

## **Rule 12-I. Motions Practice**

### **(a) EFFORTS TO OBTAIN CONSENT; CONSENT MOTIONS.**

(1) *In General.* Before filing any motion, except motions filed pursuant to Rule 11, the moving party must first ascertain whether other affected parties will consent to the relief sought.

(2) *Rule 11 Motions.* For motions filed pursuant to Rule 11, the moving party must make good faith efforts to resolve or dispose of the issues in dispute before the motion is served pursuant to Rule 11(c)(2).

(3) *No Resolution or Consent.* The court must consider the motion as a contested matter if the movant certifies in writing that, in the case of Rule 11 motions, resolution of the disputed issues is not possible or that despite diligent efforts consent could not be obtained.

(4) *Consent Obtained.* If consent is obtained, and if the relief does not require court approval, the party seeking the relief may memorialize the other parties' consent in a letter to the parties (which should not be filed) or in a praecipe filed and served as provided in Rule 5. If the relief sought is consented to but requires court approval, the moving party must file, serve, and provide to the assigned judge a courtesy copy of a motion which includes the word "consent" in its title and states that all affected parties have consented to the relief sought. No response to a consent motion is required.

### **(b) JUDGE IN CHAMBERS.**

(1) The following matters may at any time be presented for disposition to a judge in chambers designated by the Chief Judge, either ex parte or with opposing counsel, as appropriate:

- (A) approval of accounts;
- (B) warrants and return of warrants;
- (C) approval of subpoenas for administrative proceedings;
- (D) applications for appointment of special process servers in small claims cases;
- (E) applications for name change under Rule 205 or any applicable administrative order;
- (F) petitions to release mechanic's liens;
- (G) applications for entry of administrative agencies' final orders as judgments;
- (H) petitions to take depositions pursuant to Rule 27(a);
- (I) master-meter proceedings under D.C. Code §§ 42-3301 to -3307 (2012 Repl.);
- (J) requests for issuance of subpoenas under Rule 28-1(d);
- (K) petitions to amend birth certificates pursuant to Rule 205 or any applicable administrative order; and
- (L) petitions to amend death certificates.

(2) The following matters, if presented on the day the complaint is filed, must be presented to the Judge in Chambers; thereafter, such matters must be presented to the judge assigned to the case:

- (A) appointment of a special process server;
- (B) motions with respect to publication of notice requirements;
- (C) judicial approval of settlements involving minors;
- (D) motions regarding security for costs;
- (E) writs of ne exeat;
- (F) applications to set bonds;

(G) applications for temporary restraining orders;

(H) writs of attachment before judgment;

(I) writs of replevin;

(J) libels of information;

(K) motions for protective orders barring access to court documents; and

(L) motions to use pseudonyms in any pleading or paper filed in a case.

(c) JUDGE ON EMERGENCY ASSIGNMENT. Any motion requiring immediate judicial attention at a time outside the regular business hours of the court may be presented to the judge on emergency assignment. The Chief Judge must establish a roster for such emergency assignments.

(d) FORM OF MOTIONS.

(1) *In General*. With the exception of motions made in open court during hearing or trial when opposing counsel is present and motions made under emergent conditions, every petition or motion to the court must be made in writing and filed with the clerk. Every motion must state clearly its object and the grounds on which it is based or the reasons for the relief sought. If a motion is consented to by all affected parties, that fact must be indicated in the title of the motion, e.g., "Consent Motion to Extend Time for Filing Plaintiff's Witness List." The caption must contain the parties' next court date (e.g. case mediation, pretrial conference, or trial) if one has been set.

(2) *Points and Authorities*. Each motion must include or be accompanied by a statement of the specific points and authorities that support the motion, including, where appropriate, a concise statement of material facts. The statement of points and authorities must be a part of the record. The points and authorities must be labeled as such and placed either on a separate paper or below all other material, including signatures, on the last page of the motion.

(e) OPPOSING POINTS AND AUTHORITIES. Within 14 days after service of the motion or at such other time as the court may direct, an opposing party must file and serve a statement of opposing points and authorities in opposition to the motion. If a statement of opposing points and authorities is not filed within the prescribed time, the court may treat the motion as conceded.

(f) PROPOSED ORDER. Each motion and opposition must be accompanied by a proposed order for the court's signature. The proposed order must list all persons to whom copies of the judge's order must be sent, including the addresses of those who cannot be served electronically. The proposed order also must list existing dates from the scheduling order and must indicate which dates, if any, would be affected by the motion or opposition.

(g) REPLY. Within 7 calendar days after service of the opposing statement, the moving party may file and serve a statement of points and authorities in reply to the following types of motions only:

(1) motions for summary judgment;

(2) motions to dismiss for failure to state a claim;

(3) motions to strike expert testimony; and

(4) motions for judgment on the pleadings.

