Vacate a default eviction judgment and stop a writ of restitution

Author
Northwest Justice Project

Last Review Date
May 3, 2025

If you didn't go to court and a sheriff posted an eviction notice on your door, you can ask a judge to cancel the eviction if you have a defense. Includes forms and instructions for a Motion to Vacate Default and Stay Enforcement of Writ of Restitution.

1. Fast facts

What is a motion to vacate?

This written request asks a judge to withdraw or take back (to **vacate**) a previous order issued in your case, such as eviction orders (judgment for unlawful detainer and writ of restitution).

> Aquí usamos la palabra “orden” para referirnos a una orden o a una sentencia.

Generally, a judge will approve your Motion to Vacate if you can convince them that you didn't have a fair chance to present your case before the order was issued. If you did have that chance, **don't** file a Motion to Vacate. This is **not** an appeal. An appeal asks a higher court to change a lower court’s decision. A Motion to Vacate asks the same court to take back its own decision.

Judges rarely approve a Motion to Vacate. Before filing this motion, make sure you have solid legal grounds for it. Otherwise, a judge could decide against you and order you to pay the other side’s costs, including attorney’s fees. Try to talk to a lawyer before you file.

What is a motion to stay?

This written request asks a judge to pause (to **stay**) a previous order temporarily while they consider another request, such as a motion to vacate or motion for reconsideration or revision.

Your motion to vacate a default eviction judgment can also include a request to **stay the writ of restitution** (pause the eviction order). If the judge approves it, a stay will temporarily stop the sheriff from evicting you while the judge decides whether to vacate the eviction judgment. **You must ask for an emergency hearing on this motion.**

Deadline!

You can file a motion to stay and vacate any time before the sheriff carries out (enforces) the writ and evicts you. **The sooner, the better.** It takes time to get the paperwork filed, reviewed by a judge, and sent to the sheriff.

You can still ask a judge to vacate a default after you've been removed from the property. But it's much harder to get back into a rental once you're out.

A lawyer can help you figure out if your motion is timely before you file.

()I just want more time to move. Can I file this motion to buy time?

No. Needing more time to move is **not** a solid legal ground to ask for a motion to vacate. Your motion would be considered "frivolous" or in bad faith. You could owe more money to the landlord for court costs and attorney's fees.

If you just want more time, try to make an agreement with the landlord or their attorney on a move out date instead. If you reach an agreement, one of you must put it in writing and everyone involved should sign and date it. Then you must deliver a copy of the signed agreement to the Sheriff to stop them from enforcing the eviction notice (Writ of Restitution). You can read about this law at RCW 59.18.390(1) (https://app.leg.wa.gov/rcw/default.aspx?cite=59.18.390).

2. Reasons to vacate

You must file your Motion to Vacate based on a reason listed in Superior Court Civil Rule 60

(https://www.courts.wa.gov/courtrules/superiorCourtCivilRules.cfm?Rule=Relief%20From%20Ju
. The most common reason is if you didn't get proper notice of the hearing or trial where the judge issued the order.

El juez puede anular una orden si usted prueba cualquiera de lo siguiente:

- **Error, inadvertencia, sorpresa, negligencia justificable o irregularidad** en la obtención de la orden.
  Use esta razón si no recibió el debido aviso de la audiencia o si razonablemente malentendió el aviso.
- **Accidente o desgracia inevitable** que le ha impedido participar en el caso.
  Use esta razón si sucedió algo, fuera de su control, que le impidió responder a tiempo o ir a la audiencia.
- **Errores administrativos** en la orden o en otras partes de las actas judiciales.
  Use esta razón si solo necesita corregir un error tipográfico u otro error en la orden.
- **Pruebas recién descubiertas** que usted no podría haber descubierto mediante un esfuerzo razonable (diligencia debida) a tiempo para pedir un nuevo juicio bajo la Regla Civil 59(b) (https://www.courts.wa.gov/courtrules/superiorCourtCivilRules.cfm?Rule=New%20Trial,%
  .
  Use esta razón si encontró información importante que podría afectar a la decisión del juez **más de 10 días después** de que se expidió la orden. Pero **solo** use esto si no pudo haber encontrado la misma información antes con un esfuerzo razonable.

> Si encuentra información nueva importante **dentro de los 10 días** de cuando se expidió la orden, tiene que presentar una Petición de Reconsideración en vez de una de anulación.

- **Fraude, manifestación falsa u otra conducta indebida** de la otra parte.
  Use esta razón si puede probar que la otra parte mintió, rompió las reglas o usó fraude para obtener la orden.
- **Usted fue notificado por publicación y ha pasado menos de 1 año** desde que el juez expidió la orden.

