

Connecticut Judicial Branch Self-Represented Parties Information Series

Motion to Strike the Complaint

Screen 1

Welcome to the Connecticut Judicial Branch Law Libraries Self-Represented Parties Information Series

Screen 2

Connecticut Civil Lawsuit: Motion to Strike a Complaint

In this overview, we will discuss the grounds and general procedures for filing a Motion to Strike a Complaint in a Connecticut civil lawsuit. Getting in touch with a lawyer to help you is a good idea. But, if you decide to act as your own lawyer the following is information to think about regarding this motion.

Screen 3

Some words to know

A motion is a pleading or paper filed in a case, usually written, asking the court to make a decision or judgment on something. It is filed in the Clerk's Office. To strike means to remove or delete a portion or all of a legal document. Although a party may file a Motion to Strike a portion of any type of pleading, in this video we will only be discussing a Motion to Strike a Complaint.

Legal sufficiency means that something, such as a claim, allegation, or defense, is enough to meet the needs or requirements under the law. An Allegation is a statement or fact in the Complaint that is claimed to be true or provable by the Plaintiff. A Cause of Action is the events or series of facts that gives the Plaintiff a legal reason to sue. A Cause of Action, also referred to as a "Count" in the Complaint, can be made up of several related allegations.

Screen 4

Some more words to know

The Prayer for Relief is the part of the Complaint that states what relief, or result, the Plaintiff is seeking to get from the lawsuit. This is where the Plaintiff states specifically what he or she is asking to get from the Defendant. Relief can be in the form of money, a physical good or item, or the completion of a contract or service. This may also be referred to as the "Demand."

A Necessary Party is a person, business, or governmental entity whose interests are so connected with the lawsuit that he or she should be joined, or brought into, the lawsuit as a party in order to fully resolve or settle the matter.

Screen 5

Connecticut Practice Book

Before starting to plan your response to a civil complaint, you should read the relevant court rules in the Connecticut Practice Book. The court rules tell you what you and the other parties must do to move a case through the court. If you do not follow the court rules you may hurt, or even lose, your case. The Connecticut Practice Book can be found on the Judicial Branch website or at any Judicial Branch Law Library.

Screen 6

Order of Pleadings

Connecticut Practice Book section 10-6 talks about the pleadings, motions, or papers, that a defendant can file in response to the complaint, and the order in which those pleadings must be filed. For more information on the responsive pleadings and their order, please view our video First Steps as a Defendant.

A Motion to Strike a Complaint (from here on referred to in this video as just Motion to Strike) is listed as the third responsive pleading a defendant may file. According to Connecticut Practice Book section 10-7, once you file any responsive pleading that appears later in the list in section 10-6, you will waive, or give up, your right to file any responsive pleading that appears earlier in the list. Under this rule, if you file a Motion to Strike before you file a Motion to Dismiss or a Request to Revise, you may give up your option to file those pleadings. Please see our video on Motion to Dismiss since there is an exception to this rule.

Similarly, if you file an Answer as your first response, you give up your right to file a Motion to Strike. You will want to carefully consider if you want to file a Motion to Strike, or any other response, before you file an Answer.

Connecticut Practice Book section 10-8 talks about the time in which the first responsive pleading, and most later pleadings, must be filed.

Screen 7

Reasons to file a Motion to Strike

Connecticut Practice Book section 10-39(a) discusses the reasons for which a Defendant might file a Motion to Strike. Generally, a Motion to Strike is filed to contest, or question; the legal sufficiency of any one or more of the allegations or causes of action, or the prayer for relief, the absence or missing of a necessary party, the joining of two or more causes of action which cannot be properly united in one Complaint, or the legal sufficiency of the Answer to the Complaint.

Screen 8

According to Connecticut Practice Book section 10-39(a)(1), you may want to file a Motion to Strike if you feel that any allegation or cause of action in the Complaint is not legally sufficient, or that the claim fall short of what is needed or required under the law for the court to grant relief. For example, a Complaint states that a defendant's actions involving an accident were "willful and malicious," meaning the Defendant did what he or she did on purpose to cause harm to the Plaintiff. The Defendant files a Motion to Strike this claim since the Plaintiff offers no facts that support the claim or show that the Defendant's actions were "willful and malicious."

