



This is for information and instruction. Do not file it.

# HOW TO ASK TO VACATE A DEFAULT JUDGMENT

# 1

## FILL OUT AND FILE THE FORMS

A default judgment is a court order entered against someone when that person does not respond to or participate in a court case. This order usually gives the person who filed the case what they asked for.

The default judgment was entered against you **within the last 30 days ago**.

The default judgment was entered against you **more than 30 days ago**.

Follow the directions to fill out and submit a  
**Motion to Vacate  
Default Judgment  
(Within 30 Days)**

Follow the directions to fill out and submit a  
**Petition to Vacate  
Default Judgment  
(After 30 Days)**

If a default judgment was entered against you, you can ask the court to vacate (cancel) it. The form you use depends on how long it has been since the default judgment was entered:

- If the judgment was entered **within the last 30 days**, use the *Motion to Vacate a Default Judgment*. You will need to explain why you missed the court date or did not participate in the case.
- If it has been **more than 30 days**, use the *Petition to Vacate a Default Judgment*. You must show that you were not properly notified about the case, or that you have a strong defense the court did not hear before entering the default judgment.

If the judge grants your request, the judgment will be vacated (canceled), and the case will continue as if the default judgment never happened.

# 2

## FILE AND GET A COURT DATE.

After you complete your forms, file them with the Circuit Clerk in the county where your case is taking place. When you file, ask the Clerk whether you need to schedule a court date or whether one will be scheduled automatically. In some counties, you may get a court date when you e-file. If you are given a court date, be sure to include it in your *Notice*.

There may be a fee to file your forms. See the Costs and Fees section on page 4 to learn how to ask the court to file your forms for free or at a reduced cost.

For more details on filing, see the How to File the Form section on page 5.

# 3

## SEND YOUR FORMS TO THE OTHER PARTY.

You must send your forms to the other people in the case.

- If you file a *Motion to Vacate a Default Judgment*, send your forms the way you said you would in the Proof of Delivery section on your forms.
- If you file a *Petition to Vacate a Default Judgment*, send your forms by certified mail. You could also ask the sheriff or a private process server to serve them.

If a person in the case has a lawyer, send the forms to the lawyer. Make sure you complete the Proof of Delivery section on your forms so the court knows how you sent your documents.

# 4

## PREPARE AND ATTEND COURT.

Your court date may be in person, by phone, or by video.

Before your court date, make notes for yourself about what you want to say to the judge and gather any documents you plan to use.

During the hearing, explain your reasons to the judge. The judge might make a decision in court, or they might decide later. Make sure to get a copy of the *Order on Motion or Petition to Vacate a Default Judgment* signed by the judge.

Laws covering these forms: [735 ILCS 5/2-1301](#); [735 ILCS 5/2-1401](#); Illinois Supreme Court Rule [106](#)



This packet is not legal advice. It provides general instructions on how to use these forms in your court case. It cannot and does not try to cover everything that might happen in your court case. Your use of the forms does not guarantee you will be successful in court.

How a judge handles a case can vary from county to county. **Your county may have special requirements that are not covered in these instructions.** Ask the Circuit Clerk's office if your county has local rules and, if so, where you can get a copy.



For more information about going to court, including how to fill out and file forms, **call or text Illinois Court Help** at 833-411-1121 or go to [ilcourthelp.gov](http://ilcourthelp.gov).

If there are any words or terms used in these instructions that you do not understand, please **visit Illinois Legal Aid Online** at [ilao.info/glossary](http://ilao.info/glossary). You may also find more information, resources, and the location of your local legal self-help center at [ilao.info/lshc-directory](http://ilao.info/lshc-directory)





# STEP 1

## FILL OUT THE FORMS.

# ARE THESE FORMS FOR ME?

You may **use these forms** to ask to vacate (cancel) a default judgment that was entered against you because you did not respond to or participate in the court case if:

- Your case is a **civil case**. For example, divorce, family, guardianship, eviction, small claims, and cases for injury or property damage.

**Do not use these forms** if:

- Your case is a **criminal, traffic, or juvenile court case**.
- You are trying to start a new court case.
- If your case is a mortgage foreclosure case, use the forms to vacate a default judgment of foreclosure found at [ilcourts.info/forms](https://ilcourts.info/forms).

Forms required:

- **If the default judgment was entered within the last 30 days:**
  - *Motion to Vacate a Default Judgment (Within 30 Days)*: Asks the judge to vacate (cancel) a default judgment entered in the last 30 days.
  - *Notice of Court Date for Motion*: Tells the other people in the case that you filed a Motion and the date, time, and place of the court date.
- **If the default judgment was entered more than 30 days ago:**
  - *Petition to Vacate a Default Judgment (After 30 Days)*: Asks the judge to vacate (cancel) a default judgment entered more than 30 days ago.
  - *Notice of Court Date for Petition*: Tells the other people in the case that you filed a Petition and the date, time, and place of the hearing.
- **Required in both cases:**
  - *Order on Motion or Petition to Vacate a Default Judgment*: The judge uses this form to show their decision.

You can find all of the statewide forms online at [ilcourts.info/forms](https://ilcourts.info/forms).