Estas razones son menos comunes, pero un juez también puede anular una orden si usted prueba uno de los siguientes:

- Una de las partes **murió** antes de que se expidiera la orden.
- La sentencia se ha **cumplido**, liberado o descargado, o una sentencia anterior en la que se basa ha sido revocada o anulada de alguna otra manera, o ya no es justo (equitativo) que la sentencia se aplique a partir de ahora.
- La sentencia u orden es **nula**.
  Por lo general, esto significa que el juez no tenía autoridad para expedir la orden en primer lugar. Esta es una cuestión legal complicada. Hable con un abogado si usted cree que esto aplica.
- La orden se basó en una mala decisión de alguien **menor de 18 años** que está pidiendo anular la orden antes de cumplir **19** años.
- La orden se expidió en contra de una **persona menor de 18 años o** que no tenía la capacidad mental para entenderla (una persona con **trastorno mental**).

No use esta razón si la persona tenía un Guardián ad litem (GAL) en el caso. Esta es solo una razón de anulación si las actas judiciales muestran que el juez no sabía acerca de la edad o condición mental de la persona cuando expidió la orden.

- **Cualquier otra razón que justifique el recurso legal.**
  Use esto si tiene otras buenas razones que no encajan en ninguna otra categoría. Rara vez tiene éxito por sí solo. Resulta más útil cuando se tiene una de las razones indicadas anteriormente y también quiere explicar cómo la orden es extremadamente injusta o causa serias dificultades.

> Needing more time to move is **not** a solid legal ground to ask for a motion to vacate.

3. Improper notice

La razón más común por la que un juez anulará una orden es por aviso incorrecto. Usted puede presentar una petición de anulación si no recibió aviso previo de que alguien presentó un caso judicial en su contra o que se programó una audiencia para el caso. Usted tiene el derecho de ser notificado de los procedimientos judiciales en su contra.

Cuando alguien le demanda (inicia una demanda en su contra en un juzgado), tienen que hacer que alguien mayor de 18 años le entregue a usted una copia de los documentos del juzgado, generalmente en persona (notificación personal del proceso). Esto le avisa que el caso está ocurriendo.

Alternative Service. In eviction cases (unlawful detainer), the law allows the landlord to serve you another way if the process server isn't able to hand you the court papers in person. After trying to personally serve you at different times of day at least 3 times over at least 2 days, a process server is allowed to serve you by posting a copy of the papers on your door and sending you a second copy by regular mail, and a third copy by certified mail. You can read the law about alternative service at RCW 59.18.055 (https://app.leg.wa.gov/rcw/default.aspx?cite=59.18.055).

Si usted fue notificado del proceso y respondió, entonces debe recibir aviso de todo lo que pase en el caso. Esos avisos posteriores podrían venir por correo postal o entrega en mano.

A veces, la persona que inicia (que presenta) un caso judicial contra usted no le notifica del proceso para nada, o no le entregan documentos más adelante en el caso después de que usted responde.

How can I find out if the landlord claimed to have served me?

Contact the Superior Court Clerk's office for the court that issued the Writ of Restitution you got from the Sheriff. The Writ should have the name of the court and the case number at the top. The court clerk can look up your case using this information.

If you didn't get any court papers before the Writ was served, ask the court clerk how to get copies of the **Summons** and **Complaint** that started the case.

You want to see these papers to know what the landlord said about you.

Ask the court clerk's office if the landlord filed any **proof of service** with the court. This form should explain how and when they had you served.

> Hay varios nombres para un Formulario de Comprobante de Notificación del Proceso. También se puede llamar un Acuse, Certificado, Afidávit o Declaración de notificación. Para papeles más adelante en el caso, podría ser un Comprobante de Envío por Correo o Entrega en Mano.

Si hay un comprobante de notificación en su expediente judicial, vea lo que dice. Si no es correcto, piense en cómo demostrar que está equivocado.

> **Ejemplo:** El comprobante de notificación dice que le entregaron papeles en mano en un momento en que usted estaba trabajando. Pídale a su jefe o compañero de trabajo que escriba y firme una declaración bajo pena de perjurio para probar que usted estaba trabajando y que no fue notificado.

Si **no** hay ningún formulario que muestre que la otra parte afirma haberle notificado, eso también ayuda a su argumento de que nunca fue notificado.

> **You can lose your right to notice if you fail to respond by your deadline after being properly served** (even if the case hasn't been filed yet). If you fail to respond, the other party can ask a

> judge to default you and sign orders without further notice to you. If that's your situation, you probably **can't** vacate the order based on improper notice. Consider if any other possible reasons to vacate are true for you. Try to talk to a lawyer.

