FORM

(Please print or type)

COMMONWEALTH OF MASSACHUSETTS  
TRIAL COURT

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| a. | {{ courts[0].address.county }} | , ss: |  | d. | {{ courts[0] }} | |
|  |  |  |  |  |  | |
|  |  |  |  | e. | {{ docket\_number }} | |
| b. | {{ other\_parties }} |  |  |  |  | |
|  |  |  |  |  | **MOTION TO REMOVE DEFAULT  AND VACATE JUDGEMENT UNDER M.R.C.P. 59 AND/OR 60(b)** | |
|  | vs. |  |  |
| c. | {{ users }} | |  |
|  |  |  |  |  | |  |

1. As the Tenant/Defendant in this case, I request this Court to remove the default and vacate the judgment, and:  
      
   {% if not answer\_yesno %}[X]{% else %}[ ]{% endif %}Allow to file an Answer late and schedule a new trial **(A copy of my Answer is attached**

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

1. {% if date\_to\_file > today() %}[X]{% else %}[ ]{% endif %} 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.
2. {% if date\_to\_file < today() %}[X]{% else %}[ ]{% endif %} 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.
3. I did not appear at the original hearing for the following reason:

{%p if reason\_for\_missing == "other" %}  
 {{ elaborate }}

{%p else %}

{{ reason\_for\_missing }}

{%p endif %}

1. {% if answer\_yesno %}[X]{% else %}[ ]{% endif %} I already filed an Answer which explains my defense.  
     
   {% if not answer\_yesno and counterclaim\_yesno %}[X]{% elif answer\_yesno or not counterclaim\_yesno %}[ ]{% endif %} 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.   
     
   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.
2. 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') }}

{% if sheriff\_notice %}

|  |  |
| --- | --- |
| 9. | **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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_(date) at \_\_\_\_\_\_\_\_\_(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.  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of Tenant  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Tenant's Name (*print*)  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* City State Zip  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* Telephone Number  *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* Email (if any)  Date*: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* |

{% else %}

{% endif %}