# IMPORTANT INFORMATION

**What is a default judgment?**

- It is a court order that was entered against you because you did not respond to or participate in a court case. For example, if a court case is filed against you and you do not file anything with the court or attend the court date, the judge can enter a default judgment against you. A default judgment usually gives the person who filed the case everything they asked for.

### What is a *Motion or Petition to Vacate a Default Judgment*?

- A Motion or Petition to Vacate a Default Judgment is a request to the court asking the judge to cancel (vacate) a default judgment entered against you and reopen the case so you can participate.
- The rules and forms for vacating a default judgment are different depending on how much time has passed since the default judgment was entered.
  - The **Motion** is used if you are making your request **within 30 days** after the judgment was entered.
  - A **Petition** is used if you are making the request **after 30 days**.

## Motion to Vacate a Default Judgment (Within 30 Days)

### Is there a deadline for filing the *Motion to Vacate a Default Judgment (Within 30 days)*?

- Yes. You must file the *Motion* within 30 days from the date the default judgment was entered.

### What information do I need to include in a *Motion to Vacate a Default Judgment (After 30 days)*?

- You should explain why you did not file anything in the case, go to court, or otherwise participate in the court case (for example, you were sick).

## Petition to Vacate a Default Judgment (After 30 Days)

### Is there a deadline for filing the *Petition to Vacate a Default Judgment (After 30 days)*?

- In most cases, you must file the petition within 2 years from the date the default judgment was entered. In some situations, the 2 year deadline does not apply, such as if you were never properly notified (served) about the court case.

### What information do I need to include in a *Petition to Vacate a Default Judgment (After 30 Days)*?

- There are strict rules for a *Petition to Vacate a Default Judgment (After 30 Days)*.
- You must show **all three** of these:
  1. **You have a valid defense or claim**  
You need to show that you have a real argument or reason why the other people should not win. This is something that could have changed the outcome if the judge had known about it before the default judgment.
  2. **You had a good reason for not participating in the case earlier**  
You must explain why you did not respond to the case, go to court, or participate before the judgment. It has to be for a good reason, like a mistake, illness, or something out of your control.
  3. **You acted quickly once you found out about the judgment**  
You must show that you did not wait too long to file your petition after finding out about the default judgment. The judge will look at whether your delay was reasonable based on your situation.

OR

You need to show that you were never properly notified (served) about the case or that another exception applies.



## COSTS AND FEES

There may be costs and fees to take part in a court case. This might include fees for filing court documents. Some case types have no fee for filing. Depending on the type of court case, there may be other costs and fees charged – for example, sheriff's fees for serving documents on the other people in the case. If you cannot afford to pay costs and fees, you can ask the court to file for free or at a reduced cost by filing an *Application for Waiver of Court Fees*.

This is a separate form you can find at [ilcourts.info/fee-waiver-forms](http://ilcourts.info/fee-waiver-forms).

# HOW TO FILE THE FORMS



## E-Filing

- After you fill out your court forms, file them with the Circuit Clerk. This is done by electronic filing, called “e-filing.” You do not have to e-file if:
  - You qualify for an exemption (see the Not E-filing section below) or
  - Your case involves a criminal matter or is filed under the Juvenile Court Act of 1987.
- There may be fees to file your forms. See the Costs & Fees section for more information.
- Most people e-file their forms using Odyssey eFileIL at [ilcourts.info/efile](http://ilcourts.info/efile).
- Follow step-by-step instructions and watch videos that walk you through the steps for e-filing at [ilcourts.info/efile-info](http://ilcourts.info/efile-info).
- E-filing is easier on a computer. It may not work on a cell phone or tablet.
- Original wills may not be e-filed.
- If you do not have access to a computer or if you need help e-filing, take your completed forms to a public library or a Circuit Clerk, Appellate Clerk, or Supreme Court Clerk’s office. These places offer public computers where you can e-file your forms.
  - Your courthouse may offer public computers with a scanner where you can turn your paper forms into electronic files.
  - Librarians and courthouse staff may be able to help you e-file, but they cannot provide legal advice.



## Not E-Filing

- Some people are not required to e-file, which means they can file paper forms at the courthouse or by mail. People who do not have to e-file are:
  - Inmates in prison or jail who do not have a lawyer.
  - People with a disability that keeps them from e-filing.
- You may also qualify for an exemption from e-filing if you:
  - Do not have internet or computer access in your home or can’t meaningfully use it.
  - Do not have an email account.
  - Do not have a credit card, debit card, or bank account.
  - Have trouble reading, writing, or speaking English.
  - Tried to e-file your forms, but you were not able to because the equipment or help you needed was not available.
  - Are filing an emergency case as allowed by local rule or order.
- To ask for an exemption from e-filing, use the form at [ilcourts.info/exempt](http://ilcourts.info/exempt). If you cannot print this form, then ask for it at your local courthouse.
  - File your *Certification for Exemption from E-Filing* form along with your other court forms at the Circuit Clerk’s office or by mail.
  - Bring or send your signed court forms and at least two copies of your forms to the Circuit Clerk’s office. Ask them to stamp your copies and return them to you.
  - If you need to make copies of your forms, you can do that at the Circuit Clerk’s office. They may charge you a fee to make copies.
- There may be fees to file your forms. See the Costs & Fees section for more information.
- If you mail your court forms to the Circuit Clerk’s office, include a stamped envelope addressed to you. The Circuit Clerk will file your forms and then send your copies back to you in the envelope.



