

Motion to Vacate Judgment/Order in a Family Law Case

Civil Rule 60

What is a Motion to Vacate?

It requests that the court withdraw a previous order it entered. The motion must be based on a reason listed in [Superior Court Civil Rule 60](#). (We have attached a copy of the rule at the end of this packet.) You may file a Motion to Vacate in Superior Court or a court of limited jurisdiction, such as district court.

❖ In this publication, “order” refers to an order or a judgment.

Generally, the court will grant your Motion to Vacate if you can convince it that you did not have a fair chance to present your case. If you did have the chance, do **not** file a Motion to Vacate. A Motion to Vacate is not a substitute for an appeal. An appeal asks a higher court to change a lower court’s decision. A Motion to Vacate asks the same court to take back its own decision.

Courts rarely grant a Motion to Vacate. Before filing this motion, make sure you have solid legal grounds for it. Otherwise, the court may decide your motion is frivolous and order you to pay the other side’s costs, including attorney’s fees. Before filing, talk to a lawyer. (The last section of this publication has contact info.)

When will a court grant a Motion to Vacate?

Most people file this motion because they did not have notice of the lawsuit or a particular hearing that was part of it. You have a right to have had the original lawsuit served on you. If it was served on you and you responded, you should get notice of all other hearings in the case.

Sometimes a lawsuit is not served on a party. Check the court file to see if there is a completed Proof of Personal Service. If so, see what it says about how you were served. If it is not accurate, think about how to prove it is wrong.

❖ The [Superior Court Civil Rule 60](#) attached to this publication lists all the reasons you can file a Motion to Vacate.

Talk about your case with a lawyer before filing. You may feel you have enough evidence to show one of the reasons the rule lists. But if you file what the court thinks is a frivolous motion, it may order you to pay the other side’s costs, including attorney’s fees.

❖ The rule generally requires that you bring a motion within a reasonable time. For three of the reasons listed - [CR60\(b\)\(1\)](#), [CR60\(b\)\(2\)](#), and [CR 60\(b\)\(3\)](#) - you must bring the motion no more than one year after the court entered the order. A lawyer can help you figure out whether your motion is timely before you file.

How do I file a Motion to Vacate?

CHECKLIST OF STEPS

- Step 1:** Get the Forms and Documents You Need.
- Step 2:** Fill out the Forms.
- Step 3:** Talk to a Lawyer, if Possible.
- Step 4:** Get a Judge or Commissioner’s Signature. Copy the Forms.
- Step 5:** File and Deliver the Working Papers.
- Step 6:** Have the Other Party Served.
- Step 7:** Confirm and Go to Hearing.

STEP 1: Get the Forms and Documents You Need

❖ Forms numbers 1, 2, 3, 4, and 6 are at the end of our instructions.

FORM #1: Order to Show Cause

FORM #2: Motion for Order to Show Cause Regarding Vacation of Judgment/Order

FORM #3: Declaration

FORM #4: Order on Motion to Vacate Judgment/Order

FORM #5: Copy of the Order you wish to have vacated

FORM #6: Proof of Personal Service

OTHER (OPTIONAL): Any other document you want the court to consider for your motion
- to attach to your declaration as exhibits, such as letters or records

❖ If you attach exhibits to your declaration, you must assign either to each exhibit either a number (Exhibit 1, Exhibit 2, Exhibit 3) or letter (Exhibit A, Exhibit B, Exhibit C).

STEP 2: Fill Out the Forms

On the first page of all forms, fill out the **caption** (the top portion of each form naming the county, parties involved and case number) by copying the caption from the order you are trying to vacate.

FORM #1: Order to Show Cause - FL All Family 183

You use this form to schedule a hearing date when a judge or commissioner hears the Motion. You select the date. Check local rules to figure out how much notice you must give the other party and which judge will hear the motion. The rules can vary greatly.

