

NRAP 27 – Proposed [September 2022]

RULE 27. MOTIONS

(a) In General.

(1) Application for Relief. An application for an order or other relief is made by motion unless these Rules prescribe another form. A motion must be in writing and be accompanied by proof of service.

(2) Contents of a Motion.

(A) Grounds and relief sought. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support it. The motion shall contain or be accompanied by any matter required by a specific provision of these Rules governing such a motion. ~~If a motion is supported by affidavits or other papers, they shall be served and filed with the motion.~~

(B) Accompanying documents.

(i) Any affidavit, declaration, or other paper necessary to support a motion must be served and filed with the motion.

(ii) An affidavit or declaration must contain only factual information, not legal argument.

(iii) A motion seeking substantive relief must include as a separate exhibit a copy of the trial court's or agency's decision.

(C) Documents Barred or Not Required.

(i) A separate brief supporting or responding to a motion must not be filed.

(ii) A notice of motion is not required.

(iii) A proposed order is not required.

(3) Response.

(A) Time to File. Any party may file a response to a motion; Rule 27(a)(2) governs its contents. The response must be filed within 10 days after service of the motion unless the court shortens or extends the time. A motion authorized by Rules 8 or 41 may be ~~acted upon after reasonable notice to the parties that the court intends to act sooner.~~ granted before the 10-day period runs only if the court gives reasonable notice to the parties that it intends to act sooner.

Commented [JS1]: Subcommittee revisited and settled on 10 days.

(B) Request for Affirmative Relief. A response may include a motion for affirmative relief. The time to respond to the new motion, and to reply to that response, ~~is are~~ governed by Rule 27(a)(3)(A) and (a)(4). The title of the response must alert the court to the request for relief.

(4) Reply to Response. Any reply to a response ~~shall~~ must be filed within 7 days after service of the response. A reply ~~shall~~ must not present matters that do not relate to the response.

~~[As amended; effective March 1, 2019.]~~

(b) Disposition of a Motion for a Procedural Order. The court may act on a motion for a procedural order — including a motion under Rule 26(b) — at any time without awaiting a response, and may, by rule or by order in a particular case, authorize its clerk to act on specified types of procedural motions. ~~Under Rule 27(e), the clerk may act on motions for specified types of procedural orders.~~ A party adversely affected by ~~the court's, or~~ the clerk's, action may file a motion to reconsider, vacate, or modify that action. Timely opposition filed after the motion is granted in whole or in part does not constitute a request to reconsider, vacate, or modify the disposition; a motion requesting that relief must be filed.

Commented [JS2]: New revisions since last discussion

(c) Motions for Reconsideration.

(1) Time limit for orders that terminate the case. A party seeking further consideration of an order that disposes of the entire case on the merits, terminates a case, or otherwise concludes the proceedings in the appellate courts must comply with the time limits of NRAP 40, NRAP 40A, or NRAP 40B as applicable.

(2) Time limit for all other orders. Unless the time is shortened or expanded by order of the court, a motion for clarification, modification or reconsideration of a court order that does not dispose of the entire case on the merits, terminate a case, or otherwise conclude proceedings must be filed within 14 days after entry of the order.

(3) Required showing. A party seeking relief under this rule shall state with particularity the points of law or fact which, in the opinion of the movant, the court has overlooked or misunderstood. Changes in legal or factual circumstances which may entitle the movant to relief also shall be stated with particularity.

Commented [JS3]: Added.

(d) Power of a Single Justice or Judge to Entertain Motions; Delegation of Authority to Entertain Motions.

(1) Authority of the Court of Appeals to Entertain Motions. The Court of Appeals and its judges may entertain motions in appeals or matters that the Supreme Court has transferred to that court.

(2) Order of a Single Justice or Judge.

(A) In addition to the authority expressly conferred by these Rules or by law, a justice or judge of the Supreme Court or Court of Appeals may act alone on any motion but may not dismiss or otherwise determine an appeal or other proceeding. The Supreme Court or Court of Appeals may provide by rule or by order in a particular case that only the Supreme Court or Court of Appeals may act on any motion or class of motions.

(B) The court may review the action of a single justice or judge. A ruling on a motion or other interlocutory matter, whether entered by a single judge or justice, is not binding upon the panel or full court to which the appeal is assigned on the merits, and the court considering the merits may alter, amend, or vacate it.

