

IN THE COURT OF APPEALS OF THE STATE OF OREGON

ANNA BELL,
Plaintiff-Appellant,

v.

OREGON HEALTH & SCIENCE UNIVERSITY,
Defendant-Respondent.

Multnomah County Circuit Court No. 17CV09496

Court of Appeals No. A167920

ORDER GRANTING RECONSIDERATION; ORDER DISMISSING APPEAL

Appellant moves for reconsideration of the part of the court's order of August 3, 2018, holding the appeal in abeyance. The motion is granted.

The court held the appeal in abeyance because it appeared to the court at that time that the action was ripe for entry of a general judgment, and that the trial court had not yet entered the general judgment, but likely would do so soon. The order also contemplated that, when the trial court did enter the General Judgment, within 30 days thereafter appellant would file notice of intent to proceed with the appeal.

It appears from the trial court register that it entered the General Judgment on August 2, 2018. Therefore, the appeal is reactivated. However, more than 30 days has passed since entry of the General Judgment without appellant having filed notice of intent to proceed with the appeal.

Appellant prepared, signed, and mailed her motion for reconsideration on the same day this court's order issued, which was the day after the trial court entered the General Judgment. It is possible that appellant was unaware on August 3 that the trial court had entered judgment on August 2. However, the court's original order dated June 13, 2018, giving the trial court leave to enter judgment required appellant to file notice of intent to proceed with the appeal within 30 days after re-entry of the judgment. The court reiterated that requirement in its order of August 3, 2018. Appellant has had sufficient time to file notice of intent to proceed, and has not done so. Therefore, the court on its own motion dismisses the appeal for failure to prosecute. ORS 19.270(3)

ORDER GRANTING RECONSIDERATION; ORDER DISMISSING APPEAL

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

(court may dismiss appeal for lack of prosecution for an appellant's omission to perform an act required in connection with appeal).

Appeal dismissed.

James W. Nass

JAMES W. NASS
APPELLATE COMMISSIONER
9/24/2018 12:17 PM

DESIGNATION OF PREVAILING PARTY AND AWARD OF COSTS

Prevailing party: Respondent

Costs: No costs allowed

c: Anna Bell
Matthew J Kalmanson

ej

ORDER GRANTING RECONSIDERATION; ORDER DISMISSING APPEAL

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Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

APPENDIX C

IN THE SUPREME COURT OF THE STATE OF OREGON

ANNA BELL,
Plaintiff-Appellant,
Petitioner on Review,

v.

OREGON HEALTH & SCIENCE UNIVERSITY,
Defendant-Respondent,
Respondent on Review.

Court of Appeals
A167920

S066748

**ORDER DENYING MOTION TO RECALL THE APPELLATE JUDGMENT AND
DISMISSING PETITION FOR REVIEW**

Upon consideration by the court.

Petitioner on review's motion to recall the appellate judgment is denied. Petitioner on review's petition for review is dismissed as untimely.



MARTHA L. WALTERS
CHIEF JUSTICE, SUPREME COURT
8/1/2019 1:34 PM

c: Matthew J Kalmanson
Janet M Schroer
Anna Bell

od

**ORDER DENYING MOTION TO RECALL THE APPELLATE JUDGMENT AND
DISMISSING PETITION FOR REVIEW**

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

APPENDIX D

IN THE COURT OF APPEALS OF THE STATE OF OREGON

ANNA BELL,
Plaintiff-Appellant,

v.

OREGON HEALTH & SCIENCE UNIVERSITY,
Defendant-Respondent.

Multnomah County Circuit Court No. 17CV09496

Court of Appeals No. A167920

ORDER DENYING RECONSIDERATION

Appellant petitions for reconsideration of the Appellate Commissioner's order dismissing the appeal for want of prosecution. The petition is denied.

When an appellate court in the course of giving a trial court leave under ORS 19.270(4) to enter (or re-enter) judgment requires the filing of notice of intent to proceed and imposes a deadline for doing so, it is not reasonable to assume that, under ORAP 7.30 a motion tolls the duty to comply with the order, especially a motion for reconsideration of an order other than the order giving the trial court leave to enter judgment. Moreover, complying with this court's order giving leave by timely filing notice of intent to proceed would have expedited perfecting the appeal and causing the appeal to proceed more expediently than moving for reconsideration of an order holding the case in abeyance.

Respecting appellant's explanation of why neither the court nor respondent received the original and service copy of appellant's petition for reconsideration timely, the court requested that the explanation be in the form of a declaration -- that is, under oath -- and appellant did not submit her explanation in that form. Nor is appellant's explanation for the delay credible.



JAMES C. EGAN
CHIEF JUDGE, COURT OF APPEALS
3/13/2019 8:12 AM

c: Anna Bell
Matthew J Kalmanson

ej

ORDER DENYING RECONSIDERATION

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

APPENDIX E

IN THE SUPREME COURT OF THE STATE OF OREGON

ANNA BELL,
Plaintiff-Appellant,
Petitioner on Review,

v.

OREGON HEALTH & SCIENCE UNIVERSITY,
Defendant-Respondent,
Respondent on Review.

