Revised 1/29/15

**Section 1-15**

**DETERMINATION OF MOTIONS**

**1. Briefs; When Required; Time for Serving and Filing--Length.**

(a) Except motions during trial or where the court ORDERS THAT CERTAIN OR ALL NON-DISPOSITIVE MOTIONS BE MADE ORALLY ~~deems an oral motion to be appropriate~~, any motions involving a contested issue of law shall be supported by a recitation of legal authority incorporated into the motion ~~except for a motion pursuant to~~[~~C.R.C.P. 56~~](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005387&cite=COSTRCPR56&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)). ~~Motions or briefs in excess of 10 pages~~ ~~in length, exclusive of tables and appendices, are discouraged~~. ~~Except for electronic filings made pursuant to Section 1-26 of this Rule, the original and one copy of all motions and briefs shall be filed with the court, and a copy served as required by law.~~ UNLESS THE COURT ORDERS OTHERWISE, MOTIONS AND RESPONSIVE BRIEFS NOT UNDER C.R.C.P. 56 ARE LIMITED TO 15 PAGES, AND REPLY BRIEFS TO 10 PAGES, NOT INCLUDING THE CERTIFICATE OF SERVICE AND ATTACHMENTS. UNLESS THE COURT ORDERS OTHERWISE, MOTIONS AND RESPONSIVE BRIEFS UNDER C.R.C.P. 56 ARE LIMITED TO 25 PAGES, AND REPLY BRIEFS TO 15 PAGES, NOT INCLUDING THE CERTIFICATE OF SERVICE AND ATTACHMENTS.

(b) The responding party shall have 21 days after the filing of the motion or such lesser or greater time as the court may allow in which to file a responsive brief. If a motion is filed 42 days or less before the trial date, the responding party shall have 14 days after the filing of the motion or such lesser or greater time as the court may allow in which to file a responsive brief.

(c) Except for a motion pursuant to [C.R.C.P. 56](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005387&cite=COSTRCPR56&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)), the moving party shall have 7 days after the filing of the responsive brief or such greater or lesser time as the court may allow to file a reply brief. For a motion pursuant to [C.R.C.P. 56](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005387&cite=COSTRCPR56&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)), the moving party shall have 14 days after the filing of the responsive brief or such greater or lesser time as the court may allow to file a reply brief.

**2. Affidavits.** If facts not appearing of record may be considered in disposition of the motion, the parties may file affidavits with the motion or within the time specified for filing the party's brief in this Section 1-15, [Rules 6](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005387&cite=COSTRCPR6&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)), [56](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005387&cite=COSTRCPR56&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)) or [59, C.R.C.P](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005387&cite=COSTRCPR59&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category))., or as otherwise ordered by the court. Copies of such affidavits and any documentary evidence used in connection with the motion shall be served on all other parties.

**3. Effect of Failure to File Legal Authority.** If the moving party fails to incorporate legal authority into ~~the motion or fails to file a brief~~ ~~with~~ a [C.R.C.P. 56](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005387&cite=COSTRCPR56&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)) motion, the court may deem the motion abandoned and may enter an order denying the motion. Failure of a responding party to file a responsive brief may be considered a confession of the motion.

**4. Motions to Be Determined on Briefs, When Oral Argument Is Allowed; Motions Requiring Immediate Attention.** If possible, motions shall be determined promptly upon the written motion and briefs submitted. However, the court may order oral argument or an evidentiary hearing, or if the request for oral argument or an evidentiary hearing is requested in a motion~~,~~ or any brief, oral argument may be allowed by the court at its discretion. THE COURT SHALL DETERMINE ORAL MOTIONS AT THE CONCLUSION OF ARGUMENT, BUT THE COURT MAY TAKE THE MOTION UNDER ADVISEMENT OR REQUIRE BRIEFING BEFORE RULING. Any motion requiring immediate disposition shall be called to the attention of the courtroom clerk by the party filing such motion.

