

How to file a Pro-Se Motion ?

The starting point if you want to file your own pro-se post-judgment motion is to pick up an information packet at your local county courthouse. Alternatively you can download the forms on-line at the [New Jersey Judiciary web site](#).

The following tips and suggestions are meant to **supplement** the guidance given in the judiciary's [pro-se motion packet](#) on how to file a post-judgment motion and are not intended to be a definitive guide.

1. Based on your docket number, find out the date of the next motion hearing, the name of the Judge and the cut off date for when papers have to be filed.

Judges frequently change roles in the courthouse so the Judge who heard your divorce or last motion may no longer be in the family part. Everything in the courthouse revolves around your docket number, so use that to find out from the family part information clerk which Judge will hear your motion and when the cut off period for you to file your papers for that date is.

Motions are typically heard every two weeks, and the system works on a 29 day or a 16 day cycle, which means that the motion papers have to be filed with the court at least 29 days or 16 days before the next motion date hearing. The difference between a 29 day motion and a 16 day motion is something that even experienced lawyers and judges argue over, so don't worry too much about it. 16 day motions include motions to enforce litigant's rights and motions for emancipation. However, in practice a 16 day motion gives little time for the opposing party to prepare a cross motion, so don't be surprised if the date is pushed back two weeks to give the opposing party time to respond.

2. Form A: Notice of Motion

This is essentially a summary sheet that tells the court and the other party about your motion and what it is about, and when it will be heard. A few suggestions:

- Fill in contact telephone numbers. The court rules require it. Many people don't want to give telephone numbers because they are copied to the other party. However, it is

important for the court and the Judge's chambers to reach you in the event there is a query with what you have sent in or there is the need to schedule you at a different time.

- Give the names as they appeared at the time of the divorce. It's ok to put "now known as" or "formerly" if there have been changes, but the court's records and computers are probably linked into the names as they were at the time of the divorce.
- If the other party has been represented by an attorney in the past then a useful tip is to fill in both the name and address of their attorney and the other parties name and address too. I've seen the situation where the attorney is sent the motion papers by a pro-se litigant and then says to the court he's not been retained for this motion, so the motion is adjourned while the opposing party is served. Then, guess what happens, the attorney is retained. So if you are unsure, serve both their former attorney and the opposing party, that way you have all the bases covered.
- The boxes at the bottom are not that helpful, but you should tick them and cross out the increase/decrease as appropriate.

Second side of Form A

This side of the form is generally not well completed by pro-se litigants. The intent of this form is give a short one or two line top line view of all the motions that are being brought. Don't be too brief and say "decrease child support", "emancipate" or "enforce litigant's rights" – give enough details so that anyone looking at this can immediately get a sense of what your motion is about. Remember, that the Judge and law clerk reading this do not know the history of your case and are unlikely to read your file. Here's a few examples:

1. Emancipate the parties' minor son Jonathan effective his eighteen birthday, August 2nd 2006.
2. Decrease child support from \$185/week to \$____/week due to changed circumstances of losing a job and gaining employment at a lower income.
3. Enforce litigants' rights and require the defendant to pay \$500 towards unreimbursed medical expenses as per the parties' property settlement agreement.

You can always type these out and put "see attached sheet"

If you are paying through probation then make sure you put a CS number on the form where it asks for it. The court will usually check to see if you are in arrears or up to date with payments. If there is any modification to child support then a CS number on the order makes sure it will be sent to probation to update their records.

Check Box for oral argument: don't leave this blank, and be careful if you tick "no" as it's harder to persuade the court to give you oral argument later. You also don't know when you file a motion if there will be a cross motion in return that may raise issues that need oral argument. Also if you don't have oral argument you may not gain a full understanding of why the judge decided the motion the way he or she did, so on balance I would recommend oral argument unless it is a motion that is unopposed.

3. Form B: Certification

The certification is a really important page as it is the equivalent of giving information about your motion under oath. The court will only consider a statement from you if at the end of it there is the phrase: "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 willfully false, I am subject to punishment by the Court." Attaching to your motion papers a letter to the court or the judge outlining your case but not putting the words "I certify etc" at the end will mean that the court cannot put any reliance on what you say, since it is not a sworn statement. If you are up against an attorney they will prominently point this out to the Judge in their cross motion/reply.

Section 2 of this page is really where the New Jersey judiciary template forms are lacking. The two small paragraphs are too small to allow you to provide any meaningful amount of information to the court. If you look at an attorney certification it goes over several pages. So I suggest that you write your own certification.