4. Step-by-step

To file a Motion to Vacate Default and Stay Enforcement of Writ of Restitution, follow these steps:

1. **Fill out the forms** (except for the Proof of Personal Service).

2. **Call or visit the Superior Court Clerk's office.** Tell them you're filing a **Motion to Vacate Default and Stay a Writ of Restitution** in an unlawful detainer case. Ask the clerk when and how you can ask a judge to sign your proposed **Order to Show Cause and Stay Enforcement of Writ of Restitution**. This is called getting an "ex parte" order.

   Many courts have an "Ex Parte" department to hear this type of Motion in person the same day you file, or the next day if you file later in the day. If you need to appear remotely, call the clerk's office to ask the clerk if it's possible. If your move-out deadline is soon, you should go in person.

3. **Call, email, or fax the landlord (or their lawyer, if they have one).** You must try to give the landlord advance notice that you'll be asking a judge to sign an "ex parte" order to stay (pause) the eviction. You must also tell them when you're going to do this so the landlord can come argue against it if they want.

   You must tell your landlord your plan to go to court, even if the ex parte hearing will happen very soon. The judge can deny your motion if you haven't told your landlord you were coming to court.

   You must describe your efforts to give the landlord notice in the **Motion** form (section 6). If possible, send the landlord a copy of your completed forms by email or fax.

   > If the landlord has a lawyer, you must notify the lawyer, not the landlord. The lawyer's contact information should be on the court papers you received (usually on the bottom right). You can also look up a lawyer's contact info on the WSBA Legal Directory (https://www.mywsba.org/PersonifyEbusiness/Default.aspx?TabID=1536).

4. **Make copies.** You need your original plus **3 copies** of each completed form including proposed orders:

   - 1 for yourself
   - 1 for the landlord (or their lawyer, if they have one)

- 1 for the judge as a working copy (if those are required in your county)

Organize the copies in sets, so there's one set for each person who needs a copy. You don't have to give the landlord a copy of the Proof of Personal Service. Put each set of papers into an envelope addressed to each party, with your return address. You'll use these sets for service.

5. **Follow the clerk's instructions to file your Motion and have a judge sign your Order to Show Cause "ex parte."** Give your completed forms to the judge.

   Tell the judge how you notified the landlord (or their lawyer) you'd be asking for this ex parte order. The judge may not listen to you if you didn't try to give the landlord advance notice.

   Tell the judge why there are good legal reasons your eviction judgment should be vacated (canceled). If you weren't notified about the eviction hearing, say so. If you did know about it, say why you couldn't be there. The judge may ask you to explain your situation a little more. Tell the judge how you'd be harmed if the judge allows the eviction to continue right now. Ask the judge to sign the **Order to Show Cause and Stay Enforcement of Writ of Restitution**.

   If the judge signs your **Order to Show Cause**, they'll also put a date and time in the Order to schedule your next hearing. You'll have to come back to court for that hearing to explain why you have a defense against eviction, and why the judge should vacate the default judgment.

   Before you leave ex parte:

- **Ask the judge's clerk how you can get a copy** of the signed Order to Show Cause. You'll need **4 copies**. They don't need to be "certified." You may need to pay for them (or get 1 copy now and make copies later).

> It's best to get at least 1 copy of the signed Order from the clerk if you can. You can also ask the clerk to help you "conform" your copies. Hand the clerk your extra copies of the unsigned Order to Show Cause. Ask the clerk to stamp them with the date and judge's signature. You'll also need to copy over the hearing information onto each copy. There's no fee for conforming your copies.
>
> If possible, take a clear picture of each page of the original Order on your cell phone after the judge signs it. Review your photo to make sure you can read the text. You can show this to the sheriff.

- **Ask if the clerk will file** your original Motion and the signed Order to Show Cause directly from the ex parte courtroom, or if you need to bring them back to the clerk's office for filing. (Different courts do this differently.) You may be given a slip with instructions to file the original documents with the clerk's office.

> If you're told to file yourself, **you must do this before leaving the courthouse!** Your order won't be effective if it's not filed. Give the clerk the originals of all your forms and the

> signed order. Ask the clerk to stamp your copies to show the date you filed the originals. Take the stamped copies back from the clerk. The clerk keeps the originals.

- Ask the clerk if the judges require working copies before a hearing, and if they must be labeled in a certain way. (You may need to write the date and time of the hearing in the upper right corner.) If required, label and deliver working copies to the judge.

6. **Deliver a copy of the signed Order to Show Cause and Stay Enforcement of Writ of Restitution to the County Sheriff's office.** You must give them a copy so they know that your eviction has been paused for now. You can call them to ask if they'll accept it by fax or email, or if you must deliver it in person.

