

FILING CODE: MOT

Your Name: _____

Address: _____

Telephone: _____

Email Address: _____

Self-Represented

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Plaintiff,
vs.

CASE NO.: _____

DEPT: _____

Defendant.

MOTION TO SET ASIDE ORDER, JUDGMENT, AND/OR DEFAULT

NOTICE OF MOTION

The judge can make a decision based only on the written filings, or the judge can talk to both parties and ask questions at a court hearing first. You can choose which you prefer below.

Would you like to have a hearing with the judge? (check yes/no, the court will enter details)

Yes. Hearing Date: _____ Hearing Time: _____ at:

Family Courts & Services Center, 601 N. Pecos Rd. Las Vegas, NV 89101, courtroom _____

Regional Justice Center, 200 Lewis Ave. Las Vegas, NV 89101, courtroom _____

The hearing may be available online; if it is the court will send login information separately.

No. The judge will write a decision after reviewing the request in chambers on: _____

TO: (write opposing party's name): _____

NOTICE: You may file a written response to this motion with the Clerk of the Court and provide the undersigned with a copy of your response within 14 days of receiving this motion. Failure to file a written response with the Clerk of Court within 14 days of your receipt may result in the requested relief being granted by the Court without a hearing prior to the scheduled hearing date.

Submitted By: (your name) _____

Plaintiff / Defendant

MOTION

(Your name) _____ moves this Court for an order to set aside an order, judgment and/or default. (*check one*)

- I tried to resolve this issue with the other party before filing this motion.
 - I did not try to resolve this issue with the other party before filing this motion. Any attempt to resolve the issue would have been useless or impractical because (*explain why you did not try to resolve this issue directly with the other party before filing this motion*)
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**POINTS AND AUTHORITIES
LEGAL ARGUMENT**

The court may set aside a final order or judgment pursuant to Nevada Rule of Civil Procedure 60(b) for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud, misrepresentation or other misconduct of an adverse party;
- (4) the judgment is void; or
- (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that an injunction should have prospective application.

The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than 6 months after the proceeding was taken or the date that written notice of entry of the judgment or order was served.

When a default order is entered against a party who was never personally served with the summons and complaint, the court may set aside the order pursuant to Nevada Rule of Civil Procedure 60(c) so the party can answer the merits of the original action. A defaulted party must file a motion within 6 months of the date of service of written notice of entry of the order.

In addition, a default may be set aside for good cause. NRCP 55(c).

FACTS AND ARGUMENT

1. **Order/Default.** (*check one*)

- I want to set aside a default that was entered on (*date default was filed*) _____.
- I want to set aside an order. A hearing was held on (*date of the hearing, or "n/a" if there was no hearing*) _____. A written order was filed (*date of the order*) _____. I was served with a copy of the order on (*date you received the order*) _____.

2. **Grounds.** The default or order should be set aside because: (*check all that apply*)

- I was never served with the other party's court papers that led to the court order/default.
- I did not respond to the other party's court papers because of my mistake, inadvertence, surprise, or excusable neglect. (*Explain why you did not respond to the original papers*):

- The other party committed fraud, misrepresentation, or misconduct that resulted in the order. (*Explain what the other party did to get the order that was wrong*):

- Other (*Explain the reasons you want the default/order set aside*):

3. **Other Relief.** In addition to the relief requested above, I would like the Court to also order the following: *(Explain anything else that you would like the judge to order, or enter "N/A" if you do not want anything else. Be specific.)*

I respectfully ask the Court to grant me the relief requested above, including an award of attorney's fees if I am able to retain an attorney for this matter, and any other relief the Court finds appropriate.

DATED _____, 20____.

Submitted By: *(your signature)* _____
(print your name) _____

DECLARATION IN SUPPORT OF MOTION TO SET ASIDE

I declare, under penalty of perjury:

- a. I have read the foregoing motion, and the factual averments it contains are true and correct to the best of my knowledge, except as to those matters based on information and belief, and as to those matters, I believe them to be true. Those factual averments contained in the referenced filing are incorporated here as if set forth in full.
- b. Any Exhibit(s) in support of this Motion will be filed separately in an Exhibit Appendix.

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

DATED _____, 20____.

Submitted By: *(your signature)* _____
(print your name) _____