

Motion to Compel in a Debt Collection Suit Instructions, Example and Sample Form

If the Plaintiff did not give you the documents you asked for in [Discovery](#), you can use a **Motion to Compel** to ask the judge to order the Plaintiff to give you the documents. To learn more about discovery, visit www.masslegalhelp.org and search "[What is Discovery?](#)" and "[Request for Production of Documents.](#)"

Use these instructions to complete the sample "Motion to Compel" Form on page 6. We have also included an example motion filled out by Kerry Timberland, a made up person.

- 1.** At the top left corner of the motion 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 motion 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** fill in the date you sent the discovery request to the plaintiff.
 - Kerry mailed her Discovery request April 10, 2012 and did not receive anything from the Plaintiff so she wrote in April 10, 2012.

7. Sign the Motion.
8. **In the “Notice of Hearing Section”** Call the Civil Clerk’s Office of the court where your case is located. Ask when they have a hearing date for your motion to be heard. The hearing days are usually the same day and time every week. Pick the date 2 weeks away and write it in the “Notice of hearing” section of your motion.
 - Kerry’s District Court has a hearing date on the 15th of July. That is 2 weeks from the day she is mailing her motion so she wrote it in on the motion.
9. **On “Exhibit A”** write the documents you want the plaintiff to provide. You can copy the questions from your original request if they did not send any documents, or you can list the documents they did not send. If they sent some documents but they are not complete, write why the documents they provided are not complete.
 - Kerry did not receive any documents from the Bank so she copied her original request onto “Exhibit A”.
10. **In the “Certificate of Service”** section ,
 - i. Write today’s date;
 - ii. the address of the plaintiff; and,
 - iii. check either hand delivery of first class mail for delivery.
11. Make two copies of everything;
12. Mail the original motion to the court;
13. Mail a copy to the plaintiff; and
14. Always keep a copy for yourself.
15. Go to court on the hearing date. See MassLegalHelp and search for [When you go to court on the motion date](#)

EXAMPLE MOTION TO COMPEL

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT OF THE COMMONWEALTH

SUFFOLK _____, ss.

DORCHESTER DISTRICT COURT
DOCKET NO. 2011-CV-3833

Bank of New Debt _____)
Plaintiff,)
)
)
)
)
vs.)
)
(Your name) Kerry Timberland)
Defendant.)
_____)

DEFENDANT'S MOTION
TO COMPEL DISCOVERY

The Defendant moves the Court to order the Plaintiff to answer the Defendant's Discovery completely.

In support of this motion, the Defendant states:

1. Defendant mailed the Plaintiff by first class mail postage pre-paid a Request for Production of Documents on (date) April 10, 2012.
2. The Plaintiff either failed to respond or respond to the Request for Production of Documents with insufficient responses.
3. Exhibit "A" lists the specific documents requested that remain outstanding and/or provides why the responses were insufficient.
4. The items listed in Exhibit "A" are requested again by this motion.

The Defendant moves the Court to order the Plaintiff to fully answer the Defendant's Discovery requests within two weeks of this motion date.

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: July 15, 2012 at 9 AM 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) June 30, 2012.

Kerry Timberland
Signature

June 30, 2012
Date

EXAMPLE

EXHIBIT “A”

Write in the number of the “Request for Documents” that you are re-requesting as well as the actual questions. If some documents were given to you, but you did not get everything you requested, write why what the plaintiff gave you was not complete.

I requested the Plaintiff answer:

 Production for Documents numbers 1-3 & 8-9 that states:

Request for Production of Documents I am re-requesting:

- 1. All written agreements entered into by the Defendant and the Creditor.
- 2. All written communications, applications, correspondence or records thereof relating to the debt.
- 3. All written communications, letters, or records thereof between the Defendant and the Creditor during the course of the debt agreement.
- 8. All documents the Creditor intends to introduce as evidence at the trial in this action.
- 9. All reports or statements of potential witnesses that the defendant violated the terms of any agreement.

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT OF THE COMMONWEALTH

_____, ss.

DISTRICT COURT
DOCKET NUMBER

_____,
Plaintiff,
vs.
(Your name)_____
Defendant.

DEFENDANT'S MOTION
TO COMPEL DISCOVERY

The Defendant moves the Court to order the Plaintiff to answer the Defendant's Discovery completely.

In support of this motion, the Defendant states:

5. Defendant mailed the Plaintiff by first class mail postage pre-paid a Request for Production of Documents on (date)_____.
6. The Plaintiff either failed to respond or respond to the Request for Production of Documents with insufficient responses.
7. Exhibit "A" lists the specific documents requested that remain outstanding and/or provides why the responses were insufficient.
8. The items listed in Exhibit "A" are requested again by this motion.

The Defendant moves the Court to order the Plaintiff to fully answer the Defendant's Discovery requests within two weeks of this motion date.

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"

I requested the Plaintiff answer:

_____ Production for Documents numbers _____ that states: