

5:5-4. Motions in Family Actions

(a) ... no change

(b) ... no change

(c) Time for Service and Filing. A notice of motion [, except for motions brought pursuant to R. 1:10-3 and motions involving the status of a child, filed more than 45 days after the entry of the written judgment of divorce or annulment, other than an ex parte motion,] shall be served and filed, together with supporting affidavits and briefs, when necessary, not later than 24 [29] days before the time specified for the return date. For example, a motion must be served and filed on the Tuesday [Thursday] for a motion date falling on a Friday 24 [29] days later. Any opposing affidavits, cross-motions or objections shall be served and filed not later than 15 days before the return date. For example, a response must be served and filed on a Thursday for a motion date falling on a Friday 15 days later. Answers or responses to any opposing affidavits and cross-motions shall be served and filed not later than 8 days before the return date. For example, such papers would have to be served and filed on a Thursday for a motion date falling on the Friday of the following week. If service is made by mail, 3 days shall be added to the above time periods. Two copies of all motions, cross-motions, certifications, and briefs shall be served.

[All other motions shall be served and filed with supporting affidavits and briefs, when necessary, in accordance with R. 1:6-3(a).]

(d) Advance Notice. Every motion shall include the following language:

"NOTICE TO LITIGANTS: IF YOU WANT TO RESPOND TO THIS MOTION YOU

MUST DO SO IN WRITING. This written response shall be by affidavit or certification. (Affidavits and certifications are documents filed with the court. In either document the person signing it swears to its truth and acknowledges that they are aware that they can be punished for not filing a true statement with the court. Affidavits are notarized and certifications are not.) If you would also like to submit your own separate requests in a motion to the judge you can do so by filing a cross-motion. Your response and/or cross-motion may ask for oral argument. That means you can ask to appear before the court to explain your position. However, you must submit a written response even if you request oral argument. Any papers you send to the court must be sent to the opposing side, either to the attorney if the opposing party is represented by one, or to the other party if they represent themselves.

"The response and/or cross-motion must be submitted to the court by a certain date. All [pre-divorce] motions [, all enforcement motions (also known as motions for enforcement of litigants' rights, R. 1:10-3), or motions that deal with the status of children must be filed 16] must be filed on the Tuesday 24 days before the return date. [(Since most motion days are on a Friday, motion papers must be filed on the Wednesday 16 days before.)] A response and/or cross motion must be filed [eight] fifteen days (Thursday) before the return date. Answers or responses to any opposing affidavits and cross-motions shall be served and filed not later than [four] eight days [(Monday)] (Thursday) before the return date. No other response is permitted without permission of the court. [All post-judgment motions, including all motions for modification of alimony, child support, custody, or parenting time/visitation must be filed 29 days (Thursday) before the (Friday) return date. A response and/or cross-motion must be filed 15 days (Thursday)

before the return date. Answers or responses to any opposing affidavits and cross-motions shall be served and filed not later than eight days (Thursday) before the return date. No other response is permitted without permission of the court.] If you mail in your papers you must add three days to the above time periods.

"Response to motion papers sent to the court are to be sent to the following address:

_____. Call the Family Division Manager's office (_____) if you have any questions on how to file a motion, cross-motion or any response papers. Please note that the Family Division Manager's office cannot give you legal advice."

(e) ... no change

(f) ... no change

(g) ... no change

Note: Source -- R. (1969) 4:79-11. Adopted December 20, 1983, to be effective December 31, 1983; amended November 2, 1987 to be effective, January 1, 1988; former rule amended and redesignated paragraph (a) and paragraph (b) adopted June 29, 1990 to be effective September 4, 1990; paragraph (b) amended and paragraph (c) adopted June 28, 1996 effective as of September 1, 1996; captions of paragraphs (a) and (b) amended and paragraph (d) adopted July 10, 1998 to be effective September 1, 1998; new paragraph (b) added and former paragraphs (b), (c), and (d) redesignated as paragraphs (c), (d), and (e) January 21, 1999 to be effective April 5, 1999; paragraph (d) amended July 5, 2000 to be effective September 5, 2000; new paragraph (f) added July 12, 2002 to be effective September 3, 2002; paragraphs (c) and (d) amended, and new paragraph (g) adopted July 28, 2004 to be effective September 1, 2004; paragraphs (c) and (d) amended June 15, 2007 to be effective September 1, 2007.