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- ❖ **Example:** You are trying to vacate a family law order a commissioner entered in King County. You would have to schedule the motion to vacate before a family law commissioner with at least fourteen days' notice before the hearing. If you a judge signed the order, you would schedule it before a judge with at least six days' notice.
-

Generally, you must pick a court date at least five court days from the day you plan to have the other party (or parties) served with a copy of your papers. Ask the court clerk or facilitator what day you can schedule your hearing in court.

Put the parties' names, the case number, and the date of the order exactly as it appears on the order you want to vacate. Put the hearing date.

Presented by: sign your name here.

-
- ❖ Do **not** fill out the date in the space above to the left of the line where the judge signs. Do this when you present your order to show cause to the judge in ex parte. (See Step 4, below.)
-

FORM #2: Motion for Order to Show Cause and Order to Vacate Judgment/Order

I. Relief Requested: In the first blank, put your name. In the second blank, put the other party's name. In the third blank, put the date of the order you want to vacate

Statement of Facts/Statement of Grounds: In the first paragraph, list the orders or parts of Orders you want the court to vacate now.

In the short blank, put the date the court entered the order/s you now want vacated.

In the second paragraph, list the facts supporting your motion. If the facts are in any Declarations (Form #3) you are submitting to the court, you should mention that here AND in section IV.

Statement of Issues: You must state, in the form of a question, the issue you want the court to decide. You should quote from the rule you believe provides the reason for your motion. **Examples:**

- Should the court vacate the Order under [CR60 \(b\)\(3\)](#) because there is newly discovered evidence which due diligence could not have been discovered in time to move for a new trial?
- Should the court vacate the Order under [CR60 \(b\)\(1\)](#) because there was excusable neglect and irregularity in the proceeding?

Evidence Relied Upon: If you make your own declaration and/or others make declarations on your behalf, list them here.

Authority and Argument: Check the box/es that apply. Explain what evidence supports your request that the court vacate the order.

FORM #3: Declaration Form

Make several extra copies of this before filling it out.

A Declaration allows you to give the court detailed facts to convince the judge to vacate the order. Your motion must include your own declaration. Others who know about your case may also write a declaration on your behalf.

Make the statements short and factual, not argumentative and opinionated. (**Example:** “My former husband did not pay child support for two years,” not “My former husband has always been cheap and cruel.”) Number each fact separately. Wherever possible, try to use headings to organize different topics. Try to break large paragraphs into smaller ones for easier reading.

FORM #4: Order on Motion to Vacate Judgment/Order

Put the date of the order you are trying to vacate, and which party you are. (You usually will be the defendant.) Then put what you want the vacating order to say.

Presented by: sign here.

FORM #5: Copy of Your Order

You must give the court a copy of the Order(s) you are trying to vacate. Highlight the specific sections of the Order(s) you want vacated. You must attach this document to your Declaration (Form 3).

FORM #6: Proof of Personal Service

Someone, other than yourself, who 18 or over and not a witness or otherwise connected with the case, must do one of these:

- personally serve (give) the other party with copies of your forms.
- give your papers to someone of suitable age and discretion (adult or older teenager) living at the other party’s home.

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- ❖ The server cannot give the paperwork to children at the home. The server also cannot leave the paperwork outside the door.
-

After serving the papers, the server must fill out a Proof of Personal Service.

Other Documents (Optional)

You can attach to your declaration as exhibits any other document(s) you want to bring to the court's attention and are not declarations. (Other declarations are **not** exhibits.) In your declaration, describe these exhibits and refer to them when explaining why the evidence supports vacating the order. Refer to the exhibit number you have assigned it.

STEP 3: Talk to a Lawyer, If Possible

These instructions are not a substitute for legal advice. The laws and court rules are complicated. Following these instructions will not guarantee success. It is always better to talk to a lawyer about your problem before filing your motion. The end of this publication has contact info.

