

RULE 7.1 | MOTIONS, GENERAL

(a) Filing.

(1) Every motion when filed and served shall incorporate a memorandum of law citing supporting authorities, except that the following motions need not incorporate a memorandum:

(A) petition for writ of habeas corpus ad testificandum or ad prosequendum;

(B) motion for out-of-state process;

(C) motion for order of publication for process;

(D) application for default;

(E) motion for judgment upon default;

(F) motion to withdraw or substitute counsel;

(G) motion for continuance, provided the good cause supporting it is set forth in the motion and affidavit required by Local Rule 7.6;

(H) motion for confirmation of sale;

(I) motion to withdraw or substitute exhibits;

(J) motion for extensions of time providing the good cause supporting it is set forth in the motion;

(K) motion for refund of bond, provided the good cause supporting it is set forth in the motion;

(L) application for leave to proceed in forma pauperis; and

(M) motion for admission pro hac vice.

(2) Those motions listed in (a)(1) above, as well as any motion seeking emergency or ex parte relief or a temporary restraining order, shall be accompanied by a proposed order that is filed and served submitted via e-mail to the Court as prescribed by Section 3I(6) of the CM/ECF Administrative Procedures.

(3) *Pre-filing Conferences Required of Counsel.* Prior to filing any motion in a civil case, except a motion for injunctive relief, for judgment on the pleadings, for



summary judgment, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, for pro hac vice admission, or to involuntarily dismiss an action, for garnishment or other relief under Federal Rule of Civil Procedure 64, or otherwise properly filed ex parte under the Federal Rules of Civil Procedure and these Local Rules, or a petition to enforce or vacate an arbitration award, counsel for the movant shall confer (orally or in writing), or make reasonable effort to confer (orally or in writing), with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve by agreement the issues to be raised in the motion. Counsel conferring with movant's counsel shall cooperate and act in good faith in attempting to resolve the dispute. At the end of the motion, and above the signature block, counsel for the moving party shall certify either: (A) that counsel for the movant has conferred with all parties or non-parties who may be affected by the relief sought in the motion in a good faith effort to resolve the issues raised in the motion and has been unable to do so; or (B) that counsel for the movant has made reasonable efforts to confer with all parties or non-parties who may be affected by the relief sought in the motion, which efforts shall be identified with specificity in the statement (including the date, time, and manner of each effort), but has been unable to do so. If certain of the issues have been resolved by agreement, the certification shall specify the issues so resolved and the issues remaining unresolved. Failure to comply with the requirements of this Local Rule may be cause for the Court to grant or deny the motion and impose on counsel an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney's fee. See forms available on the Court's website (www.flsd.uscourts.gov).

(b) Hearings.

(1) No hearing will be held on motions unless set by the Court.

(2) A party who desires oral argument or a hearing of any motion shall request it within the motion or opposing memorandum in a separate section titled "request for hearing." The request shall set forth in detail the reasons why a hearing is desired and would be helpful to the Court and shall estimate the time required for argument. The Court in its discretion may grant or deny a hearing as requested, upon consideration of both the request and any response thereto by an opposing party.

(3) Discovery motions may be referred to and heard by a United States Magistrate Judge.

(4) With respect to:

(A) any motion or other matter which has been pending and fully briefed with no hearing set thereon for a period of ninety (90) days, and

(B) any motion or other matter as to which the Court has conducted a hearing but has not entered an order or otherwise determined the motion or matter within ninety (90) days of the hearing, the movant or applicant, whether party or non-party, shall file and serve on all parties and any affected non-parties within fourteen (14) days thereafter a "Notification of Ninety Days Expiring" which shall contain the following information:

(i) the title and docket entry number of the subject motion or other application, along with the dates of service and filing;

(ii) the title and docket number of any and all responses or opposing memoranda, along with the dates of service and filing, or if no such papers have been filed, the date on which such papers were due;

(iii) the title and docket entry number of any reply memoranda, or any other papers filed and served in connection with the motion or other matter, as well as the dates of service and filing; and

(iv) the date of any hearing held on the motion or other matter.



(c) Memorandum of Law.

