

Instructions: Writing and Filing a Motion

This template was prepared by the Justice & Diversity Center, a nonprofit organization, and is not an official court form. It can be used in certain civil lawsuits in the Northern District Court of California. *Using this template does not guarantee any result in your case.*



HOW TO GET LEGAL INFORMATION AND ADVICE

This packet provides general guidance about writing a motion. *Before filing this document*, make an appointment for free legal information and advice at one of the Legal Help Centers.



If the case is assigned to a judge in the San Francisco, Oakland, or Eureka federal courthouse, do one of the following:



Call the appointment scheduling line for the Federal Pro Bono Project: 415-782-8982



Sign up in the appointment book at either:

450 Golden Gate Ave., 15th Floor, Room 2796, San Francisco or
1301 Clay Street, 4th Floor, Room 470S, Oakland



Email us at federalprobonoproject@sfbbar.org

This email is to schedule appointments only-no legal advice is given over email.



If the case is assigned to a judge in the San Jose federal courthouse, do one of the following:



Call the appointment scheduling line for the Federal Pro Se Program: 408-297-1480

Monday to Thursday 9:00 am - 12:00 pm, drop in at

The Law Foundation of Silicon Valley, 152 North 3rd St., 3rd Floor, San Jose



Monday to Thursday 1:00 pm - 4:00 pm, drop in at

280 South 1st Street, 2nd Floor, Room 2070, San Jose



WHO SHOULD USE THIS TEMPLATE

Motions are used to ask the Court to decide something. If you want to file a Motion to Dismiss the Complaint, Motion to Compel Discovery, or a Motion for Summary Judgment, visit a Legal Help Center for templates for those specific Motions.



CHECKLIST: HOW TO PREPARE A MOTION

- Chose a hearing date.** Most judges require you to select a hearing date so they can listen to arguments about the motion from you and the other side. The hearing date is typically at least 35 days after you file the motion. You can get more information on choosing a hearing date from the judge's page on the Court's website (<http://www.cand.uscourts.gov/judges>) or visit a Legal Help Center.
- Complete the Declaration.** A "Declaration" is a statement of facts signed under penalty of perjury.

- **Write the facts.** In the Declaration, write each fact the Court needs to know to decide the Motion. Write only facts that you know about personally. If a person other than you has personal knowledge of the facts, they may also submit a Declaration using the same template.
 - **Add exhibits as evidence.** If you want to attach a document to your Declaration as evidence, say what the document is, how you got it and when. You may want to use this format: “Attached as Exhibit A is a true and correct copy of an email I received from Plaintiff on June 5, 2017.” Mark each exhibit with a letter or number. Many judges require parties to also tab the exhibit with the letter on the side.
 - **Review, number the pages and sign.** Read the Declaration to make sure it is clear, correct, and complete. Fill in the name and the page numbers at the bottom of each page, sign and date.
- Complete the Notice and Memorandum.** This document cannot be longer than 15 pages.
- **Notice section.** Fill in all of the blanks in the Notice section.
 - **Issues section.** List the things you are asking the Court to decide in this Motion. There may be one thing, or several. For example:
 1. To allow you to amend your complaint
 2. Whether this Court is the correct venue for this case
 3. Whether Defendant’s subpoena should be narrowed to cover only certain dates
 - **Statement of Facts section.** Repeat each fact stated in the Declaration. At the end of each sentence, say where in the Declaration the Court can find evidence supporting the facts. You may want to use these formats:
 - “On June 4, 2017, I called Defendant. (Plaintiff Declaration, paragraph 4.)”
 - “I emailed Plaintiff on June 5, 2017. (Defendant Declaration, paragraph 5 and Exhibit A.)”
 - **Argument section.** State why the Court should decide each issue in your favor and grant your motion. When you mention facts, say where in the Declaration the Court can find the supporting evidence, just as you did in the Fact section. You can add case law or statutes to support your position. If you have questions about any argument, contact the Legal Help Center.
 - **Review, number the pages, and sign.** Read the Memorandum to make sure it is clear, correct, and complete. Fill in the type of motion and page numbers at the bottom of each page, sign and date. If the Memorandum is longer than 10 pages (excluding the title page), you must add a table of contents and a table of cases and statutes. Insert these after the title page.
- Complete the Proposed Order.** This is the order that you want the Court to sign, granting your motion. Briefly state the issues you want the Court to rule on in your favor. Do NOT sign or date this document.
- Prepare the Certificate of Service.** Each document that you file must be “served” on each other party, usually by sending it in the mail. Follow the instructions on the Certificate of Service. You can do one Certificate of Service for all documents you serve with this motion.
- Mark your calendar.** Put the hearing date on your calendar, and be sure to show up at Court. *You must follow whatever decision is made at or after the hearing and any instructions from the Court.*