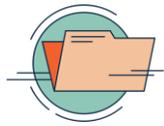
# WHAT'S NEXT



## STEP 2

### FILE AND GET A COURT DATE.

- Make sure that you have a court date and that you have filed the Notice if it is required.
- When you file your forms, ask the Circuit Clerk if you have to schedule a court date or if one will be scheduled automatically. In some counties, you may get the court date when you e-file. Include that court date in your Notice.
- File the forms with the Circuit Clerk's office in the county where your case is taking place.



## STEP 3

### SEND YOUR FORMS TO THE OTHER PARTY.

- Send a copy of your forms to the other party.
  - You must send your forms to the other people in the case. If a person in the case has a lawyer, send the forms to the lawyer.
- If you and the person you're sending the forms to each have an email address, you must send them by email or electronically through the e-filing system. If either you or the person you're sending the forms to do not have an email address, you may give them to the other person by personal hand delivery, mail, or third-party commercial carrier (for example, FedEx or UPS).

## STEP 4

### PREPARE AND ATTEND COURT.



#### Make sure you know how to attend your court date.

Your court date could be in person, by phone, or by video. If it is by phone or video, it is called a "Remote Appearance." Call the Circuit Clerk or visit their website for more information. To find the phone number for your Circuit Clerk, visit [ilcourts.info/clerks](http://ilcourts.info/clerks).

#### Your court date could be in person, by phone or by video.

- If your court date is in person:
  - Get to the courthouse at least 30 minutes early so you have enough time to get through security.
  - Go to the courtroom number listed on your court form.
  - If your forms do not have a courtroom number, look for a list of cases at the courthouse or ask someone at the Circuit Clerk's office.
  - Check in with the courtroom staff and wait for your name and case number to be called.
- If your court date is by phone or video:
  - Make sure to have the call-in or login information for your court date and make sure your technology is working.
  - Follow the instructions on the court notice you received. Call the Circuit Clerk or Circuit Court, or visit their websites for specific technology instructions.
  - Start trying to log-in to your courtroom at least 15 minutes before the start time in case you have any problems with technology.
  - Follow these tips to attend court by phone or video: [ilcourts.info/remote-resources](http://ilcourts.info/remote-resources).
- When your case is called, introduce yourself to the judge. If you are attending by phone or video remember to unmute yourself.

- Have these items with you on your court date:
  - Photo I.D.;
  - Copies of all the documents you filed with the Circuit Clerk;
  - Other papers or proof related to your case; AND
  - If you are having a hearing or trial, bring your witnesses and evidence.
  - Check with the Circuit Clerk for any other local requirements.

## **Talk to the judge and get a signed copy of the final order.**

### **Present your *Motion* or *Petition* to the judge.**

- Be ready to tell the judge what you are asking for and why the judge should agree with your request. The judge might ask you questions.
  - The judge might give the other party time to respond in writing and schedule another court date.
  - If you have a defense to the case, the judge may ask you about it.
- You might have evidence, including documents and photos.
  - Give a copy to the judge and a copy to the other party.
  - Be prepared to explain why the document or photo is important.
- You might have witnesses.
  - Tell the judge the name of your witnesses.
  - Ask the witnesses questions you prepared in advance.
  - The judge and the other party can ask questions of your witnesses when you are done.
- The judge decides whether the documents, photos, or witness testimony can be considered in making a decision.
- If there is a wage deduction, garnishment, or third party citation, tell the judge so they can stop it.

### **The other party can respond to your *Motion* or *Petition*.**

- The other party will get to respond. This might include testifying, giving evidence like documents and photos, and questioning witnesses.
- You will get to see any documents and photos the other party brings to court. If you do not think the judge should consider them in making a decision, tell the judge why.
- You may ask questions of the other party's witnesses. Write down your questions while they are speaking to the other party or judge.

### **The judge makes a decision after both sides present their case.**

- The judge will decide whether to grant or deny your *Motion* or *Petition*. The judge might make a decision in court or they might make a decision later.
- If the judge needs more information to make a decision, the judge may schedule another court date. Make sure you understand what information is needed and get it before the new court date.
- If the judge needs to think about it more, the judge may let you know the decision later by sending you a court order or at another court date.
- If the judge has enough information, the judge may decide in court and fill out the *Order on Motion or Petition to Vacate a Default Judgment*.
  - Get a copy of the *Order* signed by the judge.
  - If the other party was not in court, you must send them a copy of the *Order*. Fill out and file a *Proof of Delivery* form to show that you sent the copy. You can find the *Proof of Delivery* at [ilcourts.info/forms](http://ilcourts.info/forms).



**YOU'VE COMPLETED THE STEPS TO VACATE A DEFAULT JUDGMENT!**