

**INSTRUCTIONS FOR FLORIDA SUPREME COURT APPROVED FAMILY LAW
FORM 12.922(c),
MOTION TO SET ASIDE DEFAULT OR DEFAULT JUDGMENT (11/15)**

When should this form be used?

If a **default** or default judgment has been entered against you, and you believe, because of a mistake, inadvertence, excusable neglect, newly discovered evidence, or fraud, that it should not have been entered against you, you can use this form to request that the court set aside the default or default judgment.

This form should be typed or printed in black ink. After completing this form, you should sign the form before a **notary public** or **deputy clerk**. You should **file** the original with the **clerk of the circuit court** in the county where the default was entered and keep a copy for your records.

IMPORTANT INFORMATION REGARDING E-FILING

The Florida Rules of Judicial Administration now require that all petitions, pleadings, and documents be filed electronically except in certain circumstances. **Self-represented litigants may file petitions or other pleadings or documents electronically; however, they are not required to do so.** If you choose to file your pleadings or other documents electronically, you must do so in accordance with Florida Rule of Judicial Administration 2.525, and you must follow the procedures of the judicial circuit in which you file. **The rules and procedures should be carefully read and followed.**

What should I do next?

After you file this form with the clerk and serve a copy on the other party in the case, you must schedule a **hearing** so that the court can consider your motion. You should contact the clerk, **family law intake staff**, or **judicial assistant** to schedule a hearing. Once you have scheduled the hearing date and time, you will need to complete and send out a notice for that hearing. To do so, use **Notice of Hearing (General)**, Florida Supreme Court Approved Family Law Form 12.923, or other appropriate notice of hearing form.

IMPORTANT INFORMATION REGARDING E-SERVICE ELECTION

After the initial service of process of the petition or supplemental petition by the Sheriff or certified process server, the Florida Rules of Judicial Administration now require that all documents required or permitted to be served on the other party must be served by electronic mail (e-mail) except in certain circumstances. **You must strictly comply with the format requirements set forth in the Rules of Judicial Administration.** If you elect to participate in electronic service, which means serving or receiving pleadings by electronic mail (e-mail), or through the Florida Courts E-Filing Portal, you **must** review Florida Rule of Judicial Administration 2.516. You may find this rule at www.flcourts.org through the link to the Rules of Judicial Administration provided under either Family Law Forms: Getting Started, or Rules of Court in the A-Z Topical Index.

SELF-REPRESENTED LITIGANTS MAY SERVE DOCUMENTS BY E-MAIL; HOWEVER, THEY ARE NOT REQUIRED TO DO SO. If a self-represented litigant elects to serve and receive documents by e-mail, the

procedures must always be followed once the initial election is made.

To serve and receive documents by e-mail, you must designate your e-mail addresses by using the **Designation of Current Mailing and E-mail Address**, Florida Supreme Court Approved Family Law Form 12.915, and you must provide your e-mail address on each form on which your signature appears. Please **CAREFULLY** read the rules and instructions for: **Certificate of Service (General)**, Florida Supreme Court Approved Family Law Form 12.914; **Designation of Current Mailing and E-mail Address**, Florida Supreme Court Approved Family Law Form 12.915; and Florida Rule of Judicial Administration 2.516.

Where can I look for more information?

Before proceeding, you should read General Information for Self-Represented Litigants found at the beginning of these forms. For further information, see Florida Family Law Rule of Procedure 12.540, and Florida Rules of Civil Procedure 1.500(d) and 1.540(d).

Special notes...

Remember, a person who is NOT an attorney is called a nonlawyer. If a nonlawyer helps you fill out these forms, that person must give you a copy of **Disclosure from Nonlawyer**, Florida Family Law Rules of Procedure Form 12.900 (a), before he or she helps you. A nonlawyer helping you fill out these forms also **must** put his or her name, address, and telephone number on the bottom of the last page of every form he or she helps you complete.

IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT,
IN AND FOR _____ COUNTY, FLORIDA

Case No.: _____

Division: _____

_____,
Petitioner,

and

_____,
Respondent,

MOTION TO SET ASIDE DEFAULT OR DEFAULT JUDGMENT

I, *{full legal name}* _____, request that the Court enter an order to set aside the _____ Default _____ Default Judgment entered against me and that I be given the opportunity to present my views.

The Court should do this because:

1. I became aware of this Default/Default Judgment on *{date}* _____
2. I found out about this in the following manner *{explain how you found out}*: _____

3. I did not answer or appear at the hearing because: _____

4. If I am given an opportunity, these are the defenses and arguments that I would like to tell the court about: _____

I certify that a copy of this document was () e-mailed () mailed () faxed () hand-delivered to the person(s) listed below on {date} _____.

Other party or his/her attorney:

Name: _____
Address: _____
City, State, Zip: _____
Fax Number: _____
Designated E-mail Address(es): _____

I understand that I am swearing or affirming under oath to the truthfulness of the claims made in this motion and that the punishment for knowingly making a false statement includes fines and/or imprisonment.

Dated: _____

Signature of Respondent
Printed Name: _____
Address: _____
City, State, Zip: _____
Fax Number: _____
Designated E-mail Address(es): _____

STATE OF FLORIDA
COUNTY OF _____

Sworn to or affirmed and signed before me on _____ by _____

NOTARY PUBLIC or DEPUTY CLERK

{Print, type, or stamp commissioned name of notary or clerk.}

_____ Personally known
_____ Produced identification
Type of identification produced _____

IF A NONLAWYER HELPED YOU FILL OUT THIS FORM, HE/SHE MUST FILL IN THE BLANKS BELOW:

[fill in all blanks] This form was prepared for the: {choose only **one**} () Petitioner () Respondent
This form was completed with the assistance of:

{name of individual} _____
{name of business} _____
{address} _____
{city} _____, {state} _____, {zip code} _____, {telephone number} _____