

CPLR ARTICLE 4: SPECIAL PROCEDURES.

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A SPECIAL PROCEEDING is between a PETITIONER and a RESPONDENT.

SPECIAL PROCEEDINGS are commenced with the filing of a PETITION; together with either a NOTICE OF PETITION, **OR** ORDER TO SHOW CAUSE.

If a SPECIAL PROCEEDING does not have an ADVERSE PARTY (e.g. a name change), the PETITION shall allege any prior applications, and the dispositions thereof.

SERVICE of a SPECIAL PROCEEDING shall be at least 8 days before the date noticed for hearing. ANSWERS must be served within 2 days of the hearing, and REPLIES on or before the hearing.

IF PETITION is served at least 12 days before the hearing - *and so demands* - ANSWERS must be served at least 7 days before the hearing, and REPLIES within 1 day before.

If a RESPONDENT makes an OBJECTION on a point of law, **AND** the motion is then denied, Respondent must answer within 5 days of the filing of the order, with NOTICE OF ENTRY.

PETITIONER may then re-calendar the matter for hearing upon 2 days notice to Respondent; **OR** RESPONDENT may re-calendar for hearing after serving answer, on 7 days notice.

PETITIONER may object to points of law either in REPLY papers, or by motion to the Court on the hearing date.

MOTIONS may be made to CORRECT DEFECTS, STRIKE PREJUDICIAL ALLEGATIONS, or AMEND a petition so vague as to prevent defending against it.

MOTIONS made within the timeframe for RESPONSIVE PLEADINGS do **NOT** extend the time to so plead, *UNLESS* the Court so orders.

IF the Court orders an extension of TIME to RESPOND:

If the motion is then DENIED = serve/file pleading within 2 days;

If the motion is GRANTED = serve/file pleading within 5 days.

Case can then be re-calendared for hearing upon 2 days' notice.

MOTIONS in SPECIAL PROCEEDINGS - filed before the hearing date - shall be NOTICED for the same date as the hearing.

Statute provides for SEVERANCE of CLAIM into new action.

LEAVE of the Court is required for DISCLOSURE; **EXCEPT** pursuant to Section 3123 (regarding Admissions of Factual Statements, etc...), in which case the DISCLOSURE application shall be noticed 3 days before the hearing, with a REPLY STATEMENT within 1 day before.

At the time of the hearing, all papers served and filed must be furnished to the Court. The Court shall make a SUMMARY DETERMINATION on the papers.

The Court shall make a SUMMARY JUDGMENT upon MOTION if there are no “triable issues of fact”. If there **ARE** issues of fact to be tried, trial shall commence *forthwith*.

A DEMAND for a JURY TRIAL shall be made within the timeframe required by the Court, otherwise must be **before** trial commences, or such demand is deemed WAIVED.