



The Office of
Minnesota Attorney General Keith Ellison

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**MOTION PRACTICE FROM THE JUDGE'S PERSPECTIVE
CONTINUING LEGAL EDUCATION PROGRAM**

**Tuesday, November 7, 2023
12 Noon to 1:00 p.m.**

Minn. CLE Event Code No.: 493216

Minnesota Motion Practice Rules

- Minnesota State Court – Minnesota. Rules of Civil Procedure (Minn. R. Civ. P.) and Minnesota General Rules of Practice (Minn. Gen. R. Prac.)
- Minnesota Federal District Court – Federal Rules of Civil Procedure (Fed. R. Civ. P.) and Minnesota Local Rules (D. Minn LR)
- Office of Administrative Hearings (OAH) – Minnesota Rules (Minn. R. Ch. 1400)

Definition and Categories of Motions

Definition of a Motion:

A motion is an application to the Judge for an Order.

Minn. R. Civ. P. 7.02(a)

Fed. R. Civ. P. 7(b)(1)

Minn. R. 1400.6600

Two Categories of Motions:

Dispositive and Non-dispositive (state and federal courts)

Summary Disposition and other (OAH)

Why it matters: Timelines and procedures are different, and in federal court, who decides.

Meet and Confer Requirements for Motions

- **State Court:** No motion will be heard unless the parties have conferred either in person, by telephone, or in writing in an attempt to resolve their differences *prior to the hearing*. Minn. Gen. R. Prac. 115.10
- **Federal Court:** *Before filing a motion* other than a motion for temporary restraining order or a motion under Fed. R. Civ. P. 56 (Summary Judgment), the moving party must, if possible, meet and confer with the opposing counsel in a good faith effort to resolve the issues raised by the motion. LR 7.1(a)
- **OAH:** ALJ could order, or order the application of Minnesota Court Rules of Civil Procedure if determined appropriate in order to promote fair and expeditious proceeding. Minn. R. 1400.6600.

Nondispositive Motions

Nondispositive motions include motions related to discovery, third party practice, temporary relief (state court), amendment of pleadings, and joinder and intervention. *See* Minn. Gen. R. Prac. 115.01(a)(2); LR 7.1(b)(4).

At OAH, all motions are governed by Minn. R. 1400.6600 (whether dispositive or not).

Timelines for Nondispositive Motions

- **State Court:** The moving party's motion and supporting documents are due at least 21 days before the hearing; the opposing party's response 14 days before the hearing, and a reply memorandum 7 days before the hearing. Minn. Gen. R. Prac. 115.04 (2023)
- **Federal Court:** The moving party's motion and supporting documents are due at least 14 days before the hearing; responding party is due within 7 days after filing of a nondispositive motion, reply brief not allowed except with court's prior permission in support of nondispositive motions. LR 7.1(b)
- **OAH:** Written motion shall advise other parties that should they wish to contest the motion, they must file a written response with the judge and serve copies on all parties within ten working days after it is received. Minn. R. 1400.6600. Where the OAH rules are silent, the ALJ shall apply the State Rules of Civil Procedure for District Court of Minnesota to the extent appropriate. *Id.*

Dispositive and Summary Disposition Motions

Dispositive Motions are motions that seek to dispose all or part of the claims or parties except motions for default (state court). Minn. Gen. R. Prac 115.01(a)(1). They include:

- Motions to dismiss and motions for judgment on the pleadings. Minn. R. Civ. P. 12.02(a)-(f), 12.03; Fed. R. Civ. P. 12(b).
- Summary judgment motions: No genuine issues of material fact and party entitled to judgment as a matter of law. Minn. R. Civ. P. 56.01; Fed. R. Civ. P. 56
- In federal court, includes motions for injunctive relief, class certifications, and exclusion of experts under Fed. R. Evid. 702 and *Daubert*. LR 7.1(c)(6)

Summary Disposition Motions at OAH where there is no genuine issue as to any material fact or recommend dismissal where the case or any part thereof has become moot or for other reasons. Minn. R. 1400.5500 (K). Summary disposition is the administrative law equivalent to summary judgment. OAH generally follows the summary judgment standards developed in the district courts in considering motions for summary disposition. Minn. R. 1400.6600.

Timelines for Dispositive Motions

- **State Court:** the moving party's motion and supporting documents are due at least 28 days before the hearing; the opposing party's response is due at least 14 days before the hearing; and moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion at least 7 days before the hearing. Minn. Gen. R. Prac. 115.03.
- **Federal Court:** Moving party must file memorandum and supporting documents at least 42 days before the hearing, responding party must file within 21 days after the filing of a dispositive motion its memorandum and supporting documents, and a reply by moving party is due 14 days after the opposing party's response. LR 7.1(c)
- **OAH:** Deadlines are as set in the scheduling or pretrial order, or as under Minn. R. 1400.6600 – written motion for an order shall advise other parties that should they wish to contest the motion, they must file a written response with the judge and service copies on all parties within ten working days after it is received.

Oral Argument/Hearing on Motions

- **State Court:** A hearing date and time shall be obtained from the court administrator or designated motion calendar deputy. Minn. Gen. R. Prac. 115.02
- **Federal Court:** Nondispositive motions are heard by the magistrate judge; dispositive motions heard by the district judge unless court orders otherwise. LR 7.1(b) and (c). Before filing, moving party must obtain a hearing date, afterward, the parties may jointly request the hearing be canceled or the court may cancel the hearing. LR 7.1(b) and (c). View the District Judges' and Magistrate Judges' Practice Pointers for scheduling and oral argument for motion practice at <https://www.mnd.uscourts.gov/judges-practice-pointers>
- **OAH:** ALJ decides whether there is a hearing on the motion (Only if “determined that a hearing is necessary to the development of a full and complete record on which a proper decision can be made. Motions may be heard by telephone.”) Minn. R. 1400.6600