

How to set aside a Judgment in the County Court

Under what circumstances will the judgment be set aside?

- If the original claim form was not received due to moving house and the form was sent to the original address.
- In some cases an error appears in the judgment.
- You have built up a defense case against the judgment and have not had the chance to put this forward.
- If any proceedings did not comply with court regulations.

How does a default judgment come about?

- This is where no hearing took place.
- You failed to send back the Acknowledgment of Service Form, which in turn implies you have no defense.
- You failed to return the initial reply form requesting an increase of time to pay the amount required.

Should I have had a default judgment?

- If you have already taken care of the total amount owed you should not have received a default judgment.

Under what circumstance will the default judgment be set aside?

- If the Acknowledgment of Service form was returned within the available time period.
- You want to provide your defense against the judgment within the time limit.
- You have returned the reply form asking for time to pay within the available time period.

Can the Default Judgment be set aside if I did not return the reply form?

- In the case that the court believes your defense claim is good enough.
- In the case the court think you have been unfortunate by receiving a default when the letters regarding the judgment have failed to reach you for some reason.

How does the Application Process take place?

- A N244 form (general application) you will need to obtain from the court.
- Within the form you must include the creditors information as well as the claim number of the case.
- You must also write down your reasoning for wanting the judgment to be set aside as well as provide information on the evidence you will be using to support your defense.
- There is a statement of truth section that you will need to sign at the bottom of the application.
- Make a copy of the document before forwarding onto the court.

Where does the hearing take place?

- The court will be the local County Court in private and a district judge will attend.
- The court may ask you why there was a delay in returning the form, this may be simply due to a lack of knowledge you were about to receive a judgment.

What is the fee for an application?

- The cost is £60 for the application.
- There are exemptions to paying the application fee under certain circumstances such as low income.

Is there a case where the hearing is not necessary?

- If a hearing will take place the court will provide you with a date where you will need to turn up and explain the reasoning behind your application.
- This is sometimes the case and the court will notify you that the judgment will be simply set aside without a hearing.

What is the Installment Order?

- To receive this you must first admit and agree that the money owed for the judgment is correct.
- Then you obtain a form (N245), which will allow you to pay off the debt through a payment plan that you can afford.
- The cost of the application is £30.
- This tends to be an easier process than having the judgment initially set aside.

What does it mean if the judgment is set aside?

- This gives you the chance to return to the replying stage of the claim, to make an offer of payment or to submit a defense against the claim.
- Any information received during the judgment will be erased from the County Court Register until a judgment has been submitted again.
- A new judgment will remain on the credit file for a period of six years from the date obtained.

What can a credit repair company do?

- They claim to be able to clear credit records and therefore allow you to apply for further credit.
- You must be careful when using a company who say they can clear judgments for you.
- It is often the case the company will remove a judgment using false arguments and false reasoning and this can lead to further problems with the court.

How do I apply for an exemption for paying the application fee?

- A form called the EX160 will need to be obtained.
- The form will need to accompany your main application when being sent to the court.
- If you have paid the application fee and find out you are now exempt from it, there is a six-month period in which you can apply to the court for a refund.

What circumstances mean an exemption is permitted?

- Any attempts to become exempt from the fee will need to be supported by evidence and proof shown.
- Income support or Income-based jobseekers allowance will make you exempt.
- The guarantee credit element of pension credit for you or your partner.
- Working Tax Credit.
- Disability working tax credit.
- Child Tax Credit
- Gross Annual income is below £15,460.

Can I request the fee to be waived?

- Remissions will take place if you can prove the fee will contribute to undue financial hardship
- This is sometimes the case if you are on low income or a benefit that has not automatically made you exempt from the fee.
- Again the EX160 is the application form needed.
- The court will have the final say after viewing your circumstance and deciding on how much you are able to pay towards the fee.