Screen 9

Connecticut Practice Book section 10-39(a)(2) says that a prayer for relief, or what remedy the Plaintiff is asking for as a result of the lawsuit, must be something that can be granted by the court under the law. If the Plaintiff seeks something that cannot be granted by the court under the law, the prayer for relief is insufficient. For example, if a prayer for relief asks for compensation for “damages” to the Plaintiff’s reputation, but nothing in the Complaint provides any facts that show the Plaintiff’s reputation was harmed, then compensation, or payment, for damages to the Plaintiff’s reputation cannot be granted by the court.

Screen 10

According to Connecticut Practice Book section 10-39(a)(3), a Motion to Strike may be filed when a necessary party who has an interest in the matter is not part of the lawsuit. The necessary party should be joined or brought into the lawsuit, or be given notice of the lawsuit as required in Connecticut Practice Book section 17-56(b). The Motion to Strike claims that unless this party is made a part of the lawsuit, the court will be unable to resolve the matter. For example, a store owner’s merchandise was damaged by a fire started by an electrician who had been hired by the landlord to fix the wiring. The store owner sues the electrician for damages but fails to include or inform the landlord. Since the landlord owns the property and is the one who hired the electrician, a party may want to make sure that the landlord is included as a party in the lawsuit or is made aware of the lawsuit.

Screen 11

A Motion to Strike may be used when two or more causes of action are together in the same complaint when they should not be in the same complaint, according to Connecticut Practice Book section 10-39(4). Say, for example, that you had some repair work done on your home, with the plumbing completed by a plumber and the electrical work completed by an electrician. You later have a dispute with both the plumber and the electrician about the cost for the work done. You cannot sue both the plumber and the electrician together in the same complaint and lawsuit. Even though both cost disputes are about work done on your home, they are two separate contracts for work with defendants who have no interest in each other’s work. They cannot be joined in the same complaint or lawsuit. Each must be sued in a separate lawsuit with its own complaint.

Screen 12

Connecticut Practice Book section 10-39(a)(5) addresses the Plaintiff’s ability to file a Motion to Strike in response to the Defendant’s Answer to the Complaint, or the Defendant’s ability to file a Motion to Strike in response to the Plaintiff’s Answer to the Defendant’s Counterclaim or Cross Complaint. Just as section 10-39(a)(1) says that a complaint must be enough to meet what is required under the law, section 10-39(a)(5) says that an Answer must also meet what is required under the law, for any relief to be granted by the court. For example, if a party files a special defense as part of his or her Answer but does not provide any facts to support the special defense, then the special defense is not sufficient under the law.

Screen 13

Connecticut Practice Book section 10-39(b) says that when writing the Motion to Strike, each claim you make that something in the Complaint is insufficient must appear as its own paragraph in the motion. These paragraphs must be numbered starting with the number 1 and continuing on as needed.

Screen 14

Here is an example of how a Motion to Strike might look. Following the proper heading and motion title, you can see that the Motion to Strike is written as directed in Connecticut Practice Book section 10-39. Note that each claim is a separate numbered paragraph.

Screen 15

Memorandum of Law

Connecticut Practice Book section 10-39(c) says a Memorandum of Law must be filed along with a Motion to Strike. A Memorandum of Law is a written document that must be filed with some motions or pleadings. It explains to the court the legal reason why the court should do what you are asking the court to do.

A Memorandum of Law must include the facts of the case, the legal reason or argument for the motion, and include the laws, legal rules, or other court cases that explain why the motion should be granted.

Connecticut Practice Book section 11-10 talks about the Memorandum of Law.

Screen 16

Connecticut Practice Book section 10-39(d) says that for claims of a missing necessary party or a party who must be notified under section 17-56(b), the Motion to Strike must provide the court with the name of the missing person or the person needing notification. The motion must also include the address of the person, or as much information as you have regarding the person's address. Finally, the Motion must tell the court the reason why this person needs to be included or made aware of the lawsuit.

