

Connecticut Judicial Branch Self-Represented Parties Information Series

Motion to Open a Judgment

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Welcome to the Connecticut Judicial Branch Law Libraries Self-Represented Parties Information Series

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Connecticut Civil Lawsuit: Motion to Open a Judgment

In this overview, we will discuss the grounds, or reasons, and general procedures for filing a Motion to Open a Judgment in a Connecticut civil lawsuit. Getting in touch with a lawyer to help you is a good idea. But, if you decide to act as your own lawyer, the following is information to think about regarding this motion.

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Some words to know

A Motion means a pleading or paper filed in a case, usually written, asking or requesting the court to make a decision or judgment on something. It is filed in the Clerk's Office. Open or Reopen means to set aside a judgment of a court. You will often hear the terms Open and Reopen used interchangeably in regard to this motion. A Judgment is the final decision issued by the Court. It can also be referred to as a ruling, decree, or order.

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Connecticut Practice Book

The court rules are found in the Connecticut Practice Book. The court rules tell you what you and the other parties must do to move a case through the court. If you do not follow the court rules you may hurt, or even lose, your case. The Connecticut Practice Book can be found on the Judicial Branch website or at any Judicial Branch Law Library.

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What is a Motion to Open?

A party may want to file a Motion to Open when he or she is asking the court to review a default judgment, such as a judgment after entry of a default for failure to appear or a default for failure to plead.

A party may want to file a Motion to Open when he or she is asking the court to review a judgment that it has issued.

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Motion to Open based on a default judgment.

According to Connecticut General Statutes section 52-212 and Connecticut Practice Book section 17-43, a party may file a Motion to Open after entry of a default judgment for failure to appear or plead. A judgment upon default enters when one party receives a favorable judgment because the adverse, or opposing, party took no action or did not respond.

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Motion to Open based on other grounds.

A party may file a Motion to Open when it is discovered that there is a ground, or reason, to do so. The ground was not known to the party until after the judgment was entered, and this lack of knowledge kept the party from making a claim for a cause of action or making a good defense. The ground is one that affects the judgment being carried out or applied as intended. Grounds can include, but are not limited to, newly discovered evidence, fraud, duress, or a mistake not discovered until after the judgment.

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Motion to Open is not an appeal.

A motion to open is appropriately filed in response to a judgment issued after default, if you have a good cause for challenging the judgment, or if a judgment was issued with an error due to a mistake. A Motion to Open is not appropriate when you disagree with the substance or reasoning of the judgment. Disagreeing with the legal reasoning of a judge is handled through the Appeal process.

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Show Good Cause

Good cause means giving a strong reason why something did or did not happen, or why something was or was not done. The party filing the Motion to Open must show good cause, or give a strong reason, why he or she did not appear or was prevented from responding to the suit prior to the default judgment, or give a strong reason why he or she did not notice a mistake before the judgment was issued. This reason must be clearly stated in the Motion to Open. A Motion to Open will be denied if good cause, or a good reason, is not clearly written in the motion.

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Time Limit on a Motion to Open

Both the Connecticut General Statutes and the Connecticut Practice Book limit how long a party has to file a motion to open a judgment. Both place a limit of four months following the judgment.

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Connecticut General Statutes section 52-212a

Connecticut General Statutes section 52-212a states that a Motion to Open a Connecticut Superior Court civil judgment **must be filed within four months** of the date that the judgment was issued.

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Connecticut Practice Book section 17-4(a)

Connecticut Practice Book section 17-4(a) also states that a Motion to Open a Connecticut Superior Court civil judgment **must be filed within four months** of the date of the judgment.

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Exceptions to the four month limit

Over the years, Connecticut caselaw has identified a few reasons for allowing a party to file a Motion to Open beyond the four month limit. The reasons include: that the judgment was issued because of one of the parties engaged in fraud to obtain the judgment, that one party was under duress at the time of judgment, that a mutual mistake was made by both parties that had an effect on the judgment, or that new evidence, which was unknown at the time of judgment, is found that calls the judgment into question. It is the responsibility of the party filing the motion to prove the fraud, or mutual mistake, or other ground being claimed.

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Motion to Open Judgment Forms

There are four Judicial Branch Standardized Motion to Open forms for civil actions.

