



TRIAL COURT OF MASSACHUSETTS
ADMINISTRATIVE OFFICE OF THE DISTRICT COURT

FORMS

TO IMPLEMENT AMENDMENTS TO
TRIAL COURT RULE III, UNIFORM SMALL CLAIMS RULES
Effective October 1, 2009

1. **VERIFICATION OF DEFENDANT'S ADDRESS** form (Rule 2[b])
2. **AGREEMENT FOR JUDGMENT AND FOR PAYMENT ORDER** form [two-sided] (Rule 7[a])
3. **APPEARANCE OF SUBSTITUTE COUNSEL** form (Rule 7[b])
4. **SATISFACTION OF JUDGMENT** form (Rule 9[e])
5. **SATISFACTION OF JUDGMENT ON COUNTERCLAIM** form (Rule 9[e])
6. Revised "**INSTRUCTIONS TO THE PLAINTIFF AND THE DEFENDANT**" for obverse of "STATEMENT OF SMALL CLAIM AND NOTICE OF TRIAL" (DC-SC-1) form (*to be substituted in next printing of form*) (Rule 2[a])
7. Revised "**INFORMATION ABOUT THIS SMALL CLAIMS JUDGMENT**" form to be enclosed with "JUDGMENT FOR PLAINTIFF" or "JUDGMENT FOR DEFENDANT" form.

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|--|--|------------|--|
| VERIFICATION OF DEFENDANT'S ADDRESS BY PLAINTIFF IN TRADE OR COMMERCE OR PURSUING ASSIGNED DEBT | For Court Use Only | DOCKET NO. | Trial Court of Massachusetts Small Claims Session |
| PLAINTIFF(S) | vs. | | COURT DIVISION |
| DEFENDANT(S) | <i>This form must be filed along with the Statement of Small Claim for any claim incurred in the course of plaintiff's trade or commerce, or for assigned debt. Use separate forms for multiple defendants if they have different mailing addresses.</i> | | |
| MAILING ADDRESS OF DEFENDANT(S) | | | |
| Pursuant to Uniform Small Claims Rule 2(b), the defendant's mailing address shown above has been verified in the following manner: | | | |
| <i>Check at least one of these methods:</i> | <input type="checkbox"/> Verified with the following municipal record within the past 12 months: <i>Municipal record (e.g., street list or tax records):</i> _____ _____ <i>Date verified:</i> _____ | | |
| | <input type="checkbox"/> Verified with Registry of Motor Vehicles records within the past 12 months. <i>Date verified:</i> _____ | | |
| | <input type="checkbox"/> Verified by receipt of correspondence from the defendant with that return address within the past 12 months. <i>Date correspondence received:</i> _____ | | |
| | <input type="checkbox"/> Other verification from the defendant within the past 12 months that address is current: <i>Describe:</i> _____ | | |
| <u>or</u> | <input type="checkbox"/> A letter was mailed to the defendant at the above address by first class mail on: <i>Date within past 6 months, and at least 4 weeks before filing this small claim:</i> _____ and has not been returned to sender by the postal service. | | |
| <i>Check at least two of these methods:</i> | <input type="checkbox"/> Verified using the following online database (other than white pages or other unpaid general telephone directory) within the past 6 months: <i>Name and source of database:</i> _____ | | |
| | <input type="checkbox"/> Verified with an additional source, specifically: _____ _____ | | |
| DATE SIGNED | SIGNED UNDER THE PENALTIES OF PERJURY X _____ PLAINTIFF OR PLAINTIFF'S ATTORNEY | | |

**AGREEMENT FOR JUDGMENT
AND FOR PAYMENT ORDER**

DOCKET NUMBER

**Trial Court of Massachusetts
Small Claims Session**



PLAINTIFF(S) WHO ARE PARTIES TO THIS AGREEMENT

COURT DIVISION

VS.

DEFENDANT(S) WHO ARE PARTIES TO THIS AGREEMENT

REQUESTED DATE OF PAYMENT REVIEW

No payment review requested

JUDGMENT FOR PLAINTIFF(S). It is hereby agreed that in this small claim the Court may enter a judgment for the plaintiff(s) named above and against the defendant(s) named above for:

\$ _____ DAMAGES

Plus PREJUDGMENT INTEREST from _____ (date)
at the 12% statutory rate or the _____% contractual rate

\$ _____ COSTS

Prejudgment interest is waived by the plaintiff.

