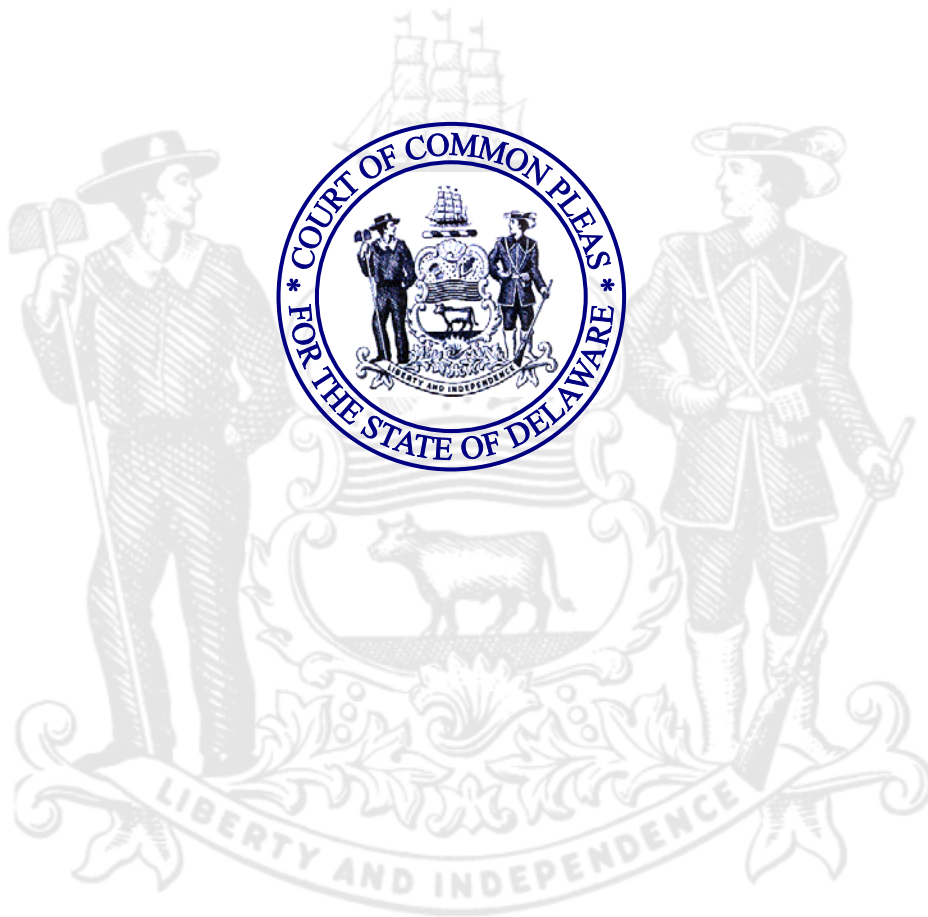


COURT OF COMMON PLEAS for the State Of Delaware



HOW TO PREPARE A CIVIL MOTION

<http://courts.state.de.us/commonpleas/>

COURT OF COMMON PLEAS
HOW TO PREPARE A CIVIL MOTION

A motion is a petition for some type of relief, or some action, you ask the Court to grant you; it also may be a request for the Court to take notice of certain facts. A sample motion is attached.

There are several documents that you **must** prepare when filing a motion. They are:

1) Notice of Motion

The notice advises the other party that a motion will be filed, what it will be about, what facts will be offered, and when it will be presented to the Court. This gives the other side the opportunity to prepare a response. It also advises the Court and the other party of the date and time the motion will be heard.

2) The Motion

The actual body of the motion states your request and explains the reasons for making the request. As some motions may require affidavits, please refer to the Court of Common Pleas Civil Rules found in the Delaware Code Annotated, which is available at any law library or public library.

3) Order

The order is a document signed by the judge granting the request made in the motion. You must prepare it in advance so the judge can sign it, if the motion is granted.

4) Certificate of Service

This is a notarized document; it states that you did notify the other party of your intent to file a motion and that you did provide the other party with copies of all the documents you are filing.

As Needed/Optional:

5) Exhibits

Exhibits may be any item of evidence that supports your position. These may be contracts, letters, photographs, receipts, etc.

To file a motion, you will need to file one original set and one copy of all the required documents listed above. In addition, you must provide two copies of all the documents to the other party. Keep a copy for your file.

