

CVMSAD

(YOUR NAME)

(YOUR STREET ADDRESS)

(YOUR CITY, STATE, ZIP)

(YOUR TELEPHONE)

(YOUR E-MAIL ADDRESS)

Defendant, Self-Represented

JUSTICE COURT, _____

CLARK COUNTY NEVADA

_____,

Plaintiff,

vs.

_____,

Defendant.

Case No.: _____

Dept. No: _____

**MOTION TO SET ASIDE DEFAULT AND DEFAULT JUDGMENT PURSUANT TO
JCRCP 60(b)-(c) AND MOTION TO STAY EXECUTION OF JUDGMENT PENDING
HEARING PURSUANT TO JCRCP 62(b)**

Defendant, self-represented, pursuant to JCRCP 60, moves the Court for an Order to
Set Aside Default and Default Judgment and moves pursuant to JCRCP 62(b) for a stay of
execution of said judgment pending a hearing on Defendant's Rule 60 motion, for the reasons
set forth herein.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 (Choose only one box below and fill in the blank lines that follow it with your explanation.)

3 ☐ I was never served with the Summons and Complaint. The Proof of Service alleges
4 service was executed, but I dispute service for the following reasons: *(explain why the Proof of Service is*
5 *wrong or why you were never served):*
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10 Justice Court Rule of Civil Procedure 60(c) provides in pertinent part as follows:

11 *When a default judgment shall have been taken against any party who was*
12 *not personally served with summons and complaint, either in the State of*
13 *Nevada or in any other jurisdiction, and who has not entered a general*
14 *appearance in the action, the court, after notice to the adverse party,*
upon motion made within 6 months after the date of service of written
notice of entry of such judgment, may vacate such judgment and allow the
party or the party's legal representatives to answer to the merits of the
original action.

15 ☐ I acknowledge that I was served with the Summons and Complaint. However, I did
16 not file a timely Answer for the following reasons *(explain why you did not respond to the Complaint):*
17
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21 Justice Court Rule of Civil Procedure 60(b)(1) provides that the court may relieve a
22 party or his legal representative from a final judgment, order, or proceeding for “mistake,
23 inadvertence, surprise, or excusable neglect.” For motions under JCRCP 60(b)(1), the court is
24 to consider the following factors: (1) a prompt application to remove the judgment; (2) an
25 absence of an intent to delay the proceedings; (3) a lack of knowledge of procedural
26 requirements; (4) good faith; and (5) the court must consider the general policy in favor of
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1 resolving cases on their merits. See Kahn v. Orme, 108 Nev. 510; 835 P.2d 790 (1992). A
2 meritorious defense is not required to enable setting aside a judgment. See Epstein v. Epstein,
3 950 P.2d 771 (Nev. 1997).

4 *(Complete all the blanks below, regardless of what option you selected above.)*

5 I discovered the default judgment was entered against me on *(insert date when you discovered there*
6 *was a default judgment)* _____. I made this discovery through the following facts

7 *(describe how you found out about the default judgment):*
8
9
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12 Defendant's circumstances support relief from the default judgment. Defendant files
13 this motion shortly after discovery of the judgment and its consequences and has no intent to
14 delay the proceedings. Further, Defendant is willing and able to adhere to all deadlines and
15 scheduling the court may order. Additionally, Defendant is acting in good faith in order to
16 actively defend himself/herself in this matter.
17

18 Further, Justice Court Rule of Civil Procedure 62(b) states in pertinent part, "In its
19 discretion and on such conditions for the security of the adverse party as are proper, the court
20 may stay the execution of or any proceedings to enforce a judgment pending the disposition of
21 a motion...for relief from a judgment or order made pursuant to Rule 60..."
22

23 Pursuant to the terms of Rule 62(b), Defendant respectfully requests that the execution
24 of the judgment be stayed, pending the resolution of this motion, as the amount of money that
25 has been or could be withheld may be beyond what the Defendant can reasonably afford. The
26 withholding of Defendant's funds would limit the Defendant's overall ability to meet other
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1 budgeted obligations and pay for the necessities of life. Thus, the Defendant requests a stay of
2 execution.

3 Accordingly, Defendant respectfully requests this Court set this matter for hearing and
4 vacate the judgment. Pending the hearing on this matter, Defendant further requests the
5 execution of the judgment be stayed until the resolution of this motion, and that any writs of
6 garnishment be vacated, and that any and all wages and property garnished from Defendant be
7 ordered returned to Defendant.
8

9 I declare under penalty of perjury that the foregoing is true and correct.

10 DATED *(insert today's month and day)* _____, *(insert year)* 20____.

11
12 *(Your signature):* _____
13 Defendant, Self-Represented
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1 JUSTICE COURT, _____

2 CLARK COUNTY NEVADA

3
4 _____,
5
6 Plaintiff,

Case No.: _____

Dept. No: _____

7 vs.

