

## **Rule 33. MOTIONS PRACTICE**

(a) Scope and Application

This rule shall govern all civil motions.

Motions are either dispositive or non-dispositive, and are defined as follows:

- (i) Dispositive motions are motions that seek to dispose of all or part of the claims or parties, except motions for default judgement. They include motions to dismiss a party or claim, motions for summary judgment, and motions under Rule 12(b).
- (ii) Non-Dispositive motions are all other motions, including but not limited to discovery, third party practice, temporary relief, intervention or amendment of pleadings.

(b) Obtaining Hearing Date; Notice to Parties

A hearing date and time shall be obtained from the Clerk of Court or an Assistant Clerk of Court. A party obtaining a date and time for a hearing on a motion or for any other calendar setting, shall promptly give notice advising all other parties who have appeared in the action so that cross motions may, insofar as possible, be heard on a single hearing date.

(c) Dispositive Motions

- (i) No motion shall be heard until the moving party serves a copy of the following documents on opposing counsel and files the original with the Clerk of Court at least 28 days prior to the hearing:
  - (1) Notice of motion and motion;
  - (2) Proposed Order;
  - (3) Any affidavits and exhibits to be submitted in conjunction with the motion;  
and
  - (4) Memorandum of law.
- (ii) The party responding to the motion shall serve a copy of the following documents on opposing counsel and shall file the originals with the Clerk of Court at least 9 days prior to the hearing:

- (1) Memorandum of law; and
  - (2) Supplementary affidavits and exhibits.
- (iii) *Reply Memoranda.* The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving a copy on opposing counsel and filing the original with the Clerk of Court at least 3 days before the hearing.
- (iv) *Additional Requirement for Summary Judgment Motions.* For summary judgment motions, the memorandum of law shall include:
- (1) A statement by the moving party of the issues involved which are the grounds for the motion for summary judgment;
  - (2) A statement identifying all documents (such as depositions or excerpts thereof, pleadings, exhibits, admissions, interrogatory answers, and affidavits) which comprise the record on which the motion is made. Opposing parties shall identify in their responding memorandum of law any additional documents on which they rely.
  - (3) A recital by the moving party of the material facts as to which there is no genuine dispute, with a specific citation to that part of the record supporting each fact, such as deposition page and line or page and paragraph of an exhibit. A party opposing the motion shall, in like manner, make a recital of any material facts claimed to be in dispute. Such recitals shall be excluded from the page limitations of this rule; and
  - (4) The party's argument and authorities. These additional requirements also apply to a motion to enforce or prohibit discovery requests if factually based.
- (d) Non-Dispositive Motions
- (i) No motion shall be heard until the moving party serves a copy of the following documents on the other party or parties and files the original with the Clerk of Court at least 14 days prior to the hearing:
    - (1) Notice of motion and motion;
    - (2) Proposed order;
    - (3) Any affidavits and exhibits to be submitted in conjunction with the motion; and

- (4) Any memorandum of law the party intends to submit.
  - (ii) The party responding to the motion shall serve a copy of the following documents on the moving party and other interested parties and shall file the original with the Clerk of Court at least 7 days prior to the hearing:
    - (1) Any memorandum of law the party intends to submit; and
    - (2) Any relevant exhibits and affidavits.
  - (iii) *Reply Memoranda*. The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving a copy on opposing counsel and filing the original with the Clerk of Court at least 3 days before the hearing.
- (e) **Page Limits**  
No memorandum of law submitted in connection with either a dispositive or non-dispositive motion shall exceed 35 pages, exclusive of the recital of facts required by part (c)(iv)(3) of this Rule, except with permission of the court. For motions involving discovery requests, the moving party's memorandum shall set forth only the particular discovery requests and the response or objection thereto which are the subject of the motion, and a concise recitation of why the response or objection is improper. If a reply memorandum of law is filed, the cumulative total of the original memorandum and the reply memorandum shall not exceed 35 pages, except with the permission of the court.
- (f) **Failure to Comply**  
If the moving papers are not properly served and filed, the hearing may be canceled by the court. If responsive papers are not properly served and filed in a non-dispositive motion, the court may deem the motion unopposed and may grant the relief requested without a hearing. For a dispositive motion, the court, in its discretion, may refuse to permit oral argument- by the party not filing the required documents, may allow reasonable attorney's fees, or may take other appropriate action.

(g) Relaxation of Time Limits

If irreparable harm will result absent immediate action by the court, or if the interests of justice require otherwise, the court may waive or modify the time limits established by this rule, but only if requested by motion of one of the parties, which must be properly served.

