

SP01

# Giving Notice of Hearing on a Motion

Use this information **ONLY** if:

- ✓ At your request, the court has set a day for the Judge to consider a motion you filed

OR

- ✓ At your request, the court has set a day for the Judge to consider a motion another party in the case filed

You should **NOT** use this information if:

- ✗ You are not a party in the case (unless the motion is to make you a party)

*(If ALL of the parties agree to a motion, ask for assistance before using)*

Produced by the Suffolk Probate & Family Court Community Outreach Program—Richard Iannella, Register

## READ THIS:

Information provided in this packet **IS NOT LEGAL ADVICE**, It is information. This information is not a substitute for a competent lawyer.

When you sign a legal document or file any papers in court, it can seriously affect you in the future. You should always try to get legal advice before filing documents.

Bar Association lawyer referral services are listed in our brochure "Legal Resources in and around Suffolk County." Also listed are free legal service providers. You may be eligible for help.

At your request, the Judge will hear your motion on \_\_\_\_\_ at \_\_\_\_\_

When you ask court to hear a motion, *It is your job-not the court's-to inform all other parties in the case about the motion and the motion date.*

After that, you must tell the court--in writing--how they were informed and when. If the parties are not informed properly and on time, the court cannot act on your motion!

Every party in the case must receive a copy of the motion and notice of the date and time it will be heard-even if you don't think the motion has anything to do with them! If an affidavit was filed with the motion the parties must get that too.

If a party has a lawyer, you must notify the lawyer, not the person!

There are different ways to give notice:

1. You or someone else can deliver it directly to the lawyer or lawyer's office (or directly to the person if there is no lawyer.) This must be done at least SEVEN days before the motion is heard. (If delivered after 4:00PM, allow one extra day.)
2. You can mail it to the lawyer or lawyer's office (or to the person if there is no lawyer.) This must be done by first class mail with postage paid, at least TEN days before the motion is heard.

If the Department of Revenue (DOR) is involved, leave the notice at the front desk of the Registry of Probate at least SEVEN days ahead, or mail it at least TEN days ahead to "DOR, c/o Probate Registry, 24 New Chardon St, Boston, MA 02114"

If any other public agency is involved, for example, Dept of Transitional Assistance, Attorney-General, DSS, or the military, notify them by mail at least TEN days ahead.

If you have a question about giving notice-or if you don't give notice in time-call the Trial Dept at the Court for assistance. The phone number is: (617) 788-8250 (When you call, have the motion, the case number, and the date the motion is scheduled handy.)

Unless you were told NOT to go to Court, you must be in the courtroom with any written evidence, etc., when the motion is scheduled. If you do not appear in Court, your motion can be denied or not acted on at all!

After giving notice, you must complete a 'Certificate of Service, either before or at the time the motion is heard in Court. You may do so on the original motion form, on your own form, or, you may fill in the form below and bring it with you.

CERTIFICATE OF SERVICE

Docket #

I hereby certify that I have served a copy of this motion upon:

\_\_\_\_\_  
(Name of person or attorney, and their address including street, city or town and zip code.)

by delivery in hand (or to attorney's office,) on \_\_\_\_\_ at \_\_\_\_\_ AM/PM

By mailing (postage paid) on \_\_\_\_\_  
(date)

\_\_\_\_\_  
(Signature)

## Be prepared when you go to Court!

1. Unless you have been told NOT to appear by Court employees, you must be in Court when the Judge considers the motion. If you are not there, the Court may deny or not act on the motion, or, the Judge may make orders you do not agree with.
2. Be on time-It shows respect for the Court. If you are late, you may have to wait until all other business is settled, or, the motion may not be considered that day.
3. Dress appropriately-You don't have to buy new clothes or look like a lawyer, but your clothes should be clean and neat. Unless it's an emergency, don't wear tank-tops, athletic shirts, t-shirts, cut-offs, jeans, shorts, etc. Hats off in the courtroom (unless worn for religious reasons.).
4. Don't interrupt anyone else, but, check in with the clerk as soon as you can. (Have a copy of the motion out and ready.)
5. Think about what you want to say about the motion before you get to court. If you have any receipts, papers or evidence, be sure to bring them-Make copies for the court and the other party if you can.
6. Be courteous. Call the Judge "Your Honor". Listen carefully to questions. Be clear and get to the point! Wait your turn. If someone else is speaking-be quiet even if you think they are saying something wrong-You will be given your chance to speak. Never interrupt the Judge or anyone else! Don't get mad or loud in court.
7. If you do not understand, don't say "huh?" or "what?" Instead, politely ask, "Could you please repeat that for me, your honor?", or say, "I'm sorry, your honor, I didn't understand some of those words."
8. The Judge may decide on the motion right away, or may say it is "taken under advisement." That means the Judge wants more time to decide. You will be informed of the decision by mail.