

# Maricopa County Justice Courts, State of Arizona

SELECT A COURT FROM THE DROP DOWN ARROW AT RIGHT >>>>>

CASE NUMBER: CV05-03485R

Kent C. Harding  
33801 North 43rd Street  
Cave Creek, AZ 85331  
623-363-4014  
Plaintiff(s) Name / Address / Phone

John W. Stone and Shirley Stone  
20626 North 29th Drive  
Phoenix, AZ 85027  
623-444-2389  
Defendant(s) Name / Address / Phone

Law Offices of Scott M. Clark  
Scott M. Clark and Paul Henderson  
3008 North 44th Street  
Phoenix, AZ 85018 602-957-7877  
Attorney for Plaintiff(s) Name / Address / Phone

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\_\_\_\_\_  
\_\_\_\_\_  
Attorney for Defendant(s) Name / Address / Phone

MOTION to VACATE JUDGMENT  MOTION TO MODIFY JUDGMENT  
 ORAL ARGUMENT REQUESTED  BY AGREEMENT

I am the  Plaintiff  Defendant in this case.

I would like the court to:

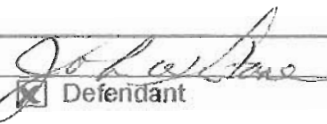
Vacate the writ of restitution issued on September 7, 2005 by Judge Lex Anderson; to review the file in this case and find that as a matter of fact, the defendants were not served summons and did not receive notice of the hearing held September 7, 2005; that the August 10, 2005 judgment that was used by the plaintiff to procure the September 7, 2005 writ of restitution was a void order that was vacated by Judge Anderson on August 11, 2005.

As a matter of law, I would like the court to follow the standard and rulings set forth in forcible detainer actions and ruled upon by Maricopa County Superior Court, Arizona Appellate Courts and the U. S. Supreme Court, where there was no service of process, the judgment granting relief is void and must be vacated upon request as mandatory and not discretionary (Arizona Rules Civil Procedure Rule 60(c)(4), and further because the September 7, 2005 writ was based on the August 10, 2005 void and vacated order is also void pursuant to Arizona Rules of Civil Procedure 60(c)(3)(5).

Thus, the defendants ask this court's expediency and prayer in granting the relief requested by vacating Judge Anderson's September 7, 2005 Writ of Restitution order.

Date: 8/29/05

Plaintiff



Defendant

I CERTIFY that I mailed / delivered a copy of this MOTION to:

Plaintiff at the above address or  Plaintiff's attorney  Defendant at the above address or  Defendant's attorney

Date: 8/29/05

By:



Plaintiff

Defendant

**NOTICE TO MOVING PARTY:** If the time to appeal the judgment has expired, service by process server or service by any other methods of service provided for service of summons in Rule 4, 4. 1, or 4.2 Rules of Civil Procedure, is required. Proof of service must be filed with the court.

If the time to appeal the judgment has not expired the motion is required to be served by first class mail.

**NOTICE TO RESPONDENT:** You have 10 days after service of this motion to file a written response, if you wish to do so. If no response is given, the Court will consider the relief requested and will enter an order without hearing any objection you may have.