

Any Ideas When a Judge Just Doesn't Rule on Motions?

I have a case where the opposing side is pro se and I have filed several motions, many deadlines have passed, and the judge just hasn't made any rulings. I've done everything I usually do to remind chambers my case exists. My client is understandably frustrated. Any ideas?

How long has it been and what are the court personnel telling you when you ask? I had a case (also pro se opposing party -- seems like the norm these days) where the judge took a motion under consideration for 3 months. When I checked with chambers, the clerks would all say 'yeah, he still has it. We're just backed up.' Then one day, the order just arrived. Annoying - what should have taken 3 minutes to decide ended up taking 3 months.

Don't know about DC area, but in California, budget cuts in state court mean that judges take forever with everything now. There's also evidence, I think, that the quality of decisions is going down as judges have more and more cases and less and less time to spend on each one.

Andy Chen, California

In the past, I have written to the chief administrative judge. In 1 situation, an order was waiting to be signed, the judge on my case turned out to be out due to an extended illness, and the chief judge ended up signing the order.

The ultimate weapon is to mandamus them. My old law firm did this in a situation where a federal judge prohibited motions without a pre-motion conference, but then wouldn't schedule a pre-motion conference. The 2d Cir granted mandamus and held that a judge couldn't prevent a party from filing a motion.

Patrick W. Begos, Connecticut

I would be extremely careful. Is this a judge you are likely to go before again? This happens often in the Bronx, as they are extremely backed up on summary judgment motions. Sometimes motions can take about a year for an answer. I have been told by many colleagues to sit and wait it out, or make enemies with judges who will remember you for your career, and have the judge find against you.

A very well respected trial attorney recently told this story. He took a verdict for about 600k. After the verdict, defendant moves to set aside the verdict, which he claimed was a bs routine motion. After a year of no response, and wanting their money, the client and her son start writing letters to court and politicians.

SoloSez Popular Threads, June 2012

Judge angrily calls plaintiff's attorney advising him he will have a decision this week. Verdict set aside as against the greater weight of the evidence. Appellate division and court of appeals affirms.

Soon after lawyer runs into judge. Tells him he is no longer upset, but asks if he learned his lesson?

NYC is surprisingly a small place. The 2 recent cases I had pending motions for over a year, my adversary wrote a letter to the court. I won both motions.

Jessica Schwartz, New York

Everything above PLUS RULE.....
.....DON'T POKE A SKUNK!

Believe it or don't.....only time it happen to me was judge I knew usually attended Christmas party at office of friend. Usually got sloshed, bounced secretarys on his lap. (Supplementary secretarial staff specially hired for occasion). Waited until he was so engaged. Wished him Merry and said I'd call after New Year to discuss [the case].

Received favorable ruling before New Year. BUT THAT WAS LONG AGO, OF COURSE. Couldn't happen these days.

John Page

Be ***VERY*** careful. If the Judge feels pressured, he/she might JUST decide the matter quickly - against your client.

This is where connections and networks can play an important part.

Do you know (PERSONALLY) the law clerk for that Judge? What about his secretary? An informal phone call/lunch might shake something loose.
Don't get on a high horse - just ask if you forgot something that was holding things up.

Letters, Motions, etc are, IMO, counter-productive both in the short term and in the long term.

Good luck.

Russ Carmichael

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If you have not already done so, the tendering of a proposed order ruling in your client's favor can sometimes prompt such a ruling because the judge doesn't have to think or work, just sign. You might need to send it in by letter with a copy to the pro se in order to avoid the appearance of ex parte contact.

Very truly yours,

Timothy A. Gutknecht, Illinois

I second the suggestion that an informal call to the judge's clerk can help, particularly if you make it clear that you just want to make sure that nothing has been lost in the cracks. Also, some local rules require counsel to write a letter to the judge if a motion has not been ruled on in a certain amount of time. If this is the case in your jurisdiction, writing a "I hate to bother you but the court rules require me to write to you about this" type of letter might also be helpful without offending the judge.

Bert Krages

We have a civil court rule that if a matter is not decided 60 days after submission of the last reply brief, "counsel SHALL notify the presiding judge * * * to ascertain whether such matter is presently under advisement or has inadvertently been overlooked by the court."

This mandate appears under the heading "Attorney's Responsibility to Court." By extension, I think counsel's duty to manage a case includes informing the court in writing that a matter is growing stale. Judges I have spoken to about this agree, and they do not feel that a properly worded "Advice to the Court" or "Notice of Pending Matter," or whatever I may call it, is an attack on their management ability.

Curtis D. Drew, Arizona

I like that rule!

Bobby Lott

Thanks for the great ideas!
