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Rule 208.3(b). *Motion Practice. Rule to Show Cause. Disposition of Motions.*

[Rescinded.]

Rule 208.3(b). *Motion Practice. Rule to Show Cause. Disposition of Motions.*

- (1) *Filing.* All other “motions” as defined by Rule 208.1, excepting those listed above in Local Rule 208.3(a), shall be governed by this Rule. All such motions shall be faced with a cover sheet of the moving party in the form set forth in Local Rule 205.2(b) and shall be accompanied by the moving party’s proposed order and, unless the legal basis for the motion is adequately set forth in the motion itself, a brief or memorandum of law.
- (2) *Listing.* Excepting motions for sanctions or contempt of a prior court order and other motions that are to be scheduled for a hearing or that are to be forwarded to a Judge upon filing, the Court Administrator shall fix promptly a return day which shall not be less than twenty (20) days from the date of filing of said motion, and the moving party shall forthwith serve the respondent with a copy of the motion and the cover sheet indicating the return day thereon. Except as the Court may otherwise direct, motions in limine and other pretrial motions that are filed after a Pretrial Conference has been held or after a case has been listed for trial will not be given a return day and will be referred to the Judge who conducted the Pretrial Conference or, if a different Judge has been assigned the case for trial, to that Judge.
- (3) *Motions to Withdraw as Counsel.* If the motion seeks leave of the Court to withdraw as counsel, then the movant must forthwith serve his or her client with a copy of the motion and cover sheet indicating the return day and shall promptly file a certification that the motion and the rule return date were served upon the client, in substantially the following form:

<u>See Form Certificate of Service</u>
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If such a certificate is not filed prior to the return date, then the motion shall be stricken without prejudice.

- (4) *Emergency Motions.* Motions that are alleged to be “emergencies” will not initially be given a rule return date, but rather the Court Administrator will forward the emergency motion to the appropriate Judge. If the matter is deemed to be an emergency by the Judge, the Judge will process the matter accordingly. If the matter is not deemed to be an emergency, the matter will be returned to the Court Administrator for listing pursuant to this Rule.

- (5) *Response.* On or before the return day, the respondent shall file an answer to the motion, even if there are no contested issues of fact. The answer shall be filed with the respondent's cover sheet in the form set forth in Rule 205.2(b) and shall be accompanied by a brief or memorandum of law as set forth in Local Rule 210 and a proposed order. All motions in which answers have been filed will be referred to the appropriate Judge for disposition. Oral argument will be held only if ordered by the Court.
- (6) *Unopposed Motions.* If an answer is not filed to the motion on or before the return day, the Court may treat the motion as uncontested, and grant the requested relief, if appropriate.
- (7) *Discovery.* The Court may order, either pursuant to a request in the motion or answer or on the Court's own initiative, that discovery be taken on issues of fact raised by the motion and answer. The Court may provide for the filing of supplemental briefs after the conclusion of such discovery.

Comments:

1. See Local Rule 4019*.2 for additional provisions relating to discovery motions.
2. Rule 208.1(b)(1)(iv) specifically excludes motions to exclude expert testimony pursuant to Rule 207.1 and motions in limine from the above process. These motions are filed with the Prothonotary and referred to the trial judge, upon assignment of trial.
3. Requests for leave to withdraw an appearance in family court actions pursuant to Rule 1012 and requests under Local Rule 229(a)*(1) are considered "motions" that are subject to this Rule.
4. Motions relating to discovery in family law actions – excluded from the above process by Rule 208.1(b)(2)(iv) – are governed by Local Rule 4019*.1 - Family Discovery Hearing Officer.