

INSTRUCTIONS

Vacate Conciliation Court Judgment after 21-Day Deadline Has Passed

Minn. R. Gen. Prac. 520(b)

Important Notices and Resources

The Court has forms and instructions, for some types of cases, as a general guide to the court process. These instructions explain the steps in more detail and answer common questions but are not a full guide to the law. Court employees may be able to give general information on court rules and procedures, but they cannot give legal advice.

Have questions about court forms or instructions?

- Visit www.MNCourts.gov/SelfHelp
- Call the Statewide Self-Help Center at 651-435-6535

Not sure what to do about a legal issue or need advice?

- Talk with a lawyer
- Visit www.MNCourts.gov/Find-a-Lawyer.aspx

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp>. For more information, contact court administration or call the Minnesota State Law Library at 651-297-7651.

Forms You May Need

- *Notice and Motion to Vacate Conciliation Court Judgment after Deadline* (CCT506)
- *Affidavit in Support of Motion to Vacate Conciliation Court Judgment after Deadline* (CCT507)
- *Additional Litigants Form* (CCT702) – if appropriate
- *Affidavit of Personal Service* (SOP102)
- *Affidavit of Service by Mail* (SOP104)
- *Affidavit of Inability to Pay Conciliation Court Fees* (CCT104) – if appropriate (not for businesses)

Forms are available on the [court's website](http://mncourts.gov/GetForms.aspx?c=10) (mncourts.gov/GetForms.aspx?c=10).

What You Need to Do

1. Complete the court forms, following all steps in these instructions.

2. File your forms (electronically or at the courthouse) and pay the Conciliation Court filing fee (or fill out the form to waive the fee if you cannot afford to pay it).
3. A Judicial Officer will review your forms and decide whether to grant your motion. If your motion is granted, a hearing will be scheduled, and Court Administration will contact you with the hearing information.
4. If a hearing is scheduled, appear at the hearing. Each “step” here is described in more detail below.

General Information

These forms are meant to be used when a default Conciliation Court judgment has been ordered against you, and over 21 days have passed since Court Administration sent notice of the judgment. It may be too late to vacate the conciliation court judgment; it will be up to the judicial officer to decide whether to vacate the judgment and grant you a new trial.

You may be able to use this packet **IF**:

1. A conciliation case is already started, and you have a case number; and
2. You did not attend the conciliation court hearing; and
3. A default judgment was ordered against you in conciliation court; and
4. 21 days (24 days if mailed) passed since Court Administration sent the *Notice of Conciliation Court Order*, and you did not file a timely notice to vacate; and
5. You want to ask the court to vacate (cancel) the conciliation court judgment and grant you a new trial.

DO NOT use these forms if it is within 21 days (24 days if mailed) of Court Administration sending the *Notice of Conciliation Court Order*. In that case, you must fill out and file the *Request to Vacate Order for Judgment and Grant New Trial* (CCT504). CCT504 is available online at <https://mncourts.gov/GetForms.aspx?c=10&f=182>.

Step 1

Fill Out the *Notice and Motion to Vacate Conciliation Court Judgment after Deadline* (CCT506)

The Caption

The top part of the first page is where you will find the case caption. It looks like this:

State of Minnesota	District Court
County of: _____	Court File Number: _____
Judicial District: _____	Case Type: <u>Conciliation</u>
 _____ Plaintiff	
VS	
 _____ Defendant	
<input type="checkbox"/> Check box if there is more than one plaintiff or more than one defendant. List the other parties on the <i>Additional Litigants Form</i> , CCT702.	

You will find the information you need to fill out the caption on a court document from your existing conciliation court case. If you do not have any documents from your court file, and if you do not know the information, you will need to look up the court file information.

- You can review some case records online at www.mncourts.gov/publicaccess.
 - If you cannot view your case online, you may visit your local courthouse and use a public records computer to view your court file.
1. At the top of the page, include the following information:
 - The **county** where the case is located;
 - The **Judicial District** number (each county is located in 1 of 10 [judicial districts](http://mncourts.gov/Find-Courts.aspx), mncourts.gov/Find-Courts.aspx);
 - Your **court file number** (this usually starts with a 2-digit number followed by letters and numbers; for example, 89-CO-22-123);
 - The **case type** (Conciliation) is already filled out for you.
 2. Include the name of the **plaintiff** and the name of the **defendant** as it is found on the court document mentioned earlier. If your name is incorrect in any way, you can add “aka” (also known as”, and then correct your name. Check the box below the case caption if there is more than 1 plaintiff or more than 1 defendant. List the other parties on the *Additional Litigants Form* (CCT702).

