

**INSTRUCTIONS FOR FILING
A GENERAL MOTION *PRO SE*
IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY**

Filing and serving a complaint is the first step in a lawsuit. After that, **if you want the Court to do something related to your case, YOU MUST FILE A MOTION.** You **cannot** obtain relief from the Court by calling the Judge or Clerk of Court.

A motion is a request made to the Court for the purpose of obtaining a ruling or order directing an act to be performed. Usually, the following things occur when a motion is filed. First, one side files a motion explaining what it wants the Court to do and why the Court should do it. This party is referred to as the “movant.” If the other party disagrees with the relief requested, it will file a response explaining why the relief requested should not be granted. This party is referred to as the “respondent.” Then, the movant may file a reply brief responding to the arguments made in the response. The Court may either hold a hearing on the motion requiring the parties to attend **OR** the Judge may decide the motion without a hearing. While a party may request a hearing, it is up to the Judge whether he or she needs a hearing to decide the motion. Most of the time, a hearing is not necessary.

The Clerk’s Office has prepared the attached General Motion Form for use by *pro se* litigants in civil cases. The instructions set out below are meant to assist you in completing this form. You should also consult the Federal Rules of Civil Procedure which are available for viewing in the Clerk’s Office or online at <http://cfr.law.cornell.edu/rules/frcp/>, as well as the Local Rules, which are also available in the Clerk’s Office or online at <http://www.kywd.uscourts.gov/CourtLocalRules.php>. Also, for your convenience, Local Rule 7.1, which governs motions in civil actions in the Western District of Kentucky is set out in full within these instructions. If your motion relates to a discovery dispute, you will also need to consult Local Rule 37.1, which is also set out below.

CAPTION

The caption is the description on the front of every document filed with the Court listing the Court, parties, and case number. Your motion must include a caption. The caption of a motion looks much like a complaint, except that in a motion you do not need to list all the plaintiffs and defendants. On a motion, you may list only the first plaintiff and first defendant followed by “et al.” in the case of multiple plaintiffs and/or defendants. An example of a caption for a motion is set out below:

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY**

CASE NUMBER: 0-00-CV-0000

Jane Doe

Plaintiff(s)

v.

**ACME Inc. et al.
Defendant(s)**

**MOTION FOR EXTENSION OF TIME
[state what you want the Court to do]**

RELIEF REQUESTED

The first paragraph of the motion should identify who you are, *e.g.*, “I, Jane Doe, the Plaintiff in this action,” and should state precisely the relief that you are seeking, *e.g.*, “I am requesting an extension of time to answer the Defendants’ discovery requests.” **It is very important that you are specific and concise about what you want so that the Court knows immediately what you are asking for.**

SUPPORTING INFORMATION

The next section of your motion should state any facts or law that you believe supports your position. You should be as brief and concise as possible in this section. If you believe that it is necessary to attach documents you should include only relevant portions of lengthy documents so that the Judge reads only what is necessary to make a decision.

Please note that under the Court’s Amended Notice of Electronic Availability of Civil Case File Information, sensitive information, including personal identifiers such as social security numbers, names of minor children, dates of birth, and financial account numbers, should **not** be filed with the Court unless such inclusion is necessary and relevant to the case. If a party must include sensitive information, the personal identifiers must be partially redacted. For example:

- In the case of social security or account numbers, only the last four digits should be used. For example, if the number is 5555-555-5555, you should refer to it as “xxxx-xxx-5555” in your motion.
- In the case of a date of birth, only the year should be used. For example, if the birth date is 01-01-1940, all you should include in your motion is “xx-xx-1940.”
- For a minor child, use only his/her first and last initials. For example, if the minor’s name is Mary Ann Doe, you should refer only to the minor as “M.D.” in your motion.

SIGNATURE

You must sign the motion and file it with the Clerk’s Office. **The copy filed with the Clerk’s office must contain an original signature.**

SERVICE

You are responsible for providing all other parties in the lawsuit with a copy of your motion and any supporting papers at the time or before they are filed with the Court. This is called service. The Clerk’s Office will **NOT** serve your motion for you. If the party you need to serve has a lawyer, then you must serve that party by serving the lawyer. If the other party does not have a lawyer, you can serve that party directly. Rule 5 of the Federal Rules of Civil Procedure establishes the rules for serving documents other than the original complaint. It provides in relevant part:

Rule 5. Serving and Filing Pleadings and Other Papers

(a) Service: When Required.

(1) **In General.** Unless these rules provide otherwise, each of the following papers must be served on every party:

- (A) an order stating that service is required;
- (B) a pleading filed after the original complaint, unless the court orders otherwise under Rule 5(c) because there are numerous defendants;
- (C) a discovery paper required to be served on a party, unless the court orders otherwise;
- (D) a written motion, except one that may be heard *ex parte*; and
- (E) a written notice, appearance, demand, or offer of judgment, or any similar paper.

(2) **If a Party Fails to Appear.** No service is required on a party who is in default for failing to appear. But a pleading that asserts a new claim for relief against such a party must be served on that party under Rule 4.

(3) **Seizing Property.** If an action is begun by seizing property and no person is or need be named as a defendant, any service required before the filing of an appearance, answer, or claim must be made on the person who had custody or possession of the property when it was seized.

(b) Service: How Made.

(1) **Serving an Attorney.** If a party is represented by an attorney, service under this rule must be made on the attorney unless the court orders service on the party.