> Make sure the Sheriff gets the Order before the move-out deadline in your Writ of Restitution.

7. **Have someone else deliver copies of the court papers to the landlord (or to their lawyer, if they have one).** You must have the landlord personally served with copies of your Motion, the signed Order to Show Cause, and your proposed Order on Motion to Vacate. **Do this by the deadline listed in the Order to Show Cause (section 4).**

   The person who serves the landlord must be age 18 or older and not involved in the lawsuit. You can get a friend to do this, or you can pay a

professional process server. Don't use anyone who lives at the rental with you or is named in the eviction case.

> You must serve the landlord by the deadline! If you don't, they can ask a judge to lift the stay and you could be evicted right away.

8. **Have the server fill out and sign the Proof of Personal Service form. Make 2 copies.** File the original with the Superior Court Clerk. Bring your copy to the hearing.

9. **Mark your calendar with your next hearing date and time.** The Order to Show Cause will say when you must come back for your next hearing.

10. **Confirme su audiencia, si es requerido.** En algunos condados, tiene que ponerse en contacto con la oficina de la secretaría para confirmar que quiere que su audiencia tenga lugar el día en que está programada. Si no confirma dentro del plazo indicado, **su audiencia será cancelada**. Pida instrucciones en la oficina de la Secretaría del Tribunal.

> If your hearing is canceled, the stay will be lifted and you could be evicted right away.

11. **Lea cualquier respuesta que reciba. Responda si es necesario y está permitido en su condado.** La otra parte tiene que darle una copia de cualquier respuesta que presente en el juzgado. Usted no tiene obligación de responder, pero tal vez sea bueno hacerlo si la otra parte menciona problemas nuevos o dice cosas que no son ciertas.

    Pregunte en la oficina de la secretaría judicial si las respuestas están permitidas en su condado y, si es así, para cuándo deben recibirse. Si está permitido, puede presentar una declaración suya o de otras personas respondiendo a la respuesta de la otra parte. Limite su respuesta a las cuestiones planteadas en la respuesta de la otra parte. Notifique una copia de su respuesta a la otra parte dentro del plazo. Entregue copias de cortesía al juez si es necesario en su condado.

12. **Go to the Show Cause Hearing.** At this hearing, you must explain why you have a defense against eviction, and why the judge should vacate the default judgment. Bring any witnesses or documents that will help you prove your case.

    Read chapter 5 for how to get ready and what to expect at your hearing.

13. **Si no está de acuerdo con la decisión del juez, trate de hablar con un abogado de inmediato**

    Tal vez quiera presentar una petición de modificación o reconsideración. Estas peticiones tienen que presentarse dentro del **plazo de 10 días** desde que se dictó la orden que desea cambiar.

5. Hearing

¿Necesita intérprete? Usted tiene derecho a los servicios de un intérprete en el juzgado sin costo alguno para usted. Cada juzgado debe tener una persona de contacto para solicitar intérpretes. Tan pronto se entere de una cita en el juzgado, póngase en contacto con el juzgado para pedir un intérprete.

¿Y si necesito una acomodación para una discapacidad? Pida una acomodación para una discapacidad que limite su capacidad de participar en el juicio. Cada juzgado debe tener una persona de contacto para las solicitudes de ADA. Puede usar el formulario estatal de Solicitud de Acomodación (https://www.courts.wa.gov/forms/?fa=forms.contribute&formID=71). Tan pronto se entere de una cita en el juzgado, póngase en contacto con el juzgado para pedir esto.

At the show cause hearing, both you and the landlord will have a chance to explain why the eviction judgment and Writ of Restitution should (or should not) be undone.

Prepárese para la audiencia

Intente ir al juzgado antes del día de su audiencia o consulte la página web de la secretaría judicial para ver si puede ver una audiencia por Internet. Observe cómo el juez realiza las audiencias. Trate de preparar algunos apuntes sobre los puntos principales que va a querer presentar en su audiencia.

Organice su documentación. Planee llevar su juego de documentos judiciales y sus copias de cualquier papel que las otras partes le hayan dado en respuesta. Lleve copias adicionales de cualquier orden propuesta que quiera que firme el juez.

Llegue temprano a su audiencia. Intente planificar antes del día de la audiencia cómo va a ir y cuánto tardará. Dese tiempo para pasar por seguridad y llegar a la sala correcta. Si no llega a tiempo, el juez podría cancelar la audiencia o la otra parte podría ganar.

Lleve su documentación, un bloc de papel y una pluma de tinta oscura para tomar apuntes. Trate de no llevar a sus niños si puede hacer otros arreglos para ellos. Por lo general, los jueces no permiten que niños se sienten en la sala del juzgado.

