

PART 2.00 MOTIONS/NOTICE

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2.01 MOTIONS GENERALLY/NOTICE

- (a) For the purpose of these Rules, "motion" includes any pleading or paper in the nature of a petition or motion, other than a petition or complaint which initiates a cause of action.
- (b) Each motion shall be in writing. Each notice of motion shall have appended thereto a copy of the relevant motion, unless otherwise ordered by Court.
- (c) Each motion and petition shall contain in typewritten form or clear printing the name, address and State of Illinois attorney registration number of the attorney representing the party on whose behalf the document is filed.
- (d) Each motion shall be captioned with the case name and number and shall include the Supreme Court Rule, Code of Civil Procedure section, or other statutory section upon which it is based.
- (e) All dispositive motions shall be heard before the Court not less than sixty (60) days before the scheduled trial date unless otherwise ordered by the Court.
- (f) Unless otherwise ordered by the Court, no contested motion shall be heard if it has not been scheduled for hearing on the court's calendar. The Court shall consider counsels certification, or that of office staff, that the matter was scheduled for hearing by contacting the office of the Circuit Court Clerk.
- (g) **Notice of Hearing of Motions.** Written notice of the hearing of all motions shall be given by the party requesting the hearing to all parties who have appeared and who have not been found by the court in default for failure to appear or plead and to all parties whose time to appear has not expired as of the date of the notice.
- (h) **Content of Notice.** The notice of hearing shall designate the judge to whom the motion will be presented for hearing, shall show the title and number of the action, the title of the motion, the date when the motion will be presented, the time it will be presented, and the courtroom where it will be presented. Copies of all papers presented to the Court with the motion shall be served with the notice or the notice shall state that copies have been previously served.
- (i) **Manner of Service.** Notice of Service shall be given in the manner and to the persons described in Supreme Court Rule 11. Service as prescribed in Supreme Court Rule 11(b) (2) may be affected by service of the Notice of Motion and other pertinent documents through electronic facsimile mailing (FAX) if allowed pursuant to Supreme Court Rule 11(b) (4). Proof of service shall be in compliance with Supreme Court Rule 12.

(j) **Time of Notice.** If Notice of Hearing is given by personal service, the Notice shall be delivered by 4:00 P.M. of the second court date preceding the hearing of the Motion. Delivery by FAX, authenticated as set forth in Supreme Court Rule 12, shall be deemed personal service, but it is not effective until the first court day following transmission. If the Notice is given by mail, then Notice shall be deposited in the United States Post Office or Post Office Box on the 5th day preceding the hearing of the Motion, not counting the day of the hearing.

(k) **Notice of Hearing.** If a motion is heard without prior notice under this rule, a copy of the orders entered at the hearing shall be served personally or by U.S. Mail upon all parties not theretofore found by the Court to be in default for failure to plead, and proof of service thereof shall be filed with the Clerk of the Court within two (2) days of the hearing thereon.

(l) **Orders Upon Denial.** If a motion presented without prior notice is denied or hearing thereon is denied, a written order of the Court's ruling shall be entered.

(m) **Failure to Call Motions for Hearing.** The burden of calling for hearing any motion previously filed is on the party making the motion. If any such motion is not called for hearing within sixty (60) days from the date it is filed, the Court may consider the motion denied by reason of delay.

(n) **Motion to Continue.** No motion to continue shall be allowed for other than good cause shown. Agreements of counsel as to a motion to continue shall not be binding on the Court. The Court may require affidavits of the parties and counsel.

(o) **Renewal of Motions.** Motions presented and ruled upon before one judge shall not be renewed before another judge without leave of Court. The notice of hearing shall include a statement that the motion has previously been ruled upon and the name of the judge who ruled on the motion.

(p) Motions not presented or supported by the moving party when called, pursuant to notice, may be denied or stricken.

(q) **Briefs and Memoranda.** No motion, response, brief, or memorandum in support thereof shall exceed fifteen (15) typewritten double-spaced pages without prior approval of this Court. Neither narrow margins nor any other format shall be employed to evade the page limitation. Footnotes, if any, shall be used sparingly. Failure to comply with this Rule shall be sufficient grounds for the Court's refusal to consider the document.

2.02 CONTESTED MOTIONS

(a) For purposes of Rule 2.02, any motion which is opposed is a contested motion and may be heard at the end of the call of motions of course or at such other time designated by the Court.

(b) Every Motion to dismiss, to strike, or for summary judgment shall be identified with the section number of the Code of Civil Procedure pursuant to which the motion is brought.

(c) For every contested motion brought pursuant to S.Ct.R. 219, S.Ct.R. 137, 735 ILCS 5/2-615, 735 ILCS 5/2-619, 735 ILCS 5/2-619.1 or 735 ILCS 5/2-1005, movant's counsel shall deliver to the chambers of the assigned judge, not less than seven (7) court days prior to hearing, a copy of:

1. the motion,
2. any challenged pleading, and

3. any writing in support of or in opposition to the motion.

