MARICOPA COUNTY JUSTICE COURTS

If you want to file a...

MOTION TO SET ASIDE / VACATE A CIVIL JUDGMENT

MARICOPA COUNTY JUSTICE COURTS

A Motion to Set Aside / Vacate Judgment can be filed by either party following a hearing or trial.

If the motion to Vacate Judgment is your first filing in the case, you are required to pay an answer fee.

The opposing party has TEN (10) judicial days after service of this motion to file a written response. If no response is received, the court will consider the motion and will enter an Order.

Please STOP...

If there has not yet been a judgment rendered from the court.

Please PROCEED...

If you want the court to set aside and vacate the judgment rendered.

FORMS Needed:

Motion to Set Aside - Vacate Judgment

INSTRUCTIONS

1) Read the Instructions for Filing and Serving a Motion to Set Aside / Vacate Judgment.
2) Complete the form.
3) Make one copy for yourself.
4) File the original form with the court and pay the fee.
5) Serve a copy on the other party (attorney if applicable):
    A) If the time to appeal the judgment has not passed you my serve by way of first class mail.
    B) If the time to appeal the judgment has passed, you must serve as instructed in the Justice Court Rules of Civil Procedure, Rule 113.
        i) You must file the proof of service with the court.

IT IS IMPORTANT THAT ALL PARTIES KEEP THE COURT APPRISED OF ANY CHANGE IN ADDRESS A NOTICE OF CHANGE OF ADDRESS form must be filed with the court when a party changes their address.

Visit us at http://justicecourts.maricopa.gov/ for additional filing information and online forms.

Maricopa County Justice Courts

INSTRUCTIONS for FILING and SERVING a MOTION to SET ASIDE / VACATE JUDGMENT

CIVIL or EVICTION ACTION / SPECIAL DETAINER

Moving party should always review the appropriate rules:
- Civil: JCRCP 141.
- Eviction: Rule 15.

Filing with the Court:
- Complete the Motion form in full. If a judgment was entered against you because you failed to appear, you should explain in detail both (1) why you failed to appear at your court date and (2) what your legal defense would have been had you appeared at court.
- Sign the motion form.
- Return the completed form along with any supporting documentation to the court clerk and pay the appropriate filing fee (if applicable).
- If you need additional space to write please use a second page, do not write on the back of the Motion form.

Serving the other party:
- The other party must be served with a copy of the motion and any supporting documentation you submitted to the court.
  - **By first class mail:** If the time to appeal the judgment has not expired (fourteen (14) days for a Civil Case, and five (5) days for an Eviction Action) the other party may be served by first class mail.
  - **By process service:** If the time to appeal the judgment has expired, (more than fourteen (14) days for a Civil Case, and more than five (5) days for an Eviction Action) the other party must be served in the manner provided for Service of Summons in JCRCP, Rule 120. Generally a licensed process server is used to serve court papers.
  - Proof of service must be filed with the court. Your process server is required to file an affidavit with the court stating the date, the time, where and upon who service was made and to provide you with a copy of the certificate / affidavit of service.

What the other party may do:
- The opposing party has ten (10) judicial days after service of the motion (or within the time fixed by the Judge) to file a written response. Any response filed must also be served upon you by first class mail. If the opposing party does not file a written response the court will consider the relief requested and enter an appropriate order.

You may Reply to the opposing parties Response:
- You will have five (5) judicial days to file a Reply but it is not mandatory to do so. The court will still consider your Motion without a Reply.
- You must file the original with the Court and mail a copy to the other party.

What the court may do:
- The court will consider your request and any supporting documentation offered and the opposing party's response, if any.
- The court will rule on the motion without a hearing or will set the matter for hearing and oral argument. If a hearing is set the court will notice all parties of the hearing date and you must appear and be prepared to present your argument to the court as to why the judgment should (or should not) be vacated or modified as requested.
- The court will mail a copy of its ruling to all parties.

Eviction Actions
Please review Eviction Rule 15 carefully. Motions affecting possession of the property shall be treated as an emergency matter and decided within 3 days.

Maricopa County Justice Courts, Arizona

Please select court from the drop down list --------

CASE NUMBER: _____

Plaintiff(s) Name / Address / Email / Phone

Defendant(s) Name / Address / Email / Phone

Attorney for Plaintiff(s) Name / Address / Email / Phone

Attorney for Defendant(s) Name / Address / Email / Phone

MOTION to SET ASIDE / VACATE JUDGMENT

JCRCP Rule 141

☐ ORAL ARGUMENT REQUESTED ☐ BY AGREEMENT ☐ POSSESSION OF PROPERTY AFFECTED

You have the right to file a written response to this Motion within ten (10) judicial days from the date this Motion is served. Your response must be filed with the court. A copy of your response must be served on the other parties as provided by Rule 120, of the Justice Courts Rules of Civil Procedure. The court may treat your failure to respond to a Motion as your consent that the Motion be granted.

I am the ☐ Plaintiff ☐ Defendant in this case.

I would like the court to:

Statement of Facts:

Legal Support:

On penalty of perjury I state that the foregoing is true and correct.

Date: _____ _____

☐ Plaintiff ☐ Defendant

Date: _____ _____

☐ Plaintiff ☐ Defendant

Judgment signed: _____ I CERTIFY that a copy of this document has been or will be mailed on _____ to:

☐ Plaintiff at the above address ☐ Plaintiff's attorney ☐ Defendant at the above address ☐ Defendant's attorney

Date: _____ By _____

Signature ☐ Plaintiff ☐ Defendant

NOTICE TO MOVING PARTY: *If the time to appeal the Judgment has expired, service by process server or service by any other methods of service provided for service of Summons in JCRCP Rule 113 is required. Proof of service must be filed with the court, without proof of service or a response from the opposing party, the Court may deny your Motion.*

NOTICE TO RESPONDENT: *You have ten (10) judicial days after service of this Motion to file a written response, if you wish to do so. If no response is given, the Court will consider the relief requested and will enter an order without hearing any objection(s) you may have.*