

§ 6.3 Regular Motions

From time to time during the course of a lawsuit, a party might need court intervention to allow them to do something or not do something, or to force the opposing party or a third party to do or not do something. The attorney applies to the court for such relief by filing a motion for an order. For example, a party might file a motion for an order allowing them to amend a complaint, or granting an extension of time to respond to something, or for relief from default; a party might seek an order compelling an opposing party to provide further answers to interrogatories or other discovery.

Various rules govern regular motions, including rules regarding contents, number of pages allowed, and deadlines for filing and serving notice of motions, opposition to motions, and replies to oppositions. Below is a table showing some of the basic rules.

General Rules for Regular Motions

Last day to hear non-expert discovery motions C.C.P. § 2024.020	15 days before the initial trial date
Last day to hear expert discovery motions C.C.P. § 2024.030	10 days before the initial trial date
Notice and motion must be filed and served C.C.P. §§ 1005(b) and 12c	at least 16 court days before the hearing ^{1/} (counting backward from the hearing date)
Opposition must be filed and served C.C.P. §§ 1005(b) and 12c	at least 9 court days before the hearing (counting backward from the hearing date)
Reply must be filed and served C.C.P. §§ 1005(b) and 12c	at least 5 court days before the hearing (counting backward from the hearing date)
Limit on length of opening/opposing P's & A's C.R.C., Rule 3.1113(d)	15 pages
Limit on length of reply P's & A's C.R.C., Rule 3.1113(d)	10 pages
Separate statement required C.R.C., Rule 3.1345	motion to compel <i>further</i> answers

A regular motion always contains a notice of hearing (also referred to as “notice of motion”) and the motion itself, and, unless excepted under C.R.C., Rule 3.1114, a memorandum of points and authorities. It often contains one or more declarations and exhibits. Sometimes a separate statement is required; sometimes a proposed order is submitted. C.R.C., Rule 3.1112(c) allows these various parts to be prepared and filed either as separate documents or combined in one or more documents. If combined, the caption must list all of the attached documents (see following example). If filed separately, it should say so below the title of the notice of motion, e.g., “[Declaration of Joe Lawyer filed concurrently.]”

^{1/} Service must be made earlier if the papers are not personally served. (See § 2.3)

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In form, they are much like regular motions, containing a notice of motion, points and authorities, declarations, and exhibits. However, unlike regular motions, they always require separate statements. In addition, they are subject to significantly different notice requirements and page limitations, as the following table illustrates.

Differences Between Regular Motions and MSJ's/MSA's

<u>Specifications</u>	<u>Regular Motions</u>	<u>MSJ's and MSA's</u>
1 st day may be brought	May depend upon subject of motion; no rule barring motions in general prior to a certain date.	Not until 60 days after opposing party has appeared - C.C.P. § 437c(a)
Last day may be heard	Non-expert discovery motions: 15 days before initial trial date; expert discovery motions: 10 days before initial trial date; otherwise, no deadline.	30 days before trial - C.C.P. § 437c(a)
Notice and motion must be filed and served	at least 16 court days before hearing	at least 75 days before hearing C.C.P. § 437c(a) [even earlier if not personally served]
Opposition [and objections to evidence in MSA/MSJ] must be filed and served	at least 9 court days before hearing	at least 14 days before hearing C.C.P. § 437c(b)(2)
Reply [and objections to evidence in MSA/MSJ] must be filed and served	at least 5 court days before hearing	at least 5 days before hearing C.C.P. § 437c(b)(4)
Limit on opening and opposing P's & A's	15 pages	20 pages - C.R.C., Rule 3.1113(d)
Limit on reply P's & A's	10 pages	10 pages - C.R.C., Rule 3.1113(d)
When Separate Statement required	with motion to compel further answers	ALWAYS - C.C.P. § 437c(b)(1)

C.R.C., Rule 3.1350 lists the various parts of MSJ's and MSA's and oppositions to those motions. The notices of motion, declarations, and points and authorities follow the same basic format as regular motions. The formats for the separate statements in support of and in opposition to the two motions are specifically described in Rule 3.1350(h). There is one format specified for separate statements in support of MSJ's and another for separate statements in support of MSA's. There is also a specified format for objections to evidence, specifically described in Rule 3.1354.

Since some aspects of the formats differ from one another, we deal with the two motions separately, starting with the MSJ and then showing how the MSA is different.