

Instructions for Filing and Serving a Motion To Set Aside Order for Installment Payments (Form MC 16)

Use this form if you want to ask the court to set aside (stop) the order for installment payments. If the order for installment payments is set aside, you can ask the court for a periodic writ of garnishment to have the defendant's wages garnished.

1. How do I file a Motion?

You file a motion by completing the form and filing it with the same court that signed the order for installment payments. There is a \$20 motion fee for filing a motion to set aside order for installment payments.

2. Fill out the Motion form.

Write in the court number, case number, the court address and telephone number, and the names, addresses, and telephone numbers of the plaintiff and the defendant exactly as they are on the order for installment payments.

Write in the date the judgment was entered and the amount of the judgment. Get this information from your copy of the judgment, not from a writ of garnishment or other paper. Write in the balance now due on your judgment. It doesn't need to be exact but should be close.

Write in all the requested information in item 1.

If a writ of garnishment for periodic payments (form MC 12) was already issued, check the box in item 2 and write in the date the garnishment was issued (see the lower left-hand corner of the writ of garnishment) and suspended (see the date the judge signed the order for installment payments).

Write in the date you complete the form and sign your name.

3. Make three copies of the completed motion form.

4. File the Motion with the court.

File all three copies of your motion with the court in person or by first-class mail. If you mail your motion to the court, include a postage-paid and self-addressed envelope with your motion so that the court can return copies.

5. Serve the Motion.

When you get the two remaining copies of the motion from the court, serve a copy on the defendant by first-class mail. If the defendant has an attorney, serve the motion on the attorney instead of the defendant. Complete the Certificate of mailing on the bottom of your copy of the form. Make a copy of this and file it with the court. You can do this either in person or by first-class mail. Keep a copy for yourself.

6. What happens next?

If the judge signs an order setting aside the installment payment order, you must send a copy to the defendant. If a periodic writ of garnishment was already issued, send a copy of the order to the garnishee.