

INSTRUCTIONS FOR PREPARING A MOTION

A motion requests the Court to take action under a specific Federal Rule. For instance, a motion to amend your complaint is made under Rule 15 of the Federal Rules of Civil Procedure. Except for certain kinds of emergency motions, the Court cannot grant your motion until the defendants have been served with your motion and the summons and complaint. Therefore, generally, you should not submit a motion until after you have served defendant(s) with the summons and complaint.

To make a motion, you must do the following:

1. Write your motion. A motion consists of two parts:
 - a. A notice of motion, which sets the “return date” date of the motion. You need not appear on the return date.
 - b. An affidavit or affirmation explaining what you are seeking and why you are entitled to the relief. You may also submit a memorandum of law, but it is not necessary.
 - i. An affidavit is a statement sworn to before a licensed notary public of the state. An affirmation is a sworn statement made under penalty of perjury. When using the affidavit/affirmation form, strike the terms which do not apply to the type of form you are submitting.
 - ii. Your affidavit or affirmation should attach and refer to any relevant exhibits. You may also attach affidavits or affirmations from other people who have personal knowledge of relevant information regarding the motion.
 - iii. You may also submit a memorandum of law to explain what the law is and how it applies to the facts of your case. However, any facts on which you rely must be in an affidavit or affirmation; it is not sufficient to put them in a memorandum of law. Similarly, the affidavit or affirmation should contain only facts. If you prepare a memorandum of law, you must send it to each defendant or his/her attorney(s).
2. Serve the papers by mail on the defendants or (if the defendant’s attorney has filed papers in the case already) on the defendant’s attorney. If there is more than one defendant or defendants are represented by different attorneys, you must serve a copy on each.
3. Send your motion papers to the Pro Se Office with an affirmation of service. (Form annexed).

When you write your motion papers, you should include the following:

The notice of motion should say that you will “move” on a certain day. This is the day the motion will be marked ready for decision by the judge. It generally must be at least fifteen business days after you have served the defendants with the motion papers (at least (5) business days for discovery motions). See Rule 6 of the Federal Rules of Civil Procedure.

Attached are two sets of forms for making a motion. The first set are sample illustration forms to refer to so you know how to fill out the blank notice of motion and affidavit/affirmation forms.

If you have any questions, contact the Pro Se Office at (718) 613-2665 **(no collect calls)**.

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NOTE: This illustrates the FORM for an affidavit or affirmation.

NOTICE OF MOTION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____	X	
	:	
[Your Name]	:	
	:	
Plaintiff,	:	
	:	NOTICE OF MOTION
-against-	:	
	:	_____CV_____ (ABC)
[Defendant's Name]	:	
	:	[docket number][judge's initials]
Defendant(s).	:	
_____	X	

PLEASE TAKE NOTICE that upon the annexed affidavit or affirmation _____ (your name) _____ sworn to or affirmed _____ (date) _____, 20____ and upon the complaint herein, plaintiff will move this Court, _____ (Judge's name)__, U.S.D.J., in room____, United States Courthouse, Brooklyn, New York, 11201, on the____ (day) day of _____ (Month) _____, 20____, at (time) or as soon thereafter as counsel can be heard, for an order pursuant to Rule _____ of the Federal Rules of Civil Procedure granting

Dated: [county], New York

[date]

[your signature]

[print your name]

PLAINTIFF PRO SE

[print your address]

**AFFIDAVIT/AFFIRMATION
IN SUPPORT OF MOTION**

SAMPLE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____ X
:
[Your Name], :
:
Plaintiff, :
:
-against- : AFFIDAVIT/AFFIRMATION
:
[Defendant's Name], : ____ CV ____ ()
:
Defendant(s). :
_____ X

STATE OF NEW YORK)
COUNTY OF) ss.:

_____, [BEING DULY SWORN] deposes
and says [or: makes the following affirmation under the penalties
of perjury]:

I, _____, am the plaintiff in the above-
(your name)
entitled action, and respectfully move this Court to issue an
order _____
(state what you are seeking)

The reason why I am entitled to the relief I seek is the
following: _____

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____ X
:
:
:
Plaintiff, :
:
-against- : NOTICE OF MOTION
:
:
Defendant(s). :
_____ X

PLEASE TAKE NOTICE that upon the annexed affidavit or affirmation of _____, sworn to or affirmed _____, 20____ and upon the complaint herein, plaintiff will move this Court, _____, U.S.D.J., in room ____, United States Courthouse, Brooklyn, New York 11201, on the ____day of _____, 20____, at _____ or as soon thereafter as counsel can be heard, for an order pursuant to Rule _____ of the Federal Rules of Civil Procedure granting

Dated: _____

Plaintiff Pro Se

Signature

Print Name

Address

Phone #

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____	X	
	:	
	:	
	:	
Plaintiff,	:	AFFIDAVIT/AFFIRMATION
	:	
-against-	:	_____CV_____()
	:	
	:	
Defendant(s).	:	
_____	X	

STATE OF NEW YORK)
COUNTY OF) ss.:

I, _____, [being duly sworn] deposes and says
[or: make the following affirmation under the penalties of
perjury]:

I, _____, am the plaintiff in the above
entitled action, and respectfully move this Court to issue an
order _____.

The reason why I am entitled to the relief I seek is the
following: _____

WHEREFORE, I respectfully request that the court grant the
within motion, as well as such other and further relief that may
be just and proper.

Sworn to before me this
day of _____, 20____

Notary Public

Signature

Print Your name
Plaintiff Pro Se

OR: I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____

Signature
Plaintiff Pro Se

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

----- X
:
:
Plaintiff, :
:
-against- : Affirmation of Service
:
: _____CV_____()
:
Defendants. :
:
----- X

I, _____, declare under penalty
of perjury that I have served a copy of the attached Notice of
Motion and Affirmation/Affidavit in support upon _____

whose address is: _____

_____.

Dated: _____
 , New York

Signature

Address

City, State & Zip Code

Telephone