

Instructions: Opposing a Motion for Summary Judgment

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 for Summary Judgment form. **This packet is also available in a fillable pdf version on the Court's website at www.cand.uscourts.gov/civillitpackets**. This packet includes the following forms:

- **Opposition to Motion for Summary Judgment**
- **Declaration in Support of Opposition to Motion for Summary Judgment**
- **Certificate of Service**

General Instructions

A. These forms can be used to file an Opposition to a Motion for Summary Judgment or a Motion for Partial Summary Judgment in the Northern District Court of California. An Opposition lets you argue against your opponent's request for the Court to grant a motion for summary judgment against you.

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 are 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:

- 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 18 of the **Handbook for Pro Se Litigants** for an explanation of what a summary judgment motion is and how to oppose one. The Handbook is 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

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

10 _____) Case Number: _____
11 _____) **OPPOSITION TO MOTION FOR**
12 _____) **SUMMARY JUDGMENT**
13 Plaintiff(s),)
14 vs.) DATE: _____
15 _____) TIME: _____
16 _____) COURTROOM: _____
17 _____) JUDGE: Hon. _____
18 _____)
19 Defendant(s).)
20 _____)

21 *[Full name]* _____
22 respectfully submits this Opposition to Motion for Summary Judgment.
23
24 *[Before completing the rest of the memorandum, read the Pro Se Handbook, Chapter 18.*
25 *The memorandum should include each of the parts I-III that follow. Each part should have a*
26 *number and a title.]*
27
28

1 **I. STATEMENT OF FACTS**

2 *[A brief statement of the **facts** that are relevant to this opposition. When you refer to*
3 *specific facts, those facts should also appear in a DECLARATION, which you must submit with*
4 *this motion.]*

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1 **II. LEGAL STANDARD**

2 The moving party has the burden of establishing the absence of a genuine dispute of
3 material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). “Conversely, to avoid
4 summary judgment, the nonmovant need only designate specific facts showing that there is a
5 genuine issue for trial.” *Makaeff v. Trump Univ., LLC*, 736 F.3d 1180, 1189 (9th Cir. 2013)
6 (citation and quotation marks omitted). The court must view the evidence in the light most
7 favorable to the nonmovant and draw all reasonable inferences in the nonmovant’s favor. *Clicks*
8 *Billiards Inc. v. Sixshooters Inc.*, 251 F.3d 1252, 1257 (9th Cir. 2001). “Where conflicting
9 inferences may be drawn from the facts, the case must go to the jury.” *Pyramid Technologies,*
10 *Inc. v. Hartford Cas. Ins. Co.*, 752 F.3d 807, 818 (9th Cir. 2014) (citation and quotation marks
11 omitted).

12 **III. ARGUMENT**

13 *[Explain why the Court should not grant the motion by identifying each of the facts which*
14 *could affect the outcome of the case that are in dispute between you and the party bringing the*
15 *motion. After you state a fact in this section, identify the DECLARATION paragraph or exhibit*
that contains the fact you are using to support your position. If an exhibit is more than one page,
specify the relevant page number.]

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

IV. EVIDENTIARY OBJECTIONS

[If you have legal objections to the evidence submitted by the party bringing the motion, state them here. If you have no objections, leave this page out. When you make a legal objection, you are asking the court to ignore a certain statement or document submitted by the party bringing the motion. Common reasons why the court may not consider evidence are: (1) the person making the statement lacks personal knowledge because the person did not see or hear the information that he or she is telling the court about; (2) the statement is hearsay because the person who made the statement originally is not the one submitting it to the court; (3) the person giving an opinion is not an expert on the subject.]

	Evidence <i>[Identify the declaration, as well as the paragraph number, page and line number, and/or exhibit number to which you are objecting]</i>	Objection <i>[Check box; list any other legal objection]</i>
1		<input type="checkbox"/> Lack of personal knowledge <input type="checkbox"/> Hearsay <input type="checkbox"/> Improper opinion <input type="checkbox"/> <i>[List objection]</i>
2		<input type="checkbox"/> Lack of personal knowledge <input type="checkbox"/> Hearsay <input type="checkbox"/> Improper opinion <input type="checkbox"/>
3		<input type="checkbox"/> Lack of personal knowledge <input type="checkbox"/> Hearsay <input type="checkbox"/> Improper opinion <input type="checkbox"/>
4		<input type="checkbox"/> Lack of personal knowledge <input type="checkbox"/> Hearsay <input type="checkbox"/> Improper opinion <input type="checkbox"/>
5		<input type="checkbox"/> Lack of personal knowledge <input type="checkbox"/> Hearsay <input type="checkbox"/> Improper opinion <input type="checkbox"/>

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

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OPPOSITION TO MOTION FOR SUMMARY JUDGMENT

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

1 Your name: _____
2 Address: _____
3 _____
4 Phone Number: _____
5 E-mail Address: _____

6 Pro Se

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

10 _____) Case Number: _____

11 _____) **DECLARATION OF [name]**

12 **Plaintiff(s),**) _____

13 **vs.**) _____

14 _____) **IN SUPPORT OF OPPOSITION TO**
15 _____) **MOTION FOR SUMMARY JUDGMENT**

16 _____)

17 _____)

18 _____)

19 **Defendant(s).**)

20 _____)

21
22 I, [name] _____

23 declare as follows:

24 //

25 //

26 //

27 //

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

3 I am _____

4
5 4. 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*
8 *motion. Write each fact in a separate paragraph, and number each paragraph. Add additional*
9 *sheets of paper as necessary. You may only write about facts or occurrences that you have*
10 *personal knowledge of or that you personally witnessed. Explain how you know each fact.*

11 *If you have documents that support your argument, you may attach them to this*
12 *declaration. Using a separate paragraph and separate exhibit letter for each document, explain*
13 *what the document is and how you know what the document is. Example: "3. Attached as*
14 *Exhibit A is a copy of a letter that I received from [name] on [date] [by mail]."*

12 3. _____

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DECLARATION OF _____ IN OPPO. TO MSJ
CASE NO. _____ PAGE NO. _OF_ [JDC TEMPLATE]

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I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed on *[date]* _____.

Signature: _____

Printed name: _____

Address: _____

Phone Number: _____

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

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DECLARATION OF _____ IN OPPO. TO MSJ
CASE NO. _____ PAGE NO. _OF_ [JDC TEMPLATE]

CERTIFICATE OF SERVICE

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

4 **Case name:** _____

5 **Case number:** _____

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

8 Title(s): _____

9
10 **How was the document served?** (Check one.)

- 11 Placed in U. S. Mail
12 Sent by fax
13 Hand-delivered
14 Sent by delivery service (e.g., FedEx or UPS)

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

17 _____

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20 _____

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

22 Date: _____

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

25 I declare under penalty of perjury under the laws of the United States of America that the
26 information in this certificate of service is true and correct.

27 Signature: _____

28 Printed name: _____

Address: _____