(3) ~~Clerk's Orders.~~ Authority of Clerk to Enter Orders of Dismissal.

(A) ~~Procedural Motions.~~ The chief justice or judge may delegate to the clerk authority to decide motions that are subject to disposition by a single justice or judge. An order issued by the clerk under this Rule shall be subject to reconsideration by a single justice or judge pursuant to motion filed within 14 days after entry of the clerk's order.

(B) ~~Orders of Dismissal.~~ The Supreme Court or Court of Appeals may delegate to the clerk authority to enter orders of dismissal in civil cases where the appellant has filed a motion or parties to an appeal or other proceeding have signed and filed a stipulation that the proceeding be dismissed, specifying terms as to the payment of costs.

(e) Form of Papers; Number of Copies.

(4) Format.

(A) **Reproduction.** All papers relating to motions may be reproduced by any process that yields a clear black image of letter quality. The paper must be opaque and unglazed. Only one side of the paper may be used.

(B) **Cover.** A cover is not required, but there must be a caption that includes the name of the court and the docket number, the title of the case, and a brief descriptive title indicating the purpose of the motion and identifying the party or parties for whom it is filed. If a cover is used, it shall be white.

(C) **Binding.** The document must be bound in any manner that is secure, does not obscure the text, and permits the document to lie reasonably

Commented [JS4]: Clerk's office may call about this.

Does this fit better in NRAP 42 (Voluntary Dismissal).

flat when open.

(D) Paper Size, Line Spacing, and Margins. The document must be on 8 1/2 by 11-inch paper. The text must be double-spaced, but quotations more than 2 lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Margins must be at least 1 inch on all 4 sides. The pages shall be consecutively numbered at the bottom.

(E) Typeface and Type Style. The document must comply with the typeface requirements of Rule 32(a)(5) and the type-style requirements of Rule 32(a)(6).

(F) A pro se party who is incarcerated or detained in a state prison or county jail or other facility may file documents under this Rule that are legibly handwritten in black ink and that otherwise conform to the requirements of this Rule. Handwritten documents are not otherwise permitted without leave of the court.

(5) Page Length Limits. ~~A motion or a response to a motion shall not exceed 10 pages, unless the court permits or directs otherwise. A reply to a response shall not exceed 5 pages. Except by the court's permission, and excluding the accompanying documents authorized by Rule 27(a)(2)(B):~~

~~(A) a motion or response to a motion produced using a computer is acceptable if it contains no more than 10 pages or 4,667 words;~~

~~(B) a handwritten or typewritten motion or response to a motion is acceptable if it contains no more than 10 pages;~~

~~(C) a reply produced using a computer is acceptable if it contains no more than 5 pages or one half of the type-volume limitation for the motion;~~
~~and~~

~~(D) a handwritten or typewritten reply to a response is acceptable if it contains no more than 5 pages.~~

~~**(6) Number of Copies.** An original and 1 copy must be filed unless the court requires a different number by order.~~

(f) Emergency Motions. If a movant certifies that to avoid irreparable harm relief is needed in less than 14 days, the motion shall be governed by the following requirements:

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(7) Before filing the motion, the movant shall make every practicable effort to notify the clerk of the Supreme Court, opposing counsel, and any opposing parties proceeding without counsel and to serve the motion at the earliest possible time. If an emergency motion is not filed at the earliest possible time, the court may summarily deny the motion.

(8) A motion filed under this subdivision shall include the title “Emergency Motion Under NRAP 27~~(e)~~ (f)” immediately below the caption of the case and a statement immediately below the title of the motion that states the date or event by which action is necessary.

(9) A motion filed under this subdivision shall be accompanied by a certificate of the movant or the movant’s counsel, if any, entitled “NRAP 27~~(e)~~ (f) Certificate,” that contains the following information:

(A) The telephone numbers and office addresses of the attorneys for the parties and the telephone numbers and addresses for any pro se parties;

(B) Facts showing the existence and nature of the claimed emergency; and

(C) When and how counsel for the other parties and any pro se parties were notified and whether they have been served with the motion; or, if not notified and served, why that was not done.

(10) If the relief sought in the motion was available in the district court, the motion shall state whether all grounds advanced in support of the motion in the court were submitted to the district court, and, if not, why the motion should not be denied.

(11) The motion shall otherwise comply with the provisions of this Rule.

(g) Oral Argument. A motion will be decided without oral argument unless the court orders otherwise.