**Rule 101. Motion practice before domestic relations ~~court~~ commissioners.**

**(a) Scope.** This rule applies to motion practice before domestic relations ~~court~~ commissioners, as described by Code of Judicial Administration rule 6-401.

**(b) Motions to commissioners.** A request to a ~~court~~ commissioner for an order must be made by motion in accordance with this rule, except~~-~~:

(1) A request under Rule 26 for extraordinary discovery must follow Rule 37(a);

(2) A request under Rule 37 for a protective order or an order compelling disclosure or discovery–but not a motion for sanctions–must follow Rule 37(a);

(3) A request under Rule 45 to quash a subpoena must follow Rule 37(a);

(4) A stipulated motion must follow Rule 7(k); and

(5) An ex parte motion must follow Rule 7(m).

**(~~b~~c) Written motion content.**

(1) A motion must be in writing and state succinctly and with particularity the relief sought and the grounds for that relief. Any evidence necessary to support the moving party's position must be presented by affidavit, declaration, or other admissible evidence. The motion may also include a supporting memorandum.

(2) A motion~~s~~ must include or attach the bilingual Notice to Responding Party approved by the Judicial Council.

(3) A motion must include the following caution statement at the top right corner of the first page, in bold type: **This motion will be decided by the court commissioner at an upcoming hearing. If you do not appear at the hearing, the commissioner might make a decision against you without your input. You may file a written response to the motion. Any response must be filed at least 14 days before the hearing.**

(4) Failure to provide the bilingual Notice to Responding Party or to include the caution language may provide the non-moving party with a basis under Rule 60(b) to seek to set aside any resulting order or judgment.

(d) **Oral motion.** An oral motion made before a ~~court~~ commissioner during a hearing is disfavored, but the ~~court~~ commissioner has discretion to consider an oral motion for good cause shown.

(~~d~~e) **Time to file and serve.** The moving party must file the motion and any supporting papers with the court clerk and obtain a hearing date and time. The moving party must serve on all other parties the motion, any supporting papers, and notice of the hearing at least 28 days before the hearing. If the nonmoving party is not represented by counsel in the case, service must be made as provided in Rule 4 unless the nonmoving party has filed or served a document in the case within the last 120 days.

(ef) **Response.** Any other party may file a response, consisting of any responsive memorandum, affidavit, declaration, or other admissible evidence. The response must be filed and served on the moving party at least 14 days before the hearing.

(~~f~~g) **Reply.** The moving party may file a reply, and attach any affidavit, declaration, or other admissible evidence. The reply must be filed and served on the responding party at least seven days before the hearing. The reply must be limited to rebuttal of new matters raised in the response to the motion.

(~~g~~h) **Countermotion.** A responding party may not seek affirmative relief in a response. A responding party may request affirmative relief by a countermotion. A counter motion need not be limited to the subject matter of the original motion. All of the provisions of this rule apply to counter motions, except that a countermotion must be filed and served with the response. Any response to the countermotion must be filed and served no later than the reply to the motion. Any reply to the response to the counter motion must be filed and served at least three business days before the hearing. The reply must be served by hand delivery or electronic delivery allowed by rule, or as agreed by the parties at

least three business days before the hearing. A separate notice of hearing on a countermotion is not required.

**(~~h~~i) Necessary documentation.** Motions and responses regarding temporary orders concerning alimony, child support, division of debts, possession or disposition of assets, litigation expenses, or appointment of a court-annexed professional (including, but not limited to, a guardian ad litem, custody evaluator, special master, or parenting coordinator) must be accompanied by verified financial declarations with documentary income verification attached as exhibits, unless financial declarations and documentation are already in the court's file and remain current. Attachments for motions and responses regarding child support and child custody must also include a child support worksheet.

**(~~i~~j) No other papers.** No other moving or responding papers are permitted.

**(~~j~~k) Exhibits.**

(1) Each exhibit must be attached to an affidavit, declaration, verified motion, or verified memorandum establishing the exhibit's necessary foundation.

