

IN THE JUSTICE OF THE PEACE COURT
OF THE STATE OF DELAWARE

ORDER AMENDING JUSTICE OF THE PEACE COURT
CIVIL RULE 60(c)(A)

ORDER

This 15th day of March, 2018, it appears to the Court that it is desirable to amend Justice of the Peace Court Civil Rule 60(c)(A) to ensure consistency between 10 Del.C. §9538(a) and the rules.

NOW, THEREFORE, IT IS ORDERED THAT, the following amendment shall be effective March 15, 2018:

Amend Justice of the Peace Court Civil Rule 60(c)(A) by adding the language “and the certified mail was returned unclaimed;” to the end of the paragraph.

FOR THE COURT:



Chief Magistrate

Rule 60. Relief from judgment or order

(a) *Clerical mistakes.* Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by the Court any time of its own initiative, or on motion of any party and after such notice, if any, as the Court orders.

(b) *Mistake; inadvertence, neglect, newly discovered evidence, fraud, etc.* On motion and upon such terms as are just the Court may relieve a party or a party's legal representative from a final judgment, order or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise or excusable neglect;
- (2) newly discovered evidence which by due diligence could not have been discovered at the time of the trial;
- (3) fraud, misrepresentation or other misconduct of an adverse party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, 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 applications; or
- (6) any other reason justifying relief from the operation of the judgment. Such motion shall be made within a reasonable time.

A motion under this paragraph does not affect the finality of a judgment 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, order or proceeding, or to grant any relief provided by statute, or to set aside a judgment for fraud upon the Court.

(c) *Default judgments.* For the reasons in subsections (b) (1), (2), and (3) in this Rule, a motion to vacate a default judgment shall be made:

- (A) in debt, trespass and replevin actions, not more than 15 days after judgment was given by default or not more than 30 days, if service was made by certified mail and the certified mail was returned unclaimed;
- (B) in summary possession actions, not more than 10 days after entry of the default judgment. For all other reasons, the motion shall be made in a reasonable time.

(d) *Nonsuit judgments.* A motion to vacate a nonsuit in a summary possession action may be made within 10 days of the entry of the nonsuit.