



How to File a Motion to Dismiss the Complaint or to Strike the Answer For Failure to Answer Interrogatories

Superior Court of New Jersey – Special Civil Part

A **MOTION** is a written request that asks the court to issue an order or to change an order the court has already issued.

Who Should Use This Packet?

You **may use** this packet only in cases where the other party has failed to provide you with complete answers to interrogatories and you have either (a) made an unsuccessful attempt to confer with that party to get the answers or (b) sent the party a letter stating that continued failure to answer the interrogatories will result in a motion being made to dismiss the complaint or to strike the answer.

General Requirements for Filing a Motion:

When you file a motion, you must complete and submit the following papers, all of which are contained in this packet:

1. Notice of Motion
2. Certification in Support of the Motion
3. Certification of Service
4. Order

Note: These materials have been prepared by the New Jersey Administrative Office of the Courts for use by self-represented litigants. The guides, instructions, and forms will be periodically updated as necessary to reflect current New Jersey statutes and court rules. The most recent version of the [forms](#) will be available at the county courthouse or on the Judiciary's Internet site njcourts.gov. However, you are ultimately responsible for the content of your court papers.

Completed forms are to be submitted to the county where you are filing your case. A list of [Superior Court Offices](#) is provided at the customer counter and at njcourts.gov.

Things to Think About Before You Represent Yourself in Court

Try to Get a Lawyer

The court system can be confusing and it is a good idea to get a lawyer if you can. If you cannot afford a lawyer, you may contact the legal services program in your county to see if you qualify for free legal services. Their telephone number can be found online or in your local yellow pages under “Legal Aid” or “[Legal Services](#).”

If you do not qualify for free legal services and need help in locating an attorney, you can contact the bar association in your county. Their telephone number can also be found in your local yellow pages. Most county bar associations have a [Lawyer Referral Service](#). The county bar lawyer referral service can supply you with the names of attorneys in your area willing to handle your particular type of case and who may sometimes consult with you at a reduced fee.

There are also a variety of organizations of minority lawyers throughout New Jersey, as well as organizations of lawyers who handle specialized types of cases. Ask your county court staff for a list of lawyer referral services that include these organizations.

What You Should Expect If You Represent Yourself

While you have the right to represent yourself in court, you should not expect any special treatment, help, or attention from the court. You must still comply with the Rules of the Court, even if you are not familiar with them. The following is a list of some things the court staff can and cannot do for you. Please read it carefully before asking the court staff for help.

- We *can* explain and answer questions about how the court works.
- We *can* tell you what the requirements are to have your case considered by the court.
- We *can* give you some information from your case file.
- We *can* provide you with samples of court forms that are available.
- We *can* provide you with guidance on how to fill out forms.
- We *can* usually answer questions about court deadlines.
- We *cannot* give you legal advice. Only your lawyer can give you legal advice.
- We *cannot* tell you whether or not you should bring your case to court.
- We *cannot* give you an opinion about what will happen if you bring your case to court.
- We *cannot* recommend a lawyer, but we can provide you with the telephone number of a local lawyer referral service.
- We *cannot* talk to the judge for you about what will happen in your case.
- We *cannot* let you talk to the judge outside of court.
- We *cannot* change an order issued by a judge.

Keep Copies of All Papers

Make and keep for yourself copies of all completed forms and any canceled checks, money orders, sales receipts, bills, contract estimates, letters, leases, photographs, and other important documents that relate to your case. Bring all documents to court if you are notified that an appearance is necessary.

Definitions of Words That May Be Used In This Packet

Answer - An answer is a written response which explains why you believe you do not owe the money to the other party in the case.

Complaint - A complaint is a written document in which you briefly tell the court the facts in your case and the remedy you want the court to give you.

Default - When the defendant does not appear in court to respond to the complaint or does not file an answer, a judge may immediately enter an order giving a remedy to the plaintiff. This is called a default. Also, if the plaintiff does not show up in court, the court may dismiss the case.

Defendant - The defendant is the person (party) against whom the court action (complaint) was filed.

Docket Number - The number the court assigned to this case when the complaint was filed. The docket number is listed on the complaint and answer.

File - To file means to give the appropriate forms and fee to the court to begin the court's consideration of your request.

Judgment - A judgment is the official decision of a court in a case.

Motion - A motion is a written request in which you ask the court to issue an order, or to change an order it has already issued.

Oral Argument - Personally appearing in court to explain what you want the court to do.

Order - An order is a signed paper from the judge telling someone they must do something.

Party - A party is a person, business or governmental agency involved in a court action.

