



How to Apply for Relief if Your Landlord Gets a Judgment Against You

Note: You may have options if a Justice Court has entered a judgment or order against you. You can use these forms and instructions to ask the judge to set aside (or undo) a judgment or order your landlord obtained against you. A “judgment” is a judge’s order in the lawsuit. The judgment may be called a “default judgment.” “Default” means that you (the defendant) did not answer or appear in the lawsuit and never told the judge your side of the story. You can use this packet to write your Motion to ask the judge to undo the judgment against you so that you can tell your side of the story at trial. It is up to the judge to decide whether or not to undo the judgment. The judge may still enter a judgment against you after hearing your side of the story.

These instructions and forms may not be right for your case. They can’t take the place of advice from a lawyer. Talk to a lawyer if you have **any** questions.

Print these forms single-sided, with writing on one side of the page. Do not change these forms. If you change the forms, you might lose language you need.

Important: Before you file this Motion, be sure to consider the risks. Filing this Motion could actually make things worse for you for two main reasons:

1. If you file a Motion for Relief with the court and the court grants your Motion, that could mean that a prior judgment or order will be undone. After you file your Motion, the judge could end up changing what they previously decided, including parts of the judgment that were in your favor. So, if you don’t want the judge to change any part of the existing judgment or order, then it may not be a good idea to file a Motion for Relief. For instance, let’s say the current judgment doesn’t order you to pay the landlord’s attorney fees. If you file a Motion for Relief and the judge grants your Motion, then the landlord still ends up winning the lawsuit, it’s possible that the judge could then order you to pay the landlord’s attorney fees.
2. If you file a Motion for Relief with the court, then the landlord or the landlord’s attorney will have to spend more time on this lawsuit. If the landlord ends up winning the lawsuit against you, the judge could order you to pay the landlord’s attorney fees. The amount of attorney fees will be higher the more time the attorney had to spend on the lawsuit. So, if the landlord’s attorney hadn’t spent time responding to your Motion, the amount of attorney fees would be lower.

Who Can Use These Forms?

You can use these forms if your landlord sued you in Justice Court and a judgment was entered against you by mistake, inadvertence, surprise, or excusable neglect. These forms are for Justice Court only, not for District Court. Check your court papers to figure out which court entered the judgment or order against you. You can use these forms if you did not file a written answer to the landlord's complaint or if you did not appear in court. You must have a **good reason** for why the Justice Court should grant your motion for relief from judgment. It's up to the Court to decide whether you had a good reason. Examples of good reasons may include:

1. You were never personally served with the summons and complaint. The summons and complaint are the court papers filed by the landlord to start the lawsuit against you. "Personally served" means that someone handed you the court papers.
2. You couldn't afford to pay the \$30.00 filing fee for your answer, and you didn't know that you could ask the Court to waive that fee.
3. You didn't file a written answer with the Court within the five-day filing deadline, and you have a good reason for missing that deadline.
4. You thought you had to have an attorney representing you, and you didn't have an attorney.
5. You and your landlord had reached an agreement, and you didn't think you needed to do anything in response to the court papers.

6. You filed a written answer with the Court, but you never received any notice of when to appear for a hearing, so you didn't appear at the final hearing.
7. There is a mistake in the judgment that wasn't your fault.

What Happens After I File these Forms with the Court?

After you file your Motion and Brief for Relief from Judgment, this is what will happen next:

1. The Court will sign an Order Setting Hearing on Defendant's Motion and Brief for Relief from Judgment;
2. The Court will hold a hearing. You and the landlord must appear at the hearing. At the hearing you must show that there are good reasons for why the judgment or order that the judge signed is not correct.
3. After the hearing, the judge will sign a written order granting or denying your motion.
 - A) If the judge grants your motion, the previous judgment or order against you will no longer be in effect. If you didn't file a written answer to the landlord's complaint, the judge may order you to file a written answer by a certain date. You can find a form for an Answer at montanalawhelp.org/resource/answer-eviction-lawsuit-write-blank-form. The judge will also set a future hearing date. At that hearing, the judge will hear more of the details about the dispute between you and your landlord. The landlord will testify and may also have witnesses to

testify to support what the landlord said in the complaint. You will testify and may also bring witnesses to testify to defend against what the landlord said in the complaint. After that hearing, the judge will make a decision about the dispute and will sign a new judgment or order.