FILING AND SERVING YOUR MOTION PAPERS

1. **Make copies.** Once the documents are complete, make three copies of each. On one copy of the documents, write “Chambers” on the top in pen. (If there is more than one plaintiff or defendant, you will also need one copy for each of them.)
2. **File the Motion.** Deliver or mail the *original plus two copies* of the documents to the Clerk’s

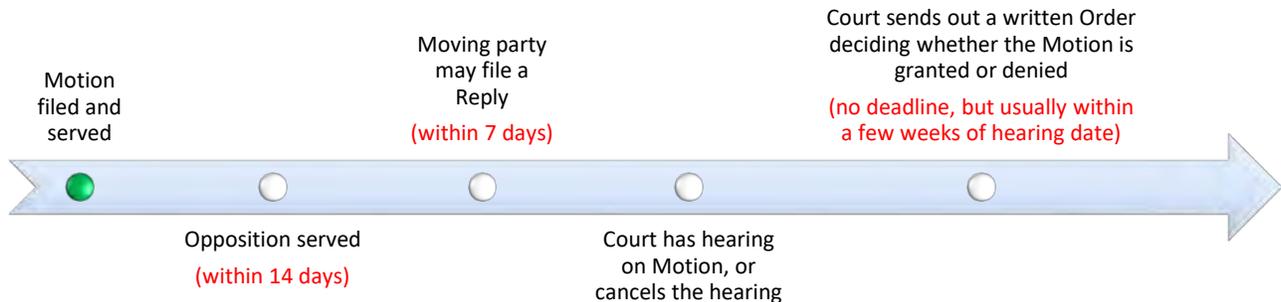
Office at the courthouse where the judge for your case is located. The Clerk will take the original and one copy. The other copy is for you to keep after it is stamped by the Clerk. If you file by mail, include a self-addressed, stamped envelope so that the Clerk can send a copy back to you.

3. **Serve the Motion.** Be sure the Motion papers and Certificate are served on each party.



TIMELINE: AFTER THE MOTION PAPERS ARE FILED

The timeline below lists what generally happens after the Motion is filed. The Legal Help Centers (see page 1) can provide guidance about these steps, and have many other templates for you to use in your case.



STAY UP TO DATE

1. Update your contact information. File a notice with the Clerk right away if your address, email, or phone number changes, or you may miss important deadlines, causing you to lose your case.
2. Check your mail. Be sure to check regularly for documents from the Court and opposing side.
3. A list of the documents that have been filed, and (usually) the documents themselves can be viewed online. See Chapter 7 of the Handbook (below), and contact the Legal Help Centers.



UNDERSTANDING THE LAWS AND RULES

The Legal Help Centers (see page 1) are the best resource for people without lawyers. There are other resources for understanding the laws and rules of the Court:

1. **Handbook for Pro Se Litigants.** The Handbook is a procedural guide for people who are representing themselves. It was prepared by the Court and is available at the Clerk's Office or on the Court's website at www.cand.uscourts.gov/prosehandbk.
2. **Legal Research Guide for Pro Se Litigants.** The Guide provides information for people who are representing themselves about how to do legal research, like finding statutes and decisions in other cases. It was prepared by the Justice & Diversity Center and is available at the Legal Help Centers and at www.cand.uscourts.gov/Legal-Help-Center-Templates.
3. **Federal Rules of Civil Procedure ("FRCP").** These Rules explain the procedures from filing through trial for all civil cases in federal courts across the country, and are available at www.uscourts.gov/sites/default/files/rules-of-civil-procedure.pdf.
4. **Local Rules.** The Local Rules follow the same numbering as the FRCP, but generally provide more detail. They apply in this District only, and are available at www.cand.uscourts.gov/localrules/civil.