Cuando llegue a la sala del juzgado, diga a la persona a cargo (al secretario del juez o al alguacil) su nombre y el nombre y número de su caso. Tome asiento. Cuando el juez entre a la sala, póngase de pie.

> Si su audiencia es en línea, siga estos consejos para las audiencias por teléfono y por video.

Su caso será uno de varios programados para la misma hora. Escuche al juez y espere a que diga su nombre. Cuando digan su nombre, diga que está

presente. Permanezca en la sala hasta que llamen su caso para la audiencia.

Cuando llamen a su caso

En la mayoría de los casos, el juez habrá leído sus papeles antes de la audiencia. El juez tomará una decisión basándose en la documentación presentada con antelación por ambas partes.

Normalmente no podrá testificar, hacer que testifiquen testigos ni aportar pruebas de alguna otra manera en la audiencia. Usted solo tendrá la oportunidad de decirle al juez brevemente lo que quiere y por qué. Esto significa que debe prepararse de antemano y apuntar los puntos principales que quiere decirle al juez.

> **Si la otra parte obtiene un abogado**. Si el abogado de la otra parte se pone en contacto con usted o se presenta a una audiencia, puede ser que usted decida obtener uno propio. Si es así, dígale al abogado y al juez que usted necesita posponer (aplazar) la audiencia. Que no le entre el pánico. Puede que el abogado le pida que firme algunos documentos. **No firme nada que no entienda.** Si el juez aplaza la audiencia, puede pedir una orden provisional con vigencia hasta la nueva fecha de audiencia.

Si la otra parte se presenta a la audiencia, cada uno podrá presentar su lado del caso. Póngase de pie mientras habla. Dígale al juez brevemente lo que quiere y por qué. Trate de que su argumento sea breve. Solo resuma sus puntos principales. Puede que tenga tan solo 5 minutos para hablar. No repita

todo lo que esté en sus documentos. Si lleva órdenes propuestas, pida permiso para entregárselas al juez.

Si el juez le hace una pregunta, trate de contestarla de manera directa. **No interrumpa al juez.**

Si la otra parte no se presenta, el juez puede pedirle su comprobante de notificación. Lleve una copia para mostrársela al juez. Pida al juez que firme sus órdenes propuestas.

Si no pudo notificar a la otra parte a tiempo, o no tiene comprobante de la notificación, pídale al juez que reprograme su audiencia.

Escuchando la decisión del juez

Una vez que el juez ha escuchado a ambas partes, el juez decide sobre lo que se pide. Escuche atentamente. Tome apuntes. Normalmente, el juez dicta su decisión en voz alta, y luego debe ponerse por escrito en una orden judicial.

> Lo mejor es llevar **órdenes propuestas** para que el juez pueda firmarlas en su audiencia. Si nadie lleva órdenes propuestas, el juez podría decirle a usted, a la otra parte o al abogado de la otra parte que escriban las órdenes y que regresen después para que el juez las firme. El juez podría programar otra audiencia en una o dos semanas solo para firmar las órdenes.

Si la otra parte preparó las órdenes, léalas cuidadosamente. Asegúrese de que dicen lo que dijo el juez. Si no está seguro, **no firme las órdenes**. Pida

regresar ante el juez para asegurarse de que la orden dice lo que el juez dijo.

Si la otra parte no se presentó a la audiencia, envíele copias de las órdenes judiciales. Siga las reglas para hacer la notificación procesal de documentos *después* de iniciado el caso.

6. Forms

Form attached:
Notice of Appearance (general civil) (NJP General 005)

Form attached:
Motion to Vacate Default and Stay Enforcement of Writ of Restitution (NJP Housing 632)

Form attached:
Order to Show Cause and Stay Enforcement of Writ of Restitution (NJP Housing 633)

Form attached:
Order on Motion to Vacate Default and Writ of Restitution (NJP Housing 634)

Form attached:
Proof of Personal Service (general civil) (NJP General 001)

Siga las reglas generales para formatear y llenar documentos judiciales.

Consejos para llenar el Aviso de Comparecencia (NJP General 005)

Epígrafe (encabezamiento): Llene la parte de arriba con el nombre del juzgado, los nombres de las partes y el número de caso si hay uno en los papeles que recibió.

Sección 1 del Formulario: Tiene que poner una dirección en la que acepte recibir documentos legales para este caso. Si tiene miedo de dar su domicilio, use una dirección donde sabrá inmediatamente si llegan documentos sobre su caso. Esto puede ser un apartado postal o "al cuidado de" la dirección de un amigo. Si está de acuerdo en aceptar documentos legales por correo electrónico, ponga una dirección de correo electrónico que revise a menudo.