8 _____,
9 Defendant.

10 **ORDER STAYING EXECUTION OF JUDGMENT PENDING HEARING PURSUANT**
11 **TO JCRCP 62(b) AND SETTING HEARING ON MOTION TO SET ASIDE DEFAULT**
12 **AND DEFAULT JUDGMENT PURSUANT TO JCRCP 60(b)-(c)**

13 *(The clerks' office will complete the hearing location, date, and time. Do not put anything in those blanks. But, make sure you note your*
14 *hearing date and go to court on that day and time. The judge will sign. Skip to the lines under "Submitted by" and complete those blanks with*
15 *your information.)*

16 The Motion to Set Aside Default and Default Judgment Pursuant to JCRCP 60(b)-(c)
17 and Motion to Stay Execution of Judgment Pending Hearing Pursuant to JCRCP 62(b) shall be
18 brought on for hearing before Department _____ of the Las Vegas Justice Court on the _____
19 day of _____, 20____, at _____ ☐ a.m. ☐ p.m.

20 Execution of the judgment shall be stayed pending the hearing on this matter. Any
21 funds being held as a result of a Writ of Execution issued in this case shall be held until further
22 order following the hearing date.

23 **TO THE SHERIFF OR EX-OFFICIO CONSTABLE:** Execution is temporarily
24 stayed pursuant to this order. If this Motion is denied at the above-referenced hearing, the stay
25 will be lifted, and the execution will be permitted to continue without the issuance of another
26 Writ of Execution.
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1 **TO THE OPPOSITION: YOU ARE REQUIRED TO FILE WITH THE COURT**
2 **AND SERVE ON THE MOVING PARTY A WRITTEN “OPPOSITION” TO THIS**
3 **MOTION WITHIN 10 (TEN) JUDICIAL DAYS. YOUR FAILURE TO FILE AND**
4 **SERVE A WRITTEN OPPOSITION MAY BE UNDERSTOOD AS AN ADMISSION**
5 **THAT THE MOTION IS VALID, AND MAY RESULT IN THE COURT GRANTING**
6 **THE RELIEF REQUESTED IN THE MOTION AGAINST YOU.**

7
8 DATED this _____ day of _____, 20____.

9
10
11 _____
12 JUSTICE OF THE PEACE

13 Submitted by:

14 _____
15 (YOUR SIGNATURE)

16 _____
17 (YOUR NAME)

18 _____
19 (YOUR STREET ADDRESS)

20 _____
21 (YOUR CITY, STATE, ZIP)

22 _____
23 (YOUR TELEPHONE)

24 _____
25 (YOUR E-MAIL ADDRESS)

26 Defendant, Self-Represented
27
28

1 **CERTS**

2 _____
(Name)

3 _____
(Address)

4 _____
(City, State, Zip Code)

5 _____
(Telephone Number)

6 _____
(E-mail Address)

7 Defendant, Self-Represented

8
9 **JUSTICE COURT, TOWNSHIP OF _____**
10 **CLARK COUNTY, NEVADA**

11 _____,
12 Plaintiff(s),
13
14 vs.
15 _____,
16 Defendant(s).

Case No.: _____
Dept. No.: _____

17 *(You must mail this completed and filed packet to the Plaintiff, or Plaintiff's attorney if there is one, as well as to the Sheriff or Constable's*
18 *office who might have executed on you, so that everyone knows you have filed this, that there is a court date, and that execution is stayed. Mail*
19 *the packet out as quickly as possible after filing, fill out this form, and file this form.)*

20 **CERTIFICATE OF MAILING**

21 I HEREBY CERTIFY that on the _____ day of _____, 20____, I
22 delivered a true and correct copy of the foregoing **Motion to Set Aside Default and Default Judgment**
23 **Pursuant to JCRCP 60(b)-(c) and Motion to Stay Execution of Judgment Pending Hearing**
24 **Pursuant to JCRCP 62(b) and the Order Staying Execution & Notice of Hearing** to the following
25 parties in the following method *(insert the name and address of the following parties/entities and check the box for the manner of*
26 *service):*

27 // /

1 Attorney for Plaintiff/Judgment Creditor:
(or Plaintiff/Judgment Creditor directly if unrepresented)

- 4 ☐ by U.S. Mail, with first-class postage prepaid
5 ☐ by hand delivery

8 Sheriff (or Las Vegas Constable):

- 11 ☐ by U.S. Mail, with first-class postage prepaid
12 ☐ by hand delivery

14 I declare under penalty of perjury that the foregoing is true and correct.

16 _____
17 (Date)

16 _____
17 (Print your name)

16 _____
17 (Your signature)