B) If the judge denies your motion, the judgment or order against you will remain in effect. If you want to contest that judgment or order, you will have to file an appeal to the district court. You can find a form for filing at Notice of Appeal at <https://courts.mt.gov/forms/appeals>

-- choose "Notice of Appeal from City/Justice Court to District Court."

What Forms Will I Need to Ask the Judge for Relief from Judgment?

You will need to fill out and file the following forms. Be sure to read below the check-boxes to find out more about each form.

- Defendant's Motion and Brief for Relief from Judgment;
- Order Setting Hearing on Defendant's Motion and Brief for Relief from Judgment;
- Order Setting Aside Judgment; and
- Statement of Inability to Pay (optional).

The **Defendant's Motion and Brief for Relief from Judgment** is for you to complete and sign. The Motion tells the court why the judgment or order against

you is not correct. The Motion also describes the defenses that you have to the eviction lawsuit. You can find more information on possible defenses here: <https://www.montanalawhelp.org/resource/what-you-should-know-about-evictions-in-montana-1>. After you complete and sign the Motion, you must send a copy of it to your landlord or to your landlord's attorney if your landlord is represented by an attorney.

The **Order Setting Hearing on Defendant's Motion and Brief to Set Aside for Relief from Judgment** is for the clerk or judge to fill in, except for the case information (or caption) that you will fill in. After the clerk or judge signs the order, the order will tell you and your landlord when to appear for the hearing on your Motion.

The **Order Setting Aside Judgment** is for the judge to fill in, except for the case information (or caption) that you will fill in. The judge will fill in and sign the order after the hearing on your Motion. This order will tell you and the landlord whether the judge is undoing the judgment against you. (The judge may choose not to use this form, and may write out his or her own Order, and that's okay. It is still a good idea to give this form to the clerk.)

The **Statement of Inability to Pay** is a form you can use to ask the court for permission not to pay the fees the court charges to file your Motion for Relief from

Judgment. This form is not included in this packet. If you cannot afford to pay the
How to Apply for Relief if Your Landlord Gets a Judgment Against You Page 5 of 27 including instructions and forms.
Montana Legal Services Association. Use of this form is restricted to not-for-profit purposes. Last updated 1/9/24.

fee the court charges to file your court papers, you can file a signed “Statement” to ask the Court to waive the filing fee. Find the Statement form online at <https://www.montanalawhelp.org/resource/how-to-ask-the-court-to-waive-your-filing-fees>, or ask the clerk of court for the Statement form to fill out. The form will require you to provide information about your income and expenses. After you fill out the Statement form and sign it, the clerk of court will give it to the judge to review. If the judge decides that you can’t afford the filing fee, the judge will allow you to file your Motion without paying the filing fee. If the judge decides that you can afford the filing fee, the judge will not allow you to file your Motion until you pay the filing fee.

Important: If you can’t afford to pay the filing fee, be sure to file your Statement of Inability to Pay well before your 30-day deadline to file the Motion for Relief. You need to allow the judge enough time to review your Statement. If the judge has not approved your Statement by your 30-day deadline, the clerk of court may not let you file your Motion unless you pay the filing fee, even if it is the last day you are allowed to file your Motion.

What Words Do I Need to Know?

A **Plaintiff** is someone who files a lawsuit in court. If your landlord is the one who filed the lawsuit against you, your landlord is the Plaintiff.

A **Defendant** is someone who is or was sued. If your landlord filed a lawsuit against you, you are the Defendant.

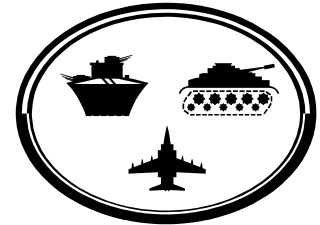
A **Motion for Relief from Judgment** is the document you file with the Court, to ask the Court to undo the judgment entered against you. The Motion tells the Court

that the judgment was entered against you by mistake, inadvertence (an accident),

surprise, or excusable neglect. The Motion tells the Court that you have a good defense to what the plaintiff asked for in the lawsuit. In the Motion, you must check the appropriate boxes for any defenses that apply to you.

What if I am an Active Duty Servicemember?

If you are on active duty in the military, the Servicemembers Civil Relief Act (SCRA) may apply to you and your dependents. The SCRA may help protect you from a default judgment while on active duty. Most parts of the SCRA do not apply automatically. You must take action to inform the Court that the SCRA applies to you. For more information, contact your nearest Armed Forces Legal Assistance (AFLA) office or commanding officer. To find an AFLA office near you, go to <https://legalassistance.law.af.mil/>.



