Instructions: Opposing a Motion

These forms were prepared by the Justice & Diversity Center, a nonprofit organization, and are not official court forms.

Checklist

This packet provides a general Opposition to a Motion form. **This packet is also available in a fillable pdf version on the Court's website at www.cand.uscourts.gov/Legal-Help-Center-Templates.** This packet includes the following forms:

- **Opposition to Motion**
- **Declaration in Support of Opposition to Motion**
- **Certificate of Service**

General Instructions

A.   These forms can be used to file an Opposition to Motion in the Northern District Court of California. An Opposition lets you argue against your opponent's request for the Court to do something, such as to grant a motion to dismiss your complaint.

B.   **Fill out each of the included forms COMPLETELY**. Suggestions are provided *[in brackets and italics that look like this]* to help you fill in the blanks. If a blank does not apply to you, write "not applicable." **Be sure to sign and date each form.**

C.   **Serving and Filing the Papers**. Make sure that a copy of all of the opposition forms in this packet is served on the opposing party in one of the ways listed on the Certificate of Service. Have the person who served the opposition papers fill out the Certificate of Service. You can do this yourself. Then, mail or hand-deliver the **original plus two copies** of the forms and Certificate of Service to the Clerk's Office at the court to which you were assigned. The Clerk will take the original and one copy. The other copy is for you to keep after it is stamped by the Clerk. If you file by mail, include a self-addressed, stamped envelope so that the Clerk can send a copy back to you.

D.   You must tell the Clerk right away if your mailing address changes. If the Court is unable to contact you, you may miss important deadlines, causing you to lose your case.

More Information

This packet does NOT tell you everything you need to know about opposing a motion. **Before you file your opposition,** we recommend that you:

- If your case is in the San Francisco/Oakland federal courthouse, make an appointment with the **Legal Help Center** for free legal information and advice by calling 415-782-8982 OR sign up at 450 Golden Gate Ave., S.F., 15th Floor, Room 2796 OR 1301 Clay Street, Oakland, 4th Floor, Room 470S. If your case is in San Jose, make an appointment

with the **Federal Pro Se Program** by calling (408) 297-1480 OR by signing up at 280 South First Street, S.J., Room 2070.

- Read Chapter 11 of the **Handbook for Pro Se Litigants** for an explanation of what an opposition is and how to write one, available at the Clerk's Office or www.cand.uscourts.gov/prosehandbook.

1   Your name:_____

2   Address:_____

3   _____

4   Phone Number:_____

5   E-mail Address:_____

6   Pro Se

7

8   **UNITED STATES DISTRICT COURT**
                  NORTHERN DISTRICT OF CALIFORNIA
9

10   _____   )   Case Number: _____
)
11   _____   )   **OPPOSITION TO MOTION** _____
)
12   )   _____
              Plaintiff(s),   )
13   )   _____
         vs.   )
14   )
     _____   )   DATE: _____
15   )
     _____   )   TIME: _____
16   )
     _____   )   COURTROOM: _____
17   )
     _____   )   JUDGE: Hon. _____
18   )
)
19   Defendant(s).   )
     _____   )
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23   *[Before completing the memorandum, read the Pro Se Handbook, Chapter 11. The*
24   *memorandum should include a statement of facts and an argument section. You can also include*
     an introduction.]
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     OPPOSITION TO MOTION _____
     CASE NO. _____; PAGE ___ OF ___ *[JDC TEMPLATE]*

I.   STATEMENT OF FACTS

*[Give a brief statement of the **facts** that are relevant to this opposition.]*

OPPOSITION TO MOTION _____

CASE NO. _____; PAGE ___ OF ___ *[JDC TEMPLATE]*

II.   ARGUMENT

*[Explain **why** the Court should not grant the motion. Identify the laws and other legal authorities that apply to your case. If the other side cited laws or cases, explain why those do not apply, or the situation in this case is different.]*

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OPPOSITION TO MOTION _____

CASE NO. _____; PAGE ___ OF ___ *[JDC TEMPLATE]*

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[If the memorandum is longer than <u>ten</u> pages of writing, you must include a TABLE OF
28 *CONTENTS and TABLE OF AUTHORITIES. These pages go before the Statement of Facts.]*