Plaintiff - The plaintiff is the person (party) who started the court action by filing the complaint.

Return Date - The date the parties are ordered to appear in court.

Service - Mailing or delivering copies of your papers to the lawyer for the other party or to the other party if there is no lawyer.

The numbered steps listed below tell you what forms you will need to fill out and what to do with them. Each form should be typed or printed clearly on 8 ½ “x 11” white paper only. Forms may not be filed on a different size or color paper.

Steps for Filing a Motion in the Special Civil Part

STEP 1: Fill out the *Notice of Motion* (Form A)

The *Notice of Motion* tells the court what you want the court to do. Make sure to include the docket number of your case and sign your name where requested. (Step 4 explains how to complete the Certification of Service at the bottom of Form A.)

STEP 2: Fill out the *Certification in Support of a Motion* (Form B)

The *Certification in Support of a Motion* tells the court why you think you are entitled to what you are asking for in your Notice of Motion. You must attach a copy of any document to which you refer in the certification. Attach copies of any additional documents you have that may help support your motion.

STEP 3: Fill out the top portion of the *Order* (Form C)

The *Order* is the document that grants or denies what you are asking for in the case. You must fill out the top portion of the Order. The instructions will tell you how. Leave the bottom half of the Order blank for the judge to complete.

STEP 4: Fill out the *Certification of Service*

The *Certification of Service* is located at the bottom of Form A. All parties to the case are required to receive a copy of this motion. The date you put on your Certification of Service **MUST** be the same day you personally give these papers to the other party or his or her lawyer **OR** you deliver these papers to the post office for mailing. (See the instructions for Form A for more information about this.)

STEP 5: Check your completed forms

Check your forms and make sure they are complete. Remove all instruction sheets. Make sure you have signed the forms where you are asked to sign them.

You must have all of the following items in this order:

- _____ Notice of Motion (Form A)
- _____ Certification of Service signed and dated (Form A, second page)
- _____ Certification in Support of the Motion (Form B) and attached copies of documents
- _____ Order (Form C)

STEP 6: Filing Fee

The fee for filing a motion is \$25. Write a check in that amount payable to the *Treasurer, State of New Jersey*.

STEP 7: Mail or deliver your package of completed papers to the court and all other parties in the case.

You can deliver or mail your motion papers to the court. You must mail the motion to all other parties in the case by certified mail, return receipt requested, and regular mail. You will receive a green receipt card, which can serve as proof that you mailed the motion to the other party. Your post office can tell you how to send certified mail, return receipt requested.

In the motion papers you mail to the court, include two more additional copies of the Order along with original motion papers and a self-addressed, stamped envelope. The court will return the extra copies of the Order to you along with the court’s decision only if a self-addressed stamped envelope is provided.

When you receive a copy of the court’s Order signed by the judge, you are required, as the moving party, to provide a copy to all other parties involved in this case.

STEP 8: Requesting Oral Argument

You may ask for oral argument, which means you are asking to personally appear in court to explain what you want the court to do. Motions may be decided by the judge without oral argument unless the motion is opposed and one of the parties requests it. Even if no one requests oral argument, the court may still require oral argument. If there is to be oral argument, you will be notified of the date, time and place. Check whether or not you want to request oral argument on the Notice of Motion. (FORM A)

Checklist

- _____ Make enough copies of the forms so that you will have two copies for every party in the case (one for certified mail and one for regular mail) including yourself.
- _____ Mail or deliver all of the original motion papers to the court (Form A, Form B, Form C). Note: Make certain that you have signed all forms which require your signature.
- _____ Keep at least one copy of the completed motion packet for your own records.
- _____ Attach the proper filing fee.

Instructions for Completing Form A (Notice of Motion)

- A. Type or print the Plaintiff's name, current address and telephone number where Form A asks you to do so at the top of the form. If you are the Plaintiff in the case, type or print your name, current address and telephone number. If you are not the Plaintiff, type or print the name, current address and telephone number of the person who is the Plaintiff.
- B. Type or print the Defendant's name, current address and telephone number where Form A asks you to do so. If you are the Defendant in the case type or print your name, current address and telephone number. If you are not the Defendant, type or print the name, current address and telephone number of the person who is the Defendant.
- C. Where it says County, type or print the name of the county where you are filing your motion.
- D. Where it says Docket No., fill in the docket number of your case. (You can get this number from the Complaint or Answer you received in the case, or, if necessary, you can call the court for this information.)
- E. Check off whether or not you want to request Oral Argument. (See Step 8 on page 5 for more information about oral argument.)
- F. Where it says: "Please Take Notice," type or print the name of the county where you are filing your motion and put in the address of the courthouse.
- G. Where it lists the various motions you may file in the case, put a check next to the motion you want to file.
- H. Sign and date the form where it asks you to do so and check whether you are the Plaintiff or Defendant.
- I. **IMPORTANT NOTE: Certification of Service (See Step 4 on page 4):** Fill in the required information being sure to include the certified mail number(s) and the person(s) to whom Forms A, B and C were sent or personally delivered. Sign your name on the line above where it says Signature. Type or print your name above the line that says Type or Print Name. Fill in the date you are signing the form. **When you sign and date this form, the date you put down MUST be the same date that you personally gave these papers to the other party or his or her lawyer OR the date that you delivered these papers to the post office.**

