

## Research Guide: What is a Motion?

# Law Library for San Bernardino County

Research Guide, [www.sblawlibrary.org](http://www.sblawlibrary.org), (909) 885-3020.

### Disclaimer

The information in this research guide is intended to assist patrons with their legal research and is in no way intended to replace the counsel of an Attorney. Any decisions about how to proceed must be determined by the patron. The library staff can recommend and refer you to print and web-based resources that will help you find answers to your law-related questions. The staff at the Law Library for San Bernardino County cannot explain or interpret the law itself and we are not permitted to give legal advice.

### What is a motion?

A motion is a request by party for a court order. See [Cal. Code of Civil Procedure § 1003](#)

### What are the different types of motions?

Typical or General Motions (also referred to as Regular Motions<sup>i</sup>)

Ex Parte Applications

Motions to Strike

Demurrers

Motions for Summary Judgment and Summary Adjudication

### Typical or General Motions

A typical motion contains the following parts:

**Notice of motion:** The notice informs the court and the parties of your motion, including the nature, grounds, the requested order, and the place and time of the hearing.<sup>ii</sup>

**Memorandum of points and authorities:** The memorandum must be filed with the notice of motion or the court will consider the motion to be without merit. See [C.R.C. 3.1113\(a\)](#). The memorandum provides the grounds for the motion and presents the party's argument.<sup>iii</sup>

**Declarations:** A declaration is a part of the motion that allows the party to state facts supporting the motion and authenticates the exhibits. Declarations are signed under penalty of perjury by someone who has personal knowledge of the facts stated in the declaration.<sup>iv</sup>

**Proof of Service:** The other party must be notified of the motion. Follow the instructions listed in [Code of Civil Procedure § 1013a\(1\)](#).<sup>v</sup> The Sacramento County Law Library has prepared step by step instructions for [service of papers by mail](#). Located online at [www.saclaw.org](http://www.saclaw.org) or linked to on [www.sblawlibrary.org](http://www.sblawlibrary.org) under research guides.

**Evidentiary materials and orders:** Discovery materials are not routinely filed with motions. See [Code of Civil Procedure § 2025.550](#). Proposed orders are no longer required to be filed with the notice of motion. See [C.R.C., 3.20](#) and [3.1113\(m\)](#).

### General Rules for Regular (Typical/General) Motions

(Reproduced from Litigation by the Numbers)

Last day to hear non-expert discovery motions <a href="#">C.C.P. § 2024.020</a>	15 days before the initial trial date
Last day to hear expert discovery motions <a href="#">C.C.P. § 2024.030</a>	10 days before the initial trial date
Notice and motion must be filed and served <a href="#">C.C.P. §§ 1005(b) and 12c</a>	at least 16 court days before the hearing (counting backward from the hearing date)
Opposition must be filed and served <a href="#">C.C.P. §§ 1005(b) and 12c</a>	at least 9 court days before the hearing (counting backward from the hearing date)
Reply must be filed and served <a href="#">C.C.P. §§ 1005(b) and 12c</a>	at least 5 court days before the hearing (counting backward from the hearing date)
Limit on length of opening/opposing P's & A's <a href="#">C.R.C., Rule 3.1113(d)</a>	15 pages
Limit on length of reply P's & A's <a href="#">C.R.C., Rule 3.1113(d)</a>	10 pages
Separate statement required <a href="#">C.R.C., Rule 3.1345</a>	Motion to compel further answers

### Resource guides for Motions at the San Bernardino County Law Library

- *Litigation by the Numbers*, by Julie Goren. KFC 995 .G6722, only available at the San Bernardino branch
- *California Law and Motion Authorities for Civil Cases*, by Rutter Group, KFC 1012 .C762, available at all branches.
- *California Forms of Pleading and Practice*, Matthew Bender, KFC 1010 .A65 C3, available at all branches.
- *California Points and Authorities*, Matthew Bender, KFC 1010 .C34, available at all branches.
- *Younger on California Motions*, KFC 1012 .Y68, available at all branches.

<sup>i</sup> Goren, *Litigation by the Numbers* (4th, 2011)

<sup>ii</sup> *id.*, p. 6-8.

<sup>iii</sup> Younger, *On California Motions* (2010-2011) p. 24.

<sup>iv</sup> *id.*, Goren, p. 6-18.

<sup>v</sup> *id.*, Younger, p. 35.