

Chapter 9: Legal Writing: Motions, Notices, & Briefs

Chapter Outline:

- ✓ § 9.1 Motions
- ✓ § 9.2 Notices
- ✓ § 9.3 Briefs
- ✓ § 9.4 The Combined Motion, Notice, and Brief
- ✓ § 9.5 The Separate Motion
- ✓ § 9.6 The Separate Notice
- ✓ § 9.7 The Separate Brief
- ✓ § 9.8 The Table of Authorities
- ✓ § 9.9 The Trial Brief: Another Example
 - *Assignment*

§ 9.1 MOTIONS

Motions and *pleadings* are often collected within the same part of the client file, usually in the *Pleadings Panel*. In fact, many paralegals (and some attorneys) would have a tough time defining the difference between the two. But there is a difference. A motion is part of the procedure of litigation. A motion requests that the court issue an order. It can be oral, such as when an attorney *moves* to strike a part of a witness's testimony during the trial. However, most motions are written and occur during the pretrial stage. Motions usually request that the court take some action and are not very long. However, the motion itself does not argue. Think of the motion as the request by itself. The *reasoning* for the request (the argument) is a separate document. That is the *Brief* or, in lieu of the brief, *Points and Authorities*.

Some motions may be governed by specific standards set forth by court rule or statute. Stating the standard in the motion, then stating in the brief that the standard has been met, can strengthen the argument. For instance, in a *motion for summary judgment* (which in many jurisdictions is governed by Rule 56 in the *Rules of Civil Procedure*), the standard is very clear. Simply state the following within the motion (with reference to the appropriate rules from your jurisdiction):

The rule governing this matter is Rule 56(c) of the *Rules of Civil Procedure*.

Then, in the brief, state that those standards have been met:

In this jurisdiction, in order for a summary judgment to be granted, the moving party must establish to the Court's satisfaction that no material fact is at issue. Rule 56(c) states, "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." In this action, all material facts are agreed upon by the parties. Only issues of law will be argued in this brief.

The above is only the part of the brief that argues the power of the court to grant the motion. Some attorneys will include the above statement within the motion, which is also appropriate. Wherever it appears, if a rule establishes standards that must be met for a specific motion, a statement attesting that those requirements have been met or exceeded must be included.

Examples § 9.1 | Common Motions

Motion to Dismiss

Asking the court to end the litigation without going to trial. If successful, most dismissals are without prejudice, meaning the case can be re-filed. If the matter is dismissed with prejudice, the case may not be filed again.

Motion to Change Venue

A request that the court move the trial to another physical location. The motion is usually based on the argument that the current jurisdiction is somehow prejudicial to one of the parties.

Motion in Limine

A motion, usually made at the start of a trial, requesting that the judge rule that certain evidence may not be introduced. This is most common in criminal trials. It may also be used to limit issues or delay a final ruling on an issue.

Motion to Suppress

Request that the court not allow certain evidence to be introduced at trial.

Motion to Compel

Asks the court to make someone do something. The most common of these documents, the motion to compel discovery, is used to force a party to more fully or accurately respond to certain discovery requests. Also common is a motion to compel appearance of a witness.

Motion to Continue

This motion asks that a trial or hearing be postponed until a later point. It may also be used to request more time to respond to a motion, similar to a motion to extend (see below).

Motion to Extend

Sometimes called a *motion for enlargement of time*, this is a request asking the court to allow more time to respond to a motion or discovery.

Motion for Summary Judgment

Submitted during the *pretrial stage*, this motion asks the court to determine the outcome of a case without the jury's consideration since there are no facts in dispute. If there are no material facts in dispute, only the law needs to be applied, which is the duty of the court; thus, a trial is not necessary. While it may be filed at any point prior to trial, the Motion for Summary Judgment is often the last motion filed before trial.

Motion for Directed Verdict

A *trial stage* motion similar in effect to a summary judgment, this motion is filed during the trial after one party has presented his or her case. The opposing party submits the motion arguing that a prima facie case has not been established; therefore, the case should be ended in favor of the moving party.

