

## **MOTION PRACTICE - CHIEF JUDGE DAVID S. SWARTZ**

MCR 2.119(C) and local practice requires that motions be filed with Court Services at least seven (7) days prior to the hearing date. Service on opposing counsel must be made nine (9) days prior to the hearing if by mail or email, or seven (7) days if by personal service or hand-delivery. Responses to motions must be served five (5) days prior to hearing if by mail or email or three (3) days if by personal service or hand-delivery.

A praecipe is required to be filed in order to schedule the hearing on the Court's docket.

Court Services will return motion "packages" that do not include the motion, brief, praecipe, appropriate fee, proof of service and a Judge's copy of everything filed.

Pursuant to MR 2.119(A), a brief is required if a point of law is at issue and/or part of the argument. MCR 2.119(A)(2) limits briefs to 20 pages (not including exhibits) and is strictly enforced.

## **REQUIRED COURTROOM PROCEDURE**

All attorneys must check in with the Court Clerk upon arrival. Cases are called when all counsel are present and ready to argue. Represented parties are not required to attend motion hearings.

The Court may dispense with oral argument prior to the hearing or at the hearing or may limit the time and nature of the argument.

Counsel should assume and consider that the Judge has read the briefs and is prepared to rule.

Counsel must have access to personal calendars and be prepared to set future court dates if necessary.

Once all attorneys of record have checked in with the Court Clerk, the case will be called as soon as possible. If an attorney finds it necessary to leave the courtroom, he or she must check in with the Court Clerk upon return as the case may have been called and passed.

Arguments should be precise and brief. Counsel should present a short statement of the problem or issue, a suggested solution and reasons why the particular solution is the correct or preferable one.

Consent matters take priority over contested matters.

Attorneys are expected to discuss and present orders for the Judge to sign directly after argument and the Judge's ruling. Orders may also be entered pursuant to the court rules (7-day order) or by stipulation of the parties.

## **JUDGE PREFERENCES AND EXPECTATIONS**

Attorneys of record are required to maintain professional and courteous behavior, communicate with one another regarding the motion, prior to or at the hearing, and work toward narrowing the issues and arguments in order to expedite the hearing.

## **ATTORNEY FEES AND COSTS**

Attorney fees and/or costs may be requested and ordered if a party or attorney has filed a frivolous motion, failed to follow court orders, failed to comply with discovery or has otherwise engaged in unreasonable or unacceptable behavior.

The average award is about \$500.00 based on an average hourly attorney fee of \$175.00 and average time of three (3) hours to prepare and present argument. ( $\$175.00 \times 3 = \$525.00$ )