Ideally type it out and make it easy for the court to read. You can start off by saying e.g. "I, John Henry Smith of full age do hereby certify as follows." Then use numbered paragraphs and sub headings for each of the motions you want to make:

- Background. Give the history of the case in a paragraph. When where you were divorced, how many children do you have, what are their ages, what previous motions have been made, what was previously decided and by which Judge ? This helps the court set the scene. If you look at any of the appellate decisions you will see they always start off with the background. Try and do the same when you write your certification.
- Go through each of your motions with a separate numbered paragraph and heading. e.g. Emancipation, Child Support etc.. State the facts for which you have personal knowledge and outline to the court why you should gain the relief you seek. Include references to any exhibits or supporting documents that support your case. Do everything you can to make it easier for the court to understand the merits of your position e.g.

Emancipation

“My twenty one year old son John should be emancipated effective May 31, 2006, the date of his graduation from Rutgers with a Bachelor of Science degree. A copy of his listing in the degree ceremony booklet is attached as exhibit A.”

- Make sure that you provide the court with copies of prior orders e.g. if you are seeking to lower child support, send the court a copy of the most recent order and any orders that have modified it in the past. If you are seeking to enforce litigant’s rights make sure you include a copy of the order that you are seeking to enforce. The court does not routinely request your court file, so make it easy for the court by providing all the information that might be needed to decide your case.
- Provide a copy of the property settlement agreement if you are trying to enforce the terms e.g. each party shall pay 50% of unreimbursed medical expenses. Don’t assume the court will bother to find your file which may be archived in Trenton and not readily available. If you are missing copies of any paperwork then go to the family division offices before you file your motion and ask them for copies, which are available for a small fee.
- If you are going to attach your own certification, don’t forget to include the magic words, “ I certify that the foregoing statements made by me are true etc.” at the end. Also put in section 2, see attached certification. You should still sign form B at the bottom.

4. Form C: Proposed Order

An order is the document the judge signs that puts into effect his or her decision. Sometimes the judge will write their own order e.g. you will see orders that say “court prepared.” Typically, the judge prefers to mark up the orders supplied by the parties, and the court rules require every party making a motion or cross-motion to supply a proposed form. As an example if one party brings a motion to decrease child support their order may say:

“The plaintiff’s child support (CS#7654321) shall be decreased from \$185/week to \$____/week effective, August 12 2006 the filing date of this motion.”

The Judge if they agree with the order can fill in the blank on the amount, and then stamp “GRANTED” or if they don’t grant your motion can them stamp it as “DENIED”. With child support calculations, you can assume the court will run the guidelines on their computer, so it is OK to leave blanks if you don’t know the new amount. The secret or writing orders is to make them unambiguous and specify the relief you are looking for. The problem with Form C is it really does not have enough space on it, and is too cramped in how it is set out.

5. Form D – Certification of service

If the opposing party is not represented by an attorney, then sometimes certified mail goes uncollected. To avoid any delay as a result of having to resend motion papers, one suggestion is to send the motion papers by both certified and regular mail. That way if the certified mail is uncollected but the regular mail is not returned as “gone away” etc, you have made effective service.

6. Form E – Notice to Litigants

Don’t forget to include this in the motion pack that you send to the opposing party and the court. It’s important the court sees that it is included in the motion papers due to the

information it states. Do read it – it is very relevant, and explains in more detail the dates that motions are heard and papers need to be filed in response.

7. Form G – Financial Statement for Summary Support actions

For post judgment FM motions, Form G is not required. Instead a case information statement (CIS) is required for certain motions. Paper copies of this document can be obtained from the courthouse or online at the [New Jersey Judiciary web-site](#). The CIS goes into a lot more detail about your income, expenses and assets. It also requires attachments to be sent in e.g. tax returns and pay stubs, so filling it out properly can take some time. A current CIS is required for all motions involving custody, support, alimony or equitable distribution. If you are bringing a motion to modify child support or alimony then you also need to supply the court with the previous CIS that was filed at the time the alimony or child support was set. The court will then compare the current CIS with the past CIS and see how your financial circumstances have changed. Failure to complete a CIS or send in a prior CIS is a common deficiency with pro-se motions. If by any chance you are bringing a motion for child support, alimony or maintenance for the first time then you also need to complete a confidential litigant's information sheet (CLIS). Again this can be obtained in the courthouse or [on-line](#).

Failure to submit a required CIS or CLIS can delay your motion or worse still may result in the judge making a decision based on inadequate information that could take a considerable amount of time and energy to correct.

8. Form H: Letter to the Clerk of the Superior Court

This is effectively the cover letter that you send to the court on top of your motion papers, together with a filing fee of \$30 after you have mailed the motion papers to the opposing party and probation (if required). You can bring the papers to court and pay the fee in cash otherwise you need to mail payment with the forms.

A brief comment on exhibits or supporting documents – put them in tabbed sections, A, B, C and where appropriate use summary tables to help the court work out what has happened e.g. which expenses have been paid and which haven't.

Finally, good luck – bringing a motion yourself in family motion can be daunting, but if you cannot afford an attorney to represent you, then it can be done pro-se and I hope that the few form filling tips contained in this article will prove helpful.

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