

How do I get Relief from a Default Judgment?

Civil Self-Help Services

Hall of Justice
813 6th Street
Room 117, First Floor
Sacramento, CA 95814



What is a default judgment?

A defendant has (usually) 30 days to respond to a complaint once the Summons and Complaint are served. If the defendant does not respond, the plaintiff can ask the Court for a "default judgment." Essentially, the plaintiff is telling the Court the defendant has not responded in the time allowed, is forfeiting their right to respond, and plaintiff should automatically win the case.

What relief is available?

The most common grounds for relief are found in the following code sections:

[Code of Civil Procedure, section 473\(b\): Inadvertence, Surprise, Mistake, or Excusable Neglect](#)

The Court may set aside the default if you provide evidence showing that the default was entered by inadvertence, mistake, surprise, or excusable neglect.

The evidence must establish that the inadvertence or neglect was excusable. To be excusable, the neglect must have been the act or omission of a reasonably prudent person under the circumstances. Forgetting about the lawsuit, being too busy to properly respond, or being unable to afford an attorney are not grounds for excusable neglect.

The motion must be filed within 6 months of the entry of default judgment.

[Code of Civil Procedure, section 473\(d\): Void Judgments](#)

A judgment may be void if the court lacks jurisdiction (the authority to hear a certain type of case), the judgment was granted through the use of fraud, or if the judgment was improperly entered. There are many ways in which a judgment may be void.

The timelines for this motion may vary depending on whether the judgment is *void on its face* (improperly entered) or *void in fact* (appears properly entered without supporting evidence to the contrary).

[Code of Civil Procedure, section 473.5: Party not given actual notice in time to defend](#)

If service of the summons and complaint was done properly, but you never received actual notice of the case, you can request relief under this code. "Actual notice" means you have no knowledge of the action. To file for relief under this code, you need to show that you did not know the lawsuit was happening.

The motion must be filed within 2 years of entry of judgment.

[Civil Code, section 1788.61: Party not given actual notice in time to defend action brought by a debt buyer](#)

Relief under this code is similar to the one above, but it only applies if you were sued by a debt buyer.

This motion must be filed within 6 years after the entry of default, or 180 days of the first actual notice of the action, whichever is earlier.

What happens if the default judgment is set aside?

If the court decides to set aside the default judgment, you have to respond to the complaint. The court will determine the timeline for responding.

You may file an answer or general denial (if permitted by statute), or a motion.

At any point, you may attempt to negotiate a settlement.

An answer admits, denies, or responds with a combination of both to each allegation (or cause of action) given in the complaint.

A general denial is a blanket denial of all the causes of action given in the complaint.

In both answers and general denials, affirmative defenses must be included if they are to be raised at trial.

There are many motions that can be filed in response to a complaint. It is recommended that you research in a practice guide or online to determine if filing one is an appropriate next step for your case.

Where can I get more information?

The Sacramento County Public Law Library is an excellent resource for self-represented litigants. Knowledgeable librarians can direct litigants to reference material, and legal staff may assist with the drafting of motions and pleadings in some cases.

609 9th Street
Sacramento, CA 95814
Phone: (916) 874-6012
Web: SacLaw.org
Self-Help Appointment Screening:
(916) 476-2731

Location

Self-Help Services is located in the Hall of Justice Building, two blocks west of the Gordon D. Schaber County Courthouse. See map on right panel.

Click [HERE](#) for directions.

Hours				
Mon	Tue	Wed	Thu	Fri
8:30-12:00	8:30-12:00	8:30-12:00	8:30-12:00	8:30-12:00
1:30-4:00	1:30-4:00	1:30-4:00	CLOSED	1:30-4:00

Hours are subject to change based on staff availability.

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