

Application for Judgment and Dismissal re: Interrogatories in a Debt Collection Suit Instructions, Example and Sample Document

You can use an Application for Judgment and Dismissal to ask the Judge to decide the case in your favor if the plaintiff has not answered your [Interrogatories](#) even after you sent them a [Final Request for Interrogatories](#). To learn more about Interrogatories and how to use them, visit www.masslegalhelp.org and search "[Interrogatories](#)."

These Instructions are to help you fill in the Application for Judgment and Dismissal on page 6. We have also included an Example form for Kerry Timberland. Kerry is a made-up person.

- 1.** At the top left corner of the form you will see "_____, ss". This is where you write the county you live in. Put in the same county that is on the complaint that the plaintiff sent to you.
 - In the example, Kerry lives in Dorchester so she lives in Suffolk County.
- 2.** On the "____ Division" line, write in where the court is located.
 - The Court is located in Dorchester so Kerry wrote in "Dorchester."
- 3.** Write in the docket number on the "Docket no._____" line. You can find this number on the complaint that the Plaintiff sent you.
 - Kerry's number was on the top right corner of the complaint so she copied it onto the Application form as "2011-CV-3833"
- 4.** The "____plaintiff" line needs to say who is suing you. Copy the name listed on the complaint before the word "plaintiff".
 - The Bank of New Debt is suing Kerry so she wrote "Bank of New Debt" on the line before "plaintiff".
- 5.** The "____defendant" line needs to say who is being sued. Copy the name listed on the complaint before the word "defendant" on your answer. It is probably your name.
 - The Bank of New Debt is suing Kerry so she wrote her name on the line before "defendant".
- 6.** In the body of the motion:
 - i. On line 1: Write when you first served the plaintiff with Interrogatories.
 - Kerry served her interrogatories on the plaintiff April 10, 2012.
 - ii. On line 2: Write when you served the Plaintiff with a final request for answers. Remember to attach a copy of that letter to this motion.

- Kerry mailed the final request on June 30, 2012 and she attached a copy to the motion at "Exhibit A".
- iii. On line 4: Write what you asked the plaintiff to do and what they did.
- Kerry did not receive anything from the Plaintiff so she told the court she asked the plaintiff for answer to all of the questions in her interrogatories and they did not respond.

7. Sign your name on the motion.

8. In the "**Notice of Hearing**" section, write in the date and time for the hearing. Call the Court and ask for the civil clerk's department. Ask when "Motion Day" is. Your court will have a day and time they hear motions every week. Pick a date 2 weeks away and write it into the "Notice of Hearing" section.

- Kerry called her court and there is a hearing date August 5, 2012. She wrote that date into the Notice of Hearing because it is more than two weeks away.

9. For "**Exhibit A**" Photocopy your copy of the "Final Request for Interrogatories" you mailed to the Plaintiff. Write "Exhibit A" on top. Include this in your package when you submit your

motion to the court and the plaintiff.

10. "**Exhibit B**" is an affidavit. This means you are signing under the pains and penalties of perjury the statements listed. Only sign if everything is true and correct. Complete each of the lines with the true information of when you mailed the plaintiff the documents. Date and sign the affidavit after completing it.

11. In the "**Certificate of Service**" section write:

- The date;
- Your signature;
- The Plaintiff's attorney's name and address; and,
- Check "hand delivery" or "first class mail".

12. Make two copies of all of the forms you are sending.

- File the original at the Court. Deliver it in person or mail it.
- Mail a copy of the package to the Plaintiff's attorney.
- Keep a copy of everything yourself.

EXAMPLE
APPLICATION FOR FINAL JUDGMENT AND DISMISSAL

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT OF THE COMMONWEALTH

SUFFOLK _____, ss.

DORCHESTER DISTRICT COURT
DOCKET NO. 2011-CV-3833

Bank of New Debt _____)
Plaintiff,)
)
)
v.)
)
Kerry Timberland _____)
Defendant.)
_____)

DEFENDANT'S APPLICATION FOR
FINAL JUDGMENT AND DISMISSAL

NOW COMES the Defendant who moves the Court dismiss this case pursuant to M.R.C.P. Rule 33(a)(4).