\$ _____ ATTORNEY FEES

Postjudgment interest is waived by the plaintiff.

(if authorized by contract or statute)

PAYMENT ORDER. It is also agreed that the Court may enter a payment order that requires the defendant(s):

to pay the plaintiff(s) the total amount of the judgment on or before _____ (date).

to pay the plaintiff(s) \$ _____ each week month beginning on _____ (date)
until the total amount of the judgment is paid in full.

This payment order will not be satisfied with any exempt income listed on pg. 2 of this form.

REVISED PAYMENT ORDER. In this small claim the Court has already entered a judgment and it is hereby agreed that the Court may revise that payment order as follows:

This payment order will not be satisfied with any exempt income listed on pg. 2 of this form.

SATISFIED IN FULL. It is also agreed that this claim or judgment has already been satisfied in full.
(By court rule plaintiff(s) must file an acknowledgment of satisfaction with the court when the judgment has been paid in full.)

JUDGMENT FOR DEFENDANT(S). It is hereby agreed that in this small claim the Court may enter a judgment for the defendant(s) named above, and the plaintiff(s) shall take nothing on this claim.

DISMISSAL. It is hereby agreed that the Court may enter a judgment **dismissing** this small claim.

JUDGMENT ON COUNTERCLAIM. It is also agreed that the Court may enter the following judgment on the **counterclaim** brought by the above-named defendant(s) against the above-named plaintiff(s):

OTHER PROVISIONS OR COMMENTS

Upon acceptance by the Court, a judgment and payment order will be entered in accordance with the above terms and will be enforceable as an order of the Court.

 X
SIGNATURE OF PLAINTIFF(S) OR ATTORNEY FOR PLAINTIFF(S) PRINT NAME DATE

 X
SIGNATURE OF DEFENDANT(S) OR ATTORNEY FOR DEFENDANT(S) PRINT NAME DATE

INCOME THAT IS EXEMPT FROM PAYMENT ORDERS

1. **ALL INCOME FROM THE FOLLOWING SOURCES** is exempt by law from any payment order:

- Unemployment Benefits (G.L. c. 151A, § 36)
- Workers Compensation Benefits (G.L. c. 152, § 47)
- Social Security Benefits (42 U.S.C. § 401)
- Federal Old-Age, Survivors & Disability Insurance Benefits (42 U.S.C. § 407)
- Supplementary Security Income (SSI) for Aged, Blind & Disabled (42 U.S.C. § 1383[d][1])
- Other Disability Insurance Benefits up to \$400 weekly (G.L. c. 175, § 110A)
- Emergency Aid for Elderly & Disabled (now G.L. c. 117A)
- Veterans Benefits
 - Federal Veterans Benefits (38 U.S.C. § 5301[a])
 - Special Benefits for Certain WW II Veterans (42 U.S.C. § 1001)
 - Medal of Honor Veterans Benefits (38 U.S.C. § 1562)
 - State Veterans Benefits (G.L. c. 115, § 5)
- Transitional Aid to Families with Dependent Children (AFDC) Benefits (G.L. c. 118, §10)
- Maternal Child Health Services Block Grant Benefits (42 U.S.C. § 701)
- Other public assistance benefits (G.L. c. 235, § 34, fifteenth)

2. In addition, **A PORTION OF WAGES OR EMPLOYMENT-BASED RETIREMENT PAYMENTS**

is exempt by law from any payment order. The exempt amount is

\$218 or 75% of your weekly disposable earnings, whichever is greater.

Your “**weekly disposable earnings**” are your gross wages, salary or employment-based periodic retirement payments, *minus* any deductions required by law (including withholding taxes, social security [FICA], and mandatory public employee retirement contributions). Do *not* deduct any voluntary deductions, union dues or garnishments.