Motion for Judgment NOV

A *post-trial* motion arguing that the jury made a mistake and asking the court to set aside the jury's decision, applying instead its own determination upon the matter.

Motion for a New Trial

Motion made after the trial asking the court to invalidate the results of the trial due to a specified procedural error. In many jurisdictions, this motion is required in order to appeal at some later date. On appeal, the appellant is required to have used all possible avenues for relief. This is referred to as an “exhaustion of remedies.”

Most of the motions mentioned above will require that a hearing be set, but some motions do not call for a hearing.

§ 9.2 NOTICES

A Notice helps to fulfill the requirement that all parties be informed of any communication with the court, and be given a chance to respond.

Court procedures for setting hearing dates will vary. The clerk of the court can instruct you as to those details. Once the hearing date has been set, or once the motion has been filed, all parties involved in the litigation must be informed. This is done, obviously, by a notice of hearing. The notice may be part of the motion itself, or it may be a separate document.

Often a paralegal will communicate with the judge’s clerk and the opposing party to set a hearing date that works for all.

§ 9.3 BRIEFS

Sometimes called a memorandum of law, a brief is a written legal argument. It is similar to an interoffice memo but, instead of objectively analyzing authority, the author attempts to convince the reader. The author will still use the analytical method, but when trying to convince the court, the analysis is often referred to as the argument.

The *trial brief* is a pretrial or trial-stage motion that attempts to convince the court to rule on a procedural issue in the author’s favor.

The *appellate brief* attempts to convince an appellate-level court that the trial court erred.

Briefs are in pleading form. They may be stand-alone documents or they may be combined with the related notice and motion. Some attorneys will include the argument (in place of the trial brief) as part of the motion, and title that section *Points and Authorities*. Whichever format is chosen, a *Brief* and the *Points and Authorities* are basically the same thing. Except for indented quotations, the trial brief is double-spaced.

§ 9.4 THE COMBINED MOTION, NOTICE, AND BRIEF

**DISTRICT COURT OF CLARK COUNTY
STATE OF CONFUSION**

JOHN JOHNSON,

Plaintiff,

vs.

JOY SMITH

Defendant.

**MOTION FOR SUMMARY JUDGMENT,
NOTICE, AND POINTS & AUTHORITIES**

MOTION FOR SUMMARY JUDGMENT

COMES NOW, Defendant, JOY SMITH, by and through her attorney of record, BYRON JUSTICE, ESQ. of the law offices of DAILY AND MYERS, and hereby files her Motion for Summary Judgment according to the standard set forth in SCCivR 56(c), establishing that where no material facts are in dispute, a summary judgment may be granted.

This motion is made and based upon the *Points and Authorities* attached herein, the papers, and any oral argument that may be entertained at the time of the hearing on this matter.

Dated this ____ day of _____, 20__.

By _____
Bryson Justice, Esq.
Attorney for Defendant
Address
Phone Number
Bar Number 93-257

NOTICE OF MOTION

TO: JOHN JOHNSON, Plaintiff, and

TO: BORLAND AND BORLAND, his counsel.

YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing Motion for Summary Judgment for hearing before the above-entitled court in Dept. 2, on the ____ day of _____, 20__, at the hour of _____ .m. or soon thereafter as counsel can be heard.

Dated this __ day of ____, 20__.

By _____
Bryson Justice, Esq.
Attorney for Defendant

POINTS AND AUTHORITIES

STATEMENT OF FACTS

On or about July 5, 2010, at approximately 2 p.m., Plaintiff, at her own instigation, entered onto Defendant's property for the stated purpose of handing out a brochure about area real estate. The Plaintiff had not been invited, and the brochures had not been requested by Defendant.

