RULE 17.4
FILING AND SERVICE OF MOTION--ANSWER TO MOTION

(a) Filing and Service Generally. Procedure for Noting a Motion Where Permitted.

(1) A motion filed by a party must be served on all parties, amicus, and other persons entitled to notice, and filed in the appellate court.

(2) The Supreme Court and each division of the Court of Appeals will determine by General Order whether a party may note a motion for hearing. If a party is permitted to note a motion for hearing, the motion must be accompanied by a notice of the time and date set for oral argument of the motion. The movant should contact the clerk of the appellate court to determine the date and time available for argument of the motion. The motion and notice must be served on all parties, amicus, and other persons entitled to notice and filed in the appellate court at least 15 days before the date noted for the hearing on the motion. If a motion is not noted for hearing and the court does not set a date for a hearing, the motion will be decided without oral argument.

(b) Emergency Motion. In an emergency, a person may request expedited consideration of a motion. The person presenting the motion must, at the time the motion is made, file an affidavit stating the type of notice given and the time and date the notice was given to each person, and explain in the motion why it should be decided on an emergency basis. If the court requires an answer or sets the motion for argument, it will notify the parties and other persons entitled to notice as to when an answer should be filed, and of the date, time, and place the motion will be heard. The commissioner or clerk may decide the motion only if satisfied (1) that adequate relief cannot be given if the motion is considered in the normal course, and (2) the movant has taken reasonable steps under the circumstances to give notice to persons who would be affected by the ruling sought. An emergency motion may be presented on less notice than that required by section (a).

(c) Summary Determination.

(1) The commissioner or clerk may summarily determine without oral argument, and without awaiting an answer, a motion which, in the judgment of the commissioner or clerk, does not affect a substantial right of a party. (2) If the commissioner or clerk makes a summary determination granting a motion under subsection (c)(1) of this rule, and a party files and serves a timely responsive pleading after the ruling has been entered, the commissioner or clerk will treat the responsive pleading as a motion for reconsideration of the ruling. If such a responsive pleading is filed, the commissioner or clerk may permit the moving party to file a reply and may allow oral argument on the motion.

(d) Motion in Brief. A party may include in a brief only a motion which, if granted, would preclude hearing the case on the merits. The answer to a motion within a brief may be made within the brief of the answering party in the time allowed for filing the brief.

(e) Answer and Reply to Motion. A person with a recognized interest in the subject matter of the motion may submit a written answer to the motion. Unless the court directs otherwise, any answer must be filed and served no later than 10 days after the motion is served on the answering party. The moving party may submit a written reply to the answer to the motion. Unless the court directs otherwise, any reply to an answer must be filed and served no later than 3 days after the answer is served on the moving party, but at least 1 day prior to the date set for oral argument.

(f) Supporting Papers. A person should serve and file with the motion all affidavits and other papers submitted in support of the motion. Affidavits and

other papers submitted in support of an answer or reply must be served and filed with the answer or reply. Rule 9.11 does not apply to affidavits and other papers submitted in connection with a motion other than a motion on the merits under rule 18.14.

(g) Length of Motion, Answer and Reply; Form of Papers and Number of Copies.

(1) A motion and answer should not exceed 20 pages, not including supporting papers. A reply should not exceed 10 pages, not including supporting papers. For compelling reasons, the court may grant a motion to file an over-length motion, answer, or reply.

(2) All papers relating to motions or answers should be filed in the form provided for briefs in rule 10.4(a), provided an original only and no copy should be filed. The appellate court commissioner or clerk will reproduce additional copies that may be necessary for the appellate court and charge the appropriate party as provided in rule 10.5(a).

References

Form 19, Notice of Motion; Rule 12.4, Motion for Reconsideration of Decision Terminating Review, (d) Answer and reply, (f) No oral argument.

[Amended December 5, 2002; September 1, 2006; September 1, 2010]