



MARICOPA COUNTY JUSTICE COURTS

If you want to file a...

MOTION TO VACATE JUDGMENT EVICITION ACTION



MARICOPA COUNTY JUSTICE COURTS

A MOTION TO VACATE JUDGMENT can be filed by either party to vacate a default judgment or a judgment following a hearing or trial. If the time to appeal the judgment has expired, the Motion to Vacate Judgment must be served on the other party in the same manner as if serving a summons and complaint and proof of service must be filed with the court. If the time to appeal the judgment has not expired the Motion to Vacate Judgment may be served by first class mail.

An appeal cannot be taken from a default judgment. If you want your case reviewed by the Superior Court you must first file a **Motion to Vacate Judgment**. Any appeal will then be based on the court ruling on the Motion.

If this is your first filing in the case, you will be required to pay an answer fee.

The opposing party has TEN (10) days (or the expedited time set by the court) 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.

If you want to stay enforcement of the judgment you must post a supersedeas bond. The stay becomes effective when the bond is posted. The supersedeas bond will be set by the court.

Please STOP...

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

Please PROCEED...

If you want to court to vacate the judgment rendered.

FORMS Needed:

Motion to Vacate Judgment form

INSTRUCTIONS

1. Complete the form and make copies. The court will require the original form. You may wish to have a copy and you will need a copy for the other party (parties) in the case.
2. File the forms with the court clerk and pay the fee, if applicable.
3. Serve the copy on the other party (parties). May be served by first class mail if the time to appeal the judgment has not expired. If the time to appeal has expired, the other party must be served in the manner provided for service of summons in Rule 4, 4.1 or 4.2 Rules of Civil Procedure. Generally, a licensed process server may be used.

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

(Tribunales de Justicia del Condado Maricopa)

INSTRUCTIONS for FILING and SERVING a MOTION to SET ASIDE / VACATE JUDGMENT
INSTRUCCIONES para PRESENTAR y NOTIFICAR un PEDIMENTO de DEJAR SIN EFECTO / INVALIDAR UN FALLO

CIVIL
CIVIL

EVICITION ACTION / SPECIAL DETAINER
ACCIÓN DE DESALOJO / RETENCIÓN ESPECIAL

SMALL CLAIMS
DEMANDA DE MENOR CUANTÍA

Filing with the Court:

- Complete the Motion form. Explain why you failed to appear and the legal reason why the Judgment should be set aside / vacated.
- 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:** (does not apply to Small Claims) 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.

Presentación ante el Tribunal:

- Llene el formulario de Pedimento. Explique por qué usted no compareció y la razón legal por la cual debe dejarse sin efecto / invalidarse el Fallo.
- Firme el formulario de Pedimento.
- Devuelva el formulario lleno junto con cualquier documentación de respaldo a la secretaría del tribunal y pague la cuota procesal correspondiente (si se aplica).
- Si necesita espacio adicional para escribir, por favor use una segunda página, no escriba en el dorso del formulario de Pedimento.

Notificación a la otra parte:

- Deberá practicarse notificación a la otra parte de una copia del pedimento y cualquier documentación de respaldo que usted haya presentado ante el tribunal.
 - **Por correo de primera clase:** (no se aplica a Demandas de menor cuantía). Si el plazo para apelar el fallo no se ha vencido, (catorce (14) días para un Caso civil, y cinco (5) días para una Acción de desalojo), se podrá notificar a la otra parte vía correo de primera clase.
 - **Por emplazamiento:** Si el plazo para apelar el fallo se ha vencido (más de catorce (14) días para un Caso civil, y más de cinco (5) días para una Acción de desalojo), deberá notificarse a la otra parte de la manera establecida para Notificación de citatorio en la Regla 120 de JCRCP. Generalmente se emplean los servicios de un notificador con licencia para practicar notificación de documentos judiciales.
- Deberá presentarse prueba de notificación ante el tribunal. Su notificador está obligado a presentar una declaración jurada ante el tribunal indicando la fecha, la hora, el lugar, y a quién se le practicó notificación, y a proporcionarle a usted una copia del certificado / de la declaración jurada de notificación.

Lo que podrá hacer la otra parte:

- La parte contraria tiene diez (10) días judiciales a partir de la notificación del pedimento (o dentro del plazo fijado por el Juez) para presentar una contestación por escrito. También deberá practicarse notificación a usted, por correo de primera clase, de cualquier contestación presentada. Si la parte contraria no presenta una contestación por escrito, el tribunal considerará el desagravio solicitado y asentará una orden apropiada.

Usted podrá Replicar a la Contestación de la parte contraria:

- Tendrá cinco (5) días judiciales para presentar una Réplica, pero no es obligatorio hacerlo. El tribunal considerará su Pedimento aunque no presente una Réplica.
- Deberá presentar el original ante el Tribunal y enviarle una copia por correo a la otra parte.

Lo que podrá hacer el tribunal:

- El tribunal considerará su solicitud y cualquier documentación de respaldo que se presente, y la contestación de la parte contraria, de haberla.
- El tribunal emitirá un fallo sobre el pedimento sin una audiencia, o remitirá el asunto a una audiencia y alegato oral. Si se fija una audiencia, el tribunal notificará a todas las partes de la fecha de la audiencia, y usted deberá comparecer y estar preparado para presentar ante el tribunal su alegato indicando por qué el fallo debe (o no debe) invalidarse o modificarse según se ha solicitado.
- El tribunal les enviará por correo una copia de su fallo a todas las partes.