

31 (c)(5) state that no written response ~~to the motion and order to show cause~~ is
32 required;

33 (c)(6) state that the ~~first appearance shall not be the hearing is not an~~ evidentiary
34 hearing, but ~~shall be is~~ for the purpose of determining:

35 (c)(6)(A) whether the ~~opposing non-moving~~ party ~~contests-denies~~ the
36 ~~allegations-claims~~ made by the moving party;

37 (c)(6)(B) whether an evidentiary hearing is ~~necessary needed~~;

38 (c)(6)(C) the ~~specific~~ issues ~~to be resolved through an evidentiary hearing on~~
39 ~~which evidence may be submitted~~; and

40 (c)(6)(D) the estimated length of ~~any such an~~ evidentiary hearing.

41 (d) **Service.** If the court ~~grants the motion and issues-enters~~ an order to show cause,
42 the moving party must have the order, the motion and all ~~supporting~~ affidavits ~~and~~
43 ~~declarations~~ served upon the ~~opposing non-moving~~ party. ~~Service shall be made~~ in the
44 manner ~~prescribed~~ for service of a summons and complaint ~~at least 7 days before the~~
45 ~~hearing, unless the moving party shows For~~ good cause ~~for the court may order that~~
46 service ~~to be made by mailing or delivery to the opposing party's on the non-moving~~
47 ~~party's~~ counsel of record ~~and the court so orders~~. The ~~date of the opposing party's first~~
48 ~~appearance on the order to show cause may not be sooner than five days after service~~
49 ~~thereof, unless court may order less than 7 days notice of the hearing if:~~

50 (d)(1) the motion requests an earlier ~~first appearance~~ date; ~~and~~

51 (d)(2) it clearly appears from specific facts shown by ~~the declarations or~~ affidavits
52 that immediate and irreparable ~~injury, loss, or damage-harm~~ will result to the moving
53 party if the ~~first appearance hearing~~ is not held sooner ~~than five days after service of~~
54 ~~the order to show cause; and~~

55 ~~(d)(3) the court agrees to an earlier first appearance date.~~

56 (e) **First appearance hearing.** ~~The opposing party's first appearance on the order to~~
57 ~~show cause, at the date, time and place stated therein, shall not be the evidentiary~~
58 ~~hearing.~~ At the ~~first appearance hearing~~, the court ~~shall will~~ determine:

59 (e)(1) whether the ~~opposing non-moving~~ party ~~contests-denies~~ the ~~allegations~~
60 ~~claims~~ made by the moving party;

61 (e)(2) whether an evidentiary hearing is ~~necessary~~ needed;

62 (e)(3) the ~~specific~~ issues ~~to be resolved through an evidentiary hearing on which~~
63 ~~evidence may be submitted~~; and

64 (e)(4) the estimated length of ~~any such an~~ evidentiary hearing.

65 ~~The court may enter an order regarding any claim that the non-moving party does not~~
66 ~~deny.~~ The court may order the parties to file memoranda on legal issues before the
67 evidentiary hearing. ~~Memoranda must follow the requirements of Rule 7. If the opposing~~
68 ~~party does not contest the allegations made by the moving party, the court may proceed~~
69 ~~at the first appearance as the circumstances require.~~

70 (f) **Evidentiary hearing.** ~~At the evidentiary hearing on a contested order to show~~
71 ~~cause, the moving party shall.~~ The moving party bears the burden of proof on all
72 ~~allegations which are claims~~ made in ~~support of the order motion.~~

73 (g) **Limitations.** An motion for an order to show cause may not be ~~requested in~~
74 ~~order to obtain an original order or judgment; for example, an order to show cause may~~
75 ~~not be~~ used to obtain a temporary restraining order or ~~to establish a~~ temporary orders in
76 a divorce case or any other original order or judgment. ~~This rule shall apply only in civil~~
77 ~~actions, and shall not be applied to orders to show cause in criminal actions.~~ This rule
78 does not apply to an order to show cause issued by ~~a the~~ court on its own initiative. This
79 rule does not apply to a motion for an order to show cause from a court commissioner.

80

30 (3) the settlement offer is greater than or equal to one and one-third times
31 the judgment awarded at trial.

32 See Section 78B-5-824. Although the statute does not directly affect settlement
33 offers made under Rule 68, parties should be aware of the limitation a settlement
34 offer has on prejudgment interest in some cases.

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