(2) **Service in General.** A paper is served under this rule by:

- (A) handing it to the person;
- (B) leaving it:
 - (i) at the person's office with a clerk or other person in charge or, if no one is in charge, in a conspicuous place in the office; or
 - (ii) if the person has no office or the office is closed, at the person's dwelling or usual place of abode with someone of suitable age and discretion who resides there;
- (C) mailing it to the person's last known address--in which event service is complete upon mailing;
- (D) leaving it with the court clerk if the person has no known address;
- (E) sending it by electronic means if the person consented in writing--in which event service is complete upon transmission, but is not effective if the serving party learns that it did not reach the person to be served; or
- (F) delivering it by any other means that the person consented to in writing--in which event service is complete when the person making service delivers it to the agency designated to make delivery.

(3) **Using Court Facilities.** If a local rule so authorizes, a party may use the court's transmission facilities to make service under Rule 5(b)(2)(E).

(c) Serving Numerous Defendants.

(1) **In General.** If an action involves an unusually large number of defendants, the court may, on motion or on its own, order that:

- (A) defendants' pleadings and replies to them need not be served on other defendants;
- (B) any crossclaim, counterclaim, avoidance, or affirmative defense in those pleadings and replies to them will be treated as denied or avoided by all other parties; and
- (C) filing any such pleading and serving it on the plaintiff constitutes notice of the pleading to all parties.

(2) **Notifying Parties.** A copy of every such order must be served on the parties as the court directs.

(d) Filing.

(1) **Required Filings; Certificate of Service.** Any paper after the complaint that is required to be served--together with a certificate of service--must be filed within a reasonable time after service. But disclosures under Rule 26(a)(1) or (2) and the following discovery requests and responses must not be filed until they are used in the proceeding or the court orders filing: depositions, interrogatories, requests for documents or tangible things or to permit entry onto land, and requests for admission.

- (2) How Filing Is Made--In General. A paper is filed by delivering it:
 - (A) to the clerk; or
 - (B) to a judge who agrees to accept it for filing, and who must then note the filing date on the paper and promptly send it to the clerk.
- (3) Electronic Filing, Signing, or Verification. A court may, by local rule, allow papers to be filed, signed, or verified by electronic means that are consistent with any technical standards established by the Judicial Conference of the United States. A local rule may require electronic filing only if reasonable exceptions are allowed. A paper filed electronically in compliance with a local rule is a written paper for purposes of these rules.
- (4) Acceptance by the Clerk. The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice.

CERTIFICATE OF SERVICE

You must include a certificate of service stating the date a copy of the document was served on the other parties, how it was served (by hand, mail or other means), and where it was served. You must sign the certificate of service. An example of a certificate of service is set forth below:

CERTIFICATE OF SERVICE

I, Jane Doe, hereby certify that a copy of the above Motion for Extension of Time was served on counsel for ACME Inc. by first class mail postage prepaid at 100 Main Street USA, Big City, KY 00000 on 01/01/06.

[signature line]

FILING THE MOTION

Under Local Rule 5.2(c) all pleadings, motions or other papers filed by *pro se* litigants must be addressed to the Clerk. A pleading, motion, or other paper addressed to an individual judge will be directed to the Clerk for assignment.

LOCAL RULE 7.1

For your convenience, Local Rule 7.1., which governs civil motions, is set out in full below. You should not rely exclusively on this rule, however, and are encouraged to obtain and review the Federal Rules of Civil Procedure and this Court's Local Rules in full.

LR 7.1 Motions

(a) **Generally.** All motions must state precisely the relief requested. Except for routine motions--such as motions for extension of time--each motion must be accompanied by a supporting memorandum. Failure to file a supporting memorandum may be grounds for denying the motion.

(b) **Motions for Extension of Time.** Subject to any deadlines established by the Court, parties may extend time limits by agreed order. Absent an agreement, the party seeking the extension must file a motion setting forth the reasons the extension is sought and tender a proposed order. A memorandum opposing the motion must be filed within seven (7) days of service of the motion.

(c) **Time for Filing Memoranda in Response and Reply.** A party opposing a motion must file a response memorandum within twenty-one (21) days of service of the motion. Failure to timely respond to a motion may be grounds for granting the motion. A party may file a reply memorandum within fourteen (14)

days of service of the response. When a party requests an extension of time to file a memorandum, please do so by agreed order or state whether other parties consent.

(d) **Limitations on Memoranda.** Supporting and opposing memoranda may not exceed forty (40) pages without leave of Court. Reply memoranda may not exceed fifteen (15) pages without leave of Court.

(e) **Proposed Order.** With each motion and response, you must submit a separate proposed order granting the relief requested or denying the motion. Any proposed order imposing sanctions must be provided separately from a proposed order pertaining to any other matter.

(f) **Hearing or Oral Argument on Motions.** A party may request a hearing or oral argument by motion.

(g) **Submission to the Court.** A motion is submitted to the Court for decision after completion of the hearing or oral argument--or if none--after the reply memorandum is filed, or the time for filing the reply memorandum has expired.

(h) **Copies of Cited Authority.** If a motion or memoranda contains a citation to any authority not available electronically [via WestLaw or Lexis], you must attach a copy of the authority. Upon request, a party must provide a copy of any cited unpublished or non-Kentucky state case or statute to the opposing party.

MOTIONS RELATED TO DISCOVERY

There are special rules that apply to motions concerning discovery disputes. Most importantly, before filing any such motion you must attempt to confer with the opposing party (or if the opposing party is represented, his/her counsel) to resolve the dispute. Local Rule 37.1 governs motions relating to discovery.

LR 37.1 Motions Relating to Discovery

Prior to filing a discovery motion, all counsel must make a good faith effort to resolve extrajudicially any dispute relating to discovery. The Court will not entertain discovery motions unless counsel have conferred--or attempted to confer--with other affected parties in an effort to resolve their dispute. The moving party must attach to every discovery motion a certification that counsel have conferred and are unable to resolve their differences. The certification must detail counsel's attempts to resolve the dispute.