Upon getting no response after knocking on the front door, the Plaintiff, noticing that the garage door was open, proceeded to enter the garage with the stated intent of knocking on the house door inside the garage. To get to this door, Plaintiff was required to enter garage and walk between Defendant's car and several boxes stacked along the wall of the garage. As Plaintiff was walking through the garage, Plaintiff bumped into some of the stored boxes, causing some of them to fall upon Plaintiff, causing his alleged injuries.

Plaintiff filed suit asking the court to compensate for injuries received. Defendant claims that once Plaintiff entered Defendant's property uninvited, a trespass occurred and no liability can be placed upon Defendant.

ISSUE

1. Are there any material issues in dispute relevant to the matter before the court?

ARGUMENT

1. Are there any material issues in dispute relevant to the matter before the court?

In order for a summary judgment to be granted, the moving party must establish to the court's satisfaction that no material fact is at issue. SCCivR 56(c) states, "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." In the case at bar, all material facts are agreed upon by the parties. Only issues of law are argued in this brief.

Authority establishes that without a valid cause of action, the court must not simply dismiss, but enter judgment on behalf of the Defendant. Plaintiff's complaint fails to state a claim for which relief can be granted. In *Evers v. Wagner*, 101 Neb. 226, 699 N.W.2d 110 (1985), the Plaintiff was found to have failed to set forth elements in the complaint that would allow compensation to be awarded. In that matter, the Plaintiff only established the damages sustained in a car accident, but failed to properly establish to the court's satisfaction that the cause of the accident was the defendant's. The court held:

Upon considering a motion to dismiss or summary judgment, a court is to determine whether allegations contained in the challenged pleading are sufficient to make out the elements of a right to relief.
Evers, supra. at 115.

Defendant did not invite Plaintiff onto her property, and never requested the brochure that Plaintiff was attempting to deliver. Plaintiff's delivery was solely and completely for the benefit and advancement of the Plaintiff, who hoped to enter into a sales agreement based upon the marketing strategy of delivering brochures. Due to the lack of allegations amounting to a valid right to relief, the court is obligated to enter a summary judgment on behalf of the Defendant. In deciding a motion to dismiss or a motion for summary judgment, the court must liberally construe a plaintiff's allegations and draw every fair inference in favor of the plaintiff.

Having drawn every inference in favor of the plaintiff, if the court still finds no right to relief it must enter judgment on the Defendant's behalf. In *Repoint v. Tayaki*, 110 Tenn. 481, 474 S.W.2d 744 (1969), the court in its ruling found that even when Plaintiff was given every benefit of the doubt on contested facts, no cause of action could be sustained.

In the case at bar, there is no dispute regarding the invitee status of the Plaintiff. No presumption or imagined fact is even attempted by the complaining party. Given the similarity between the cited case above and Plaintiff's weak argument that the possibility of wrongdoing existed, a motion for summary judgment should be granted if it appears beyond doubt that the Plaintiff could prove no facts which, if accepted by the trier of fact, could entitle him to relief.

CONCLUSION

1. The Plaintiff has failed to establish a valid claim upon which relief can be granted, and the court should therefore enter judgment in defendant's favor.

By _____
Bryson Justice, Esq.
Attorney for Defendant
Address
Phone Number
Bar Number 93-257

CERTIFICATE OF MAILING

I hereby certify that on this ___ day of ___, 20___, I placed a true and correct copy of the foregoing MOTION FOR SUMMARY JUDGMENT, NOTICE, and POINTS AND AUTHORITIES in the United States mail, postage prepaid, addressed to counsel on the attached list:

(Include mailing list here, including addresses)

John Carroll, Paralegal
(Note: In some jurisdictions, the Certificate must be signed by the attorney.)

§ 9.5 THE SEPARATE MOTION

**DISTRICT COURT OF CLARK COUNTY
STATE OF CONFUSION**

JOHN JOHNSON,

Plaintiff,

vs.

JOY SMITH

Defendant.