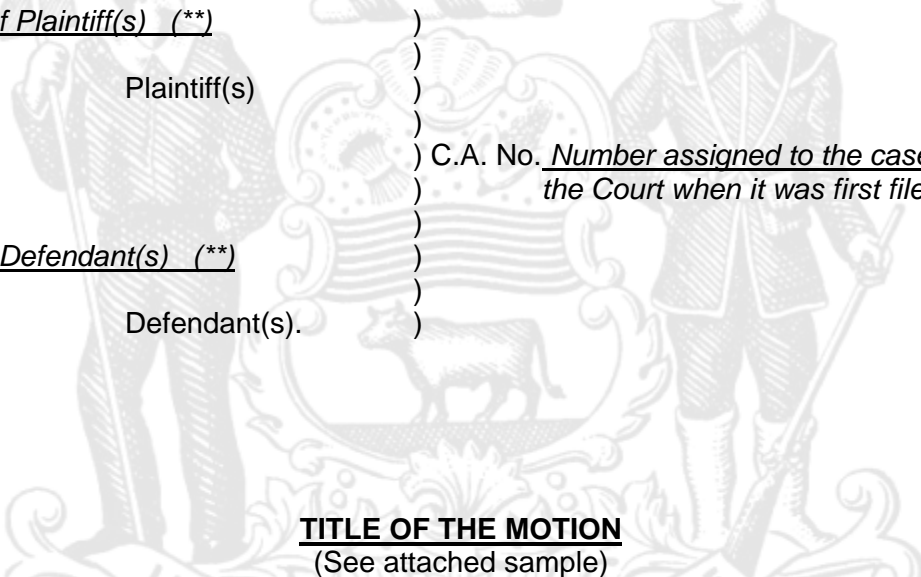
- You must arrange to copy all these documents, as the Court is unable to make copies for you.
- The Court is unable to provide you with legal advice. If you require further clarification to prepare your motion, you may contact the Legal Help Link at (302) 478-8850 for New Castle County or (800) 773-0606 for Kent and Sussex counties.
- Dispositive motions (motions, that if granted, would conclude the case) must be filed with the Court at least thirteen (13) days before the hearing is scheduled to be heard.
- Non-dispositive motions (motions, that if granted, would not conclude the case) must be filed with the Court at least six (6) days before the hearing is scheduled to be heard.

CAPTION INFORMATION

The following is the Caption portion of any pleading* presented to the Court. It does not change unless the case changes. Therefore, for any motion pertaining to an ongoing case, always use the same caption for the motion itself and each of its required components (Notice, the Motion, Order and Certificate of Service.)

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY



Name(s) of Plaintiff(s) (**))
Plaintiff(s))
C.A. No. Number assigned to the case by
the Court when it was first filed)
Name(s) of Defendant(s) (**))
Defendant(s).)

TITLE OF THE MOTION
(See attached sample)

* A "pleading" is part of a series of statements and answers, or counter-statements, made by the various parties to a lawsuit; these documents follow a specific format. For example, the initial complaint in a case is a pleading; the answer filed by the other side is also a pleading.

** If several names are listed for Plaintiffs and/or Defendants, you must use the name listed first on the original pleading in the Plaintiff space and in the Defendant space, but you may add *et al.* instead of copying all the other names. For example, if John Doe, Jane Smith, Dr. Harry Brown, XYZ Hospital and ABC Company are all listed as Defendants on the first Complaint, in subsequent documents, such as your motion, you can write: John Doe, *et al.*, Defendants.

SAMPLE MOTION

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY

_____,)
)
Plaintiff,)
)
v.) C.A. No. _____)
)
_____,)
)
Defendant.)

NOTICE OF MOTION

TO: Name of Individual/Firm
Street Address
Town, State, Zip Code

PLEASE TAKE NOTICE that the attached Motion will be presented to the Court by *(your name, Plaintiff/Defendant)* on *(date)** at *(time)** or at the convenience of the Court.

Your Signature

Print Your Name

Print Your Address

Your Daytime Telephone

Dated: _____

* Please contact the Civil Division of the Court to request a date and time for your motion to be heard.

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY

_____,)
)
Plaintiff,)
)
v.) C.A. No. _____
)
_____,)
)
Defendant.)

TITLE OF THE MOTION

COMES NOW the *(Plaintiff/Defendant)*, acting on *(his/her)* own behalf, hereby moves this Honorable Court to enter an Order to _____ and offers in support the following:

1. On *(date)*, briefly describe the background of the case leading to your motion.
2. Briefly state other facts that help describe the situation using short, numbered paragraphs. This sample has three numbered paragraphs, you may use more or fewer.
3. Additional statements of fact, reasons, or rules why the judge should agree with your motion.*

WHEREFORE, *(Plaintiff/Defendant)* respectfully requests the Court enter an Order granting _____ in favor of *(Plaintiff/Defendant)*.

