

Rule 7. Motions

(a) **FILING.** All written motions must be filed with the court. Motions may be written on forms maintained by the clerk.

(b) **NOTICE OF HEARING AND ORDER TO APPEAR.**

(1) *Issuance.* On the filing of a motion that requires a hearing, the clerk must issue a notice of hearing and order to appear.

(2) *Content.* The notice of hearing and order to appear must:

- (i) name the court and the parties;
- (ii) be directed to the nonmovant;
- (iii) state the date and time that the nonmovant must appear for the hearing;
- (iv) notify the nonmovant that failure to appear may result in the issuance of a default order and a warrant for the nonmovant's arrest;
- (v) be signed by the clerk; and
- (vi) bear the court's seal.

(c) **MOTION TO CONTINUE.**

(1) *In General.* Any party seeking a continuance must file a motion to continue 48 hours before the hearing. Under justifiable circumstances, the court may waive the 48-hour requirement or permit an oral motion.

(2) *Consent.* An attorney, who is filing a motion to continue and knows before filing that the other party is represented, must include in the motion that:

- (A) the adverse party consents to the continuance; or
- (B) despite diligent efforts, consent could not be obtained.

(3) *Extension of Temporary Protection Order.* If the court grants a continuance, the court may grant or extend a temporary protection order as allowed by law. The court may condition a continuance on the extension of a protection order as is justified under the circumstances to cover the continuance period. A respondent's motion for continuance must state whether the respondent consents to the extension of an existing protection order.

(d) **MOTION TO DISMISS.**

(1) *By Written Motion.* A respondent may file a written motion to dismiss a petition at any time prior to entry of a civil protection order. If made in writing prior to the entry of a civil protection order, the clerk must schedule the motion for a hearing on the date already set for the trial on the petition. At the request of the petitioner, the court may continue the hearing to allow the petitioner additional time to respond.

(2) *By Oral Motion.* A respondent may make an oral motion to dismiss a petition in open court at any hearing or trial prior to entry of a civil protection order. If the basis for the motion is anything other than petitioner's failure to proceed with the case, the court may direct the respondent to submit the motion in writing. At the request of the petitioner, the court may continue the hearing or trial to allow the petitioner additional time to respond.

(e) **MOTION TO REINSTATE.**

(1) *By Written Motion.* A petitioner may file a written motion asking the court to reinstate a petition that was dismissed without prejudice. A written motion must be signed under oath and must show good cause to reinstate. On filing of a motion to reinstate, the clerk must schedule a hearing on the motion.

(2) *By Oral Motion.* A petitioner who is not present when the court dismisses his or her petition without prejudice may orally request reinstatement of a petition in open court the same day that the petition is dismissed.

(f) MOTION TO SET ASIDE A DEFAULT ORDER.

(1) *In General.* A motion to set aside a default order must be signed under oath and must show:

(A) good cause for the failure to appear; and

(B) grounds which, if proved, would be sufficient to prevent the issuance of the civil protection order in whole or in part.

(2) *Timing.* A motion to set aside a default order must be filed no later than 14 days after the respondent is personally served with the civil protection order.

(3) *Hearing.* On filing of a motion to set aside a default order, the clerk must schedule a hearing on the motion.

(g) MOTION TO MODIFY.

(1) *In General.* On motion of either party, the court may modify a protection order. A motion to modify may be written or oral. A motion to modify must be made before the protection order expires.

(2) *Hearing.* On filing of a written motion to modify, the clerk must schedule a hearing on the motion. The court may decide the motion without holding the hearing if the relief is favorable to the nonmovant.

(3) *Effect of Motion.* Filing a motion to modify does not change the protection order. Only the court can modify a protection order.

(h) MOTION TO EXTEND.

(1) *In General.* On motion of either party, the court may extend a civil protection order. A motion to extend may be written or oral. A motion to extend must be made before the civil protection order expires.

(2) *Hearing.* On filing of a written motion to extend, the clerk must schedule a hearing on the motion. If the hearing on the motion to extend is not held prior to the expiration of the civil protection order, the order will remain in effect until the court decides the motion.

(i) MOTION TO VACATE.

(1) *In General.* On motion of either party, the court may vacate a protection order. A motion to vacate may be written or oral.

(2) *Hearing.* On filing of a written motion to vacate, the clerk must schedule a hearing on the motion.

(3) *Effect of Motion.* Filing a motion to vacate does not vacate the protection order. Only the court can vacate a protection order.

(j) MOTION TO RECONSIDER.

(1) *Grounds.* On motion of either party, the court may reconsider its ruling, order, or judgment on the following grounds:

(A) the court's failure to consider a material fact or applicable law;

(B) newly discovered evidence that, with reasonable diligence, could not have been discovered prior to the court's ruling, order, or judgment;

(C) a change of law not previously brought to the court's attention;

(D) the absence of a stated reason for the court's order;

(E) fraud, misrepresentation, or other misconduct by the opposing party;

(F) mistake, inadvertence, surprise, or excusable neglect; or

(G) any other reason that justifies relief.

(2) *Timing*. A motion to reconsider must be filed no later than 28 days after entry of the ruling, order, or judgment.

(3) *Supporting Documentation*. A movant may submit documentation supporting the motion to reconsider.

(4) *Hearing*. The court may rule on a motion for reconsideration with or without a hearing.

(5) *Effect of Motion*. Filing a motion to reconsider does not change or suspend the ruling, order, or judgment.

(k) MOTION TO CORRECT. The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a ruling, order, judgment or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

(l) RESPONSES. Any response to a motion must be filed within 14 days after service of the motion or prior to the hearing on the motion, whichever is earlier.

COMMENT TO 2017 AMENDMENTS

This rule was rewritten and expanded to provide more detailed procedures to self-represented parties. Also, in order to be more easily understood by self-represented parties, section (i) uses the term “vacate” in place of the term “rescind,” which is used in D.C. Code § 16-1005 (d) (2017 Supp.). When the court is considering a motion to vacate in the absence of either party, the court should consider, among other things, the circumstances surrounding the case, the demeanor of the party, and safety factors in the particular case.

Sections (g) and (h), addressing motions to modify and to extend, now reflect the determination in *Adams v. Ferreira*, 741 A.2d 1046 (D.C. 1999) (explaining that, under D.C. Code § 16-1005, a civil protection order could only be extended, rescinded, or modified by motion of a party to the original proceeding, not on the court's own initiative).

Sections (j) and (k) are modeled after Civil Rule 60, but have been modified to reflect practice in the Domestic Violence Unit. Where these sections are substantially similar to the civil rule, case law interpreting the civil rule is expected to apply. Under District of Columbia Court of Appeals Rule 4, the timely filing of a motion to reconsider may impact the time for filing a notice of appeal.

Motions for contempt are addressed in Rule 14.