MOTION FOR SUMMARY JUDGMENT

MOTION FOR SUMMARY JUDGMENT

COMES NOW, Defendant, JOY SMITH, by and through her attorney of record, BYRON JUSTICE, ESQ. of the law offices of DAILY AND MYERS, and hereby files her Motion for Summary Judgment according to the standard set forth in SCCivR 56(c), establishing that where no material facts are in dispute, a summary judgment may be granted.

This motion is made and based upon the Trial Brief in Support attached herein, the papers, and any oral argument that may be entertained at the time of the hearing on this matter.

Dated this ____ day of _____, 20__.

By _____
Bryson Justice, Esq.
Attorney for Defendant
Address
Phone Number
Bar Number 93-257

CERTIFICATE OF MAILING

I hereby certify that on this ____ day of ____, 20__, I placed a true and correct copy of the foregoing MOTION FOR SUMMARY JUDGMENT in the United States mail, postage prepaid, addressed to counsel on the attached list:

Jeanne Hammond, Attorney for Plaintiff
234 Novia Drive
Somewhere, USA 37849

Joshua Daniels
8390 Sommer Court
Nowhere, USA 48392

John Carroll, Paralegal
(Note: In some jurisdictions, the Certificate must be signed by the attorney.)

§ 9.6 THE SEPARATE NOTICE

DISTRICT COURT OF CLARK COUNTY
STATE OF CONFUSION

JOHN JOHNSON,

Plaintiff,

vs.

JOY SMITH

Defendant.

NOTICE OF MOTION HEARING

NOTICE OF MOTION HEARING

TO: JOHN JOHNSON, Plaintiff; and
TO: KYLE AND BORLAND, his counsel.

YOU AND EACH OF YOU, WILL PLEASE TAKE NOTICE that the undersigned will bring the foregoing *Motion for Summary Judgment* for hearing before the above-entitled court in Dept. 2, on the ____ day of _____, 2004, at the hour of _____ .m. or soon thereafter as counsel can be heard.

Dated this __ day of ____, 20__.

By _____
Bryson Justice, Esq.
Attorney for Defendant
Address
Phone Number
Bar Number 93-257

CERTIFICATE OF MAILING

I hereby certify that on this ____ day of ____, 20 __, I placed a true and correct copy of the foregoing NOTICE OF MOTION HEARING in the United States mail, postage prepaid, addressed to counsel on the attached list:

Jeanne Hammond, Attorney for Plaintiff
234 Novia Drive
Somewhere, USA 37849

Joshua Daniels
8390 Sommer Court
Nowhere, USA 48392

John Carroll, Paralegal
(Note: In some jurisdictions, the Certificate must be signed by the attorney.)

§ 9.7 THE SEPARATE BRIEF

**DISTRICT COURT OF CLARK COUNTY
STATE OF CONFUSION**

JOHN JOHNSON,

Plaintiff,

vs.

JOY SMITH

Defendant.

**TRIAL BRIEF IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT**

COMES NOW the Defendant in the matter stated above, and hereby presents her Trial Brief in support of her Motion for Summary Judgment.

STATEMENTS OF FACTS

On or about July 5, 2010, at approximately 2 p.m., Plaintiff, at her own instigation, entered onto Defendant's property for the stated purpose of handing out a brochure about area real estate. The Plaintiff had not been invited, and the brochures had not been requested by the Defendant.

Upon getting no response after knocking on the front door, the Plaintiff, noticing that the garage door was open, proceeded to enter the garage with the stated intent of knocking on the house door inside the garage. To get to this door, Plaintiff was required to enter garage and walk between Defendant's car and several boxes stacked along the wall of the garage. As Plaintiff was walking through the garage, Plaintiff bumped into some of the stored boxes, causing some of them to fall upon Plaintiff, causing his alleged injuries.

Plaintiff filed suit asking the Court to compensate for injuries received. Defendant claims that once Plaintiff entered Defendant's property uninvited, a trespass occurred and no liability can be placed upon Defendant.