(h) HEARING: WHEN ALLOWED. A party may specifically request an oral hearing by endorsing at the bottom of the party's motion or opposition, above the party's signature, "Oral Hearing Requested"; but the court in its discretion may decide the motion without

a hearing. If the judge assigned to the case decides to hold a hearing on the motion, that judge must give to all parties appropriate notice of the hearing and may specify the matters to be addressed at the hearing and the amount of time afforded to each party. If a pending motion is resolved by counsel, the movant must immediately notify the court by telephone.

(i) HEARING: FAILURE OF ONE PARTY TO APPEAR. If, at the time the case is called for hearing on a petition or motion, the moving party fails to appear, the petition or motion may be treated as submitted or waived, or may be continued. If the opposing party fails to appear, it may be treated as conceded. The court in its discretion may hear argument on behalf of the party appearing.

(j) MOTION TO VACATE DEFAULT. A motion to vacate an entry of default or a judgment by default, or both, must comply with the requirements of Rule 55(c).

(k) MOTION FOR SUMMARY JUDGMENT. A motion for summary judgment must comply with the requirements of Rule 56.

(l) POST-RULING PROPOSED ORDER. Unless otherwise directed by the court, counsel prevailing at oral argument must file and serve, within 7 days after the court rules on any motion, a proposed order reflecting the court's ruling.

(m) [Deleted].

(n) TIME LIMIT FOR MOTIONS. All motions, other than motions specified in Rule 16(d) and posttrial motions, must be filed by the deadline set forth in the scheduling order issued pursuant to Rule 16(b). For good cause, the court may extend the period for filing such motions.

#### COMMENT TO 2017 AMENDMENTS

Stylistic changes were made to this rule, and the rule was reorganized so related materials now appear in the same section or subsection. The deadlines were also amended to conform with the time-calculation changes made to Rule 6 as part of the 2009 amendments to the Federal Rules of Civil Procedure and to allow adequate time to resolve motions where the time for filing a response has been extended. The following provisions in section (a) were deleted as unnecessary: 1) the provision suggesting how the court would rule on a consent motion and 2) the provision stating how the court would serve an order for a consent motion. Language in subsection (d)(2) was modified to clarify that the statement of points and authorities may be included as part of the motion; there is no requirement that it be a separate document.

New section (g) permits the filing of a reply as a matter of right on all of the motions listed. However, no further filings are permitted without leave of court. Section (k) now directs parties to Rule 56 for provisions regarding summary judgment motions.

#### COMMENT TO 2015 AMENDMENTS

Section (m), "matters taken under advisement," was deleted; the matters previously addressed by this section are now the subject of an administrative order.

## COMMENT

Rule 12-1(a) provides that a moving party must seek consent of other affected parties prior to the filing of a motion, except with respect to Rule 11 motions for imposition of sanctions. In these instances, a good faith effort to resolve the disputed issues is required. Even on dispositive motions a good faith effort to achieve consent can eliminate some issues or parties.

In respect to motions for imposition of Rule 11 sanctions, the good faith requirement may be satisfied by giving notice to the other party, whether in person, by telephone or by letter, of a potential violation before proceeding to prepare and serve a Rule 11 motion.

In respect to motions for orders to compel discovery filed pursuant to Rule 37(a), complying with the good faith efforts to obtain discovery under Rule 37(a) satisfies the requirement to obtain consent pursuant to Rule 12-1(a).

Rule 12-1(b) is amended to show which actions may be presented to the Judge in Chambers and which must be handled by the judge assigned to the case.

The last sentence in Rule 12-1(d) provides that motions which are consented to by the affected parties should indicate that fact. The purpose of this provision is to allow the Court to rule on such motions without the necessity of waiting until the end of the opposition deadline.

Prior language in Rule 12-1(f) and (h) is deleted in its entirety and the letter headings of the paragraphs of this Rule are redesigned to reflect these deletions. Accordingly, paragraph (f) now contains the provisions previously found in paragraph (i). A sentence is added to this paragraph which provides for appropriate notice to the parties when a decision is made to hold a hearing on a motion. It also allows the judge to specify the matters to be addressed at the hearing and the amount of time each side shall be given to present arguments on the motion. The last sentence of paragraph (f) requires that counsel immediately inform the Court by telephone if the motion has been resolved. New language has been placed in paragraph (h) to provide that all motions must be accompanied by a copy of the Scheduling Order, if any has been issued in the case.

Rule 12-1(m) is intended to have equal applicability to posttrial motions and such non-motion matters as findings of fact and conclusions of law following a nonjury trial.

Rule 12-1(n) should be read in conjunction with Rule 26(d), which imposes a time limit for the completion of discovery.