The minimum Federal exemption is equal to the Federal minimum wage (\$7.25 as of 7/24/09) multiplied by 30, or \$218 (15 U.S.C. §§ 1671-1677). Massachusetts law exempts the first \$125 in weekly “wages then due . . . for labor performed or services rendered” (G.L. c. 224, § 16 & c. 246, § 28) but this is normally less than the Federal exemption.

DEFENDANT’S WORKSHEET FOR CALCULATING EXEMPT AMOUNT OF WAGES OR EMPLOYMENT-BASED RETIREMENT PAYMENTS

Write the amount of your “**weekly disposable earnings**” (as defined above) here = \$ _____

If your weekly disposable earnings are **less than \$218**,
enter the amount of your weekly disposable earnings →

If your weekly disposable earnings are **\$218–\$290**, enter \$218 →

If your weekly disposable earnings are **more than \$290**,
enter 75% of your weekly disposable earnings →

| |
|----|
| \$ |
|----|

This is the amount of your
weekly disposable earnings that is exempt
from any payment orders.

APPEARANCE OF SUBSTITUTE COUNSEL

Trial Court of Massachusetts
District Court Department
Small Claims Session



CASE NAME

vs.

DOCKET NUMBER

COURT DIVISION

To the Clerk-Magistrate:

Pursuant to Trial Court Rule III, Uniform Small Claims Rule 7(b), please enter my appearance for

_____ PARTY _____

as substitute counsel for current counsel of record in the above-numbered court action.

Pursuant to Rule 7(e), this appearance is limited to today's proceedings only and does not displace the appearance of current counsel of record, and all notices in this matter shall continue to be sent to current counsel of record.

ATTORNEY NAME

B.B.O. NUMBER (Required)

ATTORNEY FIRM

TELEPHONE NUMBER

STREET ADDRESS

EMAIL ADDRESS

CITY/TOWN

STATE

ZIP CODE

X _____

SIGNATURE OF ATTORNEY

_____ DATE _____

**ACKNOWLEDGMENT OF
SATISFACTION OF JUDGMENT**

DOCKET NUMBER

**Trial Court of Massachusetts
District Court Department**



PLAINTIFF(S) FILING THIS FORM

COURT DIVISION

VS.

DEFENDANT(S)

DATE THIS JUDGMENT WAS ENTERED

I (we) hereby certify under the pains of perjury that:

- I am (we are) the **plaintiff(s)** in the above-listed small claim or civil action,
- I am (we are) the **attorney(s) for the plaintiff(s)** in the above-listed small claim or civil action,

and that the judgment entered by this Court in this matter against the above-listed defendant(s) on the above-listed date has been **FULLY SATISFIED.**

_____ DATE _____ PRINT NAME _____
PLAINTIFF

_____ DATE _____ PRINT NAME _____
ADDITIONAL PLAINTIFF

_____ DATE _____ PRINT NAME _____
ADDITIONAL PLAINTIFF

_____ DATE _____ PRINT NAME _____
ADDITIONAL PLAINTIFF

OR

_____ DATE _____ BBO No. _____
ATTORNEY FOR PLAINTIFF(S)

_____ DATE _____ BBO No. _____
ATTORNEY FOR PLAINTIFF(S)

| | | |
|---|---------------|---|
| ACKNOWLEDGMENT OF SATISFACTION OF JUDGMENT IN COUNTERCLAIM | DOCKET NUMBER | Trial Court of Massachusetts District Court Department |
|---|---------------|---|



| | |
|-------------------------------|--------------------------------|
| DEFENDANT(S) FILING THIS FORM | COURT DIVISION |
| vs. | |
| PLAINTIFF(S) | DATE THIS JUDGMENT WAS ENTERED |

I (we) hereby certify under the pains of perjury that:

- I am (we are) the **defendant(s)** who prevailed in a counterclaim against the above-listed plaintiff(s) in the above-listed small claim or civil action,
- I am (we are) **attorney(s) for the defendant(s)** who prevailed in a counterclaim against the above-listed plaintiff(s) in the above-listed small claim or civil action,

and that the judgment entered by this Court in that counterclaim on the above-listed date for the defendant(s) and against the plaintiff(s) has been **FULLY SATISFIED.**

_____ DATE _____ PRINT NAME _____
DEFENDANT

_____ DATE _____ PRINT NAME _____
ADDITIONAL DEFENDANT

_____ DATE _____ PRINT NAME _____
ADDITIONAL DEFENDANT

_____ DATE _____ PRINT NAME _____
ADDITIONAL DEFENDANT

OR

_____ DATE _____ BBO No. _____
ATTORNEY FOR DEFENDANT(S)

_____ DATE _____ BBO No. _____
ATTORNEY FOR DEFENDANT(S)

INSTRUCTIONS FOR PERSONS FILING A SMALL CLAIM — Complete Parts 1-6 on front of form.

