

**Rule 7 . MOTIONS AND OTHER PAPERS**

- (a) **Trial Briefs.** Whether to submit a trial brief is within the discretion of the parties, but any brief submitted to the court must be simultaneously served upon all other parties. Briefs may not exceed thirty-five pages without prior approval of the court.
- (b) **Motion Practice.** Any written communication with the court that is intended to be an application for relief or other action by the court must be presented by a motion in the form prescribed by this Rule.
- (1) **Applicability.** The provisions of this rule apply to all written motions filed in civil actions.
- (2) **Filing, Deadlines, Proposed Orders.** Any motion, response, rebuttal and supporting exhibits, including memorandum briefs in support, must be filed. All affidavits and other supporting documents and exhibits, excluding the memorandum brief, must be filed as exhibits to the motion, response or rebuttal to which they relate. The memorandum brief must be filed as a separate docket item from the motion or response and their exhibits. All supporting exhibits must be denominated in the court's electronic filing system by both an exhibit letter or number *and* a meaningful description. Further, all supporting exhibits not already of record and cited in the motion, response or rebuttal by docket entry, must normally be filed under the same docket entry and denominated separately in the court's electronic filing system as exhibits to the motion, response or rebuttal to which they relate, unless doing so is not practicable, in which case supporting exhibits may be filed as separate docket item attachments, associated by the docket number of the motion, response or rebuttal to which they relate. Counsel must file a memorandum brief as a separate docket item from the motion or response to which it relates and *must not make the memorandum brief an exhibit to a motion or response*, except in the case of a motion for leave to submit the referenced memorandum brief.
- (A) Affirmative defenses must be raised by motion. Although the affirmative defenses may be enumerated in the answer, the court will not recognize a motion included within the body of the answer, but only those raised by a separate filing.
- (B) A party must file a discovery motion sufficiently in advance of the discovery deadline to allow response to the motion, ruling by the court and time to effectuate the court's order before the discovery deadline.
- (C) Unless otherwise ordered by the Case Management Order, all case-

dispositive motions and motions challenging an opposing party's expert must be filed no later than fourteen calendar days after the discovery deadline.

- (D) Motions *in limine* other than motions challenging another party's expert must be filed no later than fourteen calendar days before the pretrial conference, and all responses must be filed no later than seven calendar days before the pretrial conference.
- (E) A proposed order must be submitted to the judge for any motion that may be heard *ex parte* or is to be granted by consent. If the motion is referred to a magistrate judge, the proposed order must be submitted to the magistrate judge. The addresses for the district judges' and for the magistrate judges' chambers appear in the courts' *Administrative Procedures for Electronic Case Filings*.

**(3) Responses**

- (A) A response to a motion, all affidavits, 28 U.S.C. § 1746 declarations, the response memorandum and other supporting materials, including any objections, must be filed of record. Within the time allowed for response, the opposing party must either respond to the motion or notify the court of its intent not to respond.
- (B) A separate response must be filed as to each separately docketed motion.
- (C) A response to a motion may not include a counter-motion in the same document. Any motion must be an item docketed separately from a response.
- (D) A response to a motion may not be included in the body of a pleading, but rather should be a separately docketed item denominated in the record as a response and should be associated by docket number with the motion to which it responds.
- (E) If a party fails to respond to any motion, other than a dispositive motion, within the time allotted, the court may grant the motion as unopposed.

- (4) Memorandum Briefs; Documents Required with Motions; Time Limits; Failure to Submit Required Documents; Motions Not Reurged.** At the time the motion is served, other than motions or applications that may be heard *ex parte* or those involving necessitous or urgent matters, counsel for movant must file a memorandum brief in

support of the motion. Counsel for respondent must, within fourteen days after service of movant's memorandum brief, file a memorandum brief in response. Counsel for movant desiring to file a rebuttal may do so within seven days after the service of the respondent's memorandum brief. A party must make any request for an extension of time in writing to the judge who will decide the motion. Failure to timely submit the required motion documents may result in the denial of the motion. A pending nondispositive motion not reurged after discovery has been concluded and before the motion deadline, may be deemed moot and denied by operation of this rule.

- (5) **Length of Memorandum Briefs.** Movant's original and rebuttal memorandum briefs together may not exceed a total of thirty-five pages, and respondent's memorandum brief may not exceed thirty-five pages.
- (6) **Notice and Hearings**
  - (A) The court will decide motions without a hearing or oral argument unless otherwise ordered by the court on its own motion or, in its discretion, upon written request made by counsel in an easily discernible manner on the face of the motion or response.
  - (B) An evidentiary hearing or oral argument, where allowed, will be set at a time and place convenient to the judge. The court may, in its discretion, hear oral argument by electronic means.
- (7) **Priority.** The court will give priority to discovery motions, discovery appeals, immunity defense motions, motions to remand, and other jurisdictional motions.
- (8) **Urgent or Necessitous Matters.** When the motion relates to an urgent or necessitous matter, counsel for the movant must contact the courtroom deputy, or other staff member designated by the judge, and arrange a definite time and place for the motion to be heard. In such cases, counsel for movant must file a written notice to all other parties of the time and place fixed by the court for the hearing and must serve all documents upon other parties. Upon receipt of the motion, the court in its discretion may direct counsel to submit memorandum briefs for the court's consideration.

Unless a party files a motion for a protective order to limit the scope or quash the taking of a deposition within seven days of the date of the notice of deposition, the motion will not be considered urgent or necessitous.

- (9) **Court Reporters.** If the hearing of a motion requires the presence of a court reporter, the party requesting a court reporter must obtain prior

approval from the office of the district or magistrate judge before whom the motion is noticed.

- (10) **Non-Dispositive Motions.** All non-dispositive motions must advise the court whether there is opposition to the motion.
  - (11) **Untimely Motions.** Any nondispositive motion served beyond the motion deadline imposed in the Case Management Order may be denied solely because the motion is not timely served.
- (c) **Corporate Disclosure Statement.** A non-governmental corporate party must file a statement identifying all of its parent corporations and listing any publicly-held company that owns ten percent or more of the party's stock. The Corporate Disclosure Statement must be filed as a separate pleading with the party's initial pleading, and a copy of the Corporate Disclosure Statement must be provided to the magistrate judge and to the district judge assigned to the civil action. Each party must supplement the statement within a reasonable time of any change in the disclosure information.