1. Defendant served Interrogatories upon the Plaintiff on April 10, 2012.
2. Defendant served a Final Request for Answers upon the Plaintiff on June 30, 2012.
3. Plaintiff has not provided answers or has not provided full answers to Defendant.
4. Specifically Plaintiff has not Answered any of the questions Defendant asked in her interrogatory requests.
5. A copy of the Final Request for Answers sent to Plaintiff is attached to this motion as Exhibit "A".
6. An Affidavit by Defendant is also attached to this motion as Exhibit "B".

The Defendant requests the court issue Final Judgment for Dismissal pursuant to M.R.C.P. Rule 33(a)(4).

Respectfully submitted,
Signed: Kerry Timberland
Your name: **Kerry Timberland**

Notice of Hearing

After calling the court to verify an open motion date, this motion has been marked for hearing on
Date: August 5, 2012 at 9AM o'clock.

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorney of record for the Plaintiff (*check one*) in hand () or by regular first class mail postage pre-paid () at this address: Law Firm of Ted Roco for Bank of New Debt, 1 Kimble St, Boston, MA 02222 on (date) July 15, 2012.

Kerry Timberland
2012
Signature

July 15,
Date

Exhibit A

Kerry Made a photocopy of her copy of the Final Request for Answers and wrote "Exhibit A" on the top.

Exhibit B

Affidavit of Defendant Kerry Timberland

I, (your name) Kerry Timberland, hereby state under pains and penalties of perjury the following:

1. On the following date April 10, 2012 Interrogatories were served by first class mail upon the Plaintiff at Law Firm of Ted Roco for Bank of New Debt, 1 Kimble St, Boston, MA 02222.
2. The 45 day time period for answers or objections after the service of Interrogatories has expired and no answers have been received.
3. On the following date June 30, 2012 a Final Request for Answers was served by first class mail upon the Plaintiff at Law Firm of Ted Roco for Bank of New Debt, 1 Kimble St, Boston, MA 02222.
4. The 40 day time period for service of answers or objections after the service of Final Request for Answers has expired and no answers have been received.
5. The Defendant is now applying that the Court issue Final Judgment and Dismissal.

Signed under pains and penalties of perjury this 15th day of month July and year 2012.

The Defendant Kerry Timberland

Name: Kerry Timberland

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT OF THE COMMONWEALTH

_____, ss.

_____ DISTRICT COURT
DOCKET NO. _____

_____)
Plaintiff,)
_____)
v.)
_____)
Defendant. _____)

DEFENDANT’S APPLICATION FOR FINAL
JUDGEMENT AND DISMISSAL

NOW COMES the Defendant who moves the Court dismiss this case pursuant to M.R.C.P. Rule 33(a)(4).

1. Defendant served Interrogatories upon the Plaintiff on _____.
2. Defendant served a Final Request for Answers upon the Plaintiff on _____.
3. Plaintiff has not provided answers or has not provided full answers to Defendant.
4. Specifically Plaintiff has not _____

5. A copy of the Final Request for Answers sent to Plaintiff is attached to this motion as Exhibit “A”.
6. An Affidavit by Defendant is also attached to this motion as Exhibit “B”.

The Defendant requests the court issue Final Judgment for Dismissal pursuant to M.R.C.P. Rule 33(a)(4).

Respectfully submitted by the Defendant,

signed: _____
Your name:

Notice of Hearing

After calling the court to verify an open motion date, this motion has been marked for hearing on Date:
_____ at _____ o'clock.

Certificate of Service

I hereby certify that a true copy of the above document was served upon the attorney of record for the Plaintiff (*check one*) in hand () or by regular first class mail postage pre-paid () at this address:

on (date)_____.

Signature

Date

Exhibit A

Attach Copy of Final Request for Answers with Exhibit A written at top.

Exhibit B

Affidavit of Defendant _____

I, (your name) _____, hereby state under pains and penalties of perjury the following:

1. On the following date _____ Interrogatories were served by first class mail upon the Plaintiff at _____.
2. The 45 day time period for answers or objections after the service of Interrogatories has expired and no answers have been received.
3. On the following date _____ a Final Request for Answers was served by first class mail upon the Plaintiff at _____.
4. The 40 day time period for service of answers or objections after the service of Final Request for Answers has expired and no answers have been received.
5. The Defendant is now applying that the Court issue Final Judgment and Dismissal.

Signed under pains and penalties of perjury this _____ day of month _____ and year _____.

The Defendant _____

Name: _____