Part 1. You may file your small claim only in the court for the area where either the plaintiff or the defendant lives or has a place of business or employment. A small claim against a landlord arising from the rental of an apartment may also be filed where the apartment is located. You may find it easier to enforce a decision in your favor if you file your small claim where the defendant lives or works, but you are not required to do so. The Clerk-Magistrate's office can tell you which court serves an area and the fee you must pay to file your case.

Part 2. The person or business filing the claim is called the plaintiff.

Part 3. Enter the defendant's name and mailing address. The person or business being sued is called the defendant. If you are suing a business that is not a corporation, you should name as the defendant the owner(s) doing business under that name; the names of the owner(s) can be obtained from the City or Town Clerk where the business's offices are located. If you are suing a business that is a corporation, you must have the exact legal name. You can find this information from the Corporate Records Division of the Secretary of State's Office, One Ashburton Place, Room 1712, Boston, MA 02108 (or online at <http://corp.sec.state.ma.us/corp/corptest/corpsearchinput.asp>).

Part 4. Fill in the amount you are suing for and briefly explain your claim. State your claim clearly so the defendant can understand why he or she is being sued. State specifically any amounts sought for damages, for multiple damages or statutory penalties, for attorney's fees, or for costs (including the amount of the filing fee), as well as the total amount being sought, exclusive of any prejudgment interest being sought from the court pursuant to statute. If your claim arose in the course of your trade or commerce, or you are pursuing a claim for assigned debt, also state: (1) the original creditor's name (if different from yours), (2) only the last four digits of any account number assigned by the original creditor, and the amount and date of the last payment, if any. Sign your name in the space provided.

Part 5. Indicate if you are willing to attempt to mediate this claim.

Part 6. If you know the defendant's social security number, you may determine whether he or she is on active military duty online at www.dmdc.osd.mil/scra/owa/home; otherwise, you must write to the appropriate military service headquarters (which are listed at www.defenselink.mil/faq/pis/PC09SLDR.html). If you are unable to determine whether the defendant is on active military duty and the defendant fails to appear, the court may require you to post a bond or may issue other orders to protect the rights of the defendant if he or she is on active military duty.

Bring or mail the completed form, with all parts intact, together with a check or money order (made payable to "Clerk-Magistrate") for the filing fee, to the Clerk-Magistrate's office of the court where you are filing your case.

If your claim arose in the course of your trade or commerce, or you are pursuing a claim for assigned debt, you must also file a separate "Verification of Defendant's Address" form with your claim, certifying that you have verified the defendant's mailing address in the manner set forth in that form. If you do not do so and the defendant fails to appear, you may not obtain a default judgment and your claim will be dismissed without prejudice. (This requirement does not apply if your claim arose from leasing or renting your residential property of three or fewer units that is also your primary residence unless you also own, manage or are otherwise involved in leasing or renting other residential property.)

INSTRUCTIONS TO THE PLAINTIFF AND THE DEFENDANT

1. WHAT IS A SMALL CLAIM?

The small claims court is designed to resolve smaller money claims, making it easier and less expensive for the public to use the court. The plaintiff named on the front of this form has brought a small claim against the defendant for the amount and reasons stated. Both sides must appear in court on the trial date and time shown on the front of this form unless the plaintiff and defendant settle this case before then.

2. HOW IS THE DEFENDANT NOTIFIED OF THIS CLAIM?

The defendant is sent a copy of this "Statement of Small Claim and Notice of Trial" by first class mail. General Laws c. 223A, § 6 usually requires that out-of-state defendants be sent their notice by certified mail with a return receipt. If the plaintiff inquires, the court will inform the plaintiff if the Postal Service has been unable to notify ("serve") the defendant.

