



USNYWD'S PRO SE HANDBOOK
CHAPTER 7: ENDING THE CASE WITHOUT A TRIAL
[ALL-IN-ONE DOCUMENT]

Pro Se Handbook
Chapter 7
Author: US District Court, New York, Western District
{Last Updated: 12/1/2017}

E: TextBookDiscrimination@gmail.com
W: www.TextBookDiscrimination.com

visit TBD's [website](#) for the most up-to-date information

TABLE OF CONTENTS | CHAPTER 7 | ENDING THE CASE WITHOUT A TRIAL

ID	Item	Title	Page
G01	7.01	Summary Judgment	4
G02	7.02	By Settlement	6
-	n/a	Appendix	7



PRO SE HANDBOOK

US DISTRICT COURT, NEW YORK, WESTERN DISTRICT

CHAPTER: 7 ENDING THE CASE WITHOUT A TRIAL

AUTHOR: US DISTRICT COURT, NEW YORK, WESTERN DISTRICT

DATE: January 1, 2017

ITEMS: 7.01 through 7.02



7.01 | SUMMARY JUDGMENT

Federal Rules of Civil Procedure 56

A trial is necessary only when there are disputed issues of fact. After the discovery period has ended, it may become apparent that the facts in the case are not in dispute, and one or more parties may file a motion for summary judgment. A motion for summary judgment can be filed at any time after the answer is filed. Each judge in this district states in his or her pretrial instructions (eg. scheduling order) a deadline for when a motion for summary judgment must be filed; therefore, it is important to read these instructions carefully.

The party filing a motion for summary judgment must file and serve the following documents:

- (1) A Notice of Motion (See pp. 11-14);
- (2) An Affidavit setting forth in evidentiary form the facts which the moving party claims are not in dispute and entitle him or her to relief without a trial. The affidavit can only state facts that the person signing the affidavit has personal knowledge of and should attach as exhibits such things as documents, deposition transcripts, interrogatory answers and all other evidence that support the motion;
- (3) A Memorandum of Law which should set forth a short statement of facts on which the motion is based and a discussion of the cases, statutes and/or regulations which you claim support your motion for summary judgment;
- (4) A Statement of Material Facts Not in Dispute. Local Rule of Civil Procedure 56 requires that the moving party set forth on a separate document and in separately numbered paragraphs all of the facts in the case that are not in dispute. The failure to file and serve this Statement may result in denial of the motion for summary judgment;. and
- (5) A Certificate of Service stating that you served (mailed) a copy of all your moving papers on the opposing party's counsel or the opposing party if he or she is pro se.



The party opposing or responding to a motion for summary judgment must file and serve the following documents:

(1) An Affidavit setting forth all facts which the party claims are in dispute and prove why the moving party is not entitled to summary judgment. The affidavit can only state facts that the person signing the affidavit has personal knowledge of and should attach as exhibits such things as documents, deposition transcripts, interrogatory answers and other evidence that show that the material facts are in dispute. It is not enough for a responding party to merely negate the other party's motion; the responding or opposing party must present to the Court evidence that shows the facts are in dispute and that a trial must be held to resolve the facts that are in dispute;

(2) A Memorandum of Law which should set forth a short statement of facts about the case and what facts are in dispute, and a discussion of the cases, statutes and/or regulations which you claim support your argument that summary judgment should be denied;

(3) A Statement of Material Facts that are in Dispute. Local Rule of Civil Procedure 56 requires that the responding or opposing party set forth on a separate document and in separately numbered paragraphs all of the material facts in the case that are in dispute; and

(4) A Certificate of Service stating that you served (mailed) a copy of all your responding papers on the opposing party's counsel or the opposing party if he or she is pro se.

After the motion for summary judgment and the response have been filed, the Court, with or without oral argument, will decide whether or not to grant the motion. If the Court grants the motion in whole, the case will be over and judgment will be entered in favor of the party who moved for summary judgment. If the Court grants the motion in part, the issues that are in dispute will be tried and those issues on which summary judgment was granted will not be. If the Court denies the motion, the case will be set for trial.

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



7.02 | BY SETTLEMENT

Another way in which a case may end without a trial is when the parties reach what is called a settlement. A settlement is an agreement between the plaintiff and defendant to resolve the lawsuit. Generally, but not always, it involves a monetary payment to the plaintiff in exchange for the dismissal of the case and a "general release." If the parties reach a settlement, they will usually sign what is called a stipulation of dismissal and the plaintiff will be required to sign a general release which states that in exchange for a certain sum of money or some other type of non-monetary consideration, he or she agrees to dismiss the lawsuit and release the defendant from any and all liability arising from the claims set forth in the complaint.

The Court generally encourages settlement and the Judge or Magistrate Judge may hold one or more settlement conferences where they attempt to assist the parties reach a mutually acceptable settlement of the case. Parties can discuss settlement and settle the case at any time and do not need court intervention to settle a case. If a case is settled, a short order will generally be issued dismissing the case.

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



APPENDIX



COPYRIGHT NOTICE

TextBookDiscrimination.com is not the author of this handbook. Instead, TextBookDiscrimination.com merely re-printed and reformatted it for easier use.

ORIGINAL SOURCE

<u>#</u>	<u>Item</u>	<u>Link</u>
1	Original Source	NYWD.USCourts.gov

INTERACTIVE VERSION

<u>#</u>	<u>Item</u>	<u>Link</u>
1	Web	TextBookDiscrimination.com/Handbooks/ProSe/USNYWD/C07

SIMILAR RESOURCES

<u>#</u>	<u>Item</u>	<u>Link</u>
1	USFLMD	TextBookDiscrimination.com/Handbooks/ProSe/USFLMD/AllInOne

ADDITIONAL RESOURCES

<u>#</u>	<u>Item</u>	<u>Link</u>
1	Charges	TextBookDiscrimination.com/Reports/COD/
2	Recommended Orders	TextBookDiscrimination.com/Reports/RO/

CONTACT INFORMATION

E: TextBookDiscrimination@gmail.com

W: www.TextBookDiscrimination.com

Congratulations! You're now **booked up** on Chapter 7 from USNYWD's **Pro se Handbook!**

