

4.01 | INTRO - MOTIONS

A motion is an application to the Court asking that the Court take certain action (for example, to dismiss or to extend time) with respect to the conduct of the case. Unless made orally during a hearing or trial, motions must be in writing, should state the relief or action sought, and should be accompanied by an affidavit, and, in some instances, a memorandum of law setting forth the facts and legal authority supporting the motion. Motions are the primary way for litigants to ask the Court to take action in a case. They must be filed with the Clerk of Court and served on the opposing party. Written motions must not be sent directly to the judges. Each party opposing a motion must file papers in opposition to the relief requested in the motion. The Court will generally issue an order when the motion is filed advising the parties when the papers in response to the motion must be filed (generally the party has eight (8) days to respond after service of the motion) and when the party making the motion must file reply papers. (Summary judgment issues and deadlines are discussed in a later section). If a party fails to file a response to a motion, the Court will assume that the motion is not opposed. See Local Rule 7.1 regarding replies.

The proper form for motion papers requires you to present the Court with three separate documents which all become part of your motion papers. You may obtain forms for bringing a motion in person from the intake clerk in the Clerk's Office, by mail from the Pro Se Office, and from the Western District Court web site at <<http://www.nywd.uscourts.gov>>.

*(US District Court, New York, Western District // Buffalo, NY 14202
Pro Se Litigation Guidelines)*

