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Motion to Set Aside - Harder Law Group

Rule 3.850 - Motion to Vacate; Set Aside; or Correct Sentence. (a) Grounds for Motion. The following grounds may be claims for relief from judgment or release from custody by a person who has been tried and found guilty or has entered a plea of guilty or nolo contendere before a court established by the laws of Florida: (1) the judgment was entered or sentence was imposed in violation of the Constitution or laws of the United States or the State of Florida;

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Even in a post-sentencing 28 U.S.C. §2255 motion to set aside a guilty plea, a defendant may obtain relief from his procedural default in failing to challenge his conviction if he can show that the alleged error in his plea "has probably resulted in the conviction of one who is actually innocent."

Motion to Withdraw, Set Aside, and/or Vacate Plea and ...

See Schwartz v. Bus. Cards Tomorrow, Inc., 644 So. 2d 611, 611 (Fla. 4th DCA 1994) (stating that for a default to be set aside, the trial court must determine (1) whether the defendant has demonstrated excusable neglect in failing to respond; (2) whether the defendant has demonstrated a meritorious defense; and (3) whether the defendant, subsequent to learning of the default, has demonstrated due diligence in seeking relief.)

Grounds For Setting Aside A Florida Default Home Town Law ...

A motion under this subdivision does not affect the finality of a

judgment or decree or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, decree, order, or proceeding or to set aside a judgment or decree for fraud upon the court.

1.540 Relief from Judgment, Decrees or Orders - Florida ...

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Duress as a factor for setting aside marital settlement agreements Duress is an external factor causing you to do something you would not have otherwise done. The classic example is signing a document with a gun to your head. However, duress is not open to a broad interpretation.

Top 4 ways to get out of a marital settlement agreement ...

Motions to set aside a judgment are rarely granted, and you would benefit from meeting with an attorney to discuss the motion. The attorney can listen to you describe your situation and then offer expert advice tailored to your circumstances. To find an attorney, contact your local or state bar association and ask for a referral.

How to File a Motion to Set Aside Judgment (with Pictures)

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Generally, a party will ask that the motion be set aside for one of the following reasons: Mistake, surprise, inadvertence, or excusable neglect. New evidence has been discovered and it could not have been discovered in time to make a motion for a new trial. Fraud, misrepresentation, or misconduct.

How to Oppose a Motion to Set Aside Judgment (with Pictures)

The jury returned a verdict in favor of the plaintiff and the defendant filed a motion per Rule 1.480 (b) to set aside the verdict and enter judgment in favor of the defendant per its motion for directed verdict. The defendant, also, per Rule 1.480 (c), joined the motion with an alternative motion for a new trial.

Improperly Moving to Set Aside the Verdict ...

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The clerk shall must an entry on the progress docket showing the notification. (d) Setting aside Default. The court may set aside a default, and if a final judgment consequent thereon has been entered, the court may set it aside in accordance with rule 1.540 (b).

1.500 Defaults and Final Judgments Thereon - Florida Rules ...

Florida State Courts System's Self-Help Center The Florida State Courts System's Self-Help Center is your online guide to help direct you through the court system. The role of the self-help center staff is to direct interested individuals to the self-help website where they can explore resources needed to represent themselves, access the courts, and other essential resources.

Family Law Forms - Florida Courts

Rule 1.500(d), Florida Rules of Civil Procedure, entitled "Setting Aside Default," permits the Court to set aside a default under circumstances such as we have in the present case.

DEFENDANT M. A. SIMMONS, INC.'S VERIFIED MOTION TO

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Mocegui v. Pub. Serv. Mut. Ins. Co., 821 So. 2d 1189, 1191-92 (Fla. 3d DCA 2002). Rule 1.540 (b), Florida Rules of Civil Procedure provides that a Final Judgment may be set aside for mistakes, inadvertence, excusable neglect, newly discovered evidence, fraud, etc.

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