

## Proposed Amendments to Rule 78

Rule 78 is amended as follows:

### Rule 78. Motion Part

(a) Motion Part - Establishment. A Motion Part is established for hearing and determining all motions in [actions]**cases** [which]**that** have not been assigned to a judge or proceedings [which]**that** are not otherwise provided for in these rules.

(b) Motion Part - Referral. The clerk [~~shall~~]**must** refer motions ready for disposition to the Motion Part judge for hearing and determination. The Motion Part judge [~~shall~~]**will**: determine the motion; or refer the motion to another judge who previously determined a related motion in the [action]**case**; or refer the matter to the chief judge with a recommendation that the [action]**case** be assigned to [a]**another** judge.

(c) Motion Part - Emergency Matters.

(1) An emergency matter is one which, because of special circumstances, requires extraordinary priority and immediate disposition.

(2) The Motion Part judge will be available, on call, to hear and determine an emergency matter at any time.

(3) The clerk [~~shall~~]**will** refer to the Motion Part judge any emergency matter arising in an unassigned [action]**case**, or in an assigned [action]**case** when the assigned judge is unavailable.

(4) The Motion Part judge [~~shall~~]**will** dispose of the emergency matter only to the extent necessary to meet the emergency, and the [~~action shall~~]**case will** otherwise be [~~contained~~]**retained** for disposition by the judge to whom the

[action] **case** has been or will be assigned.

(5) If the Motion Part judge decides that an emergency matter should not be determined, for lack of emergency or other reason, [~~he~~] [~~shall~~] **the judge must** refer the matter for determination in the ordinary course.

**PRACTICE COMMENT:** A party may seek expedited consideration under Rule 3(g). For possible applicability of other scheduling rules, see practice comment to Rule 3(g).

(As amended Sept. 30, 2003, eff. Jan. 1, 2004; \_\_\_\_\_, **2008**; eff. \_\_\_\_\_, **2009**.)

#### **Advisory Committee Note**

The language of Rule 78 has been amended as part of the general restyling of these rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.