

MOTION INSTRUCTIONS FOR CIVIL CASES
(For parties not represented by lawyers)

These instructions are for motions in civil cases. Do not use them in criminal cases, domestic violence cases, cases concerning child custody or support, or small claims. See page 3 for a list of forms that can be used in those types of cases.

A "motion" is a request to a judge for an order that decides an issue that comes up during a lawsuit. A motion can be made by any party to the lawsuit.

Some examples of motions are:

- Motion to request a new court date
- Motion to appear by telephone
- Motion to require other party to provide information
- Motion for extension of time

Motion procedure is governed by the Alaska Rules of Court. The main rule on motions is Civil Rule 77. Other important rules are Civil Rule 5 (about serving copies on other parties), Civil Rule 6 (about how time limits are calculated), and Civil Rule 7(b) (about the form of motions).

The Alaska Rules of Court are available for review at all state courts, court law libraries, many city libraries and on the Alaska Court System's web site: www.courts.alaska.gov/rules.htm

How To File

To file a motion, do the following:

1. Fill out and sign the Motion form (CIV-805). The location of the court, the plaintiff, the defendant and the case number will be the same as they are on the complaint and other documents in your case.

In the "Notice to Opposing Party" at the bottom of the form, fill in the mailing address of the court where you will file your motion.

Be sure to fill out the "Certificate of Service" on page 2, describing how you will give a copy to the opposing party.

2. Prepare a proposed order for the judge's signature (on form CIV-820). In the "Further Orders" section of the order form, you must state exactly what you want the judge to order. For example:

a. If you are asking the judge to order the defendant to give you a copy of your tax return, you could write: *"Defendant Dorothy Jones shall deliver to Plaintiff Peter Jones a photocopy of their joint federal tax return for 2001 by August 26, 2002."*

b. If you are asking for more time to answer a complaint, you could write: *"The due date for defendant's answer is extended to September 7, 2002."*

3. Mail (by first class mail) or hand-deliver to the opposing party:

a. a copy of your motion (including the certificate of service on page 2),

- b. a copy of your proposed order, and
- c. a copy of any documents attached to the motion.

Note: If the opposing party is represented in this case by an attorney, or was represented by an attorney within the past year, you must send the motion to the attorney rather than to the other party. The court file will contain the attorney's name and address.

- 4. Make a copy of the motion, proposed order and any attachments for yourself.
- 5. Mail or hand-deliver the original of the motion and the proposed order to the court in which your case is filed. There is no fee for filing a motion.

Response

The opposing party has the right to file a response to the motion. (The CIV-808 Response Packet explains how to do this.) The time limit for filing a response depends on how the motion was delivered to the opposing party.

- a. If delivered in person: 10 days from the date of delivery
- b. If delivered by first class mail: 13 days from the date of mailing

Exception: A few motions have different time limits for the response. See Civil Rule 77(c)(2)(ii) and (iii). Example: motions that will end the case (motions to dismiss, motions for summary judgment and motions for judgment on the pleadings).

The opposing party must send you a copy of any response sent to the court.

Reply

If you receive a response to your motion, you can file a "reply." The time limit for filing a reply depends on how the response was delivered to you.

- a. If delivered in person: 5 days from the date of delivery (not counting weekends or holidays)
- b. If delivered by first class mail: 8 days from the date it was postmarked (not counting weekends or holidays).

You can use the reply form (CIV-815) provided in this packet. File the original of your reply (including the certificate of service on page 2) with the court; send a copy to the opposing party; and keep a copy for yourself.

Judge's Decision

After the time period for response and reply has elapsed, the judge will decide the motion. If the judge believes a hearing is necessary before deciding the motion, a hearing will be scheduled. You will be notified of the time, date and location of the hearing and, probably, whether the hearing will be an evidentiary hearing followed by oral argument or just oral argument. At an "evidentiary hearing," the party bringing the motion has the burden of proving the reasons to grant the motion. The party must present evidence, which may include the party's own testimony or other witnesses' testimony. The party opposing the motion may present similar evidence (testimony) in opposition. At "oral argument," the parties explain what they want and answer any questions the judge might have. No further testimony or witnesses are presented.

Forms Available at the Court For Some Specific Types of Motions

Appeals

- Request and Order (AP-135)
- Request for Approval of Supersedeas Bond (AP-115)
- Motion to Waive or Reduce Cost Bond (AP-120)
- Motion and Affidavit for Stay (DMV revocation of driver's license) (AP-145)

Civil Cases

- Motion for Judgment Debtor to Appear (to answer questions about property) (CIV-540)
- Request to Release Funds (after diligent efforts to serve judgment debtor) (CIV-546)
- Prisoner Request for Filing Fee Exemption (CIV-670)
- Application for Post-Conviction Relief (CIV-760)

Criminal Cases

- Request and Order (CR-770)
- Request for Temporary Transfer (of case file for arraignment and plea) (CR-140)
- Request for Appointed Counsel (CR-205)
- Request for Review of Order Denying Court-Appointed Counsel (CR-212)
- Bail Review Application and Order (CR-300)
- Opposition to Entry of Judgment for Cost of Appointed Counsel (CR-531)
- Request for Payment Schedule or Reduction in Amount Owed (CR-545)
- Request for Fine Extension (CR-725)
- Application for Post-Conviction Relief (CIV-760)

Domestic Relations Cases

- Request to Modify Decree of Dissolution (DR-130)
- Motion and Order for Alternative Service (one spouse dissolution) (DR-215)
- Motion to Continue Support for 18-Year Old Child (DR-320 and DR-323 Instructions)
- Motion to Modify Child Support, Custody or Visitation (DR-700 Motion Packet)

Domestic Violence Cases

- Request to Modify or Dissolve Domestic Violence Protective Order (DV-135)

Small Claims Cases

- Request/Order for Continuance (SC-23)
- Request/Order to Set Aside Default Judgment (SC-24)
- Request and Order (SC-26)
- Request/Order for Telephonic Participation (SC-31)

Traffic/Minor Offense Cases

- Request for Rescheduled Arraignment Date (TR-200)
- Request for Rescheduled Trial Date (TR-201)
- Request to Reduce Fine (TR-405)
- Request to Vacate Judgment (TR-420)

Other

- Request for Exemption from Payment of Fees (TF-920)
- Request for Appointed Counsel (for cases listed in Admin. Rule 12(e)(1)) (TF-929)