

Rule 191. Proceedings Under Sections 2-1005, 2-619 and 2-301(b) of the Code of Civil Procedure

(a) Requirements. Motions for summary judgment under section 2-1005 of the Code of Civil Procedure and motions for involuntary dismissal under section 2-619 of the Code of Civil Procedure must be filed before the last date, if any, set by the trial court for the filing of dispositive motions. Affidavits in support of and in opposition to a motion for summary judgment under section 2-1005 of the Code of Civil Procedure, affidavits submitted in connection with a motion for involuntary dismissal under section 2-619 of the Code of Civil Procedure, and affidavits submitted in connection with a motion to contest jurisdiction over the person, as provided by section 2-301 of the Code of Civil Procedure, shall be made on the personal knowledge of the affiants; shall set forth with particularity the facts upon which the claim, counterclaim, or defense is based; shall have attached thereto sworn or certified copies of all documents upon which the affiant relies; shall not consist of conclusions but of facts admissible in evidence; and shall affirmatively show that the affiant, if sworn as a witness, can testify competently thereto. If all of the facts to be shown are not within the personal knowledge of one person, two or more affidavits shall be used.

(b) When Material Facts Are Not Obtainable by Affidavit. If the affidavit of either party contains a statement that any of the material facts which ought to appear in the affidavit are known only to persons whose affidavits affiant is unable to procure by reason of hostility or otherwise, naming the persons and showing why their affidavits cannot be procured and what affiant believes they would testify to if sworn, with his reasons for his belief, the court may make any order that may be just, either granting or refusing the motion, or granting a continuance to permit affidavits to be obtained, or for submitting interrogatories to or taking the depositions of any of the persons so named, or for producing documents in the possession of those persons or furnishing sworn copies thereof. The interrogatories and sworn answers thereto, depositions so taken, and sworn copies of documents so furnished, shall be considered with the affidavits in passing upon the motion.

Amended effective July 1, 1971; amended May 28, 1982, effective July 1, 1982; amended April 1, 1992, effective August 1, 1992; amended March 28, 2002, effective July 1, 2002; [amended Jan. 4, 2013, eff. immediately.](#)

Committee Comments

(March 28, 2002)

The words “special appearance,” which formerly appeared in paragraph (a) of Rule 191, were replaced in 2002 with the word “motion” in order to conform to changes in terminology in section 2-301 of the Code of Civil Procedure (735 ILCS 5/2-301 (West 1998)).

Committee Comments

This is former Rule 15, as it existed before 1964, without change in substance. Note that a discovery deposition or an answer to an interrogatory may be used as if it were an affidavit. (See Rules 212(a)(4) and 213(f).) Paragraph (a) of Rule 191 was amended in 1971 to make the rule applicable to affidavits submitted in connection with special appearances under section 20(2) of

the Civil Practice Act to contest jurisdiction over the person.

Sections 2-1005(a) and 2-1005(b) of the Code of Civil Procedure (Ill. Rev. Stat. 1989, ch. 110, par. 2-1005) set time limits within which a plaintiff or a defendant may file motions for summary judgment. In 1992, paragraph (a) was amended to require that motions for summary judgment and motions for involuntary dismissal must be filed not later than the last date, if any, set by the court for the filing of dispositive motions.

Administrative Order
(November 27, 2002)

In re Discovery Rules

The order entered March 28, 2002, amending various rules and effective July 1, 2002, shall apply to all cases filed after such effective date as well as all cases pending on such effective date, provided that any discovery order entered in any such case prior to July 1, 2002, shall remain in effect unless and until amended by the trial court.

Order entered November 27, 2002, effective immediately.