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Civil Case NO. 1240000005

MOTION FOR ORDER TO SHOW CAUSE  
Re: VACATION OF JUDGMENT/ORDER  
UNDER CRLJ 60

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## I. RELIEF REQUESTED

Defendant, by and through counsel, respectfully request that the Court grant an Order requiring THE CITY OF SEATTLE to appear and show cause why this Court should not Grant a Motion to Vacate the Default Judgement submitted on June 18<sup>th</sup>, 2024, in this matter.

## II. FACTS

This case involves a code enforcement action for a nuisance noise violation caused by a vehicle registered to Defendant Miles Oliver Hudson.

On May 7, 2024, the City of Seattle filed a Complaint for Civil Penalties against Miles Oliver Hudson based upon noise complaints in the surrounding area. On May 13<sup>th</sup>, 2024, process server F. Marshall claimed to have personally served my client on May 10<sup>th</sup>, 2024, via personal service of process. The motion for Default Judgment was noted for June 18, 2024, and was filed on May 31, 2024. Service of this Note for motion was sent by mail on May 31, 2024. The court signed an order for Default Judgment on this matter on June 18, 2024.

## III. ISSUE

Should the Court vacate its Order of Default Judgment when evidence presented shows that the Defendant may not have been allotted properly served in this matter, and therefore denied him the opportunity to timely respond or obtain counsel? YES.

## IV. EVIDENCE RELIED UPON IN ADDITION TO EVIDENCE IN COURT FILE

This motion and the declarations within are made and based upon the affidavits of service filed on the dates of May 13<sup>th</sup> and May 31<sup>st</sup>, respectively, and the following:

- *Declaration of Miles Hudson*
- *Declaration of Miles Hudson Exhibit A-E*

## V. AUTHORITY

Defenses' Motion to Vacate Judgement/Order is made pursuant to one or more of the following Civil Rules for Courts of Limited Jurisdiction:

- ☐ Civil Rule 60(a): Clerical mistake(s) in the Judgement, Order or other parts of the record;
- ☒ Civil Rule 60(b)(1): Mistake, inadvertence, surprise, excusable neglect or irregularity in obtaining the Judgement/Order;
- ☐ Civil Rule 60(b)(2): erroneous proceedings against a minor or person of unsound mind and the condition of the defendant slash respondent did not appear in the record nor was the error discovered by the proceedings;
- ☐ Civil Rule 60(b)(3): Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under CR 59(b);
- ☒ Civil Rule 60(b)(4): Fraud, misrepresentation or other misconduct of an adverse party;
- ☐ Civil Rule 60(b)(5): The Judgment/Order is void;
- ☐ Civil Rule 60(b)(6): The judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application;
- ☐ Civil Rule 60(b)(7): If the defendant was served by publication, relief may be granted as prescribed in RCW 4.28.200;
- ☐ Civil Rule 60(b)(8): Death of one of the parties before the Judgment in the action;
- ☐ Civil Rule 60(b)(9): Unavoidable casualty or misfortune preventing the party from prosecuting or defending;
- ☐ Civil Rule 60(b)(10): Error in judgment shown by a minor, within 12 months after arriving at full age;

☒ Civil Rule 60(b)(11): Any other reason justifying relief from the operation of the judgment;

☐ [Any other relevant legal authority: specify]

## VI. ARGUMENT

Taking note of *Declaration of Miles Hudson Exhibit A*, the notarized affidavit from the process server declaring to have served MR. HUDSON on May 10<sup>th</sup>, 2024, who was described as weighing 230 lbs. which does not match up with the client's current weight, depicted in *Declaration of Miles Hudson Exhibit C* by Doctor's note, dated December 21<sup>st</sup>, 2023. **Exhibit C** shows Defendant's current weight as 174 pounds, as of December 21<sup>st</sup>, 2023---which is almost 100 lbs. lighter than the description given by the process server in his affidavit given. I declare that the process server has made false claims concerning my client's process of service.

*Declaration of Miles Hudson Exhibit B* is a photo ID depicting my client's recorded height and weight from over three years ago in 2021. Based upon the facts that: (a) the description given by the process server in *Declaration of Miles Hudson Exhibit A* and is identical to the description provided in **Exhibit B**, and that (b) neither documents in **Exhibit A** or **B** are accurate descriptions of clients current composition, it is reasonable that the process server used the description provided by client's ID **Exhibit B** (issued April 22<sup>nd</sup>, 2021) as the description of the individual that he claimed to have served the summons to. If the declaration of process of service was true and accurate as the process server declares, he would have noticed a significant difference of almost 100 lbs. (*see Exhibit C and D*) and that the description he provided, or the description provided to him by his superiors, was no longer accurate. There is no way that any documents concerning court dates, summons or subpoenas of appearance were presented before my client, either

1 personally or through publication the individual we see present in **Exhibit D**. My client provides  
2 a declaration stating he was not properly served, is not 230 lbs. and was only made aware of this  
3 hearing following a news article posted online after default judgement motion was noted.

4 We respectfully request that the Court Issue an Order to Vacate the Order of Default Judgement  
5 issued in this case and allow our client the opportunity to substantively respond himself against  
6 these claims and to have efficient and competent counsel present during said defense.

7  
8 Since the order of default judgment was placed on this matter on June 18, 2024, potentially  
9 fraudulent factors concerning the actions of the City's agent a process server, F. Marshall, have  
10 come to light that had ultimately affected Mr. Hudson's ability to show up to court, respond to the  
11 complaint, obtain counsel or otherwise be present throughout the happenings of this matter. We  
12 the move the Court to Vacate the Order of Default Judgement imposed on this case based upon  
13 the findings here within, in preservation of CRLJ 60(b)(3), CRLJ 60(b)(4) and CRLJ 60(b)(11)  
14 which holds, in part, that party members, or the respective representatives thereof, may seek out  
15 relief from final judgements, orders or proceedings in cases of misconduct involving opposing  
16 party members. Mr. Hudson now has obtained counsel and should be allowed to present relevant  
17 evidence and factors that may change the City's position regarding the violation amount. Further,  
18 Mr. Hudson has made repairs to the vehicle that the City Attorney was not aware of and should  
19 affect the total amount of the code violation fine.  
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## 23 **VII. PROPOSED ORDER**

24 For the reasons stated above, we the Defense respectfully request that the Court Vacate  
25 and Reverse the June 18<sup>th</sup> Order for Default Judgment requiring penalty fees, service cost fees  
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1 and statutory attorney cost fees totaling in the amount of \$83,619.19 and allow us to continue the  
2 case with the aid of counsel.  
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4 DATED on this 17<sup>th</sup> day of July, 2024  
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6 Respectfully Submitted,  
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8 **BRUMLEY LAW FIRM, PLLC.**  
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10 /s/ Joshua Brumley  
11 JOSHUA BRUMLEY, WSBA #49581  
12 Attorney for Plaintiff  
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