

# HOW TO FILE & SEND A MOTION & NOTICE OF COURT DATE FOR MOTION

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## Who can file a *Motion*?

Any person can file a motion who is involved in a court case and wants to see the judge to ask the judge to do something in the case. For example, you might file a motion to: schedule a new court date, ask for more time to move in an eviction, change an earlier order, or to explain why you missed court so you can ask for a new court date.

## What forms do I need to fill out to file a *Motion*?

- ***Motion***: use this form to explain what you want the judge to do and any reasons why the judge should say yes to your request.
- ***Order***: is used by the judge to say if your *Motion* is granted or denied.
- ***Notice of Court Date for Motion***: use this form to schedule the court date when you will see the judge; this is called the hearing date. This form also:
  - lists the date, time, and place where you will see the judge;
  - lists the names and addresses of the other parties or the names and addresses of their lawyers; AND
  - lets the other parties in the case know about the court date.

## Where can I find the forms I need?

You can find the forms at:

<http://www.illinoiscourts.gov/Forms/approved/>.

## Are there any costs to file a *Motion*?

- Some motions require a filing fee but there are many motions where the filing is free.
- The Circuit Clerk will let you know if there is a fee for your *Motion*. Also, many courts have the court fees listed on their websites.
- If you cannot afford to pay the filing fee, you can ask the court to file for free. Fill out the *Application for Waiver of Court Fees* to ask the court for a fee waiver. This is a separate set of forms you can find at <http://www.illinoiscourts.gov/Forms/approved/>.

## What do I do after I fill out my forms?

### Step 1: File your *Motion* forms with the Circuit Clerk in the county where the court case is filed.

- You must electronically file (e-file) court documents unless (1) you are an inmate in a prison or jail and you do not have a lawyer, or (2) you qualify for an exemption from e-filing.
  - You will qualify for an exemption if: (1) you do not have internet or computer access at home and it would be difficult for you to travel to a place where you could use a computer, (2) you have a disability that keeps you from e-filing, or (3) you have trouble reading or speaking in English.

- Fill out a *Certification for Exemption from E-Filing* found here: [www.illinoiscourts.gov/Forms/approved/default.asp](http://www.illinoiscourts.gov/Forms/approved/default.asp).
- File the original and 1 copy of your *Motion*, and the *Certification*, with the clerk's office in person or by mail.
- To e-file, create an account with an e-filing service provider.
  - Visit <http://efile.illinoiscourts.gov/service-providers.htm> to select a service provider. Some service providers are free while others charge a processing fee. For instructions on how to e-file for free with Odyssey eFileIL, see the self-help user guides here: [http://www.illinoiscourts.gov/CivilJustice/Resources/Self-Represented\\_Litigants/self-represented.asp](http://www.illinoiscourts.gov/CivilJustice/Resources/Self-Represented_Litigants/self-represented.asp)
- If you do not have access to a computer or if you need help e-filing, take your form to the Circuit Clerk's office where you can use a public computer terminal to e-file your form.
  - You can bring your form on paper or saved on a flash drive.
  - The terminal will have a scanner and computer that you can use to e-file your form.

### Step 2: Ask for a court date.

- Ask the Circuit Clerk if you have to schedule a court date or if one will be scheduled automatically.
- If you need to schedule the court date, ask the Circuit Clerk how to do so. The Circuit Clerk may schedule the court date or you may have to speak with other court staff.
- When you get your court date, ask if the court will send notice of the court date to the other party or if you need to.
- If you need to send notice, complete the *Notice of Court Date for Motion*.

### Step 3: Send a copy of your *Motion* forms to the other party.

- You must send your form to the other parties in the case. If a party has a lawyer, send the form to the lawyer.
- You may send your form to the other parties by personal hand delivery, by mail, third-party commercial carrier (for example, FedEx or UPS), or through the court's electronic filing manager or an approved e-filing service provider.
  - You may e-mail your form to a party if they have listed their e-mail address on a court document. Complete the proof of delivery with information to show how you sent the forms to each party. It has room for 3 parties. If you are sending forms to more than 3 parties, fill out and file one or more *Additional Proof of Delivery* with the *Motion* form.

#### **Step 4: Get ready for your court date.**

- Decide and write down:
  - What you want to ask the judge to do for you;
  - What you will say to the judge if asked to tell your side of the case; AND
  - Questions you have for witnesses, if there are any.
- Gather and make copies of pictures and documents you want the judge to see. Bring the original for the judge and one copy for you and each of the people in the case.
- If you want the judge to hear from other people, those people will have to come to court and be witnesses (in most cases, you cannot bring in written statements of witnesses).
- If the judge needs to think about it more, the judge may let you know the decision later by mailing a court order or at another court date.
- If the judge has enough information, the judge may decide right then and fill out a court order.
  - Get a copy of the order that has the court stamp on it.
  - If the other party was not in court to get a copy, you must send them a copy by 5:00 p.m. on the date you get the order. Fill out and file a *Proof of Delivery* court form with the Circuit Clerk to show that you sent the copy.

#### **Step 5: Go to your court date.**

- Bring these items with you to court:
  - Photo I.D.;
  - Copies of all the documents you filed with the Circuit Clerk;
  - Copy of your *Order*, and
  - Other papers or proof related to your *Motion*.
- Get to the courthouse at least 30 minutes early.
- Go to the courtroom number listed on your court form. If your forms do not have a courtroom number look for a list of cases at the courthouse or ask the Circuit Clerk.
- Check in with the courtroom staff and wait for your name and case number to be called.
- When your case is called, walk to the judge and introduce yourself.

#### **How do I present my case to the judge and what happens after?**

##### **Step 1: Tell the judge your side of the case and answer questions.**

- Show evidence including documents and photos.
  - Give a copy to the judge and a copy to the other party. Be prepared to explain why the document or photo is important.
- Question witnesses.
  - Tell the judge the name of your witnesses.
  - Ask the witnesses questions you prepared in advance.
  - The judge and the other party can ask questions of your witnesses when you are done.

- The judge decides whether the documents, photos, or witness testimony can be considered in making a decision about your case.

##### **Step 2: The other party presents their case.**

- The other party will also get to present their case by testifying, giving the judge evidence, and questioning witnesses.

You will get to see any documents and photos the other party brings to court. If you do not think the judge should consider them in making a decision about your case, tell the judge why.
- You may ask questions of the other party's witnesses. Write down your questions while they are speaking to the other party or judge.

##### **Step 3: The judge makes a decision after both sides present their case.**

- The judge has to make a decision. The decision is called a court order.
- If the judge needs more information to make a decision, the judge may set up another court date. Make sure you understand what information is needed and get it before the new court date.