

## THE SIX-MONTH DEADLINE FOR SEEKING RULE 60(C) RELIEF DOES NOT APPLY TO A MOTION TO SET ASIDE A DEFAULT

December 23, 2008 | Law Alerts, News

*Harper v. Canyon Land Development*  
Ct. Appeals, Div. One, December 23, 2008

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Plaintiff, a bookkeeper, sued Canyon Land Development for breach of contract and demanded \$18,500 in bookkeeping services. P served CLD's listed statutory agent, who then forwarded the documents to the address that CLD had provided. CLD failed to answer and default was entered. Plaintiff moved for entry of judgment without a hearing and the court entered judgment.

CLD moved under Rule 60(c) to set aside the default judgment. The motion was filed within six months of entry of judgment, but more than six months after the entry of default. CLD requested Rule 60(c) relief because: 1. Plaintiff had not sent a copy of the application for default to CLD's attorney as required; 2. CLD's listed statutory agent on record with the ACC was its former accountant, who had not been employed by CLD since 2003; and 3. the address to which the statutory agent forwarded the complaint and summons was no longer current. The trial court denied relief and found that CLD's motion to set aside was untimely.

The court of appeals reversed, holding that a motion to set aside an entry of default is not subject to the six-month time limit in Rule 60(c). Rule 60(C) applies only to "final judgments, orders or proceedings." And an entry of default by the clerk in accordance with Rule 55(a) is simply an official recognition of the fact that one party is in default, which is an interlocutory step in a process that might lead to a final judgment.