

MOTIONS TO SET ASIDE & OBJECTIONS [Civ.R. 53]

MAGISTRATE'S ORDER/MOTION TO SET ASIDE [Civ.R. 53(D)(2)(A)(I)]

- A magistrate may enter orders without judicial approval, if necessary, to regulate the proceedings and if not dispositive of a claim or defense.

MOTION TO SET ASIDE [Civ.R. 53(D)(2)(B)]

- The motion shall state the moving party's reason with particularity.
- Shall be filed no later than 10 days after magistrate's order is filed.
- Pendency of motion does not stay the effectiveness of the magistrate's order.
- Court may order a stay, if reasonable and necessary.



Attorneys seeking to modify temporary orders should utilize a Request for a De Novo Hearing pursuant to Civ.R. 75(N)(2), not a Motion to Set Aside.

MAGISTRATE'S DECISION/OBJECTIONS [Civ.R. 53(D)(3)]

- Findings of fact and conclusions of law [Civ.R. 53(D)(3)(a)(ii)]
 - A magistrate's decision may be general unless findings of fact and conclusions of law are requested or required.
 - Request shall be within seven days of decision.
 - Magistrate may require any or all parties to submit proposed findings and conclusions.
- Time for filing [Civ.R. 53(D)(3)(b)(i)]
 - Written objections must be filed within 14 days of filing of the decision.
 - If objections are filed, then the other party may file objections no later than 10 days after the first objection is filed.

- If a timely request for findings and conclusions is made, then the time for objections begins to run when the magistrate files a decision that includes the findings and conclusions.
- Specificity [Civ.R. 53(D)(3)(b)(ii)]
 - An objection shall be specific and state with particularity all grounds for the objection.
- Transcript [Civ.R. 53(D)(3)(b)(iii)]
 - An objection to a factual finding shall be supported by a transcript of all evidence submitted to the magistrate (few exceptions).
 - Transcript to be filed within 30 days (extensions commonly granted).
 - May seek leave to court to supplement after filing of transcript (generally granted).
- Actions on objections [Civ.R. 53(D)(4)(d)]
 - The court shall undertake an independent review as to the objected matters to ascertain that the magistrate properly determined factual issues and appropriately applied the law.
- Additional evidence [Civ.R. 53(D)(4)(d)]
 - The court may hear additional evidence, but may refuse to do so unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced the evidence.
- Entry or Order [Civ.R. 53(D)(4)(e)]
 - A court may adopt, reject, or modify a magistrate's decision and shall enter a judgment or interim order.
- Stay [Civ.R. 53(D)(4)(e)(i)]
 - A timely filing of objection acts as an automatic stay.

- Interim Order [Civ.R. 53(D)(4)(e)(ii)]
 - The court may enter an interim order on the basis of a magistrate’s decision without waiting for a ruling on the objections if relief is justified.
 - Objections do not stay interim orders.
 - Interim orders shall not extend more than 28 days, subject to extensions by the court of increments of 28 additional days for good cause shown.
- Extension of time [Civ. R. 53(D)(5)]
 - Upon showing “good cause,” the court shall grant extensions to file a Motion to Set Aside or Objections.