The Notice

You do not need to fill out anything in this section.

The Motion

3. Fill in your name on the first line.
4. Fill in the name of the other party on the second line.

The Signature Block

On page 2 of the *Notice and Motion*, please read the **Acknowledgement** carefully. There can be serious consequences if you do not have a good reason for using the form.

5. After you have filled out the *Notice and Motion*, you can date and sign the form. Then print your personal contact information below your signature.

Step 2

Fill Out the *Affidavit in Support of Motion to Vacate Conciliation Court Judgment after Deadline (CCT507)*

The Caption

Fill out the caption just as you did on the *Motion*.

The Affidavit

1. Fill in your name.
2. Fill in the date the judgment was entered against you.
3. Read the statement to see if it is true: "I did not receive the *Summons* before the trial within enough time to allow a defense and did not receive notice of the order for default judgment within enough time to ask for a new hearing within 21 days (24 days if mailed) after Court Administration sent the *Notice of Conciliation Court Order*." If this statement is not true, you should get legal advice before using these forms.
 - a. Check the box and fill in the date (or approximate date) you received the *Summons*. The *Summons* is the document that notified you of the conciliation court hearing date. OR check the second box if you did not receive the *Summons*.
 - b. Fill in the date you found out about the order for default judgment. You must file this paperwork within a reasonable time after learning of the judgment.
4. Explain in detail why the court should vacate (cancel) the order for default judgment. If the judicial officer does not have enough details, they cannot grant your request.
5. You do not need to fill out anything in #5 as it has been filled out for you. If the court grants your *Motion*, you may be required to pay additional costs of up to \$50 before a court date will be scheduled (this is explained in more detail in Step 7).

The Signature Block and Penalty of Perjury

When you sign the *Affidavit*, you are signing under penalty of perjury. Perjury is the crime of intentionally lying or misrepresenting the truth. By signing under penalty of perjury, you are stating that the information in your *Affidavit* is true to the best of your knowledge.

6. Date and sign the *Affidavit*. Then include the names of the county and state you're in when you signed it. Print your personal contact information below your signature.

Step 3

Make Copies of Forms

You will need to make one copy of the *Notice and Motion to Vacate Conciliation Court Judgment After Deadline* (CCT506) and the *Affidavit in Support of Motion to Vacate Conciliation Court Judgment After Deadline* (CCT507) for each party, including yourself. You will need to arrange for the other party to be served with a copy of your *Notice and Motion to Vacate Conciliation Court Judgment After Deadline* (CCT506) and the *Affidavit in Support of Motion to Vacate Conciliation Court Judgment After Deadline* (CCT507). See Step 4. Be sure to bring your copy with you to the court hearing (See Step 8).

Step 4

Serve the Other Party

Overview

The other party must receive a copy of your *Notice and Motion to Vacate Conciliation Court Judgment after Deadline* (CCT506) and the *Affidavit in Support of Motion to Vacate Conciliation Court Judgment after Deadline* (CCT507), and one copy of any and all attachments. This is called “service of process.” The papers can be served personally (handed to the other party) or by mail.

NOTE: If there is more than 1 plaintiff and/or more than 1 defendant, each of the other parties need to be served.

Papers **CANNOT** be served on legal holidays as defined in [Minn. Stat. § 645.44](http://revisor.mn.gov/statutes/cite/645.44) (revisor.mn.gov/statutes/cite/645.44.5).

If the other party is represented by an attorney, serve the other party’s attorney instead of the other party directly.

Who Can Serve

The forms you have prepared can be served by any of the following:

- You;
- Another adult; or
- The sheriff.

Service by Mail

The server places 1 copy of the completed *Notice and Motion to Vacate Conciliation Court Judgment after Deadline*, and 1 copy of the *Affidavit in Support of Motion to Vacate Conciliation Court Judgment after Deadline*, and 1 copy of any and all attachments into an envelope. The server must mail the envelope containing the forms to the other party by first class U.S. mail.

Personal Service

The server hands to the other party 1 copy of the completed *Notice and Motion to Vacate Conciliation Court Judgment after Deadline*, and 1 copy of the *Affidavit in Support of Motion to Vacate Conciliation Court Judgment after Deadline*, and 1 copy of any and all attachments.

Step 5

Affidavit of Service (Proving Other Party Was Served)

After the paperwork is served on the other party (**not before**) either personally or by mail, the server must fill out the *Affidavit of Service* form for each party who is served. This *Affidavit of Service* form serves as your proof for the court that the papers were served on the other party.

