

CHAPTER X

NOTICES OF MOTION

140. Notices of Motion to be made returnable on Fridays: - Notices of Motion shall be made returnable on Fridays before the judge nominated to hear Notices of Motion, but if urgent, the Judge may be moved on any day.

141. Short service of Notice of Motion: - An application for leave for short service of Notice of Motion shall be made to the Judge nominated to hear Notice of Motion. Such an application may be made in Court or in Chambers.

142. Notice of Motion :- (1) Unless otherwise provided by these rules, applications for injunctions, receivers, attachment before judgment, arrest before judgment, and other interim relief in a suit, matter or appeal and all applications other than those which are required to be disposed of by a Judge in Chambers, shall be made in Court by a Notice of Motion. A Notice of Motion shall be in Form No. 13 with such variations as the circumstances of the case may require. When affidavits are intended to be used notice thereof shall be endorsed on the Notice of Motion. The Notice of Motion shall be prepared by the party desiring to make the application.

(2) The Notice of Motion together with the affidavit in support and true copies of both, duly certified by the Advocate or the party in person, shall in the first instance be presented at the Office of the Prothonotary and Senior Master for being entered in the register. When so entered, an office stamp denoting the fact of such entry shall be endorsed on the original Notice of Motion, the affidavit in support and the true copies thereof and when so endorsed it shall be deemed to be issued by the Court without any separate fiat of the Prothonotary and Senior Master in regard thereto. The Original Notice of Motion and affidavit in support shall then be kept on the file and the true copy of the Notice of Motion and the true copy of the affidavit shall be delivered to the party presenting it for being served on the parties to the Notice of Motion.

143. Service of Notice of Motion :- Unless otherwise ordered, the Notice of Motion and copies of the affidavits in support thereof shall be served eight clear days before the return of the Notice of Motion. A Notice of Motion may be made returnable in a shorter time by leave of the Court or the Judge in Chambers, which fact shall be mentioned in the Notice of Motion.

144. Time for filing Notice of Motion and affidavits: - The true copy of the Notice of Motion and the true copy of the affidavit in support thereof which are endorsed under Rule 142 shall be filed not later than the day following the day of service of the Notice of Motion on all the parties. Affidavits in reply shall be filed and copies thereof shall be furnished to the opposite party not later than 4-00p.m. on the fourth working day after service of the Notice of Motion. Not more than one affidavit in rejoinder shall be filed

without the leave of the Court and such affidavit shall be confined strictly to matters of reply. The affidavit in rejoinder shall be filed and a copy thereof furnished to the opposite party two days before the day named for the hearing. Such affidavit shall be filed and a copy thereof furnished to the opposite party not later than 4-00p.m. on such day.

145. What affidavits can be used at the hearing:- Except by leave of the Court, no affidavit in support of the application beyond those served with the notice of motion and beyond the affidavit (if any) in rejoinder nor any affidavit in reply to the notice of motion filed later than the time prescribed in rule 144 shall be used at the hearing.

146. Notice for production of record:- No application in which it may be necessary to refer to any proceedings in a suit or matter shall, except by leave of the Court, be made unless notice thereof shall have been given to the Prothonotary and Senior Master before 4-15 p.m. in the afternoon of the day previous and such notice shall state the Court in which and the day on which the application is intended to be made.

147. Application for interim relief :- The Plaintiff may move the Court *ex-parte* for interim relief on the ground of urgency and the Court on such application may give leave to serve the Notice of Motion for a particular date and may also, if it shall think fit, grant interim relief on such terms and undertakings as shall seem just.

148. Undertaking to pay damages to be given by party applying for interim relief:- A party to whom interim relief has been granted shall, before the order is issued, unless the Court otherwise directs, give an undertaking in writing or through his Advocate to pay such sum by way of damages as the Court may award as compensation in the event of a party affected sustaining prejudice by such order.

149. Arrangement of record of notice of motion after disposal: - The record of every Notice of Motion shall, after the disposal of the Notice of Motion, be arranged by the office of the Prothonotary and Senior Master in chronological order and stitched together book wise. The record shall be kept in the papers of the suit or matter to which it relates.

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