Court of Appeals
A167920

S066748

ORDER DENYING PETITION FOR RECONSIDERATION

Upon consideration by the court.

The court has considered the petition for reconsideration and orders that it be denied.



MARTHA L. WALTERS
CHIEF JUSTICE, SUPREME COURT
10/3/2019 9:34 AM

c: Matthew J Kalmanson
Janet M Schroer
Anna Bell

jr

ORDER DENYING PETITION FOR RECONSIDERATION

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

ANNA BELL

(Your Name)

— PETITIONER

VS.

Oregon Health & Science Univ

RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Please check the appropriate boxes:

☒ Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

Multnomah Circuit Court Oregon
Court of Appeals Oregon

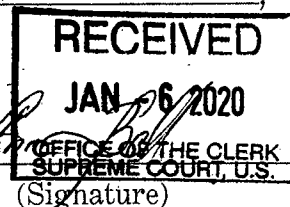
☐ Petitioner has **not** previously been granted leave to proceed *in forma pauperis* in any other court.

☒ Petitioner's affidavit or declaration in support of this motion is attached hereto.

☐ Petitioner's affidavit or declaration is **not** attached because the court below appointed counsel in the current proceeding, and:

☐ The appointment was made under the following provision of law: _____

☐ a copy of the order of appointment is appended.



**AFFIDAVIT OR DECLARATION
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, ANNA BELL, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>	\$ <u>0</u>
Self-employment	\$ <u>0</u>	\$ <u>1,784</u>	\$ <u>0</u>	\$ <u>0</u>
Income from real property (such as rental income)	\$ _____	\$ _____	\$ _____	\$ _____
Interest and dividends	\$ _____	\$ _____	\$ _____	\$ _____
Gifts	\$ _____	\$ _____	\$ _____	\$ _____
Alimony	\$ _____	\$ _____	\$ _____	\$ _____
Child Support	\$ _____	\$ _____	\$ _____	\$ _____
Retirement (such as social security, pensions, annuities, insurance)	\$ _____	\$ _____	\$ _____	\$ <u>1,451</u>
Disability (such as social security, insurance payments)	\$ _____	\$ _____	\$ _____	\$ _____
Unemployment payments	\$ _____	\$ _____	\$ _____	\$ _____
Public-assistance (such as welfare)	\$ _____	\$ _____	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____	\$ _____	\$ _____
Total monthly income:	\$ _____	\$ <u>1,784</u>	\$ _____	\$ <u>1,451</u>

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A</u>			\$
			\$
			\$

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A</u>			\$
			\$
			\$

4. How much cash do you and your spouse have? \$ 489
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
<u>Joint checking</u>	\$ <u>351</u>	\$ <u>138</u>
	\$	\$
	\$	\$

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

<input checked="" type="checkbox"/> Home	<input type="checkbox"/> Other real estate
Value <u>251,440</u>	Value

<input checked="" type="checkbox"/> Motor Vehicle #1	<input checked="" type="checkbox"/> Motor Vehicle #2
Year, make & model <u>2007 Honda Ridgeline</u>	Year, make & model <u>2007 Ford Mustang</u>
Value <u>2800</u>	Value <u>3,400</u>

☐ Other assets
Description _____
Value _____

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
<u>N/A</u>	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name	Relationship	Age
<u>JTW</u>	<u>daughter</u>	<u>7</u>
<u>Tamara Lyskovskaia</u>	<u>mother</u>	<u>40</u>
_____	_____	_____

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

	You	Your spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ _____	\$ <u>1,258</u>
Are real estate taxes included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ _____	\$ <u>541</u>
Home maintenance (repairs and upkeep)	\$ _____	\$ _____
Food	\$ _____	\$ <u>224</u>
Clothing	\$ _____	\$ <u>87</u>
Laundry and dry-cleaning	\$ _____	\$ _____
Medical and dental expenses	\$ <u>121</u>	\$ _____

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ _____	\$ <u>124</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ _____	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ _____	\$ <u>159.50</u>
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ <u>147</u>
Other: _____	\$ _____	\$ <u>79.75</u>
Taxes (not deducted from wages or included in mortgage payments)		
(specify): <u>US Treasury Dept + IRS - FICA / medicare</u>	\$ _____	\$ <u>79.25</u>
Installment payments		
Motor Vehicle	\$ _____	\$ _____
Credit card(s)	\$ _____	\$ <u>128.00</u>
Department store(s)	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ _____	\$ _____
Other (specify): _____	\$ _____	\$ _____
Total monthly expenses:	\$ <u>121</u>	\$ <u>2,827.50</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes

☒ No

If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☒ Yes ☐ No

If yes, how much? 12,900

If yes, state the attorney's name, address, and telephone number:

Anna Bell, pro se plaintiff, my husband paid.

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes

☒ No

If yes, how much? _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

Unemployed since December 31 2015, due to actions of the defendant. Blackballed by Oregon Health Science University as former faculty-researcher and unable to find employment in field I spent 12 years studying for (B.S., M.S., Ph.D)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 01, 2018

my husband is 100% disabled and has social security.

Anna Bell
(Signature)