STEP 4: Get a Judge/Commissioner's Signature / Copy Forms

After filling everything out, you must have a judge or commissioner sign Form #1, Order to Show Cause to Vacate Judgment/Order. You do this "ex parte." This means the other party or parties need not be notified or present. (Some counties have a separate Ex Parte Department to handle such matters.)

Make three copies of Forms 1 - 5. On Form 4 only, put **PROPOSED** on the copies only. Do not put this on the original of Form 4. You bring the completed original Form 4 to your hearing for the judge to sign.

STEP 5: File and Deliver Working Papers

Once you have gotten a judge's signature in ex parte, you will file the originals of the following forms with the Clerk's office:

- Form 1
- Form 2
- Form 3 (attach a copy of Form 5 to the original of Form 3)

-
- ❖ Do not file the original or a copy of Form 4.
-

Stamp your copies of the forms with the clerk's date stamp to prove you filed the originals of Forms 1, 2, and 3 with the clerk.

Some counties require “working papers.” Working papers are an extra copy of your motion packet (the papers you filed plus the order marked “Proposed”) that goes to the judge. Ask the clerk or courthouse facilitator if you need to file working papers. If you do, put the following in the top right hand corner of the first page of this set:

WORKING PAPERS: MOVING PARTY

CIVIL LAW MOTIONS

DATE: _____ TIME: _____ AM/PM

NAME: _____

(Your Name)

*** You must fill in your hearing date and time.**

STEP 6: Have the Other Party Served

Have the other party served with a copy of your “motion packet” at least five days (unless local court rules say otherwise) before the hearing. Bring the last copy of your motion packet to your hearing. (Form 6 above has instructions on how to serve the other party.)

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- ❖ If you are trying to vacate a paternity or child support order, and any children have ever been on public assistance, you must also serve a set of copies on the Prosecuting Attorney’s Office, Family Support Division, and all the parties involved in the original proceedings.
-

The person who serves your motion packet should fill out the Proof of Personal Service. The server must sign the Proof of Personal Service after service is completed and return it to you. Make one copy for yourself. File the original with the Clerk. Stamp your copy with the clerk’s date stamp. Bring the copy with you to your hearing.

If the server has been unable to serve the other party, you can ask for court permission to serve by certified mail at the other party’s last known address, or by publication. Ask the court clerk or courthouse facilitator about the forms you need to serve the opposing party by certified mail or publication. You can also contact CLEAR (1-888-201-1014) for advice and forms to get an order for service by mail or publication. Our packet [Service by Certified Mail or Publication](#) has forms and instructions.

STEP 7: Confirm Your Hearing and Go To Hearing

Confirmation: Ask the facilitator or clerk when and how to confirm your hearing. Some counties require you to confirm your hearing several days before the actual hearing takes place. **IF YOU DO NOT CONFIRM YOUR HEARING, THE COURT MAY AUTOMATICALLY CANCEL IT!**

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- ❖ Ask the courthouse facilitator or court clerk about the appropriate court rule. This time line may vary by county.
-

If the other party files a response to your motion, s/he must do so no later than the end of the court day before the day of the hearing (unless local rules say otherwise).

If the other party does not timely file a written response, you have the right to object the judge/commissioner considering the response.

At Your Hearing:

YOU MAY HAVE TO AS LONG AS THREE HOURS FOR YOUR HEARING. DO NOT BRING CHILDREN WITH YOU. Arrive a half hour early for your hearing to check in.

Bring all of these with you to the hearing:

- The original of Form 4
- Your copy of your motion packet
- A copy of Form 6

After Your Hearing:

Make yourself of copy of whatever document(s) the Commissioner or Judge signed. If the other party was not there, make a copy and mail it to the other party. You must file all signed original orders in the clerk's office. **Do not leave the courthouse with original orders the judge has signed!**

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- ❖ **WARNING:** The laws and court rules are complicated. Following these instructions will not guarantee you a good result. Talk to a lawyer about your problem before filing your action. (You may be able to hire a lawyer for a small fee to review your completed forms and talk about your problem, but not represent you in court.)
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What if I need legal help?

