

OREGON COURT OF APPEALS

Fisk v. Johnson

349 Or. App. 582 (2026) · No. A187722 · Decided May 13, 2026

SUMMARY

The Oregon Court of Appeals held that a self-represented defendant’s timely written motion seeking to appeal a court-annexed arbitration decision and obtain a new hearing should have been treated as a notice of appeal and request for trial de novo under ORS 36.425(2)(a). The court concluded that the trial court erred by denying that request and entering judgment based on the arbitration award. The judgment was reversed and remanded.

CASE DETAILS

COURT	Oregon Court of Appeals
WRITING FOR THE COURT	Kistler, Senior Judge; Tookey, Presiding Judge; Jacquot, Judge
JURISDICTION	Oregon Court of Appeals
DECIDED	May 13, 2026
DOCKET	A187722
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Defendant appealed a judgment entered after mandatory court-annexed arbitration, arguing that the trial court erred by denying her timely request for an appeal and a new hearing and that the denial violated due process.
STANDARD OF REVIEW	The court reviewed whether the trial court correctly applied ORS 36.425(2)(a) and whether the resulting judgment was appealable under ORS 36.425(3). Constitutional issues were not reached because the statutory issue provided an adequate subconstitutional ground for decision.
PRECEDENTIAL VALUE	Published and precedential
PARTIES	Jolene Johnson v. Robert Fisk

TOPICS

- appellate procedure
- civil procedure
- due process
- standard of review

PRACTICE AREAS

civil procedure

appellate procedure

constitutional law

QUESTIONS PRESENTED

1. Whether Johnson's timely motion to "appeal court decision" and request for a new hearing qualified as a written notice of appeal and request for trial de novo under ORS 36.425(2)(a).
2. Whether ORS 36.425(3)'s prohibition on appealing a judgment based on a court-annexed arbitration award barred appellate review of the trial court's denial of Johnson's statutory request for a trial de novo.
3. Whether Johnson preserved her objection by failing to renew her request for a new hearing after Fisk moved for entry of judgment.
4. Whether the denial of a new hearing violated due process.

HOLDINGS

1. A timely written motion seeking to appeal the arbitration decision and requesting a new hearing should be treated as a written notice of appeal and request for trial de novo under ORS 36.425(2)(a), even though the motion did not track the statutory language verbatim and included an additional explanation for the request.
2. Johnson preserved her objection; she was not required to renew her request for a new hearing after the trial court had already denied it.
3. ORS 36.425(3) does not create an absolute bar to an appeal challenging the trial court's post-arbitration denial of a timely statutory request for a trial de novo.

KEY QUOTATIONS

"In our view, the trial court should have treated defendant's motion as a "written notice of appeal and request for trial de novo" under ORS 36.425(2)(a)." (585)

"The trial court erred in not granting defendant a trial de novo under ORS 36.425(2)(a)." (585)

"The judgment, however, may be appealed on limited grounds." (586)

FACTUAL BACKGROUND

Fisk filed an action alleging that Johnson wrongfully took his dog, Marty. Johnson, representing herself, answered that Marty was her dog. After referral to mandatory court-annexed arbitration, the arbitrator stated that notice of the hearing had been mailed, Johnson did not appear, and the arbitrator awarded Fisk possession of Marty and approximately \$8,000 in fees and damages. Within five days after the arbitration award was filed, Johnson submitted a written motion stating that she had not received notice of the hearing and requesting an appeal and a new hearing.

PROCEDURAL HISTORY

Fisk sued Johnson concerning possession of a dog. The case was referred to mandatory court-annexed arbitration, and the arbitrator ruled for Fisk after Johnson did not appear. Within 20 days after the arbitration decision and award was filed, Johnson filed a written motion seeking to appeal the decision and obtain a new hearing. The trial court initially granted the motion, then vacated that order and denied the motion, and later entered judgment based on the arbitration award. The Oregon Court of Appeals reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must give effect to Johnson's timely written notice of appeal and request for trial de novo under ORS 36.425(2)(a), and conduct or otherwise permit the requested trial de novo.

CASES CITED

- Leo v. Keisling, 327 Or. 556, 562, 964 P.2d 1023 (1998)
- State v. Cox, 336 Or. 284, 294, 82 P.3d 619 (2003)
- Centas Corp. No. 3 v. Art Erickson Tire & Auto, 281 Or. App. 201, 207, 383 P.3d 290 (2016)
- State v. Milbradt, 305 Or. 621, 630, 756 P.2d 620 (1988)
- Mathis v. St. Helens Auto Center, Inc., 298 Or. App. 647, 652, 447 P.3d 490 (2019), rev'd on other grounds, 367 Or. 437, 478 P.3d 946 (2020)
- Deacon v. Gilbert, 164 Or. App. 724, 726, 995 P.2d 557 (2000)
- Mathis v. St. Helens Auto Center, Inc., 367 Or. 437, 478 P.3d 946 (2020)