

MUNICIPAL COURT, CITY OF BOULDER, COLORADO
Court Address: 1777 6th Street, Boulder, CO 80302

**PEOPLE OF THE CITY OF BOULDER, by and on behalf of,
PEOPLE OF THE STATE OF COLORADO, Plaintiff,**

Vs.

_____, **Defendant**

(address & Phone)

Case Number:
Courtroom: Municipal Court

Motion to Set Aside Default

What is a default? When a defendant fails to appear for court on a traffic infraction, the Court does not issue an arrest warrant. Instead, the Court treats the nonappearance as a plea of guilty to the charge(s) on the ticket. The court also notifies the Department of Motor Vehicles (DMV) of the defendant's admission of guilt. The DMV then assesses the number of points associated with the charge(s) against the driver in question. The DMV also sends a letter to the defendant's last known address stating that his/her privilege to drive will be suspended unless the defendant pays the appropriate fines and costs to the Court. In addition to the fine and court costs, the defendant then must pay an additional \$30.00 fee as well as any penalty the Court imposes for the failure to appear. (Note that defaults occur only in cases involving traffic infractions – violations that do not carry a possible jail sentence. Traffic violations that carry a possible jail sentence are not infractions – they are traffic offenses – and a defendant's failure to appear for a traffic offense will result in the issuance of an arrest warrant.)

Can a default be set aside? Section 22-6-25(b) of the Boulder Revised Code (BRC) provides that the Court *may* set aside a default on a showing of good cause or excusable neglect if the defendant files a motion to set aside the default not more than thirty days after entry of the default. The Court has no authority to set aside a default if the request is filed more than thirty days after the default was entered.

I hereby move for an Order setting aside the default judgment previously entered against me in this case. In support of this Motion, I state:

- I would like a court hearing regarding this motion.
- I do not want a court hearing. Please mail the judge's ruling to me.

Defendant's Signature

Date

Defendant's Motion to Set Aside Default – Page 2

City Attorney's Position: _____

ORDER

The Court has reviewed the Defendant's Motion to Set Aside Default and the City Attorney's response, if any. Upon consideration, the Court:

- GRANTS the Defendant's Motion. The default shall be set aside upon payment of \$_____ to the Court by the Defendant. Payment must be received by _____, 200_____.
- DENIES the Defendant's Motion.

Dated this _____ day of _____, 200_____.

BOULDER MUNICIPAL JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, 20____ a true and correct copy of the foregoing was served by hand delivery to the City Attorney's Office, Prosecution Division, 1777 - 6th Street, Boulder, CO 80302 and by placing a copy in the United States mail, postage prepaid to the following:

Deputy Court Clerk