Sección 2 del Formulario: Ponga cuándo y cómo planea notificar a la otra parte, o espere para llenar esto hasta después de notificarles.

Escriba la fecha y firme. Ponga la ciudad y el estado donde firmó.

Tips for filling out the Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution (NJP Housing 632)

Llene el formulario de la **Petición** para explicar lo que quiere que haga el juez y por qué debería hacerlo.

Form section 3. Motion to Vacate

Fill in the date that the Order for Writ of Restitution was signed by the judge or commissioner. If you never received a copy of the order, you should call the Superior Court clerk to request a copy.

Form section 5. Declaration: Reasons to vacate the order

Explain your reasons for the motion. You must cite to solid legal grounds . First, state the reasons why you did not respond to the summons and complaint on time or appear at a show cause hearing. Some **examples** of good reasons:

- The landlord did not serve me with a summons and complaint.
- I responded to the summons and complaint in time. The court issued a writ anyway without a hearing.
- I could not answer the summons and complaint or appear at the show cause hearing because (give your reason).

Next, explain your defense to the eviction. **Examples**:

- I paid my rent.
- I paid what I owed on a deposit installment plan.
- I didn't pay my rent because my landlord didn't make needed repairs.
- My landlord is evicting me because of my race or disability or other illegal discrimination.

> **Warning!** A judge usually won't accept reasons such as "I need more time to move."

Put facts and details supporting the reasons for your motion. **Examples**: "I came back from the store and found the eviction summons and complaint inside my screen door. Nobody was home while I was at the store." "I paid my rent in cash. My landlord refused to give me a receipt."

If you have other evidence (proof) supporting your reasons, you should describe what it is, and attach it to your Motion, if possible. (**Examples:** Emails, texts, receipts.) You can also attach statements (declarations) from witnesses.

Make sure to attach your evidence (proof) to your motion.

Form section 6. Declaration: Notice to Plaintiff.

Briefly describe how you tried to notify the landlord (or their lawyer) that you are going to court.

Sign the declaration. Put the place and date you signed it.

Tips for filling out the Order to Show Cause and to Stay Enforcement of Writ of Restitution (NJP Housing 633)

Generally, an **Order to Show Cause** is an order that schedules a hearing to decide whether to grant (approve) or deny the motion when all parties can be present.

Use this form to ask the judge to order a hearing date to decide if there are solid legal grounds to approve your motion. This form also asks the court to pause (stay) the eviction order (writ of restitution). You may ask the court to sign this in **ex parte** court.

> **If you need an interpreter,** check the box for that in the top right part of this form and put your language. When you file, ask the court clerk if you need to do anything else to request an interpreter for your hearing.

Form section 2. The court orders... Leave this blank.The judge will fill out a hearing date if they sign the order.

Form section 3. Stay: Fill in the address for your rental property. This tells the Sheriff not to evict anyone from that specific address until the court gives a further order.

Form section 4. Service on Plaintiff: Leave the date blank. The judge will fill this in.

Form section 6. Other orders (if any): Leave this blank. The judge may put something here.

Presented by the Defendant. Sign and print your name.

Tips for filling out the Order on Motion to Vacate Default and Writ of Restitution (NJP Housing 634)

Fill out the **order** form the way you want the judge to sign it. This is a **proposed order** you'll ask the judge to sign at after the Show Cause Hearing hearing. If you're not sure about something in the order, leave it blank for the judge to complete.

Consejos para llenar el Comprobante de Notificación Procesal Personal (NJP General 001)

Haga que su notificador llene este formulario después de que hayan notificado a la otra parte. Siga las reglas para la notificación personal.

Compruebe que su notificador llenó la fecha de notificación, a quién se entregaron los documentos y cómo se entregaron. También asegúrese de que el formulario indique todos los documentos que fueron entregados. Si su notificador no incluye algún formulario, usted no tendrá prueba de que se entregó.

Superior Court of Washington, County of _____

Petitioner / Plaintiff: _____	No. _____
And Respondent / Defendant: _____	Notice of Appearance (*No mandatory form*)

Notice of Appearance

To: Petitioner / Plaintiff or their Attorney (*name*): _____
And to the Superior Court Clerk

1. **Appearance.** My name is: _____. I am filing this notice to appear in this case. I must be notified of any court hearings and receive copies of any papers filed in this case.

   I agree to accept legal papers for this case at the following address/es:

   _____
   Street or mailing address *city* *state* *zip*

   ☐ Email (*optional*): _____

2. **Proof of service.** I declare: on *(date)*:_____, I served or will serve a copy of this Notice of Appearance to the Petitioner / Plaintiff or their Attorney named above by (*check all that apply*):

   ☐ **hand delivery** ☐ **first class mail** ☐ **certified mail** to (*address*):

   _____
   Street or mailing address *city* *state* *zip*

   ☐ **fax** to: _____ ☐ **email** to: _____
   (*only if allowed by agreement, order, or your county's Local Court Rule*)

I declare under penalty of perjury under the laws of the State of Washington that the facts I have provided on this form are true.

