

SETTING ASIDE DEFAULT JUDGMENT AND STAY OF WRIT

The following general information may or may not apply to your specific case. If you have a question about any of the information, please be sure to talk to your local Court Assistance Office.

1. Complete the Motion To Set Aside Default, (or Motion To Set Aside Default and Issue Stay of Writ, if a Writ of Execution has already been issued in your case). Include the case number. Attach a copy of any document that supports your claimed defense. Make sure you explain in some detail what your defense to the action is and why you failed to appear and defend the action initially. Make two copies.
2. Complete the Order Setting Aside Default. Make two copies of the Order.
3. Take the original and both copies of the Motion and the original and both copies of the Order to the Court Clerk's Office. Provide the Court Clerk with a self addressed stamped envelope, and a stamped envelope with the opposing party/attorney's address. The Clerk will date stamp the Motion and copies and return your copies to you. Mail, fax or deliver one copy of the Motion to the opposing party or their attorney if they are represented by an attorney. Keep a copy for your records. The Clerk will hold the order and copies for the judge's signature
- 4) If you are required to set a hearing (which you will have to do in Ada County by calling the Court Clerk at 208-287-6900, option 4) complete the Notice of Hearing. Make two copies and file the original. Mail, fax or deliver one copy of the Notice to the opposing party or their attorney if an attorney represents them. Go to the hearing on the scheduled date.

PLEASE NOTE THAT SETTING ASIDE THE DEFAULT DOES NOT ADDRESS THE UNDERLYING CASE. YOU WILL STILL HAVE TO APPEAR TO PRESENT YOUR SIDE OF THE CASE.