(1) *Requirements and Timing.* For all motions, except motions served with the summons and complaint, each party opposing a motion shall file and serve an opposing memorandum of law no later than fourteen (14) days after service of the motion. Failure to do so may be deemed sufficient cause for granting the motion by default. The movant may, within seven (7) days after service of an opposing memorandum of law, file and serve a reply memorandum in support of the motion, which reply memorandum shall be strictly limited to rebuttal of matters raised in the memorandum in opposition without reargument of matters covered in the movant's initial memorandum of law. No further or additional memoranda of law shall be filed and served without prior leave of Court. All materials in support of any motion, response, or reply, including affidavits and declarations, shall be served with the filing. For a motion served with the summons and complaint, the opposing memorandum of law shall be due on the day the response to the complaint is due.

Time shall be computed under this Local Rule in accordance with applicable federal rules of procedure (e.g., Fed. R. Civ. P. 6(a) and Fed. R. Crim. P. 45(a)).

(2) *Length.* Absent prior permission of the Court, neither a motion and its incorporated memorandum of law nor the opposing memorandum of law shall exceed twenty (20) pages; a reply memorandum shall not exceed ten (10) pages. As long as no substantive part of the submission appears on the same page(s), the following items do not count toward page limitations for purposes of this rule and any other rules or orders setting forth page limitations: title pages preceding the first page of text, tables of contents, tables of citations, "request for hearing" sections, signature pages, certificates of good faith conferences, and certificates of service. Filing and service of multiple motions for partial summary judgment is prohibited, absent prior permission of the Court. This prohibition does not preclude a party from filing both a motion for summary judgment asserting an immunity from suit and a later motion for summary judgment addressing any issues that may remain in the



case. This prohibition also is not triggered when, as permitted by Fed. R. Civ. P. 12(d), the Court elects to treat a motion filed pursuant to Fed. R. Civ. P. 12(b) or 12(c) as a summary judgment motion.

(d) Emergency Motions and Expedited Motions. The Court may, upon written motion and good cause shown, waive the time requirements of this Local Rule and grant an immediate or expedited hearing on any matter requiring such expedited procedure. A filer may seek expedited consideration through either an emergency motion or an expedited motion in accordance with the following requirements:

(1) *Emergency Motions.* A filer requesting emergency action must include the words "Emergency Motion" in the title of the motion and must set forth in detail the nature of the emergency, the date by which a ruling is necessary, and the reason the ruling is needed by the stated date. The unwarranted designation of a motion as an emergency motion may result in sanctions. The filer must certify that the matter is a true emergency by including the following certification before the motion's signature block:

After reviewing the facts and researching applicable legal principles, I certify that this motion in fact presents a true emergency (as opposed to a matter that may need only expedited treatment) and requires an immediate ruling because the Court would not be able to provide meaningful relief to a critical, non-routine issue after the expiration of seven days. I understand that an unwarranted certification may lead to sanctions.

As prescribed by Section 10 of the CM/ECF Administrative Procedures, a party seeking to file an emergency motion must file and serve the documents electronically via CM/ECF using the events specifically earmarked for emergency matters. Motions are not considered emergencies if the urgency arises because of the attorney's or party's own dilatory conduct. Generally, unless a motion will become moot if not ruled on within seven (7) days, the motion should not be filed as an emergency motion.

(2) *Expedited Motions.* A filer whose time-sensitive motion does not qualify as an emergency motion but who

nonetheless requires an expedited ruling by a date certain may file an expedited motion in lieu of an emergency motion. The motion must include the words "Expedited Motion" in the title and must set forth in detail the date by which an expedited ruling is needed and the reason the ruling is needed by the stated date.

In criminal cases, emergency motions and expedited motions that are also ex parte or sealed must be conventionally filed.

A party appearing pro se must conventionally file emergency motions and expedited motions.

(e) Applications Previously Refused. Whenever any motion or application has been made to any Judge or Magistrate Judge and has been refused in whole or in part, or has been granted conditionally, and a subsequent motion or application is made to a different District Judge or Magistrate Judge for the same relief in whole or in part, upon the same or any alleged different state of facts, it shall be the continuing duty of each party and attorney seeking such relief to present to the District Judge or Magistrate Judge to whom the subsequent application is made an affidavit setting forth the material facts and circumstances surrounding each prior application, including:

- (1) when and to what District Judge or Magistrate Judge the application was made;
- (2) what ruling was made thereon; and
- (3) what new or different facts and circumstances are claimed to exist which did not exist, or were not shown, upon the prior application.

For failure to comply with the requirements of this Local Rule, any ruling made on the subsequent application may be set aside sua sponte or on ex parte motion.

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