How Long Do I Have to File the Motion for Relief from Judgment?

You have 30 days after the date the judge signed the judgment to file your Motion for Relief from Judgment with the clerk of court. If you were a service member on active duty at the time the judgment was entered, you may have more time – contact Armed Forces Legal Assistance to find out – see the paragraph above. When you count the 30 days, you count every day, including weekends and holidays. You start counting on the day after the date the judge signed the judgment. It's best to file your Motion within 30 days of that date.

But if you received a copy of the judgment by mail, you may add three more days to the 30-day deadline.

Where Do I File My Motion for Relief from Judgment?

You must file your Motion in the court that entered the judgment or order against you. You can find the name of the court at the top of the judgment or order.

How Do I Use These Forms?

1 Fill in the Forms

- Fill in all the blanks in the **Defendant's Motion and Brief for Relief from Judgment** form, starting on page 15 of this packet. Be sure to put a good address and phone number for yourself at the top of the Motion. The Court will use that address and phone number to communicate with you about the lawsuit. The Court must always be able to reach you while the lawsuit is pending.



- Be sure at least one box is checked in Sections 1, 2 and 3 of the Motion. Be sure you complete Section 4 of the Motion.

- Sign and date the Motion at the end. You are signing the Motion under penalty of perjury, so make sure that every statement in the Motion is true before signing.



- Fill out and sign the Proof of Service at the end of the Motion. Write in the date that you will be mailing to the plaintiff a copy of your Motion.

Look at the landlord’s court complaint to see whether the complaint was filed by the landlord or an attorney for the landlord. In the Proof of Service section of your Motion, write out the name and address of the person who signed the complaint (the landlord or an attorney) – this information is usually in the top left-hand corner of the complaint.

- On the form called “**Order Setting Hearing on Defendant’s Motion and Brief For Relief from Judgment**” and the form called “**Order Setting Aside Judgment,**” you will fill in only the caption. The name of the court is the same as the name of the court at the top of the judgment or order. The judge will fill out the rest of each order. Fill out the caption for both order forms. The caption for the form is the title section, and looks like this:

IN THE JUSTICE COURT _____, COUNTY, MONTANA BEFORE _____, JUSTICE OF THE PEACE	
State of Montana	
_____, (<i>name of your landlord</i>) Plaintiff, v. _____, (<i>your name</i>) Defendant(s).	Cause No.: _____ [title of document]

2 Make Copies

- Make two copies of your completed **Motion for Relief for Judgment,**

including any attachments.

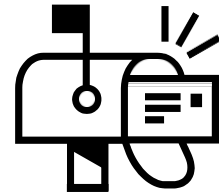
- Make one copy of each Order.

3 File the Completed Forms at the Office of the Clerk of Court

- Go to the office of the clerk of court that signed the judgment or order.
- If you cannot afford the fee for filing your Motion, ask the clerk of court for a **Statement of Inability to Pay**. This form may be called something different in your court.
- File your original **Motion for Relief from Judgment** with the clerk.
- Ask the clerk to stamp your two copies of the **Motion for Relief from Judgment** as “Filed,” with the date filed. One copy is for you to keep. The other is for you to send to the landlord or to the landlord’s attorney if the landlord is represented by an attorney. Be sure to take your copy of the **Motion for Relief from Judgment** with you to your hearing.
- Give the **Order Setting Hearing on Defendant’s Motion** and **Brief for Relief from Judgment** to the clerk.
- Give the **Order Setting Aside Judgment** to the clerk. Ask the clerk to “lodge” the Order in the file. “Lodging” means that the clerk will not officially file the document in your court file, but will just keep the Order

inside the court file so the judge can look at it in the future. If the clerk will not lodge the Order, you will need to keep the Order in a safe place until your hearing. You will need to take the Order with you to the hearing so you can ask to give it to the judge then.

4 Mail your Motion



- On the same day you file your **Motion for Relief from Judgment**, mail a copy of your Motion to the landlord or landlord's attorney. Use the address in the top left-hand corner of the first page of the Plaintiff's complaint.

- It is a good idea to have proof that you actually mailed your Motion to your landlord or your landlord's attorney. You can get proof by going to the U.S. Post Office and asking for a Certificate of Mailing. The post office charges more for the Certificate of Mailing than a regular letter. The receipt that you get from the post office is your proof that you actually mailed your Motion to the correct address on a certain date. **Be sure to keep the Certificate of Mailing receipt, and take it with you to your hearing.**

5 Wait for an Order Setting Hearing

- Within 10 business days after you file your Motion for Relief from

Judgment, the Court will notify you in writing of the date and time of the hearing. If you do not hear from the Court within this time, call the Clerk of Court and ask about the hearing date.