- Apply online with **CLEAR*Online** - <https://nwjustice.org/get-legal-help> or
- Call **CLEAR at 1-888-201-1014**

CLEAR is Washington's toll-free, centralized intake, advice and referral service for low-income people seeking free legal assistance with civil legal problems.

- **Outside King County:** Call 1-888-201-1014 weekdays from 9:15 a.m. until 12:15 p.m.
- **King County:** Call 211 for information and referral to an appropriate legal services provider Monday through Friday from 8:00 am – 6:00 pm. You may also call (206) 461-3200, or the toll-free number, 1-877-211-WASH (9274). You can

also get information on legal service providers in King County through 211's website at www.resourcehouse.com/win211/.

- **Persons 60 and Over:** Persons 60 or over may call CLEAR*Sr at 1-888-387-7111, regardless of income.

Deaf, hard of hearing or speech impaired callers can call CLEAR or 211 using the relay service of their choice.

211 and CLEAR will conference in interpreters when needed at no cost to callers.

Free legal education publications, videos and self-help packets covering many legal issues are available at www.washingtonlawhelp.org.

This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice.
This information is current as of May 2016.

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(Form #1)

Superior Court of Washington, County of _____

In re:

Petitioner/s *(person/s who started this case)*:

And Respondent/s *(other party/parties)*:

No. _____

Order to Go to Court (Order to Show Cause)
(ORTSC)

Clerk's action required: 2

Order to Go to Court (Order to Show Cause)

1. Findings

The court has reviewed the motion filed by the *(check one)*: Petitioner Respondent
and finds there is reason to approve this order.

Other findings: _____

2. The court orders *(name)*: _____ **to:**

Go to court on: _____ **at** _____ a.m. p.m.
date *time*

at: _____ **in** _____
court's address *room or department*


docket/calendar or judge/commissioner's name

At the hearing, you must show why the court should **not** approve the requests made by
the other party.


Warning! If you do not go to the hearing, the court may approve the other party's requests without hearing your side.

3. **Other orders** (if any):

Ordered.

_____  _____
Date Judge or Commissioner

Presented by: Petitioner Respondent

 _____ _____ _____
Sign here Print name (if lawyer, also list WSBA #) Date

To both parties:

Deadline! Your papers must be filed and served by the deadline in your county's Local Court Rules, or by the State Court Rules if there is no local rule. Court Rules and forms are online at www.courts.wa.gov.

If you want the court to consider your side, you **must**:

- File your original documents with the Superior Court Clerk; AND
- Give the Judge/Commissioner a copy of your papers (if required by your county's Local Court Rules); AND
- Have a copy of your papers served on all other parties or their lawyers; AND
- Go to the hearing.

The court may not allow you to testify at the motion hearing. Read your county's Local Court Rules, if any.

Bring proposed orders to the hearing.

To the person requesting this order:

You must have this order, and the paperwork you filed with the court to get this order, personally served on the other party by someone 18 or older who is not a party to this case.

To the person receiving this order:

If you do not agree with the requests in the motion, file a statement (using form FL All Family 135, *Declaration*) explaining why the court should not approve those requests. You may file other written proof supporting your side.

(Form # 2)

Superior Court of Washington, County of _____

In re:

Petitioner/s (*person/s who started this case*):

And Respondent/s (*other party/parties*):

No. _____

Motion for Order to Show Cause and Order
to Vacate Judgment/Order
(MT)

Motion for Order to Show Cause and Order to Vacate Judgment/Order

To both parties:

Deadline! Your papers must be filed and served by the deadline in your county's Local Court Rules, or by the State Court Rules if there is no local rule. Court Rules and forms are online at www.courts.wa.gov.

If you want the court to consider your side, you **must**:

- File your original documents with the Superior Court Clerk; AND
- Give the Judge/Commissioner a copy of your papers (if required by your county's Local Court Rules); AND
- Have a copy of your papers served on all other parties or their lawyers; AND
- Go to the hearing.