OPPOSITION TO MOTION _____

CASE NO. _____; PAGE ___ OF ___ *[JDC TEMPLATE]*

1	**III. CONCLUSION**
2	Based on the foregoing, I request that the Court deny the Motion.
3	
4	*[Check your judge's rules about how long this document can be. In general, it cannot be longer than twenty-five pages of writing, but your judge may have a different rule.]*
5	
6	
7	Respectfully submitted,
8	
9	Date: _____ Signature: _____
10	Printed name: _____
	Pro Se
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13	*[All parties who are joining in this opposition must sign, date, and print their names here. Attach another page if you need to.]*
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OPPOSITION TO MOTION _____

CASE NO. _____; PAGE ___ OF ___ *[JDC TEMPLATE]*

[If you need to insert additional pages into the memorandum, copy this template.]

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OPPOSITION TO MOTION _____

CASE NO. _____; PAGE ___ OF ___ *[JDC TEMPLATE]*

Your name:

Address:

Phone Number:

E-mail Address:

Pro Se

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

	)	Case Number:
	)	
_____	)	**DECLARATION OF**
	)	
_____	)	*[name]* _____
Plaintiff(s),	)	
	)	_____
vs.	)	
	)	**IN SUPPORT OF OPPOSITION TO**
_____	)	**MOTION**
	)	
_____	)	
	)	
_____	)	
	)	
_____	)	
	)	
_____	)	
Defendant(s).	)	
_____	)	

In support of *[write "Plaintiff's" or "Defendant's"][title of opposition]*, _____

_____

_____

I, *[name]* _____

declare as follows:

//

//

DECLARATION OF _____

CASE NO. _____ PAGE NO. __ OF __ [JDC TEMPLATE]

1

In the first paragraph, explain who you are and how you are connected to the party or events relevant to the lawsuit. If you are the Plaintiff or Defendant, say so here. If you are a witness, say how you are involved.

2

3   1.   I am _____

4   _____

5   2.   I have personal knowledge of all facts stated in this declaration, and if called to

6   testify, I could and would testify competently thereto.

7   *Continue writing facts that support the argument that the Court should not grant the motion. Write each fact in a separate paragraph, and number each paragraph. Add additional sheets of paper as necessary. You may only testify to facts or occurrences that you have personal knowledge of or that you personally witnessed. Explain how you know each fact.*

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DECLARATION OF _____

CASE NO. _____ PAGE NO. __OF__ [JDC TEMPLATE]

[Insert this page if you need extra space. Make extra copies before you write on it.]

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DECLARATION OF _____

CASE NO. _____ PAGE NO. __OF__ [JDC TEMPLATE]

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12   WHEREFORE, I respectfully ask the Court to deny the above-referenced motion.

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14   I declare under penalty of perjury that the foregoing is true and correct and that this

15 declaration was executed on *[date]* _____.

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18 Date: _____   Signature: _____

19   Printed name: _____

20   Address: _____

21   Phone Number: _____

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DECLARATION OF _____

CASE NO. _____   PAGE NO. __OF__ [JDC TEMPLATE]

CERTIFICATE OF SERVICE

Use this form to show that a paper or document (other than a complaint) was served (sent or delivered) to an opposing party in accordance with Federal Rule of Civil Procedure 5. A different form is needed to serve a complaint under Federal Rule of Civil Procedure 4.

Case name: _____

Case number: _____

What document was served? *(Write the full name or title of the document or documents, e.g., "Plaintiff's Opposition to Defendant's Motion for Summary Judgment.")*

Title(s):_____

_____

How was the document served? *(Check one.)*
- □ Placed in U. S. Mail
- □ Sent by fax
- □ Hand-delivered
- □ Sent by delivery service (e.g., FedEx or UPS)

To whom was the document sent? *(Write the full name, address, and fax number of everyone who was sent the document. Usually, they will be the lawyers for the opposing parties.)*

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When were the documents served? *(When were they mailed, faxed, or delivered?)*

Date: _____

Who served the documents? *(Whoever puts it into the mail, faxes, hand-deliveres, or sends by delivery service should print his/her name, address and sign. You can also do this yourself.)*

I declare under penalty of perjury under the laws of the United States of America that the

information in this certificate of service is true and correct.

Signature: _____

Printed name: _____

Address: _____

CERTIFICATE OF SERVICE [JDC TEMPLATE]   *Rev. 6/2013*