

In the course of any proceedings before the Court, a party may, for example, need to seek an order from a judge or a prothonotary to take a certain step or measure under the [Federal Courts Rules](#) or seek instructions on the handling of a complex issue. When this situation arises, a party may prepare a motion that will either be submitted to the Court **in writing** or be presented **in person at a general or special sitting** of the Court (see [General Sitings](#)).

Consideration should also be given to making an informal request to the Court. Provided that certain conditions are met, a party may be relieved from the requirement to bring a formal motion to obtain an order of the Court. For more information, we invite you to consult the [Notice to the Parties and the Profession](#) dated August 25, 2017 on informal requests for interlocutory relief.

Motion with Personal Appearance at General Sitings

A motion may be made presentable at a periodic hearing day of the Court (General Sitting) in one of the cities and on one of the days provided by rule 34 as long as its duration will not exceed 2 hours.

Motion with Personal Appearance at Special Sitings

If the hearing of a motion is likely to be more than 2 hours, an informal request (by letter) under Rule 35 must be made to the Judicial Administrator of the Federal Court for a special hearing date.

Motion in Writing

A motion may be made on the basis of written representations and without personal appearance of the parties: Rule 369. This is a less expensive and more convenient option when the parties are in different cities, when the matter is not too complex, or when the parties agree on the outcome of the motion.

Contents of a Notice of Motion (Form 359)

The moving party must prepare a notice of motion that sets out:

- other than a motion in writing, the time and place at which the motion will be heard and the estimated duration of the hearing (if less than 2 hours - otherwise the notice of motion should be accompanied by an informal request for a special hearing date)
- the relief sought
- the grounds intended to be argued
- a list of the documents / materials to be used for the motion

Motion Record of Moving Party

The moving party must serve and file a motion record containing, on consecutively numbered pages and arranged in the following order:

- a table of contents
- the notice of motion
- all affidavits and other material to be used for the motion (any facts to be relied on by the party and that do not appear on the Court file must be contained in an affidavit)
- portions of transcripts of cross-examinations (if any)
- written representations OR a memorandum of fact and law

Service and Filing of Moving Party's Motion Record

The motion record must be served and filed at least 3 days before the day set out in the notice for the hearing of the motion (for a motion with personal appearance at a general sitting).

The Court may hear the motion on less than 3 days' notice if all parties consent or if the moving party satisfies the Court of the urgency of the motion.

Motion Record of Responding Party

The responding party's motion record must contain, on consecutively numbered pages, arranged in the following order:

- a table of contents
- all affidavits and other material to be used by the responding party
- portions of transcripts of cross-examinations (if any)
- written representations OR memorandum of fact and law
- any other filed material not contained in the moving party's motion record

A responding party who objects to the motion being decided in writing may indicate in its written representations or memorandum of fact and law the reasons why the motion should not be dealt with in writing. The Court may decide the motion in writing or fix a time and place for an oral hearing of the motion.

Service and filing of Responding Party's Motion Record

The responding party's motion record must be served and filed no later than by 2:00 p.m. on the day that is 2 days before the day of the hearing (for a motion with personal appearance at a general sitting).

Both parties are entitled to conduct cross-examinations on affidavits filed in support of or in opposition to the motion. In such case, directions may be sought from the court if this prevents the parties from meeting any of the deadlines provided by the Rules for serving and filing of any documents.

Rules applicable to a motion in writing only

- There is no deadline for service and filing of the moving party's motion record.
- The responding party's motion record must be served and filed within 10 days following service of the moving party's motion record.
- A moving party may serve and file written representations in reply within 4 days after being served with the responding party's motion record. These written representations should not include any new evidence.

IMPORTANT: Both the moving party and the responding party will need to serve and file a memorandum of fact and law if the motion is for summary judgment or summary trial, an interlocutory injunction, determination of a question of law, the certification as a class proceeding or if the Court so orders.