- If you want any witnesses to testify at your hearing, you may need to subpoena them before the hearing. A subpoena orders a person to come to court even if the person does not want to. Once you know the hearing date, you can ask the clerk of court to issue subpoenas for your witnesses. You must provide the name and address of each witness. You don't need a subpoena if your witness will come to the hearing willingly.

6 Go to Your Hearing at the Date and Time Set by the Court

- Bring your copy of your Motion and any other documents you filed with the Court with you to your hearing. You will also need to bring the Order Setting Aside Judgment if the clerk would not let you lodge it when you filed your Motion.
- Arrive at the courthouse at least 15 minutes before your hearing will start. Dress like you are going to an important job interview.
- Check with the Clerk of Court's office to find the right courtroom for your hearing. In some courts, you will have to check in with the Clerk of Court before going to your courtroom. After you have talked to the



Clerk of Court, go to your courtroom and wait for the judge to say your name and case number. **Remember to call the judge “Your Honor.”**

- If the clerk would not let you lodge the **Order Setting Aside Judgment** when you filed your Motion, you may need to give it to the judge. At the beginning of the hearing, when the judge asks if you are ready, tell the judge “Your Honor, I have a proposed Order for your consideration.” Then ask if the judge wants you to hand the Order form to him or her. The judge may or may not take the Order form from you. It is okay if the judge does not want the blank Order – it just means that the judge prefers to write the order himself or herself.

- Be prepared to tell the judge why the judgment entered against you should be set aside. Tell the judge why the judgment is incorrect. If you didn’t file a written answer to the lawsuit, or didn’t appear at a prior hearing, tell the judge your reasons why. Those reasons should be stated in your Motion. If there are any papers that support what you say, show them to the judge. If you have witnesses to support what you say, bring those witnesses to the hearing, and ask them to testify.

Where Can I Get Legal Help?

These organizations may be able to help you:



- **Montana Legal Services Association (MLSA)** gives free legal help to

low-income people. To find out if you qualify for MLSA, apply online at mtlsa.org or call the MLSA HelpLine at 1-800-666- 6899.

- **The State Bar Lawyer Referral and Information Service (LRIS)** refers people to Montana lawyers who might be able to help, for a fee. Contact LRIS at <https://www.montanabar.org/>, choose “Public” then “Hire a Lawyer.”
- **The Court Help Program** can give you information you need to understand your legal rights and responsibilities and can direct you to resources that will help you help yourself. Go to courts.mt.gov/selfhelp/ to find the Court Help Program center nearest you.
- **The State Law Library** can help you find and use legal resources such as books, forms, and websites. You can visit the Law Library website at www.lawlibrary.mt.gov. Or you can contact a Reference Librarian at (800) 710-9827 or by email at mtlawlibrary@mt.gov.

(your name)

(your mailing address)

(city) (state) (zip)

(your phone number)

Defendant

IN THE JUSTICE COURT

_____, COUNTY, MONTANA

BEFORE _____, **JUSTICE OF THE PEACE**

<p>_____, (name of your landlord)</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>_____, (your name or names)</p> <p style="text-align: center;">Defendant(s).</p>	<p>Cause No.: _____</p> <p style="text-align: center;">Defendant's Motion and Brief for Relief from Judgment or Order</p>
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I, _____, defendant in this suit, file this motion for relief from the judgment or order signed on _____

(fill in date). In support of my motion, I show the Court as follows:

Rule 22 of the Montana Justice and City Court Rules of Civil Procedure allows the judge to “relieve a party from any judgment or other order taken against the party by mistake, inadvertence, surprise or excusable neglect...” if the request for relief is made within 30 days of judgment and is supported by an affidavit showing good cause. My declaration under penalty of perjury at the end of this motion is provided instead of an affidavit. § 1-6-105, MCA.