The court may not allow you to testify at the motion hearing. Read your county's Local Court Rules, if any.

Bring proposed orders to the hearing.

To the person filing this motion:

You must schedule a hearing on this motion. You may use the *Notice of Hearing* (form FL All Family 185) unless your county's Local Court Rules require a different form. Contact the court for scheduling information.

To the person receiving this motion:

If you do not agree with the requests in this motion, file a statement (using form FL All Family 135, *Declaration*) explaining why the court should not approve those requests. You may file other written proof supporting your side.

I. Relief Requested

_____ [Your name] respectfully moves the court for the following: (1) an Order to Show cause requiring _____ [opposing Party's name] to appear and show cause why the court should not grant Respondent's Motion to Vacate Judgment/Order and (2) an Order vacating the Judgment(s)/Order(s) dated _____ [date of Order you want the court to vacate].

II. Statement of Facts/Statement of Grounds

[Clearly and briefly state the facts you base your case on. Print or type.]

I ask the Court to vacate the following Order(s) or parts of Order(s):

This court entered the Order(s) to be vacated on _____. The Court should vacate the Order(s) because (state facts relevant to your motion):

III. Statement of Issues

[Clearly and briefly state the legal issues you want the court to decide. Print or type.]

Should the Court Vacate the Judgment/Order(s) Under Civil Rule 60? *[state specific basis under the rule]*
[If you are seeking to vacate on more than one ground under the Civil Rule, state each issue separately]

IV. Evidence Relied Upon

[Clearly identify the evidence you want the judge to consider with your motion. Print or type.]

- 1. Records and Pleadings in the Court file
- 2. Declaration by: _____ *[writer's name]*
- 3. Declaration by: _____ *[writer's name]*

V. Legal Authority/Argument

[Cite the legal authority you rely upon. Print or type.]

I am making this Motion to Vacate Judgment Order(s) pursuant to one or more of the following:

- Civil Rule 60(a): Clerical mistake(s) in the Judgment, Order, or other parts of the record;
- Civil Rule 60(b)(1): Mistake, inadvertence, surprise, excusable neglect or irregularity in obtaining the Judgment/Order;
- Civil Rule 60(b)(2): Erroneous proceedings against a minor or person of unsound mind and the condition of the defendant/respondent did not appear in the record nor was the error discovered during proceedings;
- Civil Rule 60(b)(3): Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under CR 59(b);
- Civil Rule 60(b)(4): Fraud, misrepresentation or other misconduct of an adverse party;
- Civil Rule 60(b)(5): The Judgment/Order is void;
- Civil Rule 60(b)(6): 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 the judgment should have prospective application;
- Civil Rule 60(b)(7): If the defendant was served by publication, relief may be granted as prescribed in RCW 4.28.200;
- Civil Rule 60(b)(8): Death of one of the parties before the Judgment in the action;
- Civil Rule 60(b)(9): Unavoidable casualty or misfortune preventing the party from prosecuting or defending;
- Civil Rule 60(b)(10): Error in judgment shown by a minor, within 12 months after arriving at full age;
- Civil Rule 60(b)(11): Any other reason justifying relief from the operation of the judgment;
- [Any other relevant legal authority: specify]

A Proposed Order (*check one*): is is **not** attached to this *Motion*.

Person making this motion fills out below

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form are true. I have attached (*number of*): _____ pages.