The first form is for small claims and housing matters only. It is form number JD-CV-51. The second form is for all other types of civil matters. It is form number JD-CV-107. The third form is for family related matters, such as divorce, visitation, or custody matters. It is form number JD-FM-206. The last form is for Summary Process, or eviction, matters. It is specifically for default or nonsuit judgments only. It is form number JD-HM-42.

All of these forms can be found on the Judicial Branch website's Official Court Webforms page.

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From the Judicial Branch homepage at www.jud.ct.gov, click on the Public Tab. Click on the link for Forms, or you can click on the Forms link on the left side menu.

For form JD-CV-107, on the Official Court Webforms page, click on the plus sign following "Civil Forms Grouped by Subject." This will display more links below, click on "Forms to file if you would like to have a Judgment Opened." The next page provides information, links, and instructions on the forms needed and the process.

For form JD-CV-51, on the Official Court Webforms page, Click on Small Claims in the listing at the top of the page. Scroll down the list of forms to number 51 and click on the pdf link on the right.

For form JD-FM-206, on the Official Court Webforms page, Click on Family in the listing at the top of the page. Scroll down the list of forms to number 206 and click on the pdf link on the right.

For form JD-HM-42, on the Official Court Webforms page, Click on Housing in the listing at the top of the page. Scroll down the list of forms to number 42 and click on the pdf link on the right.

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Completing the Motion to Open Form

On the Motion to Open form, fill in all the information at the top regarding the case name, docket number, and court location.

Explain to the Court why you are asking for the judgment to be opened. Remember, you must show good cause, or a strong reason, why the judgment should be opened. Give the court specific details on the reasons for why you did not appear or respond if you were defaulted. If you are claiming a mutual mistake, give specific detail on what was the mistake, how it affected the judgment, and why you did not see it before the judgment was issued. You want to make sure that what you are claiming is fully explained and clear to the Court.

Do not sign the form until you are standing in front of the Clerk in the Clerk's Office. According to Connecticut General Statutes section 52-212(c), the motion must be verified by oath. On all of the forms, JD-CV-107, JD-CV-51, JD-FM-206, and JD-HM-42, above the Certification section, are the words "Subscribed and sworn to in front of me." The Clerk must witness your signing the form and then will also sign the form to verify the witnessing of your signature.

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Service

Service, or delivery, of the motion must be made on all parties of record, or all parties involved in the case, in accordance with Connecticut Practice Book sections 10-

12 to 10-17. Be sure to properly fill in and sign the Certification section of the form. Send a copy to all parties. File the original form with the Clerk's Office.

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Fees

The party who files a Motion to Open must pay the court fee according to Connecticut Practice Book section 17-4(b). In 2022, the fee to file a Motion to Open in a Small Claims or Housing action is \$75.00. To file a Motion to Open in any other type of civil action, except juvenile, is \$130.00. If a party is not able to afford the fee, he or she can file an Application for Waiver of Fees, form JD-CV-120, available on the Judicial Branch's Official Court Webforms page.

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Objection

The Connecticut Practice Book section 17-4(c)(1) states that in a foreclosure matter the opposing party has five days from the filing of the Motion to Open to file an Objection.

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Hearing on the Motion to Open in Foreclosure matters.

According to Connecticut Practice Book section 17-4(c)(1), a hearing on the Motion to Open in a foreclosure matter shall be heard within seven days of the motion being filed.

The rule also says that in certain circumstances if the plaintiff states that all parties have received notice of the motion and are in agreement with it, then the Court can grant the motion without a hearing.

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If the Motion to Open is granted, the case will be reopened. The Court will consider the issues presented in the Motion to Open and/or any other appropriate pleadings filed, and will decide whether to issue a new judgment or leave the existing judgment as it is.

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If the Motion to Open is denied, the existing judgment will stand as the final judgment. The decision to grant or deny the Motion to Open is completely within the discretion of the judge. In some instances, a party may be able to appeal a Motion to Open that was denied.

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For more information regarding the Motion to Open, please review the Law Libraries' Motion to Open in Family Matters Research Guide. From the Law Library Services homepage at www.jud.ct.gov/lawlib, click on the blue button on the right labeled Research Guides. Under Family Law Research Guides, click on Motion to Open in Family Matters. Here, you will find references to statutes, court rules, cases, and publications with sample language for drafting a Motion to Open.

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This is the end of our overview. For more information, please visit a Judicial Branch Law Library, a Court Service Center, or the Judicial Branch website.