

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

2 (a) Written motion required. An application to a court commissioner for an order shall
3 be by motion which, unless made during a hearing, shall be made in accordance with
4 this rule. A motion shall be in writing and state succinctly and with particularity the relief
5 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 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 and
20 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 child
23 custody shall include income verification, a financial declaration and a child support
24 worksheet. A financial declaration shall be verified.

25 (d)(2) If attachments necessary to support the moving party’s position are not served
26 with the motion, the responding party may file and serve an objection to the defect with
27 the response. If attachments necessary to support the responding party’s position are
28 not served with the response, the moving party may file and serve an objection to the
29 defect with the reply. The defect shall be cured within 2 business days after notice of the
30 defect or at least 2 business days before the hearing, whichever is earlier.

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

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

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

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

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

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

58 (k) Objection to court commissioner's recommendation. A recommendation of a
59 court commissioner is the order of the court until modified by the court. A party may
60 object to the recommendation by filing an objection in the same manner as filing a
61 motion under Rule 7 within ten days after the recommendation is made in open court or,

62 if the court commissioner takes the matter under advisement, ten days after the minute
63 entry of the recommendation is served. A party may respond to the objection in the
64 same manner as responding to a motion.

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