3. ARE ATTORNEYS NEEDED IN SMALL CLAIMS COURT?

No, but you may hire one if you wish.

4. WHAT ARE "COSTS"?

If the plaintiff prevails, or if both sides settle the claim, the plaintiff may also recover from the defendant as "costs" the court filing fee and postage.

5. IS THE DEFENDANT REQUIRED TO FILE AN ANSWER?

The defendant is not required to file a written answer to the plaintiff's claim. However, the defendant may send a signed letter to the court, with a copy to the plaintiff, saying clearly and simply why the plaintiff should not prevail.

6. WHAT IF THE DEFENDANT BELIEVES THE PLAINTIFF OWES HIM OR HER MONEY?

In his or her answer or in a separate letter to the court, or on the trial date, the defendant may set forth in writing, with a copy to the plaintiff, any money claim against the plaintiff that is within the jurisdiction of the small claims court (a "counterclaim"). Both claims will be treated as one case and tried together if the defendant mails a copy of the counterclaim to the plaintiff at least ten days before the scheduled trial date, or if the magistrate orders that they be so treated. Such counterclaims are not compulsory.

7. WHAT IF THE DEFENDANT ADMITS OWING ALL THE MONEY?

The defendant should contact the plaintiff and arrange to make payment. If payment is not made before the trial date, both the plaintiff and defendant must appear in court or file with the court the official "Agreement for Judgment and for Payment Order" form. That form lists income sources that are exempt from any payment order.

8. WHAT IF THE DEFENDANT ADMITS OWING THE MONEY BUT NEEDS TIME TO PAY?

If the plaintiff and defendant agree on a proposed payment schedule, they must file with the court the official "Agreement for Judgment and for Payment Order" form. If this is not done before the trial date, both the plaintiff and defendant must appear in court on that date. The defendant must complete a "Financial Statement" form and give his or her reasons for requesting time to pay.

9. WHAT IF THE DEFENDANT BELIEVES HE OR SHE OWES NOTHING, OR ONLY SOME OF THE MONEY CLAIMED?

The defendant must appear in court on the trial date and will be able to question whether he or she owes money and, if so, how much.

10. WHAT IF I CANNOT COME TO COURT ON THE TRIAL DATE?

Call or write the person on the opposing side and ask him or her to agree to postpone ("continue") the case. Continuances should be only for a good reason, such as illness, an emergency, or the unavailability of a witness. You must write the Clerk-Magistrate of the court to ask that the court give you a continuance, whether or not you are able to reach the person on the opposing side, and whether both sides agree to a continuance or not. Do not wait until the last minute. If the other side makes a reasonable request for a continuance, it may save you some inconvenience if you agree to the request.

11. WHAT IF I DO NOT COME TO COURT ON THE TRIAL DAY?

If the defendant does not appear for trial and the plaintiff does appear, the court may enter a default judgment and order the defendant to pay the amount claimed. The magistrate may ask the plaintiff to present some evidence of the claim, even if the defendant is not present. If the plaintiff does not appear for trial and the defendant does appear, the court will enter a judgment for the defendant. If both the plaintiff and the defendant do not appear for trial, the claim will be dismissed.

12. HOW SHOULD I PREPARE FOR TRIAL?

It may be helpful to write down ahead of time the facts of the case in the order in which they occurred. This will help you organize your thoughts and make a clear presentation of your story. On the trial date, you must bring with you any witnesses, checks, bills, papers, photographs or letters that will help you prove your case. If you need a witness to come to court but the witness will not come, ask the Clerk-Magistrate's office for a witness summons which you must then arrange to have an officer deliver to the witness. You may need an expert witness to prove any matter not within common experience. The plaintiff must prove that the claim is one that the law recognizes and that the defendant is liable, or the magistrate will enter a decision for the defendant.

13. WHAT WILL HAPPEN ON THE DAY OF THE TRIAL?

Be sure to arrive on time. If your case is not resolved by a mediator, a trial will be held before a magistrate. The plaintiff will be asked to tell his or her side of the story, then the defendant will tell his or her side. Each will have an opportunity to ask questions of the other side and the other side's witnesses. To prevail, the law requires the plaintiff to prove the validity of his or her claim.

