
Motions in Civil Cases

Writing, Scheduling, and Opposing Motions

IMPORTANT: This Guide describes the process of making and opposing motions in a case in Sacramento County Superior Court. This can be complex and requires very specific paperwork. If you still have questions after reading this guide, come in to the Law Library to research your questions or talk to a lawyer.

When a party needs an order from the judge, they can file a motion. They must use specific formats and follow particular timelines to do so. The other side can file an Opposition to the motion explaining why the judge should not grant the order, and must also follow the formats and time requirements. The moving party can choose to file a Reply to the opposition. This guide discusses those requirements and gives examples of how a motion, opposition, or reply could look.

There are no pre-printed Judicial Council forms for most civil motions, so you must draft them yourself. Motions must follow a very specific format.

Occasionally a Motion, Opposition, or Reply will require additional sections, such as a Request for Judicial Notice, a Separate Statement of Undisputed Facts, or a copy of a proposed pleading. For examples, see our [Request for Judicial Notice](https://www.saclaw.org/resource_library/request-for-judicial-notice/) (https://www.saclaw.org/resource_library/request-for-judicial-notice/) form and our [Relief from Default Judgment](https://www.saclaw.org/resource_library/motion-to-set-aside-relief-from-default-judgment/) guide (https://www.saclaw.org/resource_library/motion-to-set-aside-relief-from-default-judgment/). These are usually filed at the same time as the Motion but as separate documents.

Terms to Know

Motions: papers filed to ask the judge to make a court order in an existing case, to explain why the moving party is legally entitled to the order, and to set up a hearing date for oral argument and the decision. **Minimum advance notice:** 16+5: sixteen *court* (business) days before hearing plus five *calendar* days for mail service on other party.

Opposition: papers filed by the opposing party to object to a motion. Deadline to file: nine *court* (business) days before hearing. Service must be by personal service or overnight mail on the day you file.

Reply: optional paper to respond to the Opposition. Deadline to file: five *court* (business) days before hearing. Service must be by personal service or overnight mail on the day you file.

Oral Argument: On the hearing date, the parties go to court to make their arguments and answer questions from the judge. In most departments, the judge makes a *tentative ruling* on the court day before the hearing, and the oral argument is cancelled unless one of the parties calls the court to confirm that they want to appear and argue their case.

Tentative Ruling: at 2 p.m. on the court day before the hearing, the judge posts a preliminary decision (“tentative ruling”) on the Sacramento Court’s website. Each party must read it and decide whether to appear

for oral argument. The oral argument is canceled unless one of the parties calls the court to confirm between 2 p.m. and 4 p.m. on the court day before the hearing. If no call is made, the Tentative Ruling becomes the order of the court. [Sacramento Local Rule \(Local Rule\) 1.06](http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf) (<http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf>).

Court Order: The final decision of the court. If no oral argument is held, the Tentative Ruling becomes the official court order. If oral argument is held, the court order may be issued at the end of the hearing or may be mailed out some time later.

Court Reporter: In Sacramento, there are no court reporters in most civil cases unless a party arranges and pays for the service ahead of time. In some courtrooms, there is an audio recording which can be transcribed later, but not in Departments 53 or 54.

Guides for Particular Motions

This guide should be useful for most types of civil motions, but the Law Library has prepared guides for many specific situations. Some popular ones are:

- [Motion to Vacate or Set Aside \(Relief from Default Judgment\)](https://www.saclaw.org/resource_library/motion-to-set-aside-relief-from-default-judgment/) (https://www.saclaw.org/resource_library/motion-to-set-aside-relief-from-default-judgment/)
- [Motion to Pay Judgment in Installments](https://www.saclaw.org/resource_library/motion-to-pay-judgment-in-installments/) (https://www.saclaw.org/resource_library/motion-to-pay-judgment-in-installments/)
- [Motion to Compel Discovery Responses](https://saclaw.org/resource_library/motion-to-compel-discovery-responses/) (https://saclaw.org/resource_library/motion-to-compel-discovery-responses/)
- [Motion to Deem Facts Admitted](https://saclaw.org/resource_library/motion-to-deem-facts-admitted/) (https://saclaw.org/resource_library/motion-to-deem-facts-admitted/)

For more, visit our [“Search by Topic” page](https://www.saclaw.org/learn/legal-topic-directory/) (<https://www.saclaw.org/learn/legal-topic-directory/>). Search or click on your topic of interest, then scroll down to “Research Guides.”

Warning! Do not use this guide for Demurrers or Summary Judgment/Adjudication motions. They are very complex and follow different rules and deadlines.

Required Parts of All Motions

A Motion has three required parts, and an optional fourth:

- Notice of Motion and Motion (date, time, and location of hearing, and a brief statement of the request);
- Memorandum of Points and Authorities (legal argument);
- Declaration(s) (evidence); and
- Proposed Order (usually optional, but recommended.)