ISSUE

1. Are there any material issues in dispute relevant to the matter before the court?

ARGUMENT

1. There are no material issues in dispute relevant to the matter before the court.

In order for a summary judgment to be granted, the moving party must establish to the court's satisfaction that no material fact is at issue. SCCivR 56(c) states, "The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." In the case at bar, all material facts are agreed upon by the parties. Only issues of law are argued in this brief.

Authority establishes that without a valid cause of action, the court must not simply dismiss, but enter judgment on behalf of the Defendant. Plaintiff's complaint fails to state a claim for which relief can be granted. In *Evers v. Wagner*, 101 Neb. 226, 699 N.W.2d 110 (1985), Plaintiff was found to have failed to set forth elements in the complaint that would allow compensation to be awarded. In that matter, the Plaintiff established only the damages sustained in a car accident, but failed to properly establish to the court's satisfaction that the cause of the accident was the defendant's. The court held:

Upon considering a motion to dismiss or summary judgment, a court is to determine whether allegations contained in the challenged pleading are sufficient to make out the elements of a right to relief. 699 S.W.2d at 114

In the instant case, Plaintiff has not established that Defendant had any liability, that the Plaintiff has acknowledged that Defendant did not invite Plaintiff to her property, and never requested the brochure Plaintiff was attempting to deliver. Plaintiff's delivery was solely and completely for the benefit and advancement of the Plaintiff, who hoped to enter into a sales agreement based upon the marketing strategy of delivering brochures. Due to the lack of allegations amounting to a valid right to relief, the court is obligated to enter a summary judgment on behalf of the Defendant.

In deciding a motion to dismiss or a motion for summary judgment, the court must liberally construe a plaintiff's allegations and draw every fair inference in favor of the Plaintiff. Having done so, if the court still finds no right to relief, it must enter judgment on the defendant's behalf. In *Repoint. v. Tayaki.*, 110 Tenn. 481, 474 S.W.2d 744 (1969), the court in its ruling found that even when the Plaintiff was given every benefit of the doubt on contested facts, no cause of action could be sustained. The court dismissed the action and held, "No single presumption or imagined fact may sustain a cause of action as valid when even such perceived wrongdoings do not directly relate to a quantifiable damage suffered upon the Plaintiff." 474 S.W.2d at 751.

In the case at bar, there is no dispute regarding the invitee status of the Plaintiff. No presumption or imagined fact is even attempted by the complaining party. Given the similarity between the case cited above and the Plaintiff's weak argument that the possibility of wrongdoing existed, a Motion for Summary Judgment should be granted if it appears beyond doubt that the Plaintiff could prove no facts that, if accepted by the trier of fact, could entitle him to relief.

CONCLUSION

1. The Plaintiff has failed to establish a valid claim upon which relief can be granted, and the Court should therefore enter judgment in Defendant's favor.

Dated this ____ day of _____, 20__.

By _____
Bryson Justice, Esq.
Attorney for Defendant
Address
Phone Number
Bar Number 93-257

CERTIFICATE OF MAILING

I hereby certify that on this ____ day of ____, 20__, I placed a true and correct copy of the foregoing TRIAL BRIEF IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT in the United States mail, postage prepaid, addressed to counsel on the attached list:

Jeanne Hammond, Attorney for Plaintiff
234 Novia Drive
Somewhere, USA 37849

Joshua Daniels
8390 Sommer Court
Nowhere, USA 48392

John Carroll, Paralegal
(Note: In some jurisdictions, the Certificate must be signed by the attorney.)

§ 9.8 TABLE OF AUTHORITIES

A table of authorities is simply an index of all materials relied upon in the preceding legal document. While not required in most legal writings (except appellate briefs) the table of authorities is a nice addition, making authorities within the document easier to locate. The table may be arranged in two ways:

Grouped by Kind of Authority

The most common form of table lists the authorities by groups: Constitutions, statutes, cases, and so forth. The highest form of authority is listed first. Within each group, the authorities should be listed by order of their appearance within the document.

Listed in Order of Appearance

Also acceptable is a table of authorities that lists the authorities in the order in which they appear in the document.

