

**MILITARY
AFFIDAVIT
(UNDER 50 U.S.C. § 3931)**

DOCKET NUMBER

**Massachusetts
Trial Court**



CASE NAME

v.

COURT DEPARTMENT (Select only one court.)

- | | | |
|------------------------|----------------|---------------|
| Boston Municipal Court | District Court | Housing Court |
| Juvenile Court | Land Court | |
| Probate & Family Court | Superior Court | |

COURT DIVISION OR COUNTY

Under the Servicemembers Civil Relief Act, 50 U.S.C. § 3931, I, _____ (Insert **Name**), have signed below affirming, to the best of my knowledge, that the following statements are true:

1. As of _____ (Insert **Month/Day/Year**):

A. The following party(ies) is/are **in military service** as defined in the Servicemembers Civil Relief Act.

B. The following party(ies) is/are **NOT in military service** as defined in the Servicemembers Civil Relief Act.

C. The following party(ies) has/have **concluded military service** as defined in the Servicemembers Civil Relief Act. (Also, indicate the **exact date** that the party(ies) has/have **concluded** military service.)

D. ___ I am **unable to determine** whether the following party(ies) is/are in military service as defined in the Servicemembers Civil Relief Act. As a result, under 50 U.S.C. § 3931(b)(3), I understand that the court, before entering a judgment, may require that I file a bond.

2. You are **required** to state facts that support this affidavit.
You **must** fill out this section and check choice "A" or "B."

A. I used the Servicemembers Civil Relief Act Website (<https://scra.dmdc.osd.mil/>) to determine the military status of the party(ies) listed in this affidavit. (You are **required** to provide your search results.)

The results from my use of the Servicemembers Civil Relief Act Website are attached. (Required.)

Additional facts (Optional if search results are attached.): _____

B. I have NOT used the Servicemembers Civil Relief Act Website (<https://scra.dmdc.osd.mil/>) to determine the military status of the party(ies) listed in this affidavit. However, the following facts support my statement above as to the military status of the party(ies). (You are **required** to provide facts below. Please be specific.)

Note: The term "military service" includes the following: active duty service as a member of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; service as a member of the National Guard under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days for purposes of responding to a national emergency; active service as a commissioned officer of the Public Health Service or of the National Oceanic and Atmospheric Administration; and any period of service during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause. 50 U.S.C. § 3911(2). A U.S. citizen who is serving with the forces of a nation with which the United States is allied in a war or military action may also be entitled to relief under the Servicemembers Civil Relief Act if that service is similar to the definition of "military service" discussed above. See 50 U.S.C. § 3914.

Subscribed and certified or declared to be true under penalty of perjury.

SIGNATURE _____	DATED
PRINT CLEARLY OR TYPE YOUR NAME, ADDRESS, PHONE NUMBER, AND E-MAIL ADDRESS	BBO NUMBER (FOR ATTORNEYS)



Massachusetts Trial Court

Instructions for Military Affidavit (Under 50 U.S.C. § 3931)

The Servicemembers Civil Relief Act (SCRA), 50 U.S.C. §§ 3901-4043, is a federal law providing a range of benefits and protections to persons serving in the military and their dependents. Servicemembers include members of the U.S. Army, Navy, Air Force, Marine Corps, or Coast Guard, and commissioned officers in the Public Health Service and National Oceanic and Atmospheric Administration, while on active duty military service of their country and for up to one year after active duty, as well as members of the National Guard on certain assignments, and U.S. citizens serving with certain allied military forces.

The Massachusetts Trial Court's **Military Affidavit (Under 50 U.S.C. § 3931)** is a standardized form used to indicate the military status of the party(ies) to a case. The form may be used in **all case types** where the filing of a **Military Affidavit** is appropriate. The Military Affidavit form is a fillable PDF and complies with both 50 U.S.C. § 3931(b) and Mass. R. Civ. P. 55(b)(4).

For example, under Mass. R. Civ. P. 55(b)(4), a Military Affidavit is required before a court enters a default judgment. A default judgment is a judgment in favor of the party or "plaintiff" suing a "defendant" for "fail[ing] to plead or otherwise defend" a court action. See Mass. R. Civ. P. 55(b)(4) ("[N]o judgment by default shall be entered until the filing of an affidavit . . . setting forth facts showing whether or not the defendant is in military service . . .").

Please type your responses on the Military Affidavit form or use blue or black ink and write clearly.

1. Write or type the complete "Docket Number" of your case, if known.
2. Write or type the "Case Name" on the form and list the parties to the case: the plaintiff(s), the defendant(s), and, if applicable, any interested party(ies) or respondent(s).
3. Check off the "Court Department" where your case is filed.
4. Write or type the appropriate "Court Division or County" where your case is located (e.g., Brighton Division, Attleboro District Court, Barnstable Probate and Family Court, or Barnstable County).
5. You are required to fill out the main portion of the affidavit. Write or type your full name. Write or type today's date or the date you conducted your search for the military status of the party(ies).

6. Write or type information about the military status of the party(ies). Under Item 1, check off Items A, B, C, or D, as appropriate, and fill in the requested information on the form for each choice. Please note that if you check off Item D, under 50 U.S.C. § 3931(b)(3), before entering a judgment, the court may require you to file a bond because you have indicated that you are unable to determine the military service status of the party(ies).

7. You are **required** to state facts supporting the Military Affidavit. Under Item 2, you **must** fill out this section of the form and check off choice A or B.

As to Choice A: You may use the Servicemembers Civil Relief Act Website (<https://scra.dmdc.osd.mil/>) to determine the military status of the party(ies) that you listed. Conducting an online search through the SCRA Website is the easiest method of determining the military status of the party(ies). If you used the SCRA Website, you are **required** to provide a copy of your search results to the court (typically, a certificate generated from the SCRA Website). You must attach a copy of those search results to your Military Affidavit. You may include additional facts when you provide a copy of your search results.

As to Choice B: If you did not use the SCRA Website to determine the military status of the party(ies) that you listed, you must provide specific facts that support your statement as to the military status of the party(ies). For example, you may include facts that you know through your contact or communications with the party(ies). You may also write to the appropriate military service headquarters, listed at (<http://www.defense.gov/Sites>), to determine the military status of the party(ies). Please attach any written correspondence you receive from the military in support of your statement.

8. Under "Signature" and "Dated," sign and date the form. You may sign the Military Affidavit form electronically. Make sure to clearly write or type your name, address, phone number, and e-mail address under your signature. Massachusetts attorneys are required to provide their Board of Bar Overseers (BBO) Number. Attorneys licensed in other jurisdictions must provide their State Bar Number.