1 Your name: _____

2 Address: _____

3 _____

4 Phone Number: _____

5 E-mail Address: _____

6 Pro se

7

8

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

9

10

Division [check one]: San Francisco Oakland San Jose Eureka

11

12

_____) Case Number: _____

13

_____) **NOTICE AND MOTION** [type of motion]

14

Plaintiff,

15

vs.

16

_____) **AND MEMORANDUM IN SUPPORT**

17

_____) DATE: _____

18

_____) TIME: _____

19

_____) COURTROOM: _____

20

Defendant.

21

_____) JUDGE:
Hon. _____

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I. NOTICE OF MOTION

PLEASE TAKE NOTICE that on *[date]* _____,
at *[time]* _____, at *[courtroom number and address]*
_____,
before the Honorable *[judge's name]* _____.

I will, and hereby do, move for an order granting this Motion *[type of motion]*
_____.

The motion will be based on this Notice and Motion, the Memorandum of Points and Authorities
below, the Declaration(s) of *[names of people who wrote declarations]*

and the [Proposed] Order.

II. ISSUES TO BE DECIDED

*[Write each question or request that you are asking the Court to decide in this Motion. There may be
one issue, or more. See the Instructions for examples.]*

1. _____

2. _____

3. _____

4. _____

5. _____

1 Your name: _____

2 Address: _____

3 _____

4 Phone Number: _____

5 E-mail Address: _____

6 Pro se

7

8

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

9

10

Division [check one]: San Francisco Oakland San Jose Eureka

11

12

_____) Case Number: _____

13

_____) **DECLARATION OF** [name of person signing]

14

Plaintiff,

15

vs.

) **IN SUPPORT OF MOTION** [motion title]

16

17

18

_____) DATE: _____

19

_____) TIME: _____

20

Defendant.

) JUDGE:

21

_____) Hon. _____

22

[In the first paragraph, explain who you are. If you are the Plaintiff or Defendant, say so here. If you are a witness, say how you are connected to the party or events in this case.]

23

24

1. I am _____

25

26

2. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.

27

28

DECLARATION OF [name] _____

CASE NO.: _____; PAGE ____ OF ____ [JDC TEMPLATE - rev. 2017]

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

[Write each fact in a separate, numbered paragraph, starting with 3. You may only write about facts that you know personally, such as events you witnessed. Explain how you know each fact. If you want to include documents, see the Instructions. Make copies of this page if you need more space.]

____. _____

____. _____

____. _____

____. _____

____. _____

____. _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

____. _____

____. _____

____. _____

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: _____ Sign Name: _____

Print Name: _____

1 Your name: _____

2 Address: _____

3 _____

4 Phone Number: _____

5 E-mail Address: _____

6 Pro se

7

8

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

9

10

Division *[check one]*: San Francisco Oakland San Jose Eureka

11

12

_____) Case Number: _____

13

_____) **[PROPOSED] ORDER GRANTING**

14

Plaintiff,) **MOTION** *[type of motion]*

15

vs.) _____

16

_____) _____

17

_____)

18

_____)

19

_____)

20

Defendant.)

21

_____)

22

23

24

25

26

27

28

[PROPOSED] ORDER; CASE NO.: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Considering the papers and arguments, and finding good cause, the Motion to *[type of motion]*

is GRANTED. *[Add details of what you have asked the Court to decide.]*

IT IS SO ORDERED.

[Do not write below.]

Date: _____

UNITED STATES DISTRICT/MAGISTRATE JUDGE

[PROPOSED] ORDER; CASE NO.: _____

PAGE ____ OF ____ *[JDC TEMPLATE - rev. 07/17]*