Review all steps to make sure the forms are properly filled out and complete before mailing (certified mail, return receipt requested and regular mail - see step 7 on page 4). (Keep copies of the completed forms for your records.)

FORM A

Plaintiff's Name (first, middle, last)

Street Address

Town, State, Zip Code

Telephone Number

VS.

Defendant's Name (first, middle, last)

Street Address

Town, State, Zip Code

Telephone Number

Superior Court Of New Jersey
Law Division, Special Civil Part

County

Docket Number _____

**CIVIL ACTION
NOTICE OF MOTION**

I DO NOT request Oral Argument

I request Oral Argument

If you request Oral Argument do you wish to request:

An interpreter: yes no

Language: _____

Accommodation for a disability: yes no

Request Accommodation: _____

PLEASE TAKE NOTICE that I will apply to the Superior Court of New Jersey, Law Division, Special Civil Part _____ County located at _____ NJ, _____ in the above entitled matter for an **Order** to:

- Strike Answer for Failure to Answer Interrogatories
- Dismiss Complaint for Failure to Answer Interrogatories

NOTICE: IF YOU WANT TO RESPOND TO THIS MOTION YOU MUST DO SO IN WRITING.

Your written response must be in the form of a certification or affidavit. That means that the person signing it swears to the truth of the statements in the certification or affidavit and is aware that the court can punish him or her if the statements are knowingly false. You may ask for oral argument, which means you can ask to appear before the court to explain your position. If the court grants oral argument, you will be notified of the time, date and place. Your response, if any, must be in writing even if you request oral argument. Any papers you send to the court must also be sent to the opposing party's attorney, or the opposing party if not represented by an attorney.

We are requesting that your complaint be dismissed or your answer not be considered for failure to answer the interrogatories (questions) we sent you. In order to avoid this you must, within 10 days, either (a) send us answers to the questions and inform the court that you have fully answered the questions; or, (b) respond to the motion. If you choose to respond, you must state your opposition in writing and send copies to us and to the court.

Dated:

Signature

Type or Print Your Name

(Check One) Plaintiff Defendant

FORM A
CERTIFICATION OF SERVICE

I certify that I served a copy of this motion and any accompanying pages (check one)

- Personally on the person(s) or attorney(s) listed below.
 By mailing it to the person(s) or attorney(s) listed below by regular and certified mail.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

(Name)

(Name)

(Certified Mail Number)

(Certified Mail Number)

(Address)

(Address)

(City, State & Zip Code)

(City, State & Zip Code)

(Name)

(Name)

(Certified Mail Number)

(Certified Mail Number)

(Address)

(Address)

(City, State & Zip Code)

(City, State & Zip Code)

Dated: _____

Signature

Type or Print Your Name

(Check One) Plaintiff Defendant

Instructions for Completing Form B (Certification in Support of a Motion)

- A. Type or print the Plaintiff's name, address and telephone number where Form B asks you to do so at the top of the form. If you are the Plaintiff in the case, type or print your name, current address and telephone number. If you are not the Plaintiff, type or print the name, current address and telephone number of the person who is the Plaintiff.
- B. Type or print the Defendant's name, current address and telephone number where Form B asks you to do so. If you are the Defendant in the case, type or print your name, current address and telephone number. If you are not the Defendant, type or print the name, current address and telephone number of the person who is the Defendant.
- C. Where it says County, type or print the name of the county where you are filing your motion.
- D. Where it says Docket No., fill in the docket number of your case. (You can get this number from the Complaint or Answer you received in the case, or, if necessary, you can call the court for this information.)
- E. In the section which lists the various motions, below "Certification in Support of a Motion To," put a check next to the motion you want to file in the case. What you check off here must be what you checked off on Form A.
- F. In the blank spaces, give the reasons why you think your motion should be granted.
- G. If you need additional pages to complete your motion, you may attach additional sheets of 8 ½ x 11' white paper.