The table of authorities is attached at the end of the brief. Also attach copies of any authorities listed in the table of authorities, stapling them behind the table and brief.

Example § 9.8 | Table of Authorities

TABLE OF AUTHORITIES

Constitutions

U.S. Const. Art. I, § 7 2
 Nev. Const. Art. X, § 2 2

Statutes

N.C.G.S. § 200.160 3
 29 U.S.C. § 253 3, 4

Cases

Ashby v. Gant, 691 F. Supp. 214 (D. Nev. 1992) 1, 2
Chart v. Jones, 97 F.3d 1163 (10th Cir. 1996) 2, 4
Davis v. Bauer, 746 F. Supp. 523 (D. Nev. 1994) 5

Court Rules

N.R.C.P. 56 (a)(1) 5

Administrative Regulations

31 C.F.R. § 114.80(a)(1977) 2

Secondary Authority

4 Am. Jur. 2d, *Attorneys* § 112 (1979) 3

67 C.J.S., *Real Property* § 42 (1983) 2

Restatement (Second) of Torts § 349 (1972) 5

§ 9.9 THE TRIAL BRIEF - ANOTHER EXAMPLE

**DISTRICT COURT
YOUR COUNTY, YOUR STATE**

* * *

JANET SMITH,)	
Plaintiff,)	CASE NO:
)	DEPT NO:
vs.)	
)	DCKT NO:
NICK DICKERSON,)	
and DOES I through)	
V, inclusive,)	
and ROE CORPORATIONS)	TRIAL BRIEF
I through V, inclusive,)	
)	
Defendants.)	
_____)	

COMES NOW the Plaintiff, JANET SMITH, by and through her attorneys and hereby files Plaintiff's Trial Brief in the action titled above.

FACTS OF THE CASE

On or about July 1, 2011, Plaintiff (hereinafter "SMITH") applied for a position as systems analyst with Defendant Roe Corporation (hereinafter "ROE CORP."). She was notified by letter that her interview would take place on July 5, 2011 at 9 a.m. at ROE CORP. with Defendant Nick Dickerson. SMITH arrived at the interview wearing a blue dress cut just above the knee. SMITH entered Mr. Dickerson's office.

Immediately upon entering his office, Defendant Dickerson asked the question, “Do you always wear skirts that short, or just till you get the job?” SMITH indicated that she would abide by any dress code the corporation deemed appropriate, and asked if her dress was too short. Defendant Dickerson replied, “Not for me.” During the rest of the interview, Defendant Dickerson seemed to concentrate more on personal questions than SMITH’s job qualifications. Defendant Dickerson asked whether SMITH was available to work evenings if necessary, to travel with Defendant, and whether or not SMITH was happily married.

After approximately fifteen minutes of the interview, SMITH informed Defendant that she was interested in a job only and felt uncomfortable with the nature of the questions being asked in the interview. Defendant told SMITH that “You need to lighten up.” When SMITH said she would be glad to continue the interview if it concentrated on her work qualifications only, Defendant immediately rose from his chair and declared, “I think the interview just ended.”

Later that day, at approximately 4 p.m., Defendant called SMITH at her home. Defendant said that he regretted that the interview had ended on a bad note. He suggested that they meet at a bar to “get to know each other a bit better.” SMITH asked whether she was still in the running for the job, and the Defendant said it depended on how the meeting that night went. SMITH declined the offer to meet the Defendant.

SMITH subsequently received notice that she had not been selected for the position. SMITH alleges that she was denied the position due to her reluctance to engage in activities and conduct outside the job description for the position.