IF THE PAPERS WERE SERVED BY MAIL, follow these instructions:

Use the [Affidavit of Service by Mail](https://mncourts.gov/GetForms.aspx?c=33&f=28) (SOP104) (mncourts.gov/GetForms.aspx?c=33&f=28)).

YOU:

1. Fill in the caption like you did for the *Motion* and *Affidavit*.

THE SERVER

2. Fill in the server's name and date of birth.
3. Fill in the date the server mailed the papers to the other party.
4. List all of the papers the server mailed to the other party (*Notice and Motion to Vacate Conciliation Court Judgment after Deadline*, *Affidavit in Support of Motion to Vacate Conciliation Court Judgment after Deadline*, etc.).
5. Fill in the other party's name.
6. Fill in the other party's address. NOTE: the address is broken up. The first line is for the street address (*123 Main St.*); the second line is for the city (*Mantorville*); then state, then zip code.
7. Fill in the city and state the server was in when they mailed the papers.
8. Fill in the server's name, address, and telephone number. The server should sign and date the form, and list what county and state they are in when they sign the *Affidavit of Service by Mail*.

After the server signs the *Affidavit of Service by Mail*, make 1 copy for your records. **File the original *Affidavit of Service by Mail* with Court Administration.**

IF PAPERS WERE PERSONALLY SERVED, follow these instructions:

Use the [Affidavit of Personal Service](https://mncourts.gov/GetForms.aspx?c=33&f=27) (SOP102) (mncourts.gov/GetForms.aspx?c=33&f=27)

YOU:

1. Fill in the caption the same as you did for the *Motion* and *Affidavit*.

THE SERVER:

2. Fill in the server's name and date of birth.
3. Fill in the date the server handed the papers to the other party.
4. List all of the papers the server handed to the other party (*Notice and Motion to Vacate Conciliation Court Judgment After Deadline, Affidavit in Support of Motion to Vacate Conciliation Court Judgment After Deadline, etc.*).
5. Fill in the other party's name.
6. Fill in the location where the server handed the papers to the other party.
7. Fill in the server's name, address, and telephone number. The server should sign and date the *Affidavit of Personal Service*, and list what county and state they are in when they sign the form.

After the server signs the *Affidavit of Personal Service*, make 1 copy for your records. **File the original with Court Administration.**

Step 6 File with Court Administration and Pay Filing Fee

You will need to file the following forms with Court Administration:

- *Notice and Motion to Vacate Conciliation Court Judgment After Deadline* (CCT506);
- *Affidavit in Support of Motion to Vacate Conciliation Court Judgment After Deadline* (CCT507), including any attachments;
- *Affidavit of Service by Mail* (SOP104) or *Affidavit of Personal Service* (SOP102);
- *Additional Litigants Form* (CCT702) – if appropriate
- *Affidavit of Inability to Pay Conciliation Court Fees* (CCT104) – if appropriate (not for businesses).

You can file the papers by mail, electronically, or in person at the courthouse where the Conciliation Court case was filed.

When you file the papers with court administration, there will be a filing fee (in some counties, there is an additional amount for the law library fee). You can find the filing fees for your county online starting at <https://mncourts.gov/Help-Topics/Court-Fees.aspx>.

If you are a person (not a business) and cannot afford to pay the filing fee, then you can fill out the *Affidavit of Inability to Pay Conciliation Court Filing Fee* (CCT104) and file it along with the forms mentioned above. CCT104 is available online at <https://mncourts.gov/GetForms.aspx?c=10&f=173>.

Step 7 Judicial Officer Review & Hearing Date

After you file the forms with Court Administration, the judicial officer will review them and decide if your *Motion* should be granted.

If the judicial officer **denies** your *Motion*, then you will not get a hearing date and the Conciliation Court default judgment will stand. If you would like to appeal the judicial officer's decision, you can complete the [Appeals – Limited Removal form packet](http://mncourts.gov/GetForms.aspx?c=10&p=40) (mncourts.gov/GetForms.aspx?c=10&p=40).

If the judicial officer **grants** your *Motion*, you may be required to pay additional costs of no more than \$50 before a hearing is scheduled. Court Administration will notify you if your *Motion* is granted and if payment is required. Once you have paid any required costs, a hearing will be scheduled, and Court Administration will notify the parties of the hearing date.

Step 7 Appear at Your Hearing

You must appear in court on the date set for the hearing. It is important to be on time.

Have copies of all the papers you filed with you.

Conciliation Court hearings are informal, but you must be prepared to present your case. If you are not sure how to prepare for the hearing, you should [get legal advice](http://mncourts.gov/Help-Topics/Find-a-Lawyer.aspx) (mncourts.gov/Help-Topics/Find-a-Lawyer.aspx) before your court date.