If you do attach additional sheets, you must also copy at the bottom of those sheets the language: "I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment." You must sign, date and type or print your name below the language above which you must put at the bottom of each additional page you use. Also, type or print whether you are the Plaintiff or Defendant.

- H. Complete the paragraph regarding your attempts to confer with the other party to get answers to your interrogatories or the letter you sent to that party stating that you would file this motion without further attempt to resolve the matter.
- I. Sign and date the form where it asks you to do so and check whether you are the Plaintiff or Defendant.

Review all steps to make sure the forms are properly filled out and complete before mailing (certified mail, return receipt requested and regular mail - see step 7 on page 4). (Keep copies of the completed forms for your records.)

FORM B

Plaintiff's Name (first, middle, last)

Superior Court Of New Jersey
Law Division, Special Civil Part
_____ County

Street Address

Docket Number _____

Town, State, Zip Code

Telephone Number

VS.

**CIVIL ACTION
CERTIFICATION IN SUPPORT OF A
MOTION TO**

Defendant's Name (first, middle, last)

Street Address

Strike Answer for Failure to Answer Interrogatories

Town, State, Zip Code

Dismiss for Failure to Answer Interrogatories

Telephone Number

_____ of full age, being the Plaintiff Defendant
(your name) (check one)

in the above case states:

(You may attach more sheets if you need to, but you must copy the certification language below onto any additional sheets you use, and you must sign and date each additional sheet)

On _____, 20____, I, _____ (check one)
(date) (your name)

made an unsuccessful attempt to confer with the other party to get the answers to my interrogatories.

sent the other party a letter (copy attached) stating that continued failure to answer the interrogatories would result in a motion to (check one) dismiss the complaint, or suppress the answer without further attempt to resolve the matter.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

Dated:

Signature

Type or Print Your Name

(Check One) Plaintiff Defendant

Instructions for Completing Form C (Order)

- A. Type or print the Plaintiff's name, address and telephone number where Form C asks you to do so at the top of the form. If you are the Plaintiff in the case, type or print your name, current address and telephone number. If you are not the Plaintiff, type or print the name, current address and telephone number of the person who is the Plaintiff.
- B. Type or print the Defendant's name, current address and telephone number where Form C asks you to do so. If you are the Defendant in the case, type or print your name, current address and telephone number. If you are not the Defendant, type or print the name, current address and telephone number of the person who is the Defendant.
- C. Where it says County, type or print the name of the county where you are filing your motion.
- D. Where it says Docket No., fill in the docket number of your case. (You can get this number from the Complaint or Answer you received in the case, or, if necessary, you can call the court for this information.)
- E. Check off the type of motion you are filing. What you check off here must be what you checked off on Form A and Form B. If you check "Other," you must again type or print the name of the motion you are filing.
- F. Leave the form blank where it says, "Do not write below this line-for court use only." The judge will complete this section.

Review all steps to make sure the forms are properly filled out and complete before mailing (certified mail, return receipt requested and regular mail - see step 7 on page 4). (Keep copies of the completed forms for your records.)

FORM C

Superior Court Of New Jersey
Law Division, Special Civil Part

_____ County

Plaintiff's Name (first, middle, last)

Docket Number

Street Address

Town, State, Zip Code

Telephone Number

VS.

**CIVIL ACTION
ORDER**

Defendant's Name (first, middle, last)

Street Address

Town, State, Zip Code

Telephone Number

This matter being opened to the court by _____, the Plaintiff Defendant
(your name) (check one)

in the matter by way of motion seeking an Order to:

- Strike Answer for Failure to Answer Interrogatories
- Dismiss for Failure to Answer Interrogatories

(Do not write below this line – for court use only)

On this ____ day of _____, 20 ____

It is **ORDERED** that:

This order can be vacated only by a formal motion. You must supply fully responsive and certified answers to the interrogatories served on behalf of _____ prior to the filing of such a motion and you must pay a restoration fee of \$25.00 if the motion to vacate is made within 30 days after entry of this order and in the amount of \$75.00 if the motion is made thereafter. Failure to file such a motion within 60 days after the entry of this order may result in the imposition of counsel fees and the assessment of costs against you or may forever preclude the restoration of the pleading(s) filed by you or on your behalf.

It is **FURTHER ORDERED** that a copy of this Order be served by the moving party upon all other parties or their attorneys, if any, within ____ days of the date listed above.

The motion was:

- Opposed
- Unopposed

J.S.C.