(2) Copies of documents that are already filed in the case may not be filed as exhibits. Court papers from other cases, such as protective orders, prior divorce decrees, criminal orders, information or dockets, and juvenile court orders (to the extent the law does not prohibit their filing), may be submitted as exhibits.

(3) **Voluminous exhibits.** Exhibits beyond the page limits set forth below may not be filed, but the contents of such documents may be presented in the form of a summary, chart, or calculation under Rule 1006 of the Utah Rules of Evidence. A summary is a statement describing the content of each voluminous exhibit and is not simply a list identifying exhibits. Affidavits and declarations may not be summarized. Collections of documents, such as bank statements, checks, receipts, medical records, photographs, e-mails, text messages, calendars, and journal entries that collectively exceed ten pages in length must be presented in summary form.

(A) Copies of any such documents beyond the page limits must be supplied to the other parties at the time of the filing of the summary, chart, or calculation.

(B) The originals or duplicates of the documents must be available at the hearing for examination by the parties and the commissioner.

**(~~k~~l) Length.** Except as provided below, each party may submit no more than 25 total pages per hearing regardless of the number of motions to be heard. This page limit applies to the total of all motions, responses, countermotions, replies, memoranda, affidavits, declarations, exhibits, attachments, and summaries submitted by each party for a hearing.

(1) The following documents are excluded from the page limit and must be submitted in their entirety:

(A) financial declarations and their required attachments;

(B) income verification;

(C) tax returns;

(D) appraisals;

(E) financial statements and reports prepared by an accountant;

(F) wills;

(G) trust documents;

(H) contracts;

(I) settlement agreements;

(J) reports from the Division of Child and Family Services or equivalent agencies;

(K) relevant court orders from other cases or jurisdictions; and

(L) other documents at the commissioner's discretion.

(2) The page limits in this rule exclude the following:

(A) caption;

(B) table of contents;

(C) table of authorities;

(D) signature block;

(E) certificate of service;

(F) verification;

(G) bilingual notice; and

(H) other notice required by these rules.

(3) A party may file a motion under Rule 7(o~~l~~), asking the ~~court~~ commissioner for permission to exceed the 25-page limit on a showing of good cause.

**(~~l~~m) Late filings; sanctions.** If a party files or serves papers beyond the deadlines stated in this rule, the ~~court~~ commissioner may hold or continue the hearing, reject the papers, impose costs and attorney fees caused by the failure or continuance, and impose other sanctions as appropriate.

**(~~m~~n) Limit on motion to enforce and for sanctions.** A motion to enforce and for sanctions may be made only for enforcement of or violating an existing order.

**(~~n~~o) Hearings.**

(1) A hearing may be scheduled but may not be held on a motion for temporary orders before the deadline for an appearance by the respondent under Rule 12.

(2) Unless the ~~court~~ commissioner specifically requires otherwise, when the statement of a person is set forth in an affidavit, declaration, or other document accepted by the commissioner, that person need not be present at the hearing. The statements of any person not set forth in an affidavit, declaration, or other acceptable document may not be presented unless the person is present at the hearing and the commissioner finds that fairness requires its admission.

**(~~o~~p) Motions to judge.** The following motions must be submitted to the judge to whom the case is assigned:

(1) motion for alternative service;

(2) motion to waive 30-day waiting period for divorce;

(3) motion to waive a parenting education course;

(4) motion for leave to withdraw after a case has been certified as ready for trial;

(5) motion in limine; and

(6) post-trial motion under Rules 58A, 58B, 58C or 59 for those trials held before the judge. A court may provide that other motions be considered by the judge.

**(~~p~~q) Orders.** Rule 7(j) applies to preparing a proposed order after a hearing before a ~~court~~ commissioner unless the commissioner directs otherwise. A recommendation of a ~~court~~ commissioner is the order of the court unless modified by the court. A party may object to the recommendation by filing an objection under Rule 108.

*Effective:* [##/##/####]