(h) Witnesses

No testimony will be taken at motion hearings except under unusual circumstances. Any party seeking to present witnesses at a motion hearing shall obtain prior consent of the court and shall notify the adverse party in the motion papers of the names and addresses of the witnesses which that party intends to call at the motion.

(i) Telephone Hearing

When a motion is authorized by the court to be heard by telephone conference call, the moving party shall be responsible either to initiate the conference call or to comply with the court's instructions on initiation of the conference call. If necessary, adequate provision shall be made by the court for a record of the telephone hearing.

(j) Settlement Efforts

No motion will be heard unless the parties have conferred, either in person, or by telephone, or in writing in an attempt to resolve their differences prior to the hearing. The moving party shall initiate the conference. The moving party shall certify to the court, before the time of the hearing, compliance with this rule or any reasons for inability to comply, including lack of availability or cooperation of opposing counsel. Whenever any pending motion is settled, the moving party shall promptly advise the court.

(k) Time limits for Injunctions and Temporary Restraining Orders

This Rule shall not apply to motions or applications for injunctions or temporary restraining orders. Briefing and hearing schedules for motions or applications for injunctions or temporary restraining orders shall be set by the court on a case-by-case basis.

(1) Alternative Scheduling by Order of the Court

Nothing in this Rule shall prohibit the court from adopting time limits or schedules that are at variance from those contained in this Rule, under appropriate circumstances.

Dated: February 28, 1995

## **Rule 34. ENFORCEMENT OF FOREIGN JUDGMENTS.**

An action for enforcement of a foreign judgment shall be commenced by filing a Petition therefor, in a form approved by the Court, accompanied by an exemplified or certified copy of the foreign judgment and any relevant supporting documents, and accompanied by a filing fee of twenty-five dollars. If the judgment is one for money damages, the Petition shall be accompanied by Affidavits of Identification of the Judgment Creditor and of the Judgment Debtor, in forms approved by the Court. The Petition and all supporting materials, including any affidavits, shall be served upon each person against whom the Petitioner seeks to enforce the judgment, who shall be denominated Respondents. Each Respondent shall have twenty days from the date of service upon them, within which to respond to the Petition. Upon the completion of such service, the Court shall examine the Petition and supporting materials, and any response thereto, and shall order such additional proceedings as it may deem appropriate. If no substantial question appears with respect to the jurisdiction of the foreign court and the regularity of the foreign proceedings, the Court shall enter an order enforcing the foreign judgment.

Dated: October 9, 1997

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## **CLERK'S NOTICE REGARDING PETITION FOR ENFORCEMENT OF FOREIGN JUDGMENT**

Petitions must be submitted to:

Jeanne A. Szulim, Clerk of Court  
Shakopee Mdewakanton Sioux (Dakota) Community  
1885 University Avenue West, Suite 246  
Saint Paul, Minnesota 55104

Steps in the process:

1. Petitioner files with the Clerk of Court (a) Petition for Enforcement of Foreign Judgment with supporting documents (described below); (b) Affidavit of Identification of Judgment Debtor; (c) Affidavit of Identification of Judgment Creditor; and (d) filing fee.
2. The Clerk of Court issues a summons.
3. Petitioner serves the Respondent either in person or by U.S. Mail with an original summons, copies of the Petition for Enforcement of Foreign Judgment with supporting documents (described below); Affidavit of Identification of Judgment Debtor; and Affidavit of Identification of Judgment Creditor.
4. Petitioner files an Affidavit of (personal) Service or an Affidavit of Service by U.S. Mail.
5. Respondent has 20 days from date service to respond to the Petition.
6. The Court determines whether a hearing is necessary, depending in part on whether the Respondent responds to the Petition.

In accordance with Rule 34 of the Shakopee Mdewakanton Sioux (Dakota) Community Rules of Civil Procedure, a complete petition must contain the following:

1. Petition for Enforcement of Foreign Judgment (signed and notarized).
2. An exemplified or certified copy of the foreign judgment, and any relevant supporting documents.
3. Petitioner's Affidavit of Identification of Judgment Creditor (signed and notarized).
4. Petitioner's Affidavit of Identification of Judgment Debtor (signed and notarized).
5. Affidavit of Personal Service or Affidavit of Service by U.S. Mail (signed and notarized).

6. Filing fee - a check or money order payable to the Tribal Court of the Shakopee Mdewakanton Sioux (Dakota) Community in the amount of \$25.00.

The Court cannot process incomplete petitions. If you have questions, you may contact the Clerk of Court at (651) 644-4710, or in writing at the above address.

Please note: that attorneys must follow the admission procedures in Rule 3 of the Rules of Civil Procedure.