Screen 17

A Motion to Strike must be properly served on all parties in accordance with Connecticut Practice Book sections 10-12 to 10-17. The rules provide information on how service is made, including the circumstances when mail and email can be used. The Motion to Strike should include a Certification page telling the Court that proper service was made on the other party or parties. After service is made, the Motion to Strike is filed with the Clerk's Office.

Screen 18

Connecticut Practice Book section 10-40(a) says that the Plaintiff or any adverse party may file an Objection to the Motion to Strike within 30 days. The Objection must

include a Memorandum of Law. That Objection shall be filed with the Clerk's Office and properly served on all parties.

Screen 19

The Clerk will assign the Motion to Strike, and any Objection, a date on the short calendar for oral argument, and both parties will need to follow the procedures for short calendar marking. The Motion should be scheduled for the arguable short calendar not less than 45 days after it is filed, unless it is a summary process matter or otherwise ordered by the judge.

Oral argument short calendar is when you and the other party, or parties, come to court and each side presents the reasons why the judge should rule in his or her favor and against the other side. The judge will have read the Motion, the Objection, and the Memorandums of Law and may ask questions to make sure he or she understands the arguments being made by both parties. The judge can make a ruling from the bench at the end of oral argument, or may issue a written ruling later.

Screen 20

Connecticut Practice Book section 10-43 states that when a Motion to Strike is based upon more than one ground, the judge will issue a written ruling, or Memorandum of Decision. This written Memorandum of Decision clarifies which requests in the Motion to Strike were and were not granted so the Plaintiff can properly amend the Complaint as required. If the Motion to Strike is based upon only one ground, a written Memorandum of Decision does not have to be issued since it is clear, if the motion is granted, what the Plaintiff needs to amend.

Screen 21

According to Connecticut Practice Book section 10-44, if the Motion to Strike is granted the Plaintiff has 15 days to rewrite the Complaint, removing what has been ordered stricken, and to file it as an Amended Complaint. Practice Book section 10-45 states that only the one or more parts or portions of the Complaint that were stricken need to be amended, and the unstricken parts of the Complaint will remain as originally written and filed. All parties must be served with copies of the Amended Complaint.

Once the Amended Complaint is filed, the Defendant then has 30 days to file his or her next responsive pleading or Answer to the Amended Complaint in compliance with Connecticut Practice Book section 10-6, Pleadings Allowed and their Order, and section 10-8, Time to Plead.

If the Motion to Strike is granted as to, either the entire Complaint or one cause of action (or count), and the Plaintiff does not file an Amended Complaint within 15 days, the Defendant can file a Motion for Judgment against the stricken Complaint or the stricken cause of action (or count).

According to Connecticut Practice Book section 10-44, the Plaintiff keeps the right to appeal the stricken Complaint or cause of action in accordance with rules 61-3 and 61-4.

Screen 22

If the Objection to the Motion to Strike is granted, the original Complaint remains the Complaint and the Defendant must respond to that Complaint. The Defendant must follow the Order of Pleadings as set out in Connecticut Practice Book section 10-6. The next responsive pleading or Answer must be filed by the Defendant within 30 days of the granting of the Objection, according to Connecticut Practice Book section 10-8.

Screen 23

According to Connecticut General Statutes section 52-119 and Connecticut Practice Book section 10-18, any Defendant who does not follow the court rules for pleading may have a ruling entered against him or her for not following the specified rules. This is called being “defaulted.”

According to the same statute and court rule, a Plaintiff who does not follow the court rules for pleading may have the case ended because he or she did not follow the specified rules. This is called being “nonsuited,” and the case is treated as if it never happened.

Screen 24

For more information regarding the Motion to Strike, please review the Law Libraries’ Motion to Strike Research Guide. From the Law Libraries’ homepage at jud.ct.gov/lawlib, click on the blue button on the right labeled Research Guides. Under Civil Research Guides, click on Motion to Strike. Here you will find references to statutes, court rules, cases, and publications with sample language for drafting a Motion to Strike.

Screen 25

This is the end of our overview. For more information please visit a Judicial Branch Law Library, a Court Service Center, or the Judicial Branch website.