

RULE 230 (Fed. R. Civ. P. 78)

CIVIL MOTION CALENDAR AND PROCEDURE

(a) Motion Calendar. Each Judge or Magistrate Judge maintains an individual motion calendar. Information as to the times and dates for each motion calendar may be obtained from the Clerk or the courtroom deputy clerk for the assigned Judge or Magistrate Judge.

(b) Notice, Motion, Brief and Evidence. Except as otherwise provided in these Rules or as ordered or allowed by the Court, all motions shall be noticed on the motion calendar of the assigned Judge or Magistrate Judge. The moving party shall file a notice of motion, motion, accompanying briefs, affidavits, if appropriate, and copies of all documentary evidence that the moving party intends to submit in support of the motion. The matter shall be set for hearing on the motion calendar of the Judge or Magistrate Judge to whom the action has been assigned or before whom the motion is to be heard not less than twenty-eight (28) days after service and filing of the motion. . Motions defectively noticed shall be filed, but not set for hearing; the Clerk shall immediately notify the moving party of the defective notice and of the next available dates and times for proper notice, and the moving party shall file and serve a new notice of motion setting forth a proper time and date. See L.R. 135..

(c) Opposition and Non-Opposition. Opposition, if any, to the granting of the motion shall be in writing and shall be filed and served not less than fourteen (14) days preceding the noticed (or continued) hearing date. A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in question. No party will be entitled to be heard in opposition to a motion at oral arguments if opposition to the motion has not been timely filed by that party. See L.R. 135. .

(d) Reply. Not less than seven (7) days preceding the date of hearing, the moving party may serve and file a reply to any opposition filed by a responding party.

(e) Related or Counter-Motions. Any counter-motion or other motion that a party may desire to make that is related to the general subject matter of the original motion shall be served and filed in the manner and on the date prescribed for the filing of opposition. If a counter-motion or other related motion is filed, the Court may continue the hearing on the original and all related motions so as to give all parties reasonable opportunity to serve and file oppositions and replies to all pending motions.

(f) Continuances. Requests for continuances of hearings on the motion calendar, upon stipulation or otherwise, shall be made to the Judge or Magistrate Judge on whose calendar the matter is set, at least seven (7) days before the scheduled hearing date. All stipulations for continuance shall be submitted for approval to the Court. See L.R. 143, 144.

(g) Hearing and Oral Argument. Upon the call of the motion, the Court will hear appropriate and reasonable oral argument. Alternatively, the motion may be submitted upon the record and briefs on file if the parties stipulate thereto, or if the Court so orders, subject to the power of the Court to reopen the matter for further briefs or oral arguments or both. Any party that believes that extended oral argument, more than 10 minutes per side or 20 minutes in the aggregate, will be required shall notify the courtroom deputy clerk so that the hearing may be rescheduled if deemed appropriate by the Court.

(h) Use of Affidavits. Factual contentions involved in pretrial motions shall be initially presented and heard upon affidavits, except that the Court may in its discretion require or allow oral examination of witnesses. See L.R. 142.

(i) Failure to Appear. Absent notice of intent to submit the matter on the briefs, failure to appear may be deemed withdrawal of the motion or of opposition to the motion, in the discretion of the Court, or may result in the imposition of sanctions.

(j) Applications for Reconsideration. Whenever any motion has been granted or denied in whole or in part, and a subsequent motion for reconsideration is made upon the same or any alleged different set of facts, counsel shall present to the Judge or Magistrate Judge to whom such subsequent motion is made an affidavit or brief, as appropriate, setting forth the material facts and circumstances surrounding each motion for which reconsideration is sought, including:

- (1) when and to what Judge or Magistrate Judge the prior motion was made;
- (2) what ruling, decision, or order was made thereon;
- (3) what new or different facts or circumstances are claimed to exist which did not exist or were not shown upon such prior motion, or what other grounds exist for the motion; and
- (4) why the facts or circumstances were not shown at the time of the prior motion.

(k) Motions Before a Magistrate Judge. Only those motions in matters specified in L.R. 302 and 303 shall be noticed, briefed, and argued before a Magistrate Judge. All other motions shall be noticed, briefed and argued before a Judge.

(l) Motions in Prisoner Actions. All motions, except motions to dismiss for lack of prosecution, filed in actions wherein one party is incarcerated and proceeding in propria persona, shall be submitted upon the record without oral argument unless otherwise ordered by the Court. Such motions need not be noticed on the motion calendar. Opposition, if any, to the granting of the motion shall be served and filed by the responding party not more than twenty-one (21),days after the date of service of the motion. A responding party who has no opposition to the granting of the motion shall serve and file a statement to that effect, specifically designating the motion in question. Failure of the responding party to file an opposition or to file a statement of no opposition may be deemed a waiver of any opposition to the granting of the motion and may result in the imposition of sanctions. The moving party may, not more than seven (7) days after the opposition ~~is served~~ *has been filed in CM/ECF*, serve and file a reply to the opposition. All such motions will be deemed submitted ~~twenty-eight (28) days after the service of the motion or when the reply is filed, whichever comes first.~~ See L.R. 135 *when the time to reply has expired.*