

Getting Your Message to the Judge Motion Practice ([Civil Rule 77](#))

There are only two acceptable ways to communicate with the Judge:
 1) in writing by Motion Practice, with both sides participating, or
 2) in person at a Hearing set by the Judge, with both sides present.

You must always start by filing something in writing, or in other words, by filing a *Motion*, with the required *Affidavit and Memorandum* and *Order* attached. Because both sides must have an opportunity to speak, you **MUST** send a copy of your *Motion, Affidavit and Memorandum* and *Order* to the opposing party by 1st class mail or hand delivery.

The opposing party has 10 days, plus three days if your *Motion* was mailed, to file an *Opposition, Affidavit and Memorandum* and *Order*, telling the Judge his or her side of the story. The opposing party must also send or deliver to you copies of the *Opposition, Affidavit and Memorandum* and *Order* filed in Court.

The moving party may file a *Reply* to the *Opposition* within 5 days, + 3 days if the *Opposition* was mailed.

NOTE: In most courts, no papers will go to the Judge until the time has run allowing all papers to be filed.

SUMMARY OF MOTION PRACTICE		
Motion - Affidavit and Memorandum - Order	} 10 days plus 3 days if mailed	<u>How to count time:</u> <u>Civil Rule 6(a):</u> - don't count first day - do count last day - count Saturday, Sunday, holiday if NOT last day - if <7 days, don't count Saturday, Sunday or Holiday
Opposition - Affidavit and Memorandum - Order	} 5 days plus 3 days if mailed	
Reply		

Motions and Oppositions

The *Motion* or *Opposition* is like a cover page; it tells the Judge what you want and why you want it in a few short sentences. Your *Motion* or *Opposition* also tells the Judge what other required or optional documents are attached, and whether you are requesting a Hearing or whether there is an emergency.

Affidavit and Memorandums

The *Affidavit and Memorandum* is where you tell the Judge why you should get what you say you want. You tell the Judge all the important and relevant facts, and make any argument that helps support your request. Since this is a sworn statement, you must sign it in front of a Notary. You will need picture I.D. when you sign.

Order

The *Order* is the document you are asking the Judge to sign. It tells anyone who reads it exactly what the Judge has ordered in very simple, clear terms. For example, if you did a *Motion for Return of Vehicle*, the *Order* would state very simply something like: Defendant shall return the 1998 Dodge Caravan to Plaintiff by 6:00 p.m. on January 1, 2001. It should be short and to the point. Do NOT sign and date the proposed *Order*. If the Judge agrees with you, he/she may sign your proposed *Order*, change it or sign a different *Order*.



THINGS TO REMEMBER:

- ✓ It's a process: *Motion, Opposition, and Reply* - pay attention to the deadlines for each.
- ✓ *Motions* and *Oppositions* must be supported by an *Affidavit and Memorandum* and *Order*.
- ✓ You must bring picture I.D. to show the Notary when you sign any *Affidavit*.
- ✓ You must serve the other side by 1st class mail or hand delivery with every document you file in Court.