Signed at (*city and state*): _____ Date: _____



Person making this motion signs here

Print name here

I agree to accept legal papers for this case at (*check one*):

- my lawyer's address, listed below.

the following address (*this does **not** have to be your home address*):

street address or PO box *city* *state* *zip*

(Optional) email: _____

*(If this address changes before the case ends, you **must** notify all parties and the court clerk in writing. You may use the Notice of Address Change form (FL All Family 120). You must also update your Confidential Information form (FL All Family 001) if this case involves parentage or child support.)*

Lawyer (if any) fills out below

▶ _____

Lawyer signs here *Print name and WSBA No.* *Date*

Lawyer's address *city* *state* *zip*

Email (*if applicable*): _____

Warning! Documents filed with the court are available for anyone to see unless they are sealed. Financial, medical, and confidential reports, as described in General Rule 22, **must** be sealed so they can only be seen by the court, the other party, and the lawyers in your case. Seal those documents by filing them separately, using a *Sealed* cover sheet (form FL All Family 011, 012, or 013). You may ask for an order to seal other documents.

Superior Court of Washington, County of _____

In re:

Petitioner/s *(person/s who started this case)*:

And Respondent/s *(other party/parties)*:

No. _____

Declaration of
(name): _____
(DCLR)

Declaration of *(name)*: _____

1. I am *(age)*: _____ years old and I am the *(check one)*: Petitioner Respondent

Other *(relationship to the people in this case)*: _____

2. I declare: _____

(Form #4)

**Superior Court of Washington
County of _____**

In re:

Petitioner(s),

and

Respondent(s).

No. _____

**Order On Motion To Vacate
Judgment/Order**

Clerk's action required

_____ [Name of Moving Party (Requester)] presented a motion for Order re Vacate of Judgment/Order(s) to this court. The court having considered the Motion to Vacate Judgment/Order, declaration(s), testimony and the court file, and finding good cause:

It Is Hereby Ordered:

_____ 's Motion to Vacate Judgment/Order(s) is granted. The Order(s) or parts of Order(s) entered in this matter on _____ (date) shall be vacated as follows:

Dated: _____

Judge/Commissioner

Presented by:

Approved for entry:
Notice of presentation waived:

Signature of Party or Lawyer/WSBA No.

Signature of Party or Lawyer/WSBA No.

Print or Type Name

Print or Type Name

(Form #6)

Superior Court of Washington, County of _____

In re:

Petitioner/s *(person/s who started this case)*:

And Respondent/s *(other party/parties)*:

No. _____

Proof of Personal Service
(AFSR)

Proof of Personal Service

Server declares:

1. My name is: _____. I am **not** a party to this case.
I am 18 or older.

2. **Personal Service**

I served court documents for this case to *(name of party)*: _____
by *(check one)*:

giving the documents directly to him/her.

giving the documents to *(name)*: _____,
a person of suitable age and discretion who lives at the same address as the party.

3. **Date, time, and address of service**

Date: _____ Time: _____ a.m. p.m.

Address:

Number and street

city

state

zip

4. **List all documents you served (check all that apply):**
 (The most common documents are listed below. Check only those documents that were served. Use the "Other" boxes to write in the title of each document you served that is not already listed.)

<input type="checkbox"/> Petition to/for _____	
<input type="checkbox"/> Summons (Attach a copy.)	<input type="checkbox"/> Notice of Hearing _____
<input type="checkbox"/> Order Setting Case Schedule	<input type="checkbox"/> Motion for Temporary Family Law Order <input type="checkbox"/> and Restraining Order
<input type="checkbox"/> Notice Re Military Dependent	<input type="checkbox"/> Proposed Temporary Family Law Order
<input type="checkbox"/> Proposed Parenting Plan	<input type="checkbox"/> Motion for Immediate Restraining Order (Ex Parte)
<input type="checkbox"/> Proposed Child Support Order	<input type="checkbox"/> Immediate Restraining Order (Ex Parte) and Hearing Notice
<input type="checkbox"/> Proposed Child Support Worksheets	<input type="checkbox"/> Restraining Order
<input type="checkbox"/> Sealed Financial Documents	<input type="checkbox"/> Motion for Contempt Hearing
<input type="checkbox"/> Financial Declaration	<input type="checkbox"/> Order to Go to Court for Contempt Hearing
<input type="checkbox"/> Declaration of: _____	<input type="checkbox"/> Notice of Intent to Move with Children (Relocation)
<input type="checkbox"/> Declaration of: _____	<input type="checkbox"/> Objection about Moving with Children and Petition about Changing a Parenting/ Custody Order (Relocation)
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Other: _____