Your Signature
Print Your Name
Print Your Address
Your Daytime Telephone

Dated: _____

*You may support your request by referring to the Court of Common Pleas Civil Rules, which may be found in the Delaware Code Annotated. The Delaware Code Annotated and other resources to research legal decisions are available in any law library or public library.

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

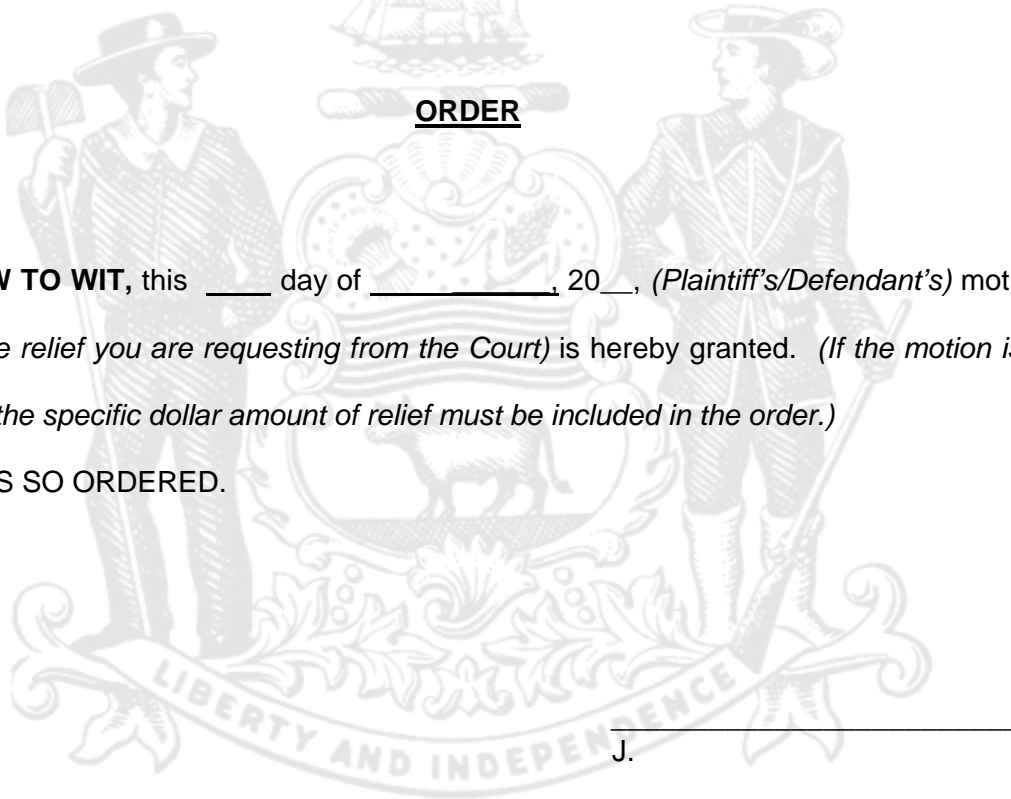
IN AND FOR (New Castle, Kent, Sussex) COUNTY

_____,)
Plaintiff,)
v.) C.A. No. _____)
_____,)
Defendant.)

ORDER

NOW TO WIT, this ____ day of _____, 20__, (*Plaintiff's/Defendant's*) motion for (*explain the relief you are requesting from the Court*) is hereby granted. (*If the motion is for a judgment, the specific dollar amount of relief must be included in the order.*)

IT IS SO ORDERED.



IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY

| | | |
|------------|---|----------------|
| _____ |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. _____ |
| |) | |
| _____ |) | |
| |) | |
| Defendant. |) | |

CERTIFICATE OF SERVICE

I, *(your name)*, do hereby certify that two (2) copies of the attached Notice of Motion, Motion and Order were *(hand-delivered/mailed)* to *(name and address of the individual or firm to whom the motion is hand-delivered/mailed)*, this _____ day of _____, 20__.

*
(Notary signature and seal)

Your Signature

Print Your Name

Print Your Address

Your Daytime Telephone

Dated: _____

* Individuals are required to sign the Certificate of Service in front of a Notary Public and have the Certificate notarized. Some Notaries Public are listed in the telephone book; certain officers of banks are Notaries and will witness your signature at no charge; also, many companies have someone in their business offices who is a Notary.

