



Resource Guide: CIVIL MOTIONS BASICS (Superior Court of California)

Introduction

Motions are used to ask the court for an order. Examples include compelling action from another party or asking for more time to provide an answer.

Caution

If you fail to follow motion procedure, the judge reviewing the motion may dismiss it without deciding on the merits of the motion.

This guide provides a basic overview of civil motions. It does not cover specialized motions (such as summary judgment, TROs, or ex parte applications).

Format

If there is no court form available, then the motion **MUST** be drafted on [Pleading Paper](https://lawlibrary.alamedacountyca.gov/court-forms-transactional-forms/) (https://lawlibrary.alamedacountyca.gov/court-forms-transactional-forms/).

Most civil motions do NOT have a court form available.

Deadlines and Timing

- Motions must be filed and served at least 16 court days before the hearing.
- If serving by mail within California, add 5 calendar days.

Table with deadlines for different motions is available in *Civil Procedures: Counter to Courtroom / Court Clerk Training Institute*.

Hearing Reservation Date

You must make a hearing reservation date and provide notice to the other party about when and where the motion will be heard (Alameda County Local Rule 3.30 (b)).

- Use the Alameda County Superior Court eCourt Public Portal (“eCourt”).
- Include the reservation number in your motion.
- Provide a copy of your reservation date confirmation to the clerk when filing your motion.
- Review your judge’s department’s rules for additional requirements.
 - You can view Department Information on eCourt.

Parts of a Motion

A motion is typically comprised of FOUR parts:

- **Notice of Motion and Motion**
 - Tell the court and the other side what you are asking for. It includes the hearing date, time, location, reservation number, and a short statement of your request.
- **Memorandum of Points and Authorities**
 - Explain the law that supports your request.
 - “Points” are the legal arguments you are making.
 - “Authorities” are the laws, cases, or rules that support those arguments.
 - This section should also refer to the facts in your declarations and any attached exhibits.
- **Declaration(s) (evidence); and**
 - Written statements of facts that support your motion.
 - Declarations must be signed under penalty of perjury by someone with personal knowledge of the facts.
 - If you refer to exhibits, you must clearly identify them by letter or number and, when possible, include page or paragraph numbers. (C.R.C., Rule 3.1113(k))
- **Proposed Order** (usually optional but recommended.)

YOU MUST FILE AND SERVE ALL PARTS OF THE MOTION. The Notice of Motion and Motion, Memorandum of Points and Authorities, and Declaration may be filed as separate documents or combined together into the same document. The Proposed Order (if included) is always filed as a separate document. (C.R.C., Rule 3.1112).

See Chapter 6 of *Litigation by the Numbers* for a detailed explanation and motion sample.

Copies

Make at least 2 copies of your documents

Courtesy Copy Requirements:

Provide a copy to the department clerk by noon the next court day after filing (Local Rule 3.30(c)).

Service

You must serve your papers on all other attorneys or self-represented parties in the case by specified deadlines. Serving them earlier than the deadline is fine. If you miss the service deadline, you will have to cancel your court date reservation and start over.

You can serve before filing the motion with the court.

Your server should use an appropriate Judicial Council Proof of Service form. [Proof of Service – Civil](http://courts.ca.gov/documents/pos040.pdf) (<http://courts.ca.gov/documents/pos040.pdf>) (POS-040) provides checkboxes for all appropriate service methods.

The server must:

- Be 18+ and not a party.
- Serve the documents and a filled out but unsigned proof of service form.
 - The unsigned proof of service form can be attached as the last page of the Motion.
- After service, your server must sign the completed proof of service.

You must file with the court the signed proof of service form along with all of the documents that you served to the other party.

Filing

- File in the correct courthouse (based on your assigned department).
 - René C. Davidson Courthouse, Room 109, 1225 Fallon Street, Oakland, California 94612
 - Office of the civil clerk located at the Hayward Hall of Justice, 24405 Amador Street, Hayward, California 94544
- In-Person, Dropbox, and E-filing information is available on the Superior Court of California County of Alameda website.

Tentative Ruling

The court may issue a tentative ruling before the hearing.

- Usually available:
 - By **4:00 p.m. two court days before**, or
 - By **3:00 p.m. the day before the hearing**
- Check online through eCourt, or call: (866) 223-2244

If no one contests the tentative ruling, it becomes the final order and the hearing is cancelled.

To Contest a Tentative Ruling:

You must:

- Notify the court **and all parties by 4:00 p.m. the court day before the hearing.**
 - This can be done through eCourt.
- Notify other parties by **phone or in person** that you will be contesting.

If you do not give notice, the tentative ruling will stand.

More instructions on how to access and contest Tentative Rulings are available on the County of Alameda Superior Court of California Court website [Tentative Rulings Page](https://www.alameda.courts.ca.gov/divisions/civil/tentative-rulings) (<https://www.alameda.courts.ca.gov/divisions/civil/tentative-rulings>).

If there is no tentative ruling, then both parties should appear at the hearing.

Opposition and Reply

Parties may object to a motion by filing an opposition (9 court days before hearing). A party who receives an opposition to a motion may file a Reply to the Opposition (5 court days before hearing). Service must either be by personal service or overnight mail on the day you file.

Hearing

If the hearing is not cancelled attend the hearing.

On the hearing date, the parties go to court to make their arguments and answer questions from the judge

You may be able to attend the hearing remotely. To see how or if you can attend a hearing remotely, review the relevant Department Information on eCourt.