14. WHAT WILL THE MAGISTRATE DO?

The magistrate will make a decision. Notice of the decision (called a "judgment") will be given or sent to each side.

15. CAN I APPEAL THE MAGISTRATE'S DECISION?

By bringing a claim in small claims court, the plaintiff (and the defendant as to any counterclaim) gives up the right to have the claim decided by a jury and to appeal if he or she loses. If the defendant loses (or the plaintiff loses on any counterclaim) before the magistrate, he or she can appeal for a new trial by a judge or a jury of any disputed questions of fact, but must post a bond, unless that requirement is waived.

INFORMATION ABOUT THIS SMALL CLAIMS JUDGMENT

Your small claims case has been decided. The **judgment** (decision) of the magistrate, judge or jury is enclosed. A **Judgment Creditor** is a person (or business) who won the case and is entitled to collect money. A **Judgment Debtor** is a person (or business) who lost the case and who owes the money. The word **claim** means a claim for money damages. For more information, see Massachusetts General Laws chapter 218, sections 21-25 (www.mass.gov/legis/laws/mgl/218-21.htm), and Trial Court Rule III, the Uniform Small Claims Rules (www.mass.gov/courts/districtcourt). These are available at any public library or law library.

IF YOU WON THE CASE BEFORE THE MAGISTRATE

If you were sued by the other party and won, the other party may not appeal from the magistrate's decision in your favor.

If you sued the other party and won and the magistrate awarded you money, you cannot collect the money until the time for the Judgment Debtor to appeal expires or any appeal is decided. If the Judgment Debtor does not appeal, or if you win again on appeal, below are some steps you may take to collect your money. When you have collected the full amount of the judgment, you must notify the clerk's office in writing within 10 days. You are not required to use any particular form but a *Notice of Satisfaction* form is available from the clerk's office for this purpose.

1. Ask for payment

Ask the Judgment Debtor to pay the money or to turn over the property, as ordered by the magistrate.

2. Payment hearing

If the magistrate has scheduled a payment hearing and the Judgment Debtor does not pay the money before that hearing, the magistrate will examine the Judgment Debtor's ability to pay the money, and may order immediate payment or a payment plan. The burden is on you to prove that the Judgment Debtor is able to pay without using income that is exempt by law. You may examine his or her *Financial Statement of Judgment Debtor* form, and present any information to the magistrate that is relevant to the Judgment Debtor's ability to pay. If the magistrate determines that the Judgment Debtor is not able to pay any money now, you may ask the magistrate to schedule the matter for review on some future date.

3. Notice to show cause

If the magistrate has not scheduled a payment hearing and the Judgment Debtor does not pay the money, ask the clerk's office to issue to you a *Notice to Show Cause*, requiring the Judgment Debtor to appear before the court. You must be in court on that date. You must pay a fee to a municipal constable or a county deputy sheriff to serve this form on the Judgment Debtor, but that amount will be added to what the Judgment Debtor owes.

4. Capias (civil arrest warrant)

If the Judgment Debtor does not appear at the payment hearing as ordered or after being served with a *Notice to Show Cause*, ask the clerk's office to issue to you a *Capias* (a civil arrest warrant) for the Judgment Debtor. You must pay a fee to a constable or a deputy sheriff to arrest the Judgment Debtor and bring him or her to court, but that amount will be added to what the Judgment Debtor owes. Give the constable or deputy sheriff your daytime telephone number, and ask him or her to contact you when the Judgment Debtor is brought to court.

5. Writ of execution

If you can identify any property of the Judgment Debtor (real estate, motor vehicles, etc.) that could be taken and sold to pay your judgment, after the payment hearing ask the clerk's office to issue to you a *Writ of Execution*. If no payment hearing was scheduled, you may ask for a *Writ of Execution* 30 days after the judgment date. You must give the *Writ of Execution* to a constable or a deputy sheriff to seize and sell property of the Judgment Debtor to pay the judgment.