MOTIONS FREQUENTLY FILED WITH THE COURT

Motion to Amend the Complaint – A party's request that the Court permit the party to change a Complaint previously filed with the Court.

Motion to Compel Discovery – A party's request that the Court order the party's opponent to respond to the party's discovery request. Discovery in a lawsuit is a way to learn more about your opponent's case.

Motion for Default Judgment – A request by the plaintiff that the Court enter a judgment against a defendant who has failed to file a pleading or otherwise defend against a plaintiff's claim.

Motion to Dismiss – A party's request that the Court dismiss a case because of settlement, voluntary withdrawal, or a procedural defect.

Motion for Enlargement of Time – A party's request that the Court extend the time allowed to respond or to perform an action.

Motion for Judgment on the Pleadings – A party's request that the Court rule in its favor based on the pleadings filed with the Court, without accepting any evidence, because the outcome of the case is based on the Court's interpretation of the law.

Motion to Vacate Judgment – A party's request that the Court cancel or invalidate a judgment.

Motion for a More Definite Statement – A party's request that the Court require an opponent to change a vague or ambiguous pleading to which the party is unable to adequately respond.

Samples of these Motions are attached. Each Motion must have a Notice of Motion, an Order and a Certificate of Service attached.

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY

_____,)
)
Plaintiff,)
)
v.) C.A. No. _____
)
_____,)
)
Defendant.)

MOTION TO AMEND COMPLAINT

COMES NOW the *(Plaintiff)*, acting on *(his/her)* own behalf, hereby moves this Honorable Court to enter an order to Amend the Complaint and offers in support the following:

1. On *(date)*, briefly describe the background of the case leading to your motion.
2. Briefly state other facts that help describe the situation using short, numbered paragraphs. This sample has three numbered paragraphs, you may use more or fewer.
3. State facts or rules why the judge should grant your request.*

WHEREFORE, *(Plaintiff)* respectfully requests that the Court enter an Order to Amend the Complaint as follows:

(List the amendment(s) to the Complaint)

Your Signature

Print Your Name

Print Your Address

Your Daytime Telephone

Dated: _____

* You may support your request by referring to the Court of Common Pleas Civil Rules, which may be found in the Delaware Code Annotated. The Delaware Code Annotated and other resources to research legal decisions are available in any law library or public library.

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY

_____,)
)
Plaintiff,)
)
v.) C.A. No. _____
)
_____,)
)
Defendant.)

MOTION TO COMPEL

COMES NOW the *(Plaintiff/Defendant)*, acting on *(his/her)* own behalf, hereby moves this Honorable Court to enter an Order to Compel *(state what you wish the Court to compel)* and offers in support the following:

1. On *(date)*, *briefly state what was requested and how the request was made.*
2. *Briefly state other facts that help describe the situation using short, numbered paragraphs. This sample has three numbered paragraphs, you may use more or fewer.**
3. To date, *(name of the individual/firm)* has not responded.

WHEREFORE, *(Plaintiff/Defendant)* respectfully requests that the Court enter an Order requiring *(Plaintiff/Defendant)* to provide full and complete responses to the above request.

Your Signature

Print Your Name

Print Your Address

Your Daytime Telephone

Dated: _____

* You may support your request by referring to the Court of Common Pleas Civil Rules, which may be found in the Delaware Code Annotated. The Delaware Code Annotated and other resources to research legal decisions are available in any law library or public library.

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY

_____,)
)
Plaintiff,)
)
v.) C.A. No. _____
)
_____,)
)
Defendant.)

MOTION FOR DEFAULT JUDGMENT

COMES NOW the *(Plaintiff)*, acting on *(his/her)* own behalf, hereby moves this Honorable Court to enter an Order for Default Judgment and offers in support the following:

1. On *(date)*, briefly describe the background of the case leading to your motion.
2. Briefly state other facts that help describe the situation using short, numbered paragraphs. This sample has three numbered paragraphs, you may use more or fewer.
3. Additional statements of fact, reasons, or rules why the judge should agree with your motion.*

WHEREFORE, *(Plaintiff)* respectfully requests that the Court enter an Order granting Judgment in favor of *(Plaintiff)*.

Your Signature
Print Your Name
Print Your Address
Your Daytime Telephone

Dated: _____

* You may support your request by referring to the Court of Common Pleas Civil Rules, which may be found in the Delaware Code Annotated. The Delaware Code Annotated and other resources to research legal decisions are available in any law library or public library.