ISSUE

1. Can a potential employer who sexually harasses an applicant be sued for such conduct?

ARGUMENT

1. Can a potential employer who sexually harasses an applicant be sued for such conduct?

Case law establishes that an applicant may not be denied employment due to discrimination. In *Byers v. Helton Industries*, 994 F.2d 1248 (9th Cir. 1994), a woman applying for a secretarial position was told that she did not receive the position because the employer was looking for a single applicant. The reason given was that a married woman would have distractions, from pregnancy and child care, to marital difficulties or divorce, and that the company found single secretaries more dependable. The woman sued, arguing discrimination based upon marital status. The 9th U.S. Circuit Court of Appeals upheld the lower court decision in holding:

In seeking employment, an applicant has the right to expect consideration based only upon relevant skills to the position sought. To hire based on real or perceived preconceptions of potential availability due to applicant's marital status constitutes ad hoc discrimination. Only skills and qualifications relevant to the actual position being sought may be considered in hiring, unless aspects of the job reasonably tend to require external qualifications to be considered.

994 F.2d at 1253

In the instant case, the discrimination was based upon the plaintiff's unwillingness to submit to the flirtatious nature of the interviewer. As soon as she stated that she was only interested in answering questions relevant to the job for which Plaintiff was interviewing, the Defendant ended the interview. *Byers v. Helton, supra*, states that only "skills and qualifications relevant to the actual position being sought . . ." should be considered. This was all the Plaintiff expected and demanded as a qualified applicant. The defendant's conduct clearly sought Plaintiff's willingness to engage in "external" activities, such as travel and personal relationships. Such conduct, according to *Byers, supra*, constitutes "ad hoc discrimination."

CONCLUSION

Defendant Dickerson by his conduct, and Defendant ROE CORP. as Defendant Dickerson's employer, engaged in sexual harassment of an applicant, the Plaintiff in this action. When hiring is based upon such irrelevant criteria, the damaged party may sue for discrimination. The Plaintiff in this action was subjected to discrimination through sexual harassment in the interview process.

Submitted this ____ day of _____, 20__.

Sue M. Daily,
Attorney for Plaintiff
Bar #91-2872
1212 12th Street
Your City, USA 07019
(555) 555-0504

Assignment § 9.9 | Motion, Notice, & Trial Brief

Each student will prepare:

- **a motion** (a *motion for summary judgment* or a *motion to dismiss* are recommended, but any motion mentioned in § 9.1 is acceptable)
- **a notice** (set a response date at least ten days after the due date of the assignment)
- **a trial brief in support** (also called a *trial memorandum* or *points and authorities*)

Students will prepare a brief using the facts and issues that they have researched for their assigned clients. The documents may be combined, or they may be separate documents. If the documents are separate, they should be stapled together with the motion on top. A paralegal would normally attach copies of the authorities being relied upon. Unless your instructor requires it, however, you are not required to do so for this assignment.

Students should feel free to use any previously located authorities. Following are requirements for this assignment:

- ✓ **Assigned documents:** Prepare a motion, notice and memorandum (trial brief)
- ✓ **Three authorities required:** Use at least three authorities (statutes, cases, etc.) Students may use any combination of authorities, such as three cases, two cases and a statute, etc.
- ✓ **Validate:** *Shepardize* or *KeyCite* all authorities used in the brief.
- ✓ **Attach time sheet:** Keep track of your billable hours while researching and writing. Staple your time sheet to the back of the assignment.
- ✓ **Turn in your client file:** Unless otherwise instructed, turn in your entire client file with the notice, motion, and brief properly filed in the pleading panel.

CHAPTER 9 WRAP-UP

WHAT YOU SHOULD KNOW...

After reading this chapter you should know the following:

- A general familiarity with various motions
- The function of a *Motion*
- The function of a *Notice*
- The function of a *Brief*
- The structure of a combined *Motion, Notice, and Brief*
- The structure of a separate *Motion, Notice, and Brief*
- The structure and purpose of a *Table of Authorities*

ASSIGNMENTS

For this chapter you will be required to complete the following (unless otherwise instructed):

- Assignment § 9.9** Due Date: / /
Prepare a Motion, Notice, and Trial Brief on behalf of your client.

WEB STUFF

For more information, articles, and links to additional resources visit:

www.essentialskillsforparalegals.com/vol2chapter9