Signed at *(city and state):* _____ Date: _____

▶ _____ _____
Respondent / Defendant signs here *Print name*

© Northwest Justice Project

Superior Court of Washington, County of _____

Plaintiff/s (*landlord*): _____	No. _____
vs.	Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution
Defendant/s (*tenant*): _____	(*No mandatory form*)

Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution

Use this form *if you missed an eviction hearing and the judge issued orders by default. Use this form together with the Order to Show Cause and Stay Enforcement of Writ of Restitution (NJP Housing 633) and Order on Motion to Vacate Default and Writ of Restitution (NJP Housing 634).*

To the person filing this motion:

To schedule a hearing on this motion, you must ask the court to sign the *Order to Show Cause and Stay Enforcement of Writ of Restitution* (NJP Housing 633). Contact the Superior Court Clerk's office for the procedure in your county. The *Order to Show Cause* may be signed "ex parte" (without the other party there). However, **you must notify the other party in advance** when you plan to ask the court to sign the *Order to Show Cause*.

After a judge signs the *Order to Show Cause*, you must have someone else **personally serve** a copy of this *Motion* and the *Order* on the other party.

To the person receiving this motion:

If you don't agree with the requests in this motion, file a statement explaining why the court should not approve those requests. You may file other written proof supporting your side.

To both parties:

If you want the court to consider your side, you **must**:

- File your original documents with the Superior Court Clerk; AND
- Give the Judge/Commissioner a copy of your papers (if required by Local Court Rules); AND
- Have a copy of your papers served on all other parties or their lawyers; AND
- Go to the hearing.

Bring proposed orders to the hearing. You can use the form *Order on Motion to Vacate Default and Writ of Restitution* (NJP Housing 634).

WashingtonLawHelp.org
© Northwest Justice Project

1. **My name is _____**. I am the defendant in this case.

2. **Request for hearing (show cause) and stay**

   I ask the court to order the Plaintiff to go to court for a hearing and show why the court should not approve my motion to vacate a default judgment.

   I also ask the court to stay enforcement of the judgment and writ of restitution until the court decides my motion to vacate.

3. **Motion to Vacate**

   I ask the court to vacate the judgment, writ of restitution, and any other orders entered on *(date)* _____. These orders were entered by default.

4. **Legal Authority**

   I make this motion according to CR 62 (stay of proceedings or enforcement), CR 60 (relief from judgment or order), CR 55 (default judgments), and *Randy Reynolds & Assocs. v. Harmon*, 193 Wn.2d 143, 437 P.3d 677 (2019) (holding the court has inherent equitable authority and discretion to stay a writ of restitution without bond for a defaulted party).

5. **Declaration: Reasons to vacate the order**

   I declare:

   The court should vacate these orders because (*explain*):

   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____
   _____

WashingtonLawHelp.org
© Northwest Justice Project

6. Declaration: Notice to Plaintiff

I declare:

I notified the Plaintiff (or their attorney, if they have one) that I would be filing this motion and requesting a stay in the following way: (*describe any calls, emails, texts, or other ways you gave notice*):

_____

_____

_____

_____

_____

_____

Person making this motion fills out below:

I declare under penalty of perjury under the laws of the state of Washington that the facts I have provided on this form are true.

Signed at *(city and state):* _____ Date: _____

▶ _____ _____

Person making this motion signs here *Print name here*

I agree to accept legal papers for this case at (*check all that apply*):

☐ the following address (*this does **not** have to be your home address*):

_____

Street or mailing address *city* *state* *zip*

☐ Email: _____

WashingtonLawHelp.org
© Northwest Justice Project

Superior Court of Washington, County of _____

Plaintiff/s (*landlord*): _____ vs. Defendant/s (*tenant*): _____	No. _____ Order to Show Cause and Stay Enforcement of Writ of Restitution (*No mandatory form*) Clerk's action required: 2 ☐ Need interpreter (*language*) _____

Order to Show Cause and Stay Enforcement of Writ of Restitution

Use this form *with the Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution (NJP Housing 632) and Order on Motion to Vacate Default and Writ of Restitution (NJP Housing 634).*

1. Findings

The court has reviewed the **Motion to and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution** filed by the Defendant.

The court finds there is reason to approve this order pursuant to CR 55, 60, and 62.