**5. Notification of Court's Ruling; Setting of Argument or Hearing When Ordered.** Whenever the court enters an order denying or granting a motion without a hearing, all parties shall be forthwith notified by the court of such order. If the court desires or authorizes oral argument or an evidentiary hearing, all parties shall be so notified by the court. After notification, it shall be the responsibility of the moving party to have the motion set for oral argument or hearing. ~~A~~ UNLESS THE COURT ORDERS OTHERWISE, A notice to set oral argument or hearing shall be filed in accordance with Practice Standard § 1-6 within 7 days of notification that oral argument or hearing is required or authorized.

**6. Effect of Failure to Appear at Oral Argument or Hearing.** If any of the parties fails to appear at an oral argument or hearing, without prior showing of good cause for non-appearance, the court may proceed to hear and rule on the motion.

**7. Sanctions.** If a frivolous motion is filed or if frivolous opposition to a motion is interposed, the court may assess reasonable attorney's fees against the party or attorney filing such motion or interposing such opposition.

**8. Duty to Confer.** Unless a statute or rule governing the motion provides that it may be filed without notice, moving counsel shall confer with opposing counsel before filing a motion. The motion shall, at the beginning, contain a certification that the movant in good faith has conferred with opposing counsel about the motion. If the relief sought by the motion has been agreed to by the parties or will not be opposed, the court shall be so advised in the motion. If no conference has occurred, the reason why shall be stated.

**9. Unopposed Motions.** All unopposed motions shall be so designated in the title of the motion.

**10. Proposed Order.** Except for orders containing signatures of the parties or attorneys as required by statute or rule, each motion shall be accompanied by a proposed order submitted in editable format. The proposed order complies with this provision if it states that the requested relief be granted or denied.

**11. Motions to Reconsider.** Motions to reconsider interlocutory orders of the court, meaning motions to reconsider other than those governed by [C.R.C.P. 59](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005387&cite=COSTRCPR59&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)) or [60](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005387&cite=COSTRCPR60&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)), are disfavored. A party moving to reconsider must show more than a disagreement with the court's decision. Such a motion must allege a manifest error of fact or law that clearly mandates a different result or other circumstance resulting in manifest injustice. The motion shall be filed within 14 days from the date of the order, unless the party seeking reconsideration shows good cause for not filing within that time. Good cause for not filing within 14 days from the date of the order includes newly available material evidence and an intervening change in the governing legal standard. The court may deny the motion before receiving a responsive brief under paragraph 1(b) of this standard.

**COMMITTEE COMMENT**

This Practice Standard was necessary because of lack of uniformity among the districts concerning how motions were to be made, set and determined. The Practice Standard recognizes that oral argument and hearings are not necessary in all cases, and encourages disposition of motions upon written submissions. The standard also sets forth the uniform requirements concerning filing of legal authority, filing of matters not already of record necessary to determination of motions, and the manner of setting an oral argument if argument is permitted. The practice standard is broad enough to include all motions, including venue motions. Some motions will not require extended legal analysis or affidavits. Obviously, if the basis for a motion is simple and routine, the citation of authorities can be correspondingly simple. Motions or briefs in excess of 10 pages are discouraged.

This standard specifies contemporaneous recitation of legal authority either in the motion itself for all motions except those under [C.R.C.P. Rule 56](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005387&cite=COSTRCPR56&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)). Moving counsel should confer with opposing counsel before filing a motion to attempt to work out the difference prompting the motion. Every motion must, at the beginning, contain a certification that the movant, in good faith, has conferred with opposing counsel about the motion. If there has been no conference, the reason why must be stated. To assist the court, if the relief sought by the motion has been agreed to or will not be opposed, the court is to be so advised in the motion.

Paragraph 4 of the standard contains an important feature. Any matter requiring immediate action should be called to the attention of the courtroom clerk by the party filing a motion for forthwith disposition. Calling the urgency of a matter to the attention of the court is a responsibility of the parties. The court should permit a forthwith determination. Paragraph 11 of the standard neither limits a trial court's discretion to modify an interlocutory order, on motion or sua sponte, nor affects [C.R.M. 5(a)](https://a.next.westlaw.com/Link/Document/FullText?findType=L&pubNum=1005375&cite=COSTMAGR5&originatingDoc=N453260F0DBD811DB8D12B2375E34596F&refType=LQ&originationContext=document&transitionType=DocumentItem&contextData=(sc.Category)).