I am filing this motion within 30 days of the order or judgment dated

_____ (fill in date). By this motion, I ask that the order or judgment against me be set aside.

These are the reasons that the judgment or order should be set aside (*read each option carefully and check each box that is true for you*):

- No one hand-delivered to me the Summons and Complaint in this court action; I was not personally served with the court papers. I didn't file a written answer with the Court because I didn't know there was a lawsuit filed against me. (*Add more explanation if necessary:*)

- I was personally served with the Summons and Complaint in this court action, but I did not file a written answer. I didn't intentionally ignore the lawsuit. These are the reasons that I didn't file a written answer with the Court:

- I filed a written answer with the Court, but I didn't appear at the hearing. These are the reasons that I didn't appear at the hearing:

- I talked to my landlord after receiving the court papers and thought we had made an agreement and that I didn't have to respond to the lawsuit. *(Add more explanation if necessary)*

- I appeared at the hearing. Even so, the judgment or order entered after the hearing is not correct. I am entitled for relief from the judgment or order entered for these reasons:

- Other *(write out your reasons, if not covered by the options above):*

The Montana Supreme Court has ruled in favor of a defaulting defendant in a justice court case. In *Little Horn State Bank v. Real Bird*, 183 Mont. 208, 598 P.2d 1109 (1979), the Montana Supreme Court found that the justice court erred in entering a default judgment against the defendant in a bank's lawsuit for money owed.

After being served by the bank, the defendant in *Little Horn* appeared in Justice Court to attempt to negotiate a settlement. The defendant then reached an agreement with the plaintiff's attorney, wherein she paid \$150 of what was owed, and understood that no further legal action would be taken while she tried to secure a loan to pay off the rest of her debt. The defendant did not have an attorney at this time, and did not file a written response. Shortly after, without notifying the defendant, the court entered a default judgment in favor of the plaintiff bank and issued a writ of execution against the defendant. The amount of the judgment against the defendant failed to credit her with the payment she made after the suit was filed. The defendant did not find out about the default judgment until the bank seized her property pursuant to the writ of execution. *Little Horn*, 183 Mont. at 209, 598 P.2d at 1110.

The defendant (Ms. Real Bird) filed a motion to set aside the default judgment, which the justice court denied. The defendant appealed. In reversing the justice court's denial of the defendant's motion to set aside the default judgment, the Montana Supreme Court in *Little Horn* cited a previous decision and held as follows:

In *Brothers v. Brothers* (1924), 71 Mont. 378, 383-84, 230 P. 60, 61, this Court said: "No great abuse of discretion by the trial court in refusing to set aside a default need be shown to warrant a reversal, for the courts universally favor a trial on the merits." The Court went on to state it is preferable to dispose of cases on their merits than to maintain too strict a regard for the technical rules of procedure. *Brothers*, 71 Mont. at 384, 230 P. at 61.

Little Horn, 183 Mont. at 210.

While *Little Horn* was decided before the enactment of Rule 22, the Court in that case followed the same kind of reasoning that Rule 22 requires.

Like the defendant in *Little Horn*, I have valid reason(s) for why the judgment or order should be set aside. These are my reasons (*check one or more of the options, whichever ones are true*):

- I didn't get to tell the Court about my defenses to the landlord's court complaint because I didn't file a written answer or didn't appear at the hearing. This is a summary of my defenses to the complaint (I will provide more detail at the hearing):

- I didn't present my defenses to the Court before the judgment or order was entered because:

- I didn't appear at the hearing, as I explained in the previous pages
 I appeared at the hearing, but couldn't present my defenses because:

- I'm asking the Court to set aside its judgment or order because I have good reasons for why the judgment or order is not correct. This is a summary of my reasons (I will provide more detail at the hearing):

- I moved out of the rental premises before the landlord ever filed the court complaint, and the court complaint is only for possession of the premises, not for any money owed. Because I moved out, the landlord had no basis for the court complaint.
- The landlord's complaint was based on nonpayment of rent. After the landlord's complaint was filed in court, I paid the rent I owed in full, and the landlord accepted that money.
- I do not owe the amount that is stated in the judgment or order. These are the reasons:

This judgment or order, if allowed to stand, will be harmful to me and/or my family members. The harm includes (*check one or more, whichever is true*):

- Losing my/our home
- Instability of having no permanent housing
- Risk of changing school districts for my/our children if we have to move
- Risk of losing access to transportation
- Other [*Tell the judge in your own words how this judgment (if allowed to stand) would hurt you or your family*].

Under these circumstances, the Court is within its authority to grant relief from the judgment or order. Montana courts favor a dispute's resolution on the merits rather than by default judgment. See, for example, *Lords v. Newman*, 212 Mont. 359, 363, 688 P.2d 290, 293 (1984); *Little Horn*, 183 Mont. at 210.

In the interest of fairness, I ask the Court to grant relief from the order or judgment entered against me.

