

## **LCR 7            PLEADINGS ALLOWED; FORM OF MOTIONS**

### **(b) Motions and Other Papers.**

#### *(1) How Made.*

(A) Documents necessary for ex parte presentation. Ex parte orders presented for entry must be accompanied by a written motion and supporting documents. Ex parte motions at Main Campus may not be delivered by a person who is not an attorney, unless that person is a self-represented litigant.

(B) In-person ex parte presentation. Ex parte matters may be submitted as follows:

(i) by presentation on the ex parte calendar; or

(ii) by presentation at the beginning of the assigned judge's Friday motion calendar.

Motions for temporary restraining orders may be scheduled for a hearing on the assigned judge's civil motion calendar, or presented on the ex parte calendar in compliance with LCR 65.

(C) Alternative presentation by mail or commercial delivery. Agreed orders, orders when notice of presentation is waived, and ex parte orders based on the record in the file may be presented by mail or commercial delivery to the clerk. The original order, supporting materials, and the required fee as set forth in the clerk's fee schedule must be included in the mail or delivery. The materials should identify the assigned judge. If accepted by the clerk, the proposed order will be presented to a judicial officer for consideration. If rejected by the clerk, the proposed order will be returned to the sender for resubmission or in-person presentation as permitted in subsection (B) above. Self-addressed, stamped envelopes, along with copies of the proposed order, must be provided if return of any conformed materials or denial orders is sought.

#### *(5) Remote Argument.*

(A) Generally. The court may permit parties, witnesses, attorneys, and others to participate in hearings remotely, including by telephone, video, or other electronic means. When not already permitted generally, remote hearings may also be requested as a disability accommodation or due to other extenuating circumstances.

(B) Motion. If remote participation in a hearing is permitted generally, parties should not request a remote appearance. In other cases, a party who seeks to request a remote appearance shall file a timely motion. Such a motion may be brought by any party to assist a person with limited communications, such as an inmate. Motions for a remote appearance in civil cases must be presented on the assigned judge's civil

motion calendar. The motion to appear remotely must be noted for hearing at least one week before the matter for which a remote appearance is sought. The assigned judge will rule on the motion to appear remotely without oral argument.

(C) Procedure. If remote participation in a hearing is permitted generally, instructions for making a remote appearance shall be posted on the court's website. In other cases where a party who has been granted a remote hearing may contact the assigned judge's judicial assistant for instructions at least two business days before the remote hearing. A party who attends a hearing remotely has the same duties as parties who appear in person, including the duties to provide judges' copies of pleadings and to provide a proposed order.

(D) Mandatory appearance of incarcerated parties. The court shall schedule hearings in which appearance of the parties is mandatory remotely for incarcerated parties without requiring a motion.

(6) *Civil Motion Calendar*. Civil motions will be heard by the assigned judge on a Friday civil motion calendar unless the court or the rules direct otherwise. Motions scheduled on the civil motion calendar are heard with oral argument, unless otherwise directed by the court. The following motions must be scheduled on the dispositive motion calendar:

(A) motions for summary judgment (CR 56);

(B) motions to dismiss for failure to state a claim upon which relief can be granted (CR 12(b)(6)); and

(C) motions for judgment on the pleadings (CR 12(c)).

The following types of motions must be specially scheduled by the assigned judge's judicial assistant without a court order allowing such: ballot title appeals, recall petitions and sexually violent predator annual reviews. No other matters may be scheduled through the judicial assistant unless the court orders otherwise.

(7) *Scheduling Civil Motions*. The moving party in a civil case held at Main Campus shall file their motion, brief, and any supporting declarations at or before the time of scheduling the matter through a notice of hearing. Parties are strongly encouraged to use the current, court-approved notice of hearing form, which is available at the clerk's office, and shall provide all information required by the notice of hearing form. Hearings attempted to be scheduled in violation of this rule are subject to not being scheduled or being stricken.

(8) *Striking or Continuing Hearing Dates*. The moving party must timely strike or continue any hearing that will not go forward on the scheduled date. This rule applies to all Superior Court matters, including civil, criminal, juvenile, and family court cases.

Strikes and continuances must be communicated to the clerk's office through the "notice of hearing continued or stricken/cancelled" form available on the clerk's web page. The party striking or continuing the hearing must promptly provide a judge's copy of the notice to court administration. If an interpreter has been requested, a party who cancels or continues a hearing shall notify the interpreter coordinator of the change promptly after knowledge that the matter will not be heard. Violation of this rule may result in sanctions imposed against the moving party or parties. The court may issue a show cause order to consider whether sanctions shall be issued.

(A) **Deadline.** Hearings that must be scheduled on 28 days' notice shall be stricken or continued at least five business days before the hearing. All other hearings shall be stricken or continued at least two business days before the hearing.

(B) **Sanctions.** If a party fails to properly strike or continue a hearing under this rule, the court may impose sanctions against that party. The court shall give five days' notice of its intent to impose sanctions, and the parties may present briefing and oral argument regarding whether sanctions are appropriate. Sanctions may include, but are not limited to, judgment against the moving party for costs and terms relating to the violation and hearing on sanctions, including a reasonable attorney fee and sanctions payable to the court up to \$500.

(C) **Factors in Imposing Sanctions.** Sanctions shall not be imposed upon a showing of good cause or if justice requires foregoing sanctions. Monetary sanctions shall not be imposed upon a showing of indigency or if the sanctions would hamper the party's ability to access the court system. Further, sanctions shall not be imposed when a hearing was not necessary due to settlement or agreement by the parties to resolve the matter outside the court system, unless the settlement or agreement was known to the parties before the deadline to strike the hearing.

(9) *Time for Oral Argument.* Each side will be allowed up to ten minutes to argue a contested motion, including rebuttal, unless the court orders additional time.

**(e) Ballot Title Appeals.** Challenges to ballot title appeals are subject to a special process that is outlined in LCR 3, LCR 5, and LCR 40.

**(f) Recall Petitions.** Recall petitions are subject to a special process that is outlined in LCR 3, LCR 5, and LCR 40.

[Adopted effective September 1, 2010; Amended effective September 1, 2013; September 1, 2014; September 1, 2015; September 1, 2016; September 1, 2017; September 1, 2018; September 1, 2019; September 1, 2022; September 1, 2023.]