

Draft Judgment for Rule 60 motions:

This hearing on defendant's motion to set aside the judgment in [name and case number of case] was tried before the undersigned after proper notice was given to both parties of the date, time, and location of the hearing. The Court finds as follows:

1. The undersigned has authority to rule on defendant's motion to set aside the judgment pursuant to Rule 60(b)(1) by virtue of consent of Chief District Court Judge _____ under N.C.G.S. 7A-228.
2. A magistrate has no authority to set aside judgments based on grounds other than those set out in Rule 60(b)(1), i.e., mistake, inadvertence, surprise, or excusable neglect.
3. In addition to demonstrating grounds for setting aside the judgment under Rule 60(b)(1), the law requires that defendant allege a meritorious defense.
4. Having heard and considered the evidence presented by both parties, the Court finds that defendant
 has demonstrated mistake, inadvertence, surprise, or excusable neglect justifying setting aside the judgment,
 has not demonstrated mistake, inadvertence, surprise, or excusable neglect justifying setting aside the judgment,
and the Court further finds that defendant (has has not) alleged the existence of a meritorious defense.

Based on the above findings, it is the order of this Court that the judgment in [name and case number of case]

- is set aside and that a new trial before a magistrate should be held.
- remains in full force and effect.