Request for Relief

I respectfully ask the Court to set aside and vacate the judgment or order signed on _____ (*date*), and to proceed to hear the merits of the case and render a decision. I ask the Court to suspend enforcement of the judgment or order until the Court rules on this motion. I further request any additional relief to which I may show myself entitled.

- I respectfully ask the Court to allow me back into my rental while the Court is considering this motion. [*Check this box if you have been removed from your rental, and are asking the Court to allow you back into the rental while the Court considers this motion. Keep in mind that if you are allowed back into the rental, you may owe rent for every day that you live there.*]

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

Dated: _____

Signed in _____ (city), Montana.

Respectfully submitted,

(*Your signature*)

(Your name, printed clearly)
Defendant

.....

Proof of Service

I sent a full and complete copy of my Motion and Brief for Relief from Judgment or Order to the Plaintiff by first class mail on _____.

(date you mailed or are mailing the Motion)

This is the address where I mailed it:

Name: _____
(Plaintiff's name – if Plaintiff's lawyer is the one who filed the court complaint, put the lawyer's name here)

Address: _____
(Plaintiff's address – or Plaintiff's lawyer's address—from the top left corner of the Complaint)

(city)

(state)

(zip)

Signature: _____
(sign your name)

IN THE JUSTICE COURT

_____, COUNTY, MONTANA

BEFORE _____, JUSTICE OF THE PEACE

<p>_____, <i>(name of your landlord)</i></p> <p style="text-align: center;">Plaintiff</p> <p>v.</p> <p>_____, <i>(your name or names)</i></p> <p style="text-align: center;">Defendant(s).</p>	<p>Cause No.: _____</p> <p>Order Setting Hearing on Defendant's Motion and Brief for Relief from Order or Judgment</p>
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On this day, the Court considered the Defendant's Motion and Brief for Relief from Order or Judgment. Pursuant to Rule 22 of the Montana Justice and City Court Civil Rules, a hearing on this motion must be set within 10 (business) days.

IT IS THEREFORE ORDERED that a hearing is set for _____, 20____, at _____ o'clock _____.M. The purpose of the hearing is for the Court to decide whether to set aside the judgment or order entered against Defendant in this cause. If after hearing the Court decides to grant

Defendant's motion to set aside the judgment or order, the Court will set a future date for trial on the merits.

IT IS FURTHER ORDERED that there will be no execution of the judgment or order or writ until further order of this Court.

[If applicable] The Defendant may retain or resume possession of the rental premises until further order of this Court.

Signed on the _____ day of _____, 20_____.

Presiding Judge

Copies to:
Plaintiff
Defendant

IN THE JUSTICE COURT

_____, COUNTY, MONTANA
BEFORE _____, JUSTICE OF THE PEACE

<p>_____, <i>(name of your landlord)</i></p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>_____, <i>(your name or names)</i></p> <p style="text-align: center;">Defendant(s).</p>	<p>Cause No.: _____</p> <p style="text-align: center;">Order Setting Aside Judgment or Order</p>
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On _____, 20____, the Court held a hearing on Defendant's Motion and Brief for Relief from Judgment or Order.

The defendant appeared in person, and the Plaintiff:

- Appeared in person:
 - With counsel.
 - Without counsel.
- Did not appear.

Based on the testimony and evidence presented, the court makes the following:

Findings of Fact:

1. The Defendant (s) rented the Plaintiff's property located at:

Street Address

City

State

Zip

2. Plaintiff filed an action for possession in this Court, and Defendant(s) failed to:

answer

appear at trial.

3. A Judgment or Order was previously entered against Defendant(s) on _____.

4. The Defendant's Motion and Brief for Relief from Judgment was timely filed.

5. Defendant's motion is well-founded and is based on good cause.

6. The Defendant has shown that the defendant: (1) proceeded with diligence; (2) any neglect was excusable; (3) the defendant may have a meritorious defense to the claim; and (4) the judgment, if permitted to stand, will affect the defendant injuriously.

Conclusions of Law:

The defendant has met the requirements of Rule 22 of the Montana Justice and City Court Civil Rules for setting aside the judgment.

Order:

This Court orders that:

- The defendant's motion for relief is GRANTED.
 - Trial on the merits is set for the _____ day of _____, 20____,
at _____ o'clock ____ .M.
 - The defendant may remain in possession of the rental premises
pending the Court's final decision.
- The defendant's motion for relief is DENIED.
- The defendant must vacate the premises on _____,
20_____.

Signed on _____, 20_____.

Presiding Judge

Copies to:

Plaintiff

Defendant