

4.04 | MEMORANDUM OF LAW

The third document that is part of your motion papers is a Memorandum of Law.

A Memorandum of Law (which is required only for Motions to Dismiss, Motions for Summary Judgment and Motions for Injunctive Relief) should be captioned and titled as are the other motion papers. It should contain a statement of facts on which the motion is based; a discussion of the cases, statutes and/or regulations relevant to why you believe you are entitled to the relief you are seeking in the motion; and a statement describing the relief you are seeking. It must be signed.

You are required to serve a copy of any motion papers you file in your lawsuit on your opponents, or their lawyers if they have lawyers. The only exception to this rule is when you are filing a motion before your opponents have answered your complaint. In many cases, your motion will be addressed to the other party because you are trying to get the Court to order the other party to do something.

However, even when you are simply asking the Court to take some action on its own, you must send a copy of your motion papers to your opponent.

You must notify the Court that you have served a copy of your motion on your opponents by enclosing with your motion papers an Affidavit (or Affirmation) of Service. Like the Affidavit in Support of your motion, your affidavit of service must be signed and notarized, or, if it is a declaration (affirmation), signed under penalty of perjury (See p. 13).

Do not complete your affidavit of service until after you have prepared the copies of your motion papers for your opponent and placed them in an envelope.

Send a copy of your motion with an original signature to the Clerk's office in the city (Buffalo or Rochester) where the judge who is hearing your case is located. Judges Arcara, Skretny, Curtin, and Elfvin and Magistrate Judges Foschio, Scott and Schroeder are located in Buffalo, New York. Judges Larimer, Siragusa and Telesca, and Magistrate Judges Feldman and Payson are located in Rochester, New York. Addresses for the Clerk's office in those cities are on page 1 of these guidelines.



Do not send your motion papers directly to the judge's chambers. The motion must be recorded in the official record of your case (the docket sheet) by the Clerk's office before the judge can take any action on it. If you mail your papers directly to the judge, you will only delay the time it takes for your papers to be considered. Do not send extra copies of your papers to the judge.

Local Rule of Civil Procedure 7.1 governs service and filing of papers, and in paragraph (f) contains some page number restrictions for memoranda and briefs. Be sure to follow this rule very carefully.

Caution: if your papers do not comply to the form described above, they may not be filed and included in the docket sheet, and the judge may not act on your correspondence.

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