IF YOU LOST THE CASE BEFORE THE MAGISTRATE

If you sued the other party and lost and the magistrate did not award you any money, that decision is final. You have lost your case and the other party does not have to pay you anything. You may **not** appeal from the magistrate's decision against you.

If you were sued by the other party and lost and the magistrate ordered you to pay money to the other party, you must do one of the following four things:

1. Pay the judgment in full within 30 days

You must pay the full amount of the judgment if you are financially able to do so. You are **not** required to pay the judgment from income that is exempt by law. If you do not pay that amount as ordered and you are able to do so, you may be held in contempt of court and imprisoned or assessed additional costs. Pay the full amount directly to the Judgment Creditor unless the magistrate has ordered otherwise. If the magistrate ordered you to turn over property to the Judgment Creditor, you must do so. The Judgment Debtor must notify the court in writing within 10 days after the judgment has been paid in full. You may wish to be sure that this is done in order to protect your credit record. If the Judgment Creditor refuses to do so, you may ask the court to enter such a determination on the case docket.

2. Ask the magistrate to set a payment plan

If the magistrate has scheduled a payment hearing, at that hearing you may ask the magistrate to order a payment plan you can afford, or to determine that you are unable to pay anything right now. If you are requesting a payment plan or a payment reprieve, fill out the enclosed *Financial Statement of Judgment Debtor* form, send a copy to the Judgment Creditor, and bring it with you to the hearing, along with any documentation you have regarding your financial status (tax return, salary stub, etc.). You may also obtain the form and a list of income that is exempt by law from www.mass.gov/courts/districtcourt or the clerk's office. *If the magistrate has not scheduled a payment hearing* and you want to request a payment plan or a payment reprieve, ask the clerk's office to schedule a payment hearing before a magistrate. Do not wait until you are required to come to court or you may be liable for additional costs. The Judgment Creditor may not obtain a Writ of Execution to seize and sell your property until after the initial payment hearing (or if no payment hearing is scheduled, until 30 days after the judgment). After that, the Judgment Creditor may do so, even if you are making periodic payments, unless you both agree that he or she will not do so while you are making payments.

3. Appeal to a judge or a jury

If you did not appear at the trial before the magistrate (this is called a *default*), you may not appeal from the magistrate's decision on the other party's claim. *If you did appear at the trial* before the magistrate, you may appeal for a new trial by either a judge or a jury. To do so, within 10 days after you receive written notice of the magistrate's decision you must file with the clerk's office your *Defendant's Claim of Appeal* form, indicating whether you want a trial by a judge or before a jury, along with the \$25 appeal fee (which is nonrefundable) and a \$100 appeal bond or deposit (which is refundable if you win on appeal, or is credited against what you owe if you lose on appeal). The appeal bond or deposit is larger if you are a landlord being sued for the return of a residential tenant's security deposit. The appeal fee and bond may be reduced or waived if you are indigent. On appeal, the judge or jury will reach a new decision, but may take into account that the magistrate previously decided the claim against you.

4. File a motion to vacate the judgment

Whether or not you appeared at the trial before the magistrate, you may ask the magistrate to vacate (cancel) the judgment if you have a good reason. Such a request must be made within one year unless it is based on not having received notice of the small claim. To make such a request, ask the clerk's office to help you to file and schedule a *Motion to Vacate Judgment*.

ARE YOU REQUIRED TO BE IN COURT FOR THE PAYMENT HEARING?

If this case is scheduled for a payment hearing and the amount of the judgment is not paid in full before that date:

- 1. If payments are current:** If the Judgment Debtor is in compliance with the Court's payment order, then neither the Judgment Creditor nor the Judgment Debtor is required to be in court for the scheduled payment hearing.
- 2. If payments are not current or there is no payment order:** If the Judgment Debtor is not in compliance with the Court's payment order, then both the Judgment Creditor and the Judgment Debtor must be in court for the scheduled payment hearing. ***If the Judgment Debtor fails to attend and the Judgment Creditor states under the penalties of perjury that the Judgment Debtor is not in compliance with the Court's payment order, then without further notice the Court may issue a civil arrest warrant (capias) for the Judgment Debtor's arrest.***