**Next Steps For {{ users }} :**

**Print Additional Copies**

This motion has been sent to your court via email, and can be sent to the Plaintiff via email. However, it is suggested that you keep hardcopies as well.

**Schedule Your Motion for a Hearing**

**Schedule a New Court Date.**

It is important that you first contact the court and find out when they will allow you to schedule this motion hearing. (Some courts only allow them on certain days at certain times. Some courts also require that you give at least 7 days notice of when the hearing will take place. It varies from court to court)

Once you have determined when you can schedule your motion you need to fill out **Section 6** on all additional copies of this document.

Hard copies and electronic!

**Deliver A Copy To The Plaintiff**

A copy of this motion (and/or the answer) needs to be delivered to the plaintiff (your landlord) in this case.

Normally it is suggested that the copies be hand delivered but given the pandemic the best option is to **call the clerk at the courthouse and ask what the proper method of service should be.**

**Deliver A Copy To The Court**

After you serve the Plaintiff, bring a copy to the court.

If you are also filing an Answer, attach a copy of the motion you will be delivering

{% if answer\_help%}

**File Your Answer**

IF you filed an answer to the court along with this motion, make sure that you also bring additional copies of your answer with you.

{% endif %}

{% if sheriff\_notice %}

**Inform The Court of Your Notice of Removal**

**IF you have received a notice from a sheriff/constable about being removed from your home:**

Make sure that the court has received the page which says “**Emergency Motion for Temporary Stay of Execution Pending Further Hearing**” on it. Request that the judge issue a “stay of execution” to the sheriff or constable that is threatening to evict you

{% else %}

{% endif %}

**What else should I do to prepare for my Motion?**

* Bring with you to the hearing any **Documents** to prove your case.
* **Write what you want to say in your own words** about how your Landlord violated the law and why you should not be evicted.
* **Any documents and evidence to back up or prove why your reason for missing the original eviction trial is legitimate.**

FORM

(Please print or type)

COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| a. | {{ trial\_court.address.county}} | , ss: |  | d. | {{ trial\_court}} |
|  |  |  |  |  |  |
| **b**. | {{ other\_party }} |  |  | e. | {{ docket\_number }} |
|  | vs. |  |  |  |  |
| **c.** | {{ users }} |  |  |  | **MOTION TO REMOVE DEFAULT  AND VACATE JUDGEMENT UNDER M.R.C.P. 59 AND/OR 60(b)** |

1. As the Tenant/Defendant in this case, I request this Court to remove the default and vacate the judgment, and:  
      
   {% if not answer\_help %} Schedule a new trial because I have defensible reason for missing the first trial.{% endif %}

{% if answer\_help and user\_answer %} Allow to file an Answer late and schedule a new trial **(A copy of my Answer is attached)** {% endif %}

{% if answer\_yesno %} Schedule a new trial because my Answer has already been filed. {% endif %}

1. {% if date\_to\_file > today() %} I am filing this motion within 10 days of the default judgment and, under Rule 59 of the Massachusetts Rules of Civil Procedure and Rule 4(a) of the Massachusetts Rules of Appellate Procedure (for Appeals Court) or Rule 4(a) of the Dist./Mun. Cts. R.A.D.A. (for appeals to the Appellate Division of the District Court), the execution is automatically stayed. {% else %} {% endif %} {% if date\_to\_file < today() %} I have not filed this motion within 10 days of the default judgment and therefore I am asking the Court to stay the execution until I can be heard by the judge on this motion. {% else %} {% endif %}

I did not appear at the original hearing for the following reason:  
{%p for reason in reason\_for\_missing.true\_values() %}

* {{ reason }}

{%p endfor %}

{%p if has\_other\_reason %}

* {{ other\_reason\_for\_missing }}

{%p endif %}

1. {% if answer\_yesno %} I already filed an Answer which explains my defense. {% else %} {% endif %} {% if not answer\_yesno and answer\_help %} I am filing a proposed Answer (attached), which explains my defenses/counterclaims, and ask that it be approved as a late filed answer if this motion is allowed. {% elif answer\_yesno or not answer\_help %} {% endif %}  
     
   I have a good defense to the landlord's case, as specified below:

{{ stated\_legaldefense }}

1. **Clerk:** Please schedule this motion for a hearing on \_\_\_\_\_\_\_\_\_\_\_\_\_\_ at **\_\_\_\_\_\_\_\_\_**o'clock.

**Landlord:** Please take note that this motion will be heard at the above time.

1. I delivered or mailed (*circle which one*) a copy of this Motion to my landlord or to his/her lawyer   
   on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(*date*).

{%p if defined('users[0].signature') %}

{%p for user in users %}

{{ user.signature }}

{%p endfor %}

{%p endif %}

{{ users }}

{{ users[0].address.block() }}

{{ users[0].phone\_numbers() }}

{{ showifdef('users[0].email') }}

{{ showifdef('users[0].other\_contact\_method') }}

Dated: {{ format\_date(today()) }}

{% if sheriff\_notice %}

COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| a. | {{ trial\_court.address.county}} | , ss: |  | d. | {{ trial\_court }} | |
|  |  |  |  |  |  | |
|  |  |  |  | e. | {{ docket\_number }} | |
| b. | {{ other\_party }} |  |  |  |  | |
|  |  |  |  |  | **MOTION TO REMOVE DEFAULT  AND VACATE JUDGEMENT UNDER M.R.C.P. 59 AND/OR 60(b)** | |
|  | vs. |  |  |
| c. | {{ users }} | |  |
|  |  |  |  |  | |  |

|  |  |
| --- | --- |
|  | **Emergency Motion for Temporary Stay of Execution  Pending Further Hearing**  I received a notice that a constable or sheriff will move me from my home on {{ removal\_date }} at {{ removal\_time }} and I request that the Court immediately stay issuance or use of execution pending a hearing and decision on the above motion to remove the default.  {%p if defined('users[0].signature') %}  {%p for user in users %}  {{ user.signature }}  {%p endfor %}  {%p endif %}  {{ users }}  {{ users[0].address.block() }}  {{ users[0].phone\_numbers() }}  {{ showifdef('users[0].email') }}  {{ showifdef('users[0].other\_contact\_method') }} |
|  |  |

Dated: {{ format\_date(today()) }}

{% endif %}