5. **Fees charged for service**

- Does not apply.
 Fees: \$ _____ + Mileage \$ _____ = Total: \$ _____

6. **Other Information** (if any): _____

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at (city and state): _____ Date: _____

▶ _____
Signature of server

Print or type name of server

To the party having these documents served:

File the original *Proof of Personal Service* with the court clerk.
 If you served a *Restraining Order* signed by the court, you must also give a copy of this *Proof of Personal Service* and a *Law Enforcement Information Sheet* to law enforcement.

To the Server: check here if you personally served the documents *outside* Washington state. Your signature must be notarized or sworn before a court clerk.
(For personal service in Washington state, your signature does **not** need to be notarized or sworn before a court clerk.)

Signed and sworn to before me on (date): _____.

▶ _____
Signature of notary or court clerk

Print name of notary or court clerk

I am a notary public in and for the state of:

My commission expires: _____

I am a court clerk in a court of record in
(county): _____

(state): _____

(Print seal above.)

CIVIL RULE 60 - RELIEF FROM JUDGMENT OR ORDER

- (a) Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the court at any time of its own initiative or on the motion of any party and after such notice, if any, as the court orders. Such mistakes may be so corrected before review is accepted by an appellate court, and thereafter may be corrected pursuant to RAP 7.2(e).
- (b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud; etc. On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:
 - (1) Mistakes, inadvertence, surprise, excusable neglect or irregularity in obtaining a judgment or order;
 - (2) For erroneous proceedings against a minor or person of unsound mind, when the condition of such defendant does not appear in the record, nor the error in the proceedings;
 - (3) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under rule 59(b);
 - (4) Fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party;
 - (5) The judgment is void;
 - (6) 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 the judgment should have prospective application;
 - (7) If the defendant was served by publication, relief may be granted as prescribed in RCW 4.28.200;
 - (8) Death of one of the parties before the judgment in the action;
 - (9) Unavoidable casualty or misfortune preventing the party from prosecuting or defending;
 - (10) Error in judgment shown by a minor, within 12 months after arriving at full age; or
 - (11) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time and for reasons (1), (2) or (3) not more than 1 year after the judgment, order, or proceeding was entered or taken. If the party entitled to relief is a minor or a person of unsound mind, the motion shall be made within 1 year after the disability ceases. A motion under this section (b) does not affect the finality of the judgment or suspend its operation.

- (c) Other Remedies. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding.
- (d) Writs Abolished--Procedure. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review are abolished. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.
- (e) Procedure on Vacation of Judgment.
 - (1) Motion. Application shall be made by motion filed in the cause stating the grounds upon which relief is asked, and supported by the affidavit of the applicant or his attorney setting forth a concise statement of the facts or errors upon which the motion is based, and if the moving party be a defendant, the facts constituting a defense to the action or proceeding.
 - (2) Notice. Upon the filing of the motion and affidavit, the court shall enter an order fixing the time and place of the hearing thereof and directing all parties to the action or proceeding who may be affected thereby to appear and show cause why the relief asked for should not be granted.
 - (3) Service. The motion, affidavit, and the order to show cause shall be served upon all parties affected in the same manner as in the case of summons in a civil action at such time before the date fixed for the hearing as the order shall provide; but in case such service cannot be made, the order shall be published in the manner and for such time as may be ordered by the court, and in such case a copy of the motion, affidavit, and order shall be mailed to such parties at their last known post office address and a copy thereof served upon the attorneys of record of such parties in such action or proceeding such time prior to the hearing as the court may direct.

Statutes. Except as modified by this rule, RCW 4.72.010-.090 shall remain in full force and effect.