

# Motion to Remove Default in a Debt Collection Suit

## Instructions, Example and Sample Form

A Motion to Remove Default is the way you ask the court to take away the judgment they made against you. It gives you the chance to tell your side of the story. To learn more about default judgment and what you can do about it visit [www.masslegalhelp.org](http://www.masslegalhelp.org) and search "[What is a Default Judgment and what do I do?](#)"

Use these instructions to complete the sample "Motion to Remove Default" Form on page 5. We have also included an example motion filled out by Kerry Timberland, a made up person.

### Instructions for Sample Form

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 docket number was on the top right corner of the complaint she got. She just copied it "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 motion. 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 on line 2, write why the case was decided against you and how you fixed the problem. The "final judgment" that notified you the case was decided should tell you why the other side won. If you do not understand why ask the Civil Court Clerk or a lawyer of the day to help.
  - Kerry did not file a written answer within 20 days after she received the complaint from the plaintiff. The court entered a default judgment against her because she did not answer. She completed [the answer form](#). She is filing it with this motion.

7. Sign your name on the Motion.
8. In the “**Notice of Hearing**” section write the date and time of the hearing. Call the Court to get a Hearing date on “Motion Day.” Your court and ask to speak with the civil clerk. Ask what day motions are hearing. The 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 July 15, 2012. She wrote that date into the Notice of Hearing as it is over two weeks away.
9. In the “**Certificate of Service**” section write:
  - i. the date;
  - ii. your signature;
  - iii. the address of the plaintiff; and
  - iv. check either hand delivery, or first class mail for delivery.
10. Make two copies of everything;
11. Mail the original motion to the court;
12. Mail a copy to the plaintiff; and
13. Always keep a copy for yourself.
14. Go to court on the hearing date. See MassLegalHelp and search for [When you go to court on the motion date](#)

EXAMPLE MOTION TO REMOVE DEFAULT  
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 MOTION TO  
REMOVE DEFAULT

NOW COMES the Defendant who hereby asks the Court to remove the default that has entered in this case.

In support of this Motion, the Defendant states:

1. Defendant does not have an attorney.
2. Defendant missed the deadline to respond for good causing being \_\_\_\_\_ I did not know that I had to file a written answer. I have already filed a late answer. \_\_\_\_\_

\_\_\_\_\_

3. Defendant has corrected the missed action.

4. Justice requires Defendant have the opportunity to defend against this suit as valid defenses exist.

The Defendant respectfully requests the Court remove the default that has entered in this case.

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 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) June 30, 2012.

Kerry Timberland \_\_\_\_\_

June 30, 2012 \_\_\_\_\_

Signature

Date

EXAMPLE

COMMONWEALTH OF MASSACHUSETTS

THE TRIAL COURT OF THE COMMONWEALTH

\_\_\_\_\_, ss.

\_\_\_\_\_ DISTRICT COURT

DOCKET NO. \_\_\_\_\_

\_\_\_\_\_ )

Plaintiff, )

DEFENDANT’S MOTION TO

REMOVE DEFAULT

v. )

)

\_\_\_\_\_ )

Defendant. )

\_\_\_\_\_ )

NOW COMES the Defendant who hereby asks the Court to remove the default that has entered in this case.

In support of this Motion, the Defendant states:

- 1. Defendant does not have an attorney.
- 2. Defendant missed the deadline to respond for good causing being \_\_\_\_\_  
\_\_\_\_\_.

3. Defendant has corrected the missed action.

4. Justice requires Defendant have the opportunity to defend against this suit as valid defenses exist.

The Defendant respectfully requests the Court remove the default that has entered in this case.

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