

**MOTION TO SET ASIDE DEFAULT AND DEFAULT FINAL JUDGMENT
IN THE [COUNTY COURT / CIRCUIT COURT OF THE [____] JUDICIAL
CIRCUIT]**

IN AND FOR [____] COUNTY, FLORIDA

[NAME OF PLAINTIFF],

Plaintiff,

v.

Case No.: [CASE NUMBER]

[NAME OF DEFENDANT],

Defendant.

_____ /

**DEFENDANT'S VERIFIED MOTION TO SET ASIDE DEFAULT
AND DEFAULT FINAL JUDGMENT**

Defendant, [NAME OF DEFENDANT], moves under Florida Rule of Civil Procedure 1.500(d) [and rule 1.540(b)] to set aside the default entered in this action on [DATE] [and the default final judgment entered on [DATE]], and states:

1. The Default. Plaintiff filed the complaint in this action on [DATE]. [Plaintiff served the summons and complaint on the Defendant on [DATE].] The [Clerk] [Court] entered a default against the Defendant on [DATE]. [A default final judgment was entered against the Defendant on [DATE] in the amount of \$[AMOUNT].]
2. When the Defendant Learned of It. The Defendant first learned of the [default] [default final judgment] on [DATE], when [STATE HOW THE DEFENDANT LEARNED OF IT, for example: a writ of garnishment was served on the Defendant's bank; the Defendant was ordered to complete a fact information sheet; the Defendant checked the Clerk's docket].
3. Excusable Neglect. The Defendant did not respond by the deadline for the following reasons. [STATE THE FACTS, NOT A CONCLUSION.]
4. Meritorious Defense. The Defendant has a meritorious defense to the claim. [STATE THE ULTIMATE FACTS OF THE DEFENSE, NOT A GENERAL DENIAL.
Examples: the debt was paid in full on [DATE], as shown by [DESCRIBE THE PROOF]; the claim accrued on [DATE] and the limitations period ran before this action was filed; the Plaintiff does not own the claim and no assignment to the Plaintiff exists;

the Defendant was not a party to the contract sued on.] The Defendant's proposed answer and affirmative defenses are attached as Exhibit A.

5. Due Diligence. The Defendant [and undersigned counsel] acted promptly after learning of the [default] [default final judgment]. [STATE THE STEPS AND THEIR DATES, for example: the Defendant contacted counsel on [DATE], counsel contacted Plaintiff's counsel on [DATE], and this motion was filed on [DATE].]

6. [OPTIONAL. DELETE THIS PARAGRAPH IF THE JUDGMENT IS NOT BEING ATTACKED AS VOID. A Defendant relying only on this paragraph deletes paragraphs 3 and 5.] The default final judgment is void. [STATE THE GROUND, for example: the Defendant was never served with the summons and complaint, and the return of service [DESCRIBE THE DEFECT]; the damages were not a fixed sum and the Defendant received no notice of the hearing at which they were determined.]

7. Timeliness. This motion is filed within a reasonable time [and within one year after the default final judgment was entered].

8. No Prejudice to the Plaintiff. Setting aside the default and the judgment will not prejudice the Plaintiff. [STATE WHY, for example: no property has been levied on or transferred in reliance on the judgment, and the case can be set for trial on the Court's ordinary schedule.]

9. Relief Requested.

WHEREFORE the Defendant requests that the Court set aside the default entered on [DATE] [and the default final judgment entered on [DATE]], accept the Defendant's answer and affirmative defenses for filing, and grant any other relief the Court finds just.

Under penalties of perjury, I declare that I have read the foregoing motion and that the facts stated in it are true.

Dated: _____

[NAME OF DEFENDANT]

[If the Defendant is represented:]

[NAME OF ATTORNEY FOR DEFENDANT]

Florida Bar No.: _____

[FIRM NAME]

[STREET ADDRESS]

[CITY], [STATE] [ZIP]

[TELEPHONE]

[E-MAIL ADDRESS]

[If the Defendant is not represented:]

[NAME OF DEFENDANT], pro se

[STREET ADDRESS]

[CITY], [STATE] [ZIP]

[TELEPHONE]

[E-MAIL ADDRESS]

CERTIFICATE OF SERVICE

I certify that on [DATE] a true copy of this motion was served by [METHOD OF SERVICE, for example: the Florida Courts E-Filing Portal or U.S. mail] on [PLAINTIFF'S ATTORNEY OR PLAINTIFF, NAME AND ADDRESS].

[NAME OF SIGNER]

[Affidavit page. Use this page instead of the declaration in the motion if the Court or the judge expects a separate sworn affidavit.]

**IN THE [COUNTY COURT / CIRCUIT COURT OF THE [____] JUDICIAL
CIRCUIT]**

IN AND FOR [____] COUNTY, FLORIDA

[NAME OF PLAINTIFF],

Plaintiff,

v.

Case No.: [CASE NUMBER]

[NAME OF DEFENDANT],

Defendant.

_____ /

**AFFIDAVIT IN SUPPORT OF MOTION TO SET ASIDE DEFAULT
AND DEFAULT FINAL JUDGMENT**

STATE OF FLORIDA

COUNTY OF [____]

[NAME OF AFFIANT], being first duly sworn, says:

1. I am [the Defendant in this action] [the [TITLE] of the Defendant and I am authorized to make this affidavit on its behalf]. The facts stated below are within my personal knowledge.

2. [STATE THE FACTS SHOWING WHY THE RESPONSE DEADLINE WAS MISSED.]

3. [STATE THE FACTS SHOWING THE DEFENSE TO THE CLAIM.]

4. [STATE WHEN AND HOW I LEARNED OF THE DEFAULT AND WHAT I DID AFTERWARD.]

[NAME OF AFFIANT]

STATE OF FLORIDA

COUNTY OF [_____]

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, _____, by [NAME OF AFFIANT].

Signature of Notary Public, State of Florida

(Print, type, or stamp commissioned name of Notary Public)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

[Proposed order for the Court.]

**IN THE [COUNTY COURT / CIRCUIT COURT OF THE [____] JUDICIAL
CIRCUIT]**

IN AND FOR [____] COUNTY, FLORIDA

[NAME OF PLAINTIFF],

Plaintiff,

v.

Case No.: [CASE NUMBER]

[NAME OF DEFENDANT],

Defendant.

_____ /

**ORDER GRANTING DEFENDANT'S MOTION TO SET ASIDE DEFAULT
AND DEFAULT FINAL JUDGMENT**

THIS CAUSE came before the Court on the Defendant's Verified Motion to Set Aside Default and Default Final Judgment, and the Court being fully advised, it is ORDERED AND ADJUDGED that:

1. The motion is GRANTED.
2. The default entered on [DATE] is set aside. [The default final judgment entered on [DATE] is vacated.]
3. The Defendant shall serve an answer to the complaint within 10 days after the date of this order.

DONE AND ORDERED in [CITY], [____] County, Florida, on _____.

[County Court / Circuit Court] Judge

Copies furnished to:

[Counsel of record and unrepresented parties]

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