



## Maricopa County Justice Courts

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

*CIVIL*

*EVICITION ACTION / SPECIAL DETAINER*

*SMALL CLAIMS*

#### **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:** (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.



# Maricopa County Justice Courts, Arizona

CASE NUMBER: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Plaintiff(s) Name / Address / Email / Phone

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant(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.*