

Proposed Modification to ND of C Civil Local Rules 5-5, 7-3 and 7-7

Posted August 26, 2011

5-5. Manner of Service.

Abrogated.

7-3. Opposition; Reply; Supplementary Material.

(a) Opposition. Any opposition to a motion may include a proposed order, affidavits or declarations, as well as a brief or memorandum under Civil L.R.7-4. Any evidentiary and procedural objections to the motion must be contained within the brief or memorandum. Pursuant to Civil L.R. 7-4(b), such brief or memorandum may not exceed 25 pages of text.

(1) Any opposition to a motion that was filed and served through the Court's Electronic Case Filing program (ECF), must be filed and served not more than 14 days after the motion was filed. This time period includes the additional 3-days allowed under FRCivP 6(d).

Cross Reference

When a document is filed through ECF, an e-mail message is automatically generated and sent to all parties in the case who are registered with ECF. Receipt of this message constitutes service. See General Order 45(IX)(A).

(2) Any opposition to a motion that was not filed and served through ECF, and was served pursuant to FRCivP 5(b)(2)(A) or (B), must be filed and served not more than 14 days after the motion was filed. Any opposition to a motion that was not filed and served through ECF, and was served pursuant to FRCivP 5(b)(2)(C), (D), (E) or (F), must be filed and served not more than 17 days after the motion was filed. These time periods include the additional 3-days allowed under FRCivP 6(d).

(b) Statement of Nonopposition. If the party against whom the motion is directed does not oppose the motion, that party must file with the Court a Statement of Nonopposition within the time for filing and serving any opposition.

(c) Reply. Any reply to an opposition may include affidavits or declarations, as well as a supplemental brief or memorandum under Civil L.R. 7-4. Any evidentiary and procedural objections to the opposition must be contained within the reply brief or memorandum. Pursuant to Civil L.R. 7-4(b), the reply brief or memorandum may not exceed 15 pages of text.

(1) Any reply to an opposition that was filed and served through

ECF, must be filed and served by the moving party not more than 7 days after the opposition was due. This time period includes the additional 3-day period allowed under FRCivP 6(d).

Cross Reference

When a document is filed through ECF, an e-mail message is automatically generated and sent to all parties in the case who are registered with ECF. Receipt of this message constitutes service. See General Order 45(IX)(A).

(2) Any reply to an opposition that was not filed and served through ECF, and was served pursuant to FRCivP 5(b)(2)(A) or (B), must be filed and served not more than 7 days after the opposition was due. Any reply to an opposition that was not filed and served through ECF, and was served pursuant to FRCivP 5(b)(2)(C), (D), (E) or (F), must be filed and served not more than 10 days after the opposition was due. These time periods include the additional 3-days allowed under FRCivP 6(d).

(d) Supplementary Material. Once a reply is filed, no additional memoranda, papers or letters may be filed without prior Court approval, except as follows:

(1) If new evidence has been submitted in the reply, the opposing party may file and serve within 7 days after the reply was filed and served (10 days if the reply was not filed and served through ECF and was served pursuant to FRCivP 5(b)(2)(C), (D), (E) or (F)), an Objection to Reply Evidence, which may not exceed 5 pages of text, stating its objections to the new evidence, which may not include further argument on the motion. These time periods include the additional 3-day period allowed under FRCivP 6(d).

(2) Before the noticed hearing date, counsel may bring to the Court's attention a relevant judicial opinion published after the date the opposition or reply was filed by serving and filing a Statement of Recent Decision, containing a citation to and providing a copy of the new opinion—without argument.

7-7. Continuance of Hearing or Withdrawal of Motion.

(a) Before Opposition is Filed. Except for cases where the Court has issued a Temporary Restraining Order, a party who has filed a motion may file a notice continuing the originally noticed hearing date for that motion to a later date if:

(1) No opposition has been filed; and

(2) The notice of continuance is filed prior to the date on which the opposition is due pursuant to Civil L.R. 7-3(a).

(b) After Opposition is Filed. After an opposition to a motion has been filed, the noticed hearing date may be continued to a subsequent date as follows:

(1) When parties affected by the motion have not previously stipulated to continue the hearing date, unless the hearing date has been reserved with or specially set by the Judge, the parties affected by the motion may stipulate in writing pursuant to Civil L.R. 6-1(a) to continue the hearing date; or

(2) Upon order of the assigned Judge.

(c) Responsibility for Being Informed of Hearing Date. Counsel are responsible for being informed of the hearing date on a motion.

(d) Effect on Time for Filing Opposition or Reply. Unless otherwise ordered by the Court, the continuance of the hearing of a motion does not extend the time for filing and serving opposing papers or reply papers.

(e) Withdrawal. Within 7 days after service of an opposition, (10 days if the opposition was not filed and served through ECF, and was served pursuant to FRCivP 5(b)(2)(C), (D), (E) or (F)), the moving party may file and serve a notice of withdrawal of the motion. This time period includes the additional 3-day period allowed under FRCivP 6(d). Upon the filing of a timely withdrawal, the motion will be taken off-calendar. Otherwise, the Court may proceed to decide the motion.