

## INSTRUCTIONS FOR RESPONDING TO MOTIONS IN CIVIL CASES

(For parties not represented by lawyers)

These instructions are for responding to motions in civil cases. Do not use them in criminal cases, domestic violence cases, cases concerning child custody or support, or small claims. See the bottom of page 2 for a list of forms that can be used in some of those types of cases.

A "motion" is a request to a judge for an order that decides an issue that comes up during a lawsuit. A motion can be made by any party to the lawsuit. When a motion is filed with the court, the opposing party has the right to file a response to it.

Motion procedure is governed by the Alaska Rules of Court. The main rule on motions is Civil Rule 77. Other important rules are Civil Rule 5 (about serving copies on other parties), Civil Rule 6 (about how time limits are calculated), and Civil Rule 7(b) (about the form of motions).

The Alaska Rules of Court are available for review at all state courts, court law libraries, many city libraries and on the Alaska Court System's web site:

<http://www.courts.alaska.gov/rules/index.htm>

### Time Limit For Filing Response

The time limit for filing a response depends on how the motion was delivered to you.

- a. If delivered in person: 10 days from the date of delivery
- b. If delivered by first class mail: 13 days from the date of mailing

*Exception:* A few motions have different time limits for the response. See Civil Rule 77(c)(2)(ii) and (iii). Example: motions that will end the case (motions to dismiss, motions for summary judgment and motions for judgment on the pleadings).

### How To File A Response

To respond to a motion, do the following:

1. Fill out and sign the Response form (CIV-810). The location of the court, the plaintiff, the defendant and the case number will be the same as they are on the motion, complaint and other documents in your case.

Be sure to fill out the "Certificate of Service" on page 2, describing how you will give a copy to the party who filed the motion.

2. Prepare a proposed order for the judge's signature (on form CIV-820). In the "Further Orders" section of the order form, you must state exactly what you want the judge to order. For example:
  - a. If the motion requests the judge to order you to give the other party a copy of your joint tax return, you could write: *"Defendant is not required to provide plaintiff with a copy of their joint tax return."*
  - b. If the motion requests an extension of time in which to file an answer, you could write: *"The due date for defendant's answer remains August 5, 2002."*

3. Mail (by first class mail) or hand-deliver to the party (or attorney) who filed the motion:
  - a. a copy of your response (including the certificate of service on page 2),
  - b. a copy of your proposed order, and
  - c. a copy of any documents attached to your response.
4. Make a copy of your response, proposed order and any attachments for yourself.
5. Mail or hand-deliver the original of your response and the proposed order to the court in which your case is filed. There is no fee for filing a response.

### **Reply**

The person who filed the motion has the right to file a "reply" to your response. The time limit for filing a reply depends on how the response was delivered to the person filing the motion.

- a. If delivered in person: 5 days from the date of delivery (not counting weekends or holidays)
- b. If delivered by first class mail: 8 days from the date it was postmarked (not counting weekends or holidays).

The person who filed the motion must send you a copy of any reply sent to the court.

### **Judge's Decision**

After the time period for response and reply has elapsed, the judge will decide the motion. If the judge believes a hearing is necessary before deciding the motion, a hearing will be scheduled. You will be notified of the time, date and location of the hearing and, probably, whether the hearing will be an evidentiary hearing followed by oral argument or just oral argument. At an "evidentiary hearing," the party bringing the motion has the burden of proving the reasons to grant the motion. The party must present evidence, which may include the party's own testimony or other witnesses' testimony. The party opposing the motion may present similar evidence (testimony) in opposition. At "oral argument," the parties explain what they want and answer any questions the judge might have. No further testimony or witnesses are presented.

### **Forms Available at the Court For Some Specific Types of Responses**

#### Appeals

- Response to Request ([AP-140](#))

#### Domestic Relations Cases

- Response To Motion to Modify Child Support, Custody or Visitation ([DR-720](#) Response Packet)

#### Small Claims Cases

- Notice To Plaintiff and Plaintiff's Response To Request For Change of Place of Trial ([SC-5](#))
- Response To Request ([SC-27](#))