20-010 and the equitable power inherent in all courts, there is statutory authority to support these actions. ORS 161.685 governs the effect of nonpayment of court debt. Under subsection (5), “[i]f it appears to the satisfaction of the court that the default in the payment of a fine or restitution is not contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of the payment or installments due on the payment, or revoking the fine or order of restitution in whole or in part.” With vast swaths of the economy at a standstill, it is reasonable for courts to determine that *all* unpaid court debt is not contemptuous, *i.e.* willful.

Likewise, ORS 809.210 grants courts near total discretion over the issuance and revocation of notices of license suspensions; the only mandatory provision is ORS 809.210(4)(a), requiring a reinstatement notice if certain conditions are met (but implicitly allowing a reinstatement notice in other circumstances).

You have the power to make clear that your court does not expect anyone to go without food, shelter, or electricity because they could not pay a traffic ticket – and that your court will not penalize them for prioritizing their basic needs. We ask you to take the actions outlined above as soon as possible. Thank you.

Very truly yours,

/s/ Emily Teplin Fox
Emily Teplin Fox
OLC Attorney

/s/ Kelsey Heilman
Kelsey Heilman
OLC Attorney

/s/ Alicia Temple
Alicia Temple
Interim Director of
Legislative Advocacy