

<b>STATE OF MICHIGAN JUDICIAL CIRCUIT JUDICIAL DISTRICT</b>	<b>MOTION AND AFFIDAVIT TO SET ASIDE DEFAULT (CIVIL)</b>	<b>CASE NO.</b>
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Court address \_\_\_\_\_ Court telephone no. \_\_\_\_\_

Plaintiff's name, address, and telephone no.
Plaintiff's attorney, bar no., address, and telephone no.

**v**

Defendant's name, address, and telephone no.
Defendant's attorney, bar no., address, and telephone no.

**MOTION AND AFFIDAVIT**

1.  a. A default was entered against me on \_\_\_\_\_ for failure to  answer.  appear.  
A judgment has not been entered yet.
- b. A default judgment was entered against me on \_\_\_\_\_ for failure to  answer.  appear and  
21 days has not yet passed since that default judgment date.
- c. 21 days has passed since the default judgment was entered, but I was not personally served the summons and complaint.
2.  a. The court lacks jurisdiction because I was not served with the summons and complaint.
- b. I have good cause for my failure to appear/answer. I did not appear or answer because: (Attach a separate sheet if needed.)

I have a meritorious (valid) defense for the claim. My defense is: (Attach a separate sheet if needed.)

3. **I ask** the court to set aside the default/default judgment in this case. If required, I agree to appear on the date scheduled by the court to state my reasons for this request.
4. This affidavit is made on my personal knowledge and, if sworn as a witness, I can testify competently to the facts in this affidavit.

\_\_\_\_\_  
Applicant/Attorney signature Bar no.

Subscribed and sworn to before me on \_\_\_\_\_, \_\_\_\_\_ County, Michigan.  
Date

My commission expires: \_\_\_\_\_ Signature: \_\_\_\_\_  
Deputy clerk/Notary public

Notary public, State of Michigan, County of \_\_\_\_\_

To be completed by the court. **NOTICE OF HEARING ON MOTION TO SET ASIDE DEFAULT**

A hearing will be held on \_\_\_\_\_ at \_\_\_\_\_  
Date Time

at \_\_\_\_\_ before Hon. \_\_\_\_\_  
Location Bar no.

\_\_\_\_\_  
Date Deputy court clerk

**CERTIFICATE OF MAILING**

I certify that on this date I served a copy of this motion and notice of hearing on the parties or their attorneys by first-class mail addressed to their last-known addresses as defined by MCR 2.107(C)(3).

## **Instructions for Filing and Serving a Motion and Affidavit to Set Aside Default (Form MC 99)**

Use this form if you want to ask the court to set aside a default entry or a default judgment.

### **1. How do I file a Motion?**

You file a motion by completing the form and filing it with the same court that signed the default entry or default judgment. There is a \$20 motion fee for filing a motion to set aside default.

### **2. Fill out the Motion form.**

Write in the court number, case number, the court address and telephone number, and the names, addresses, and telephone numbers of the plaintiff and the defendant exactly as they are on the default entry or default judgment.

Check box 1a if a default judgment has not been entered yet, write in the date the default was entered, and check the boxes that are true.

Check box 1b if a default judgment has already been entered, write in the date the judgment was entered, and check the boxes that are true.

Check box 1c if a default judgment has already been entered, 21 days have passed since the default judgment was entered, and you were not personally with the summons and complaint.

Check the box that is true in item 2. If you checked box 2b, write in all requested information.

You must sign your name in front of a notary public or the clerk of the court. Be sure to take your driver's license or other identification with you. You can find a notary public at most banks.

### **3. Make four copies of the completed motion form and any attachments.**

### **4. File the Motion with the court.**

File all four copies of your motion with the court in person or by first-class mail. If you mail your motion to the court, include a postage-paid and self-addressed envelope with your motion so that the court can return copies.

### **5. Notice of Hearing.**

The court will complete the Notice of Hearing. Do not write in this space.

### **6. Serve the Motion.**

When you get the three remaining copies of the motion from the court, serve a copy on the plaintiff by first-class mail. If the plaintiff has an attorney, serve the motion on the attorney instead of the plaintiff. Complete the Certificate of Mailing on the bottom of your copy of the form. Make a copy of this and file it with the court. You can do this either in person or by first-class mail. Keep a copy for yourself.

### **7. What happens next?**

You must attend the hearing on your motion. For information on preparing for a hearing generally, see the Michigan Court's Self-Help Center at <http://courts.michigan.gov/scao/selfhelp/general/hearings.htm>.