

## Instructions: Responding to 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 responding to 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](mailto: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



### WHEN TO RESPOND TO A MOTION

**You have only 14 days to respond to a regular motion.** ⚠️ The time to respond runs from the date the motion was filed. Check the certificate of service, which should be included with the Motion papers. If you need to respond to an Administrative Motion, you have only 4 days.



### WHO SHOULD USE THIS TEMPLATE

You can use this template for opposing most motions. If you are responding a Motion to Dismiss or Motion for Summary Judgment, visit a Legal Help Center for templates for those specific Motions.



### CHECKLIST: HOW TO PREPARE AN OPPOSITION

- 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. If a person other than you has personal knowledge of the facts, they may also submit a Declaration. They can use a copy of the same Declaration 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 page numbers, sign and date.
- Complete the Memorandum.** In the Memorandum, argue why the Motion should be denied. Most Memoranda cannot be longer than 15 pages.
- **Write the facts (again).** Repeat each fact stated in the Declaration(s). At the end of each sentence, say where in the Declaration the Court can find evidence supporting the facts stated. You may want to use these formats:
    - “On June 4, 2017, I called Defendant. (Plaintiff Declaration, paragraph 4.)”
    - “Plaintiff emailed me on June 5, 2017. (Defendant Declaration, paragraph 5 and Exhibit A.)”
  - **Respond to each argument.** A party usually makes several points in the “Argument” or “Discussion” section of its Motion. You should respond to each point. When you mention facts, say where in the Declaration the Court can find the supporting evidence, just as you did in the Fact section. If you have questions about any argument, contact the Legal Help Center (see page 1).
  - **Review, number the pages and sign** Read the Memorandum to make sure it is clear, correct, and complete. Fill in the page numbers, 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.
- 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.
- Do not respond to the Reply brief.** The party who filed the Motion may file a Reply brief in response to your Opposition. But in general your Opposition is the only brief you file. If there is new information in the Reply brief that you want to address, contact a Legal Help Center for advice.
- 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 OPPOSITION PAPERS

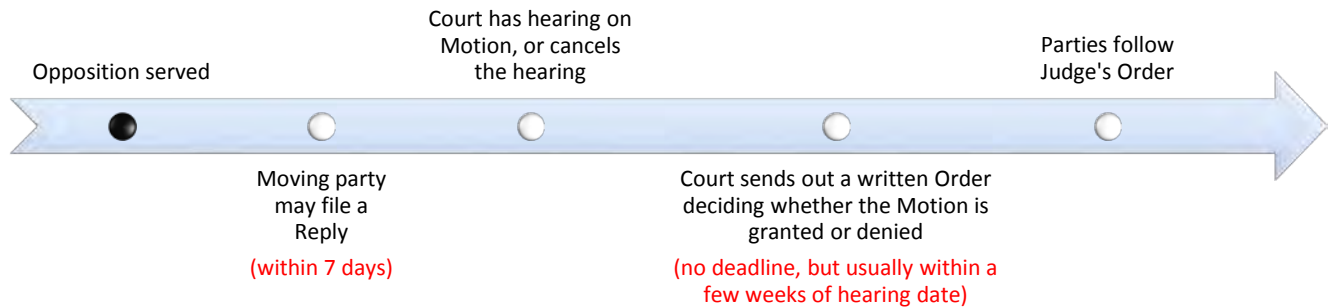
1. **Make copies.** Once the documents are complete, make three copies of each. On one copy of the documents, write “Chambers” on the top in pen. (If there is more than one plaintiff or defendant, you will also need one copy for each of them.)
2. **File the Opposition papers.** Deliver or mail the *original 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 Opposition.** Be sure the Opposition papers and Certificate are served on each party.



### TIMELINE: AFTER THE OPPOSITION PAPERS ARE FILED

The timeline below lists what generally happens after the Opposition 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](http://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](http://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](http://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](http://www.cand.uscourts.gov/localrules/civil).

1 Your name: \_\_\_\_\_

2 Address: \_\_\_\_\_

3 \_\_\_\_\_

4 Phone Number: \_\_\_\_\_

5 E-mail Address: \_\_\_\_\_

6 Pro se

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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

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_____	)	Case Number: _____
_____	)	<b>MEMORANDUM IN SUPPORT OF</b>
Plaintiff,	)	<b>OPPOSITION TO MOTION</b> <i>[type of motion]</i>
vs.	)	_____
_____	)	_____
_____	)	DATE: _____
_____	)	TIME: _____
Defendant.	)	JUDGE: _____
_____	)	Hon. _____











1 Your name: \_\_\_\_\_

2 Address: \_\_\_\_\_

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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

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\_\_\_\_\_ ) Case Number: \_\_\_\_\_

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\_\_\_\_\_ ) **DECLARATION OF** [name of person signing]

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Plaintiff,

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vs.

) **IN OPPOSITION TO MOTION** [motion title]

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\_\_\_\_\_ ) DATE: \_\_\_\_\_

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\_\_\_\_\_ ) TIME: \_\_\_\_\_

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Defendant.

) JUDGE:

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\_\_\_\_\_ ) Hon. \_\_\_\_\_

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[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.]

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1. I am \_\_\_\_\_

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

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DECLARATION OF [name] \_\_\_\_\_

CASE NO.: \_\_\_\_\_; PAGE \_\_\_\_ OF \_\_\_\_ [JDC TEMPLATE - rev. 2017]

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*[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.]*

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\_\_\_\_. \_\_\_\_\_

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: \_\_\_\_\_

**CERTIFICATE OF SERVICE OF DOCUMENT OTHER THAN COMPLAINT**

*\* You must serve each document you file by sending or delivering to the opposing side. Complete this form, and include it with the document that you file and serve.\**

1. **Case Name:** \_\_\_\_\_ v. \_\_\_\_\_

2. **Case Number:** \_\_\_\_\_

3. **What documents were served?** *[Write the full name or title of the document or documents]* Opposition to Motion

4. **How was the document served?** *[check one]*

Placed in U.S. Mail

Hand-delivered

Sent for delivery (e.g., FedEx, UPS)

Sent by fax (if the other party has agreed to accept service by fax)

5. **Who did you send the document to?** *[Write the full name and contact information for each person you sent the document.]*

_____	_____
_____	_____
_____	_____
_____	_____

6. **When were the documents sent?** \_\_\_\_\_

7. **Who served the documents?** *[Whoever puts it into the mail, faxes, delivers or sends for delivery should sign, and print their name and address. You can do this yourself.]*

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

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_