Also within seven (7) court days prior to hearing, a party shall provide the Court and all opposing counsel with a complete citation to any case or other authority upon which the party intends to rely in oral argument and which is not included in a supporting or opposing writing; and the party shall provide the Court with a full copy of any decision of a State court outside the State of Illinois. Any cover letter delivered to the Court in complying with the above requirements shall be copied to all counsel of record.

(d) Any writing in support of or in opposition to a motion shall be served upon the opposing party at the time of service of notice of motion or, if not then available, as soon thereafter as practicable and prior to hearing on said motion.

(e) In the absence of leave of Court, no reply brief or memorandum in support thereof shall exceed five (5) typewritten pages in the aggregate. Any such brief or memorandum shall be limited to responding to new matters raised in the opponent's response brief or memorandum.

2.03 MOTIONS FOR CONSOLIDATION OF CASES

Motions for consolidation of cases shall be presented to the judge to whom the oldest case is assigned when the cases are of the same case type. When the cases are filed in the same division but are different case types, the motion shall be brought before the judge assigned to the case with the higher designation. The Law Division ("L") is the highest designation for the purpose of this rule, followed by: MR, CH, TX, LM, AR and SC.

2.04 MOTIONS FOR SUMMARY JUDGEMENT

(a) **Moving Party.** With each motion for summary judgment filed pursuant to 735 ILCS 5/2-1005, the moving party shall serve and file or cause to be received by the Circuit Court Clerk:

1. any affidavits and other materials referred to in S.Ct.R. 191,
2. a supporting memorandum of law not exceeding fifteen (15) pages,
3. a statement of material facts as to which the moving party contends there is no genuine issue and that entitle the moving party to a judgment as a matter of law, and that also includes:
 - (a) a description of the parties, and
 - (b) all facts supporting venue and jurisdiction in this Court.

The statement referred to in (3) shall consist of short numbered paragraphs including within each paragraph specific references to affidavits, parts of the record, and other supporting materials relied upon to support the facts set forth in that paragraph. Failure to submit such a statement constitutes grounds for denial or striking of the motion.

If additional material facts are submitted by the opposing party pursuant to section (b) of this rule, the moving party may submit a concise reply in the form prescribed in section (b) for a response. All material facts set forth in the statement filed pursuant to section (b) will be deemed admitted unless controverted by the statement of the moving party.

(b) **Opposing Party.** Each party opposing a motion filed pursuant to 735 ILCS 5/2-1005 as described above shall serve and file or cause to be received by the Circuit Court Clerk:

1. any affidavits and other materials referred to in S.Ct.R. 191;
2. a supporting memorandum of law not exceeding fifteen (15) pages;
3. a concise response to the movant's statement that shall contain:

(a) a response to each numbered paragraph in the moving party's statement including, in the case of any disagreement, specific references to the affidavits, parts of the record, and other supporting materials relied upon, and

(b) a statement consisting of short numbered paragraphs, of any additional facts that require the denial of summary judgment including references to the affidavits, parts of the record, and other supporting materials relied upon. All material facts set forth in the statement required of the moving party will be deemed to be admitted unless controverted by the statement of the opposing party.

2.05 EMERGENCY MOTIONS

(a) Application for emergency relief. If emergency relief is requested, application shall be made to the assigned judge or, if unavailable, to the judge specifically assigned to sit in his stead. If neither judge is available, application shall be made to the presiding judge of the division to which the case is assigned.

(b) Each application for emergency relief shall be accompanied by an affidavit of the movant or movant's attorney stating the reason for emergency relief and, in cases where the request is without notice, except as permitted by law, said affidavit shall state what attempts have been made to notify opposing counsel or the opposing party. Failure to attach said affidavits to the request for emergency relief may be grounds for denial of the motion.

(c) Every complaint or petition requesting an ex parte order for the appointment of a receiver, temporary restraining order, preliminary injunction, or any other emergency relief shall be filed in the Office of the Circuit Clerk, if during court hours, before application to the court for the order.

(d) If a motion is heard without prior notice under this rule and any respondent or other party fails to appear, a copy of the orders entered at the hearing shall be served personally or by US Mail upon all parties not therefore found by the Court to be in default for failure to plead, and proof of service thereof shall be filed with the Clerk of the Court within two (2) days of the hearing thereon.

(e) Counsel shall use every reasonable effort to notify opposing parties or counsel of entry of each Order, at the earliest opportunity.

2.06 ORDERS

All orders entered following the hearing upon any motion shall be governed by S.Ct.R. 271. The attorney who prepares the order shall print clearly "**prepared by**" and his name, address and State of Illinois attorney registration number at the bottom of the order. The preparer shall serve a copy of the order upon all parties of record.