

## Checklist to Respond to Motion to \_\_\_\_\_ (Decided by a Court Commissioner)

- You must complete a form before you file it. These instructions will help you complete the forms.
- The judicial services representative cannot complete a form for you.
- Attach a copy of any document referred to in the form.
- Keep a copy of all documents for your records.
- Attend all court hearings.
- Some forms may not apply in your case.

This is a checklist for responding to a motion that will be decided by a court commissioner. If the motion will be decided by a judge, use the checklist for motions to a judge.

Judges may rule on all motions in all types of cases. In [Judicial Districts 1, 2, 3 and 4](#), commissioners recommend rulings on most motions in divorce cases and several other types of family law cases.

Motions decided by a judge and motions decided by a commissioner follow different procedures. The documents are not different, but the time for filing them and the procedures for a hearing are. If a motion will be decided by a judge, a hearing is not scheduled until after all of the documents have been filed. If a motion will be decided by a commissioner, a hearing is scheduled when the motion is filed, and the documents have to be filed and served before the hearing. If you are not sure whether your motion will be decided by a judge or a commissioner, call the court to find out.

Motions decided by a judge are governed by [URCP 7](#). Motions decided by a commissioner are governed by [URCP 101](#).

### (1) Stipulation or Opposition?

- Decide whether you agree with the motion filed by the other party.
- If you agree with the motion, work with the other party to complete and file a Stipulation.
- If you decide that you oppose the motion (or some part of it) complete and file a Statement Opposing the Motion and its supporting documents.

### (2) Stipulation

- If you and the other party agree about the motion, work with the other party to complete and file the Stipulation to Enter Order.

- Check the correct box to show whether the court is the District, Juvenile or Justice Court. Print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition.
- Paragraph (1): Print the name of the motion on the blank line. If you understand and agree with Paragraph (1), check the box.
- Paragraph (2): If you understand and agree with Paragraph (2), check the box.
- Paragraph (3): If you understand and agree with Paragraph (3), check the boxes.
- Attach any required documents and forms.
- Date and sign the form.
- Send the original form and attachments to the other party to attach to and file with the motion.

**(3) Statement(s) Opposing the Motion**

- Some commissioners require a written Statement Opposing the Motion. Some do not. You should contact the commissioner’s judicial assistant to find out whether a Statement Opposing the Motion must be filed. Even if a commissioner does not require a written Statement Opposing the Motion, it may be to your advantage to file one.
- If the you do not agree with the motion and want to file a statement opposing it, you must file and serve the Statement Opposing the Motion at least 7 days before the hearing. A party may file more than one statement.
- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or Respondent, a witness for the Petitioner or Respondent or the attorney for the Petitioner or Respondent.
- Check the correct box to show whether the court is the District, Juvenile or Justice Court. Print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition. Check the correct box to show that the statement opposes the motion. Print the name of the motion on the blank line.
- A hearing before the commissioner is automatic, unless the parties agree with the motion. If there is no hearing, the commissioner will decide the motion based on the papers that have been filed. If you want to ask for a hearing, check the box next to “hearing requested.”
- Paragraph (1): State the facts relevant to the motion that are within the first-hand knowledge of the person signing the statement. This means the person

must have observed the facts personally, rather than being told about the facts.

- Paragraph (2): Check the correct box to show whether you request a hearing. A hearing before the commissioner is automatic, unless the parties agree with the motion. If there is no hearing, the commissioner will decide the motion based on the papers that have been filed.
- Paragraph (3): List and attach any documents you want to use to support the facts.
- Do not include any private or protected information on this form. When filed, this form is a public record. [Rule 4-202.09\(9\)](#) requires that you omit from a public record any information that is not itself public information. For a list of records, data and information classified as public, private, and protected, see [Rule 4-202.02](#).
- Attach any required documents and forms.
- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- File the original form, attachments and certificate of service with the judicial services representative.

#### **(4) Memorandum Opposing the Motion**

- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or Respondent or the attorney for the Petitioner or Respondent.
- Check the correct box to show whether the court is the District, Juvenile or Justice Court. Print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the complaint/petition. Check the correct box to show that the memorandum opposes the motion. Print the name of the motion on the blank line.
- Paragraph (1): Check the box to show that the motion is not supported by the law. State your argument why the motion is not supported by the law.
- Do not include any private or protected information on this form. When filed, this form is a public record. [Rule 4-202.09\(9\)](#) requires that you omit from a public record any information that is not itself public information. For a list of records, data and information classified as public, private, and protected, see [Rule 4-202.02](#).
- Attach any required documents and forms.

- Date and sign the form.
- Complete the Certificate of Service.
- Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- File the original form, attachments and certificate of service with the judicial services representative.

**(5) Reply Statement (if applicable)**

- If you file a Statement Opposing the Motion, the other party may file a Reply, but only to respond to something being raised for the first time in your opposing statement. If the opposing statement and its supporting documents merely make statements of fact and legal arguments against the points made in the motion, then the other party cannot file a Reply. The Reply must be filed and served at least 3 business days before the hearing.

**(6) Attend the Hearing**

- All motions decided by a commissioner will be decided after a hearing, unless the parties agree to the motion. Be sure to attend the hearing.

**(7) Findings of Fact, Conclusions of Law and Order on the Motion**

- The Findings of Fact, Conclusions of Law and Order might be completed at different times, depending on how the case is decided.
- Print your name and contact information at the top of the first page. Check whether you are the Petitioner or Respondent or the attorney for the Petitioner or Respondent.
- Check the correct box to show whether the court is the District, Juvenile or Justice Court. Print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the complaint/petition.
- If the parties stipulate to the motion, complete the rest of the Findings of Fact, Conclusions of Law and Order so that they agree with the motion.
- If the motion is not stipulated, do not complete the rest of the documents unless you are told to do so. Either the commissioner will complete the rest of the documents or tell one of the parties to do so.
- Attach any required documents or forms.
- If there is a hearing, the commissioner will decide the issues and will tell one of the parties to prepare the Findings of Fact, Conclusions of Law and Order.

Listen carefully to the commissioner's decision. The documents must agree with that decision, and you may have to prepare them.

- If you are told to prepare the Findings of Fact, Conclusions of Law and Order, complete all of them except the commissioner's signature. What you write in the documents must agree with what the commissioner decided.
- Date and sign the proposed Findings of Fact, Conclusions of Law and Order under the phrase: "approved as to form."
- Within 21 days after being told to prepare the documents, serve them on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
- The other party has 7 days in which to object.
- File the original Findings of Fact, Conclusions of Law and Order and the Certificate of Service with the judicial services representative after the time to object has ended.

**(8) Notice of Order**

- If you prepared the order, or if the commissioner says you have to serve the signed order:
  - Print your name and contact information at the top of the Notice of Order. Check whether you are the Petitioner or Respondent or the attorney for the Petitioner or Respondent.
  - Check the correct box to show whether the court is the District, Juvenile or Justice Court. Print the judicial district number, the county name and the court address on the blank lines. Complete the heading exactly as it appears in the petition.
  - Attach any required documents and forms.
  - Date and sign the form.
  - Complete the Certificate of Service.
  - Serve the form and any attachments on the other party by one of the methods described in the certificate of service. [URCP 5](#) governs service.
  - File the original form and attachments with the judicial services representative.