

<b>JUDGMENT FOR DEFENDANT(S)</b>	DOCKET NUMBER <b>1838SC000599</b>	<b>Trial Court of Massachusetts District Court Department Small Claims Session</b> 
CASE NAME Joan M Costello v. John Hartman/Willy Moy As officer of or agent for Ira Toyota		
PLAINTIFF(S) WHO ARE PARTIES TO THIS JUDGMENT  Joan M Costello	COURT NAME & ADDRESS Haverhill District Court 45 Ginty Boulevard Haverhill, MA 01830	
DEFENDANT(S) WHO ARE PARTIES TO THIS JUDGMENT  John Hartman/Willy Moy As officer of or agent for Ira Toyota	NEXT COURT EVENT (IF ANY)	
PARTY (OR ATTORNEY FOR PARTY) TO WHOM THIS COPY OF JUDGMENT IS ISSUED  David M Rogers, Esq. Campbell Campbell Edwards & Conroy, P.C. 1 Constitution Wharf Suite 310 Boston, MA 02129	FURTHER ORDERS OF THE COURT	
<p><b>JUDGMENT FOR DEFENDANT(S)</b></p> <p>On the above claim, after trial by a magistrate, the Court (Kim M Marotta) has entered JUDGMENT IN FAVOR OF THE DEFENDANT(S). This means that the defendant(s) does not have to pay the plaintiff(s) any part of the claim or costs in this claim.</p> <p>The plaintiff(s) does not have any right of appeal from this judgment. Uniform Small Claims Rule 8 provides that for good cause any party may file a motion within one year of judgment, with notice to the other parties, requesting the Court to vacate or amend this judgment.</p>		
DATE JUDGMENT ENTERED 10/31/2018	CLERK-MAGISTRATE/ASST. CLERK  X <i>David A. Stanzani</i>	

## 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](http://www.mass.gov/legis/laws/mgl/218-21.htm)), and Trial Court Rule III, the Uniform Small Claims Rules ([www.mass.gov/courts/districtcourt](http://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. Your judgment is valid for 20 years.

#### 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. Many of a person's assets may be seized and sold even if that person has exempt income.

### 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 the time ordered

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](http://www.mass.gov/courts/districtcourt) or the clerk's office. If any of your income is derived from an exempt source, you should bring some evidence of that to the payment hearing. *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.***