

1       **Rule 101. Motion practice before court commissioners.**

2       (a) **Written motion required.** An application to a court commissioner for an order  
3 shall be by motion which, unless made during a hearing, shall be made in accordance  
4 with this rule. A motion shall be in writing and state succinctly and with particularity the  
5 relief sought and the grounds for the relief sought.

6       (b) **Time to file and serve.** The moving party shall file the motion and attachments  
7 with the clerk of the court and obtain a hearing date and time. The moving party shall  
8 serve the responding party with the motion and attachments and notice of the hearing at  
9 least 14 ~~calendar~~ days before the hearing. A party may file and serve with the motion a  
10 memorandum supporting the motion. If service is more than 90 days after the date of  
11 entry of the most recent appealable order, service may not be made through counsel.

12       (c) **Response; reply.** The responding party shall file and serve the moving party with  
13 a response and attachments at least ~~5 business~~ 7 days before the hearing. A party may  
14 file and serve with the response a memorandum opposing the motion. The moving party  
15 may file and serve the responding party with a reply and attachments at least 3  
16 business days before the hearing. The reply is limited to responding to matters raised in  
17 the response.

18       (d) **Attachments; objection to failure to attach.**

19       (d)(1) As used in this rule “attachments” includes all records, forms, information  
20 and affidavits necessary to support the party’s position. Attachments for motions and  
21 responses regarding alimony shall include income verification and a financial  
22 declaration. Attachments for motions and responses regarding child support and  
23 child custody shall include income verification, a financial declaration and a child  
24 support worksheet. A financial declaration shall be verified.

25       (d)(2) If attachments necessary to support the moving party’s position are not  
26 served with the motion, the responding party may file and serve an objection to the  
27 defect with the response. If attachments necessary to support the responding party’s  
28 position are not served with the response, the moving party may file and serve an  
29 objection to the defect with the reply. The defect shall be cured within 2 business

30 days after notice of the defect or at least 2 business days before the hearing,  
31 whichever is earlier.

32 (e) **Courtesy copy.** Parties shall deliver to the court commissioner a courtesy copy  
33 of all papers filed with the clerk of the court within the time required for filing with the  
34 clerk. The courtesy copy shall state the name of the court commissioner and the date  
35 and time of the hearing.

36 (f) **Late filings; sanctions.** If a party files or serves papers beyond the time required  
37 in subsections (b) or (c), the court commissioner may hold or continue the hearing,  
38 reject the papers, impose costs and attorney fees caused by the failure and by the  
39 continuance, and impose other sanctions as appropriate.

40 (g) **Counter motion.** Opposing a motion is not sufficient to grant relief to the  
41 responding party. An application for an order may be raised by counter motion. This rule  
42 applies to counter motions except that a counter motion shall be filed and served with  
43 the response. The response to the counter motion shall be filed and served no later  
44 than the reply. The reply to the response to the counter motion shall be filed and served  
45 at least 2 business days before the hearing. A separate notice of hearing on counter  
46 motions is not required.

47 (h) **Limit on hearing.** The court commissioner shall not hold a hearing on a motion  
48 before the deadline for an appearance by the respondent under Rule 12.

49 (i) **Limit on order to show cause.** An application to the court for an order to show  
50 cause shall be made only for enforcement of an existing order or for sanctions for  
51 violating an existing order. An application for an order to show cause must be supported  
52 by affidavit or other evidence sufficient to show cause to believe a party has violated a  
53 court order.

54 (j) **Motions to judge.** The following motions shall be to the judge to whom the case  
55 is assigned: motion for alternative service; motion to waive 90-day waiting period;  
56 motion to waive divorce education class; motion for leave to withdraw after a case has  
57 been certified as ready for trial; and motions in limine. A court may provide that other  
58 motions be to the judge.

59 Committee Notes

60       The 2014 amendments changed the deadline in paragraph (c) from 5 business days  
61 to 7 days as part of the adoption of the federal “days-are-days” approach to calculating  
62 time. That is, intervening weekends and holidays are included in the calculation even for  
63 relatively short periods of time. The amendments also deleted “calendar” from  
64 paragraph (b), but the application of the 2014 reenactment of Rule 6 yields the same  
65 result. However, the amendments did not change the deadlines of two and three  
66 business days in paragraphs (c), (d) and (g). These remain exceptions to the general  
67 approach.  
68