

Checklist for Motion to Set Aside Judgment (Decided by a Commissioner)

- You must complete a form before you file it. These instructions will help you complete the forms.
- Court staff cannot complete a form for you.
- Attach a copy of any document referred to in the form.
- Keep a copy of all documents for your records.
- Attend all court hearings.
- Some forms may not apply in your case.
- Contact the Self Help Center if you need more help:
<http://www.utcourts.gov/selfhelp/contact/>.

Motions decided by a commissioner are governed by [Utah Rule of Civil Procedure 101](#).

Motions decided by a judge and motions decided by a commissioner follow different procedures. The documents are not different, but the time for filing them and the procedures for a hearing are.

- If a motion will be decided by a **judge**, a hearing is not scheduled until after all of the documents have been filed. Also, a Request to Submit must be filed before the judge can consider the motion.
- If a motion will be decided by a **commissioner**, a hearing is scheduled when the motion is filed, and the documents have to be filed and served before the hearing. A Request to Submit is not filed for motions considered by a commissioner.

If you are not sure whether your motion will be decided by a judge or a commissioner, call the court to find out.

(1) Motion to Set Aside Judgment

- Print your name and contact information at the top of the first page. Check whether you are the Plaintiff/Petitioner or Defendant/Respondent or the attorney for the Plaintiff/Petitioner or Defendant/Respondent.
- Choose District Court and print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition or complaint.
- Check whether you are the Plaintiff/Petitioner or Defendant/Respondent and the date the judgment was entered.

- Paragraph (1): Choose the reason(s) you are asking the court to set aside the judgment.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- File the original form and certificate of service with court staff.

(2) Statement Supporting Motion to Set Aside

- Complete the top part of the form (called the caption) the same way you did in the Motion to Set Aside.
- Paragraph (1): Check whether you are the Plaintiff/Petitioner or Defendant/Respondent.
- Paragraph (2): Print the date the judgment was entered.
- Paragraph (3): Choose the reason(s) you are asking the court to set aside the judgment and explain how each reason you have chosen applies in your case. For example, if you are claiming a mistake has been made, clearly describe that mistake.
- Paragraph (4): You can choose one or both of these options, depending on the reasons you are relying on for your motion:
 - If you are relying on reasons 1, 2 or 3, you must make the motion within 90 days of entry of the judgment. Mark this choice if you are relying on 1, 2 or 3 **and** you are filing this motion within 90 days
 - If you are relying on reasons 4, 5 or 6, you must make the motion in a “reasonable time” since the entry of the judgment. You must explain how your request is being made in a reasonable time.
- Paragraph (5): Explain why you disagree with the complaint/petition and provide the facts to support your disagreement.
- Paragraph (6): Motions decided by a commissioner will have a hearing unless the parties agree on the motion. If the other party is stipulating to the motion, check that you are not requesting a hearing. If the other party will not stipulate, check that you are requesting a hearing.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.

- File the original form and certificate of service with court staff.

(3) Motion to Stay Execution of Judgment (Optional)

When you file a Motion to Set Aside Judgment, you can also file a Motion to Stay Execution of Judgment to ask the court to temporarily stop enforcement of the judgment while it considers the Motion to Set Aside Judgment. The forms to ask for a stay are available on the same page as the Motion to Set Aside Judgment forms.

(4) Notice of Hearing

Motions decided by a commissioner are usually decided after a hearing. Call the commissioner's judicial assistant and schedule a hearing if a hearing was not scheduled upon filing the motion. Complete, file and serve a Notice of Hearing. You must serve the other party with the motion, all attachments to the motion, and the Notice of Hearing at least 14 calendar days before the hearing.

- Complete the top part of the form the same way you did in the Motion to Set Aside.
- Identify Plaintiff/Petitioner and Defendant/Respondent by name and address.
- Print the name of the motion on the blank line. Write "Set Aside Judgment" on the blank line after "Motion to." Print the date and time of the hearing. Print also the commissioner's name and courtroom number for the hearing.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- File the original form with court staff.

(5) Stipulation

If you and the other party agree about the motion, work with the other party to complete the stipulation and file it with the motion. The stipulation must be completed and signed by the other party.

The other party should send the forms and attachments back to you to attach to the motion and file with the court.

(6) Statement Opposing the Motion

A Statement Opposing the Motion is a document filed by the other party. Some commissioners require a written Statement Opposing the Motion. Some do not. You should contact the commissioner's judicial assistant to find out whether a Statement Opposing the Motion must be filed.

If the other party files a Statement Opposing the Motion, they must do so at least 7 days before the hearing.

(7) Reply Statement (optional)

If the other party files a Statement Opposing the Motion, you may file a Reply, but only to respond to something being raised for the first time in the opposing statement. If the opposing statement and its supporting documents merely make statements of fact and legal arguments against the points you made in your motion, then you cannot file a reply.

If you file a Reply, you must file and serve it at least 3 days before the hearing.

- Complete the top part of the form the same way you did in the Motion to Set Aside. Write “Set Aside Judgment” on the blank line after “Motion to.”
- Paragraphs (1)(A) and (2)(A): Identify whether the statement is from the Opposing Statement or Opposing Memorandum. Print the number of the paragraph from the document that you disagree with. Quote the statement exactly.
- Paragraphs (1)(B) and (2)(B): Explain why you disagree.
- Do not include any private or protected information. When filed, this document is a public record. [Rule 4-202.09\(9\)](#) requires that you omit from a public record any information that is not itself public information. For a list of records, data and information classified as public, private, and protected, see [Rule 4-202.02](#).
- Attach any required documents and forms.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- File the original form and certificate of service with court staff.

(8) Attend the Hearing

Motions decided by a commissioner are usually decided after a hearing. Be sure to attend any hearing scheduled by the court.

(9) Order on Motion to Set Aside

- Complete the top part of the form the same way you did in the Motion to Set Aside.

- If the motion is stipulated or granted by default, complete the Order on Motion to Set Aside Judgment.
- Attach any required documents or forms.

If there is a hearing, the commissioner will decide the issues and will tell one of the parties to prepare the Order on Motion to Set Aside Judgment. Listen carefully to the commissioner's decision. The documents must agree with that decision, and you may have to prepare them.

- If you are told to prepare the Order on Motion to Set Aside Judgment, complete all of them except the commissioner's signature. What you write in the documents must agree with what the judge decided.
- Date and sign the proposed Order on Motion to Set Aside Judgment under the phrase: "approved as to form."
- Within 21 days after being told to prepare the documents, serve them on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- The other party has 7 days in which to object.
- File the original Findings of Order on Motion to Set Aside Judgment and the Certificate of Service with court staff after the time to object has ended.

(10) Notice of Order

If you prepared the order, or if the commissioner says you have to serve the signed order:

- Complete the top part of the form the same way you did in the Motion to Set Aside.
- Attach any required documents and forms.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- File the original form and attachments with court staff.