

ATTACHMENT 3 (4 pages)
SCRA REQUEST FOR STAY OF PROCEEDINGS

The Servicemembers Civil Relief Act (SCRA) is a law that helps military members when their service makes it hard to keep up with bills or legal matters. If you get sued, you can ask the court to pause the case for at least 90 days. This pause, called a “stay,” gives you extra time before the case moves forward. You must request the pause — it doesn’t happen automatically. This protection applies to all kinds of court and administrative hearings.

Any member of the uniformed services on active duty is covered under the SCRA including Reserve component personnel called to active duty, Coast Guard personnel, Public Health Service, and National Oceanic and Atmospheric Administration.

Requirements of SCRA Stay Request

You will need this motion and the following three (3) statements. They should either be included in the motion or provided with the motion as exhibits:

1. A statement of how your current military service prevents you from going to court;
2. A statement of the expected date when you can go to court; and
3. A statement from your CO about how your current military service prevents you from going to court and that you are not allowed military leave during the scheduled court date.

How to file your Request with the Court

Different jurisdictions have different requirements for filing documents with the court. The easiest way is to call the clerk of court in the county where the court action is pending and ask the court clerk for information about filing and serving motions.

Generally, to file a pleading involving a lawsuit, you can either mail the pleading and attachments to the court clerk where the lawsuit has been filed, or you may be able to file electronically through other side's an online portal. You also have to notify the other party. So make one copy for yourself and one copy to the opposing party or their lawyer. You must always follow the local rules of procedure. Again, you can always ask the clerk what the local rules are or where you can find them.

If mailing, send a self-addressed/stamped envelope with your pleading so the court clerk can send you back two copies of the request marked as filed. One of the copies should be sent to the opposing party and the other is for your records. Some clerks will automatically send a copy to the other party

What happens if I’m still unable to go to court after the 90-day stay is over?

The Court can grant an extension to your stay. You will need to follow the same procedures outlined above that you used to request the first 90-day stay.

IN THE _____ COURT OF _____ COUNTY
OF _____
_____ DIVISION

_____) CASE NO. [ENTER CASE NO.]
Plaintiff,)
vs.) JUDGE [ENTER JUDGE'S NAME]
_____)
Defendant.)

MOTION TO STAY PROCEEDINGS

Pursuant to the Servicemembers Civil Relief Act (SCRA), 50 U.S.C. § 3932, the defendant, (SERVICEMEMBER'S FULL NAME) moves this court for **(select either an initial 90-day stay of proceedings or a further stay of proceedings)**. Their ability to defend is materially affected by their military duties. In support of this motion and in compliance with the SCRA, the defendant has attached the following Exhibits to this request:

Exhibit 1: A statement of how the defendant's current military service prevents you from going to court; including a statement of the expected date when the defendant will be able to appear in court; and

Exhibit 2: A statement from the defendant's Commanding Officer about how the defendant's current military service prevents them from going to court and that military leave is not authorized.

WHEREFORE the defendant requests that this court grant a stay of proceedings until (AVAILABLE DATE) and such other relief as is just and proper.

Respectfully Submitted,

(SERVICEMEMBER RANK, FULL NAME)
(Service Member Address)

Date: _____

EXHIBIT 1

SERVICEMEMBER FULL NAME, RANK,
ADDRESS
CITY, STATE ZIP

[DATE]

To Whom It May Concern:

My current military duty requirements materially affect my ability to appear in court in the following manner:

I am currently serving as (STATE YOUR STATUS AND WHY YOU CANNOT ATTEND THE HEARING). My tour of duty is for (TOUR OF DUTY LENGTH) days, beginning (TOUR OF DUTY START DATE). I requested leave in order to attend the hearing which was denied by my commander.

I need to be personally present in court for my hearing that is currently scheduled for (HEARING DATE). I will be available to appear on or after (AVAILABLE DATE).

(SERVICEMEMBER RANK, FULL NAME)

EXHIBIT 2

COMMANDING OFFICER FULL NAME,
RANK, SERVICE BRANCH
ADDRESS
CITY, STATE ZIP

DATE

Re: [SERVICE MEMBER RANK, FULL NAME] – Denial of Leave for Court Appearance

To Whom It May Concern:

I am the commanding officer of [SERVICEMEMBER RANK, FULL NAME].

Their current military duty prevents their appearance in court on (HEARING DATE). They have requested leave for this court appearance. I denied this request, and military leave is not authorized for (SERVICE MEMBER RANK, FULL NAME) at this time.

[RANK AND FULL NAME]
COMMANDING OFFICER