

IDAHO COURT RULES  
IDAHO RULES OF CIVIL PROCEDURE

**Rule 55(c).** SETTING ASIDE DEFAULT JUDGMENT.

For good cause shown the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60(b).

**Rule 60(b).** MISTAKES, INADVERTENCE, EXCUSABLE NEGLIGENCE, NEWLY DISCOVERED EVIDENCE, FRAUD, GROUNDS FOR RELIEF FROM JUDGMENT ON ORDER.

On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), (3) and (6) not more than six (6) months after the judgment, order, or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. Such motion does not require leave from the Supreme Court, or the district court, as the case may be, as though the judgment has been affirmed or settled upon appeal to that court. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order or proceeding, or to set aside, as provided by law, within one (1) year after judgment was entered, a judgment obtained against a party who was not personally served with summons and complaint either in the state of Idaho or in any other jurisdiction, and who has failed to appear in said action, or to set aside a judgment for fraud upon the court.

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\_\_\_\_\_  
(Your name)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Telephone)  
Defendant, Pro Se

IN THE DISTRICT COURT OF THE \_\_\_\_\_ JUDICIAL DISTRICT OF  
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_,  
\_\_\_\_\_,  
Plaintiff(s),  
vs.  
\_\_\_\_\_,  
\_\_\_\_\_,  
Defendant(s).

CASE NO. \_\_\_\_\_  
MOTION TO SET ASIDE DEFAULT  
AND REQUEST FOR STAY OF WRIT

COMES NOW the Defendant \_\_\_\_\_, and pursuant to Rules  
55(c) and 60(b) I.R.C.P. hereby moves to set aside the default of Defendant and the judgment  
entered in this court on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; and requests a stay  
of the writ of execution issued on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

In support of this Motion, the undersigned states:

1. The Defendant resides at: \_\_\_\_\_.
2. The Defendant has a meritorious defense, and in the interest of justice,

Defendant should be allowed to defend this action, and the default judgment should be set  
aside. The Defendant's defense to this action is: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_.

3. Pursuant to Rule 60(b) I.R.C.P., the court may relieve a party from a final judgment for (1) mistake, inadvertence, surprise, or excusable neglect; ... or (6) any other reason justifying relief from the judgment. The Defendant failed to appear and defend in this action because: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

WHEREFORE, the moving party requests:

1. That the default judgment be set aside.
2. That a stay order be issued.
3. That a hearing be set at the discretion of the court.

DATE: \_\_\_\_\_

\_\_\_\_\_  
Defendant

VERIFICATION

STATE OF IDAHO )  
 ) ss.  
County of \_\_\_\_\_ )

I, \_\_\_\_\_, being first duly sworn on oath, depose and say that I am the Defendant in the above-entitled action; I have read the above Motion to Set Aside Default and Request for Stay of Writ, know the contents and believe the it to be true.

\_\_\_\_\_  
Defendant

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public for Idaho  
Residing at: \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

CERTIFICATE OF SERVICE

I certify I served a copy to: (name all parties or their attorneys in the case, other than yourself)

\_\_\_\_\_  
(Name)

By Mail

\_\_\_\_\_  
(Street or Post Office Address)

By fax to (number) \_\_\_\_\_

\_\_\_\_\_  
(City, State, and Zip Code)

By personal delivery

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed/printed Name of Party Signing