



# Understanding Motions to Set Aside

A motion to set aside asks the court to cancel a judgment or order that has already been entered. Georgia allows this only for a few specific reasons. It is not an appeal and not a chance to argue the case again, so the bar is high.

## Grounds the court will consider

- 1 Lack of Jurisdiction.** The court did not have legal authority over a party or over the case, such as when a party was never properly served.
- 2 Fraud.** One party used deception that led to the judgment, and the party asking the court for relief was not at fault.
- 3 Accident or Mistake.** An unexpected event or genuine error caused the judgment, and it was not caused by the carelessness of the party asking for relief.
- 4 Defect in the Record.** A serious error appears in the court filings themselves and cannot be fixed by simply amending them.
- 5 What Is Not Enough.** Disagreeing with the result, regretting an agreement, or having new arguments generally does not justify setting aside a judgment.

## How timing works

**Three-Year Limit.** Most motions to set aside must generally be filed within three years after the judgment is entered.

**Jurisdiction Challenges.** A judgment that is void for lack of jurisdiction can generally be challenged at any time.

**Act Promptly.** Waiting can weaken a motion, even within the deadline, because evidence and memories fade.

**Other Deadlines.** Appeals and motions for new trial have much shorter deadlines, generally 30 days.

## What to keep in mind

Motions to set aside are uncommon, and courts grant them only in limited situations.

The original order generally stays in effect and must be followed while the motion is pending.

The other party will have a chance to respond, and the judge may hold a hearing.

Clear evidence matters. The facts must fit one of the recognized grounds.

This guide provides general information about motions to set aside in Georgia family law matters and is not legal advice about your specific case. Your attorney will explain how a motion to set aside applies to your situation.

## YOUR ROLE

Share every document and detail about how the judgment was entered, send us any motion to set aside you receive right away, and keep following the current order.

## QUESTIONS?

As always, all questions and requests should be directed to the team via email to [team@pepitone.law](mailto:team@pepitone.law).