

Sample Motion to Vacate:

IN THE SUPERIOR COURT OF THE STATE OF [your state]
IN AND FOR THE COUNTY OF [your county]
Debt Collector (Plaintiff),

vs.

Your Name
Defendant.

No. XXXXXXXXXXXXXXXXX.
MOTION TO VACATE JUDGMENT

COMES NOW defendant (your name), Pro Se and prays this Honorable Court to set aside and vacate the default judgment entered against defendant on _____, 2010. And in support of this motion states as follows.

1. Defendant was served (or not) with plaintiff's lawsuit on _____, and the Answer was accordingly due on or before _____. (This information will likely be in the judgment rendered by the court, the one you are trying to have set aside.
 2. Defendant was unable to respond to the petition against him on the date required because of _____ (your reason, make it good!).
 3. Plaintiff sought and obtained judgment by default against defendant on _____.
 4. Defendant learned about the judgment on _____ and brings this motion as soon as practically possible thereafter.
 5. Defendant's failure to respond, and his delay in bringing this motion were not caused by any willfulness or bad faith. Rather, defendant's behavior was excused by _____ (summary of paragraph 2, your reasons).
 6. The Court should grant this motion because defendant has an adequate defense against the claims made against him. Plaintiff's evidence submitted to the court at the default hearing did not support the plaintiff's right to any judgment against defendant in that it did not allege or prove that plaintiff purchased or otherwise acquired the right to sue defendant from anyone to whom defendant owed any money. See, Court Record, a true and correct copy of which is attached to this motion. Defendant denies owing plaintiff any money. See (your name) Affidavit Para. ____.
 7. Defendant also contests the amount of money allegedly owed. From an examination of the court records, defendant notices the following irregularities: _____. The irregularities appear from only a cursory examination of the records as submitted (or there is no evidence in the record supporting the judgment as required by the rules), defendant believes that there is no evidence to support the amount as reached by the court's judgment, and defendants will be substantially prejudiced if the court does not, in accordance with public policy, grant defendant's request for a hearing on the merits.
 8. Defendant attaches a true and correct copy of court records showing that the money allegedly owed is not supported by the evidence.
 9. Defendant attaches an affidavit in support of his factual allegations made herein.
- Wherefore, Defendant respectfully requests that this court vacate its default judgment dated _____ and place the matter back on its calendar for hearing on the merits.

Your signature
Your name printed
Your address and phone number

Certificate of Service

The undersigned declares that on this __ day of __, 2010, he sent a copy of this motion and supporting documents, postage prepaid, to counsel for plaintiff, Joe Blow the lawyer, at _____ (address).

AFFIDAVIT

I, (your name), swear and affirm the following.

1. I am the defendant in the underlying action before the court.
2. State the facts, one to a numbered paragraph, of the reason you did not answer the petition within the required time.
3. I have a meritorious defense to the lawsuit brought against me because... (again, state the facts, one per paragraph).

I certify under penalty of perjury under the laws of the state of your state that the foregoing statement is true.

Signed in [CITY], [STATE] on [DATE].

Signature
Print or Type Name

[make sure you are swearing to things you could actually know]