2. The court orders the Plaintiff/s and Defendant/s in this action to:

Go to court on: _____ at: _____ ☐ a.m. ☐ p.m.
date *time*

at: _____ in _____
court's address *room or department*

_____
docket / calendar or judge / commissioner's name

☐ Online or phone: _____

At the hearing, you must show why the court should **not** approve the requests made by the defendant.

WashingtonLawHelp.org
© Northwest Justice Project

3. Stay

Enforcement of the Writ of Restitution issued in this action for property located at (*address*) _____ is stayed until further order of the court.

4. Service on Plaintiff

Defendant must have a copy of this Order and the Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution served on Plaintiff (or their attorney, if Plaintiff is represented by an attorney in this case).

Service must be done by (*date*) _____. If necessary, the time for notice of hearing on this motion is shortened accordingly.

5. Service on Sheriff

Defendant is authorized to serve a non-certified photocopy of this Order to the county sheriff's office. The Sheriff shall accept a non-certified copy of this order provided by the Defendant or the court clerk.

6. No bond required

Defendant is not required to post bond to stay the Writ of Restitution pending a motion to vacate a default. *Randy Reynolds & Assocs. v. Harmon*, 193 Wn.2d 143, 437 P.3d 677 (2019).

7. Other orders (if any)

_____

_____

Ordered.

_____ ▶ _____

Date *Judge or Commissioner*

Presented by the Defendant

▶ _____ _____

Sign here *Print name*

WashingtonLawHelp.org
© Northwest Justice Project

Superior Court of Washington, County of _____

Plaintiff/s (*landlord*): _____ vs. Defendant/s (*tenant)*: _____	No. _____ Order on Motion to Vacate Default and Writ of Restitution (*No mandatory form*)

Order on Motion to Vacate Default and Writ of Restitution

Use this form *with the Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution (NJP Housing 632) and Order to Show Cause and Stay Enforcement of Writ of Restitution (NJP Housing 633).*

1. Basis

The court has considered the **Motion and Declaration to Vacate Default and Stay Enforcement of Writ of Restitution** and supporting documents filed by the Defendant, any response from the Plaintiff, other documents from the court record identified by the court, if any, and any testimony or argument.

A show cause hearing was held on *(date)* _____.

2. Findings

The court finds good cause to approve this order.

Other findings (if any): _____

_____

_____

_____

_____

_____

WashingtonLawHelp.org
© Northwest Justice Project

3. Order

☐ The motion to vacate is denied.

☐ The motion to vacate is granted.

The order/s or parts of order/s entered for this case on *(date)* _____ shall be vacated as follows:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Ordered.

_____ ▶ _____

Date *Judge or Commissioner*

Parties or their lawyers fill out below.

This order *(check any that apply)*:
☐ is an agreement of the parties
☐ is presented by me
☐ may be signed by the court without notice to me

▶ _____
*Plaintiff signs here **or** lawyer + WSBA #*

_____
Print Name *Date*

This order *(check any that apply)*:
☐ is an agreement of the parties
☐ is presented by me
☐ may be signed by the court without notice to me

▶ _____
*Defendant signs here **or** lawyer + WSBA #*

_____
Print Name *Date*

WashingtonLawHelp.org
© Northwest Justice Project

_____ Court of Washington, County of _____

In re: Petitioner/s or Plaintiff/s: _____ And Respondent/s or Defendant/s: _____	No. _____ Proof of Personal Service (No mandatory form)

Proof of Personal Service

Server declares:

1. **My name is:** _____. I am **not** a party to this case. I am 18 or older.

2. **Personal Service.** I served court documents for this case to (*name of person served*): _____ by (*check one*):

☐ Giving the documents directly to the person being served.

☐ Giving the documents to (*name*): _____, a person of suitable age and discretion who lives at the same address as the person being served.

3. **Date, time, and place of service**

Date: _____Time:_____ (*check one*) ☐ a.m. ☐ p.m.

Place:

_____

Street address *city* *state* *zip*

© Northwest Justice Project

4. List all documents you served (*check all that apply*)

(The most common documents are listed below. Check only those documents that were served. Use the "Other" box to write in the title of each document you served that is not already listed.)

☐ Petition to/for _____

☐ Summons (*attach a copy*)

☐ Notice of Hearing (*for date*) _____

☐ Motion for _____

☐ Declaration of _____

☐ Subpoena ☐ Duces Tecum

☐ Order on/for: _____

☐ Other:

_____

_____

_____

_____

_____

5. Fees charged for service

☐ None

☐ Fees: $ _____ + Mileage $ _____ = Total: $ _____

6. Other information (if any)

_____

_____

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at *(city and state):* _____ Date: _____

▶ _____ _____

Server signs here *Print name*

© Northwest Justice Project