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY

_____,)
)
Plaintiff,)
)
v.) C.A. No. _____
)
_____,)
)
Defendant.)

MOTION TO DISMISS

COMES NOW the *(Plaintiff/Defendant)*, acting on *(his/her)* own behalf, hereby moves this Honorable Court to enter an Order to Dismiss *(state what you wish the Court to dismiss)* and offers in support the following:

1. On *(date)*, briefly describe the background of the case leading to your motion.
2. Briefly state other facts that help describe the situation using short, numbered paragraphs. This sample has three numbered paragraphs, you may use more or fewer.*
3. Additional statements of fact, reasons, or rules why the judge should agree with your motion.*

WHEREFORE, *(Plaintiff/Defendant)* respectfully requests that the Court enter an Order dismissing the action and assessing costs and fees to *(Plaintiff/Defendant)*.

Your Signature
Print Your Name
Print Your Address
Your Daytime Telephone

Dated: _____

* You may support your request by referring to the Court of Common Pleas Civil Rules, which may be found in the Delaware Code Annotated. The Delaware Code Annotated and other resources to research legal decisions are available in any law library or public library.

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY

_____,)
)
Plaintiff,)
)
v.) C.A. No. _____
)
_____,)
)
Defendant.)

MOTION FOR JUDGMENT ON THE PLEADINGS

COMES NOW the *(Plaintiff/Defendant)*, acting on *(his/her)* own behalf, hereby moves this Honorable Court to enter Judgment on the Pleadings in *(Plaintiff's/Defendant's)* favor and offers in support the following:

1. On *(date)*, briefly describe the background of the case leading to your motion.
2. Briefly state other facts that help describe the situation using short, numbered paragraphs. This sample has three numbered paragraphs, you may use more or fewer.
3. State facts or rules why the judge should grant your request.*

WHEREFORE, *(Plaintiff/Defendant)* respectfully requests that the Court enter Judgment on the Pleadings in favor of *(Plaintiff/Defendant)*.

Your Signature

Print Your Name

Print Your Address

Your Daytime Telephone

Dated: _____

* You may support your request by referring to the Court of Common Pleas Civil Rules, which may be found in the Delaware Code Annotated. The Delaware Code Annotated and other resources to research legal decisions are available in any law library and public library. This motion must be filed within ten (10) days after the event and shall be noticed at the convenience of the Court.

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY

_____,)
)
Plaintiff,)
)
v.) C.A. No. _____
)
_____,)
)
Defendant.)

MOTION TO VACATE JUDGMENT

COMES NOW the *(Plaintiff/Defendant)*, acting on *(his/her)* own behalf, hereby moves this Honorable Court to enter an Order to Vacate Judgment and offers in support the following:

1. On *(date)*, briefly describe the background of the case leading to your motion.
2. Briefly state other facts that help describe the situation using short, numbered paragraphs. This sample has three numbered paragraphs, you may use as many as you need.
3. State facts or rules why the judge should grant your request.*

WHEREFORE, *(Plaintiff/Defendant)* respectfully requests that the Court enter an Order to Vacate Judgment in favor of *(Plaintiff/Defendant)*.

Your Signature

Print Your Name

Print Your Address

Your Daytime Telephone

Dated: _____

* You may support your request by referring to the Court of Common Pleas Civil Rules, which may be found in the Delaware Code Annotated. The Delaware Code Annotated and other resources to research legal decisions are available in any law library or public library.

IN THE COURT OF COMMON PLEAS FOR THE STATE OF DELAWARE

IN AND FOR (New Castle, Kent, Sussex) COUNTY

_____,)
)
Plaintiff,)
)
v.) C.A. No. _____
)
_____,)
)
Defendant.)

MOTION FOR A MORE DEFINITE STATEMENT

COMES NOW the *(Plaintiff/Defendant)*, acting on *(his/her)* own behalf, hereby moves this Honorable Court to enter an Order requiring *(Plaintiff/Defendant)* file a more definite statement and offers in support the following:

1. On *(date)*, briefly describe the background of the case leading to your motion.
2. Briefly state other facts that help describe the situation using short, numbered paragraphs. This sample has three numbered paragraphs, you may use as many as you need.
3. State facts or rules why the judge should grant your request.*

WHEREFORE, *(Plaintiff/Defendant)* respectfully requests that the Court order *(Plaintiff/Defendant)* to file a more definite statement.

Your Signature

Print Your Name

Print Your Address

Your Daytime Telephone

Dated: _____

* You may support your request by referring to the Court of Common Pleas Civil Rules, which may be found in the Delaware Code Annotated. The Delaware Code Annotated and other resources to research legal decisions are available in any law library or public library.