The *Notice of Motion and Motion*, *Memorandum of Points and Authorities*, and *Declaration(s)* may be filed as separate documents or combined together into the same document. The template and samples in this Guide combine them into one. The Proposed Order (if included) is always filed as a separate document. [California Rule of Court \(CRC\) 3.1112](https://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_1112) (https://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_1112).

Opposition and *Reply* papers usually have two parts:

- Memorandum of Points and Authorities (legal argument); and
- Declaration(s) (evidence), if needed.

Oppositions and Replies do not include a Notice of Motion and Motion or a Proposed Order. The Memorandum of Points and Authorities and Declaration(s) may be filed as separate documents or combined together into the same document. The template and samples in this Guide combine them into one.

Required Format: Court papers must be written on 28-line “pleading paper,” in the format required by [CRC 2.100-2.119](https://www.courts.ca.gov/cms/rules/index.cfm?title=two&linkid=rule2_100) (https://www.courts.ca.gov/cms/rules/index.cfm?title=two&linkid=rule2_100). The first page must display a caption containing specific information. Each line must be numbered. Each page must have a footer with the page number and title of the document. Type style and size, margins, and line spacing are all specified. The templates accompanying this guide satisfy these requirements.

Notice of Motion and Motion

Notice of Motion and Motion: The *Notice of Motion and Motion* specifies the date, time, and location where the hearing will take place, spells out what the party is requesting, and gives a *very brief* citation to the law supporting the request. In Sacramento, the *Notice of Motion and Motion* **must** include the paragraph from [Local Rule 1.06 \(D\)](http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf) (<http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf>) informing the parties of the tentative ruling system.

Memorandum of Points and Authorities

Memorandum of Points and Authorities: The phrase “Points and Authorities” refers to legal arguments and the cases, statutes, or regulations supporting them (also called “authorities”). The parties must explain the law and how it applies to the facts of their case. This portion of the Motion, Opposition, or Reply usually requires original research, analysis, and writing, although the Law Library has many resources to get you started. Particularly good starting places are listed at the end of this guide.

There is a page limit of 15 pages for Motions and Oppositions, and 10 pages for Replies. These limits do not count declarations, exhibits, or proofs of service. [CRC 3.1113\(d\)](http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_1113).

http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_1113 Any memorandum over 10 pages must have a table of contents and table of authorities; these are not covered in this Guide. [CRC 3.1113\(f\)](http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_1113).
http://www.courts.ca.gov/cms/rules/index.cfm?title=three&linkid=rule3_1113

Declaration and Evidence

Declaration: The parties must provide some factual basis (evidence) for their arguments. This is generally done by attaching a *Declaration*, written by someone with first-hand knowledge of the facts, explaining the facts in numbered paragraphs. The facts are usually cited by paragraph number in the *Memorandum of Points and Authorities*. For example, in his *Declaration*

, defendant David Jones might write:

13. On July 3, 2013, I purchased a 2010 Toyota Camry, VIN 2894320, from plaintiff Smith's Used Car Lot.

In the *Memorandum of Points and Authorities*, Jones would write:

On July 3, 2013, defendant purchased a 2010 Toyota Camry, VIN 2894320, from plaintiff Smith's Used Car Lot. (Jones Decl., Para. 13.)

Documents, photographs, and other attachments can be used as evidence. Attach such documents to a *Declaration* as **exhibits**. In the *Declaration*, identify the attachment with language such as "On July 3, 2013, I signed a Vehicle Purchase Contract. A true and correct copy of the contract is attached as Exhibit "A" to this Declaration." Photocopy the attachment and write "Exhibit A" on the bottom of the page. (The second exhibit is "Exhibit B," and so on.) If the exhibit is longer than one page, number each page A?1, A?2, A?3, and so forth. Attach the exhibits to the end of the *Declaration*.

Note: Declarations and exhibits must meet legal requirements to be admitted in court, which are not covered in this Guide. For information about the requirements for different types of evidence, see "A Short Course in the Rules of Evidence," in Chapter 13 of the self-help book *Win Your Lawsuit*. A useful discussion of the types of evidence that can be used to support motions and applications can be found at 14:490-498 of *California Pretrial Practice & Forms* from James Publishing.

Proposed Order

Proposed Order: While usually not required, it is advisable to include a *Proposed Order* with most Motions. If the order is served along with the motion, the judge can sign it immediately after making a decision. Oppositions and Replies do not need a Proposed Order.

Step-by-Step Instructions

If you are the party filing the motion (the "moving party"), start at Step 1. If you are the party the motion is filed against (the "opposing party"), you do not need to schedule the hearing and should start at Step 2.

1. Schedule the Hearing

This information is for Sacramento. If your case is in a different county, do not follow these instructions. Instead, call the clerk or visit the court website in your county to find the correct information.

Determine the department and time of the motion

In Sacramento, most motions are heard in the “Law and Motion” departments. These are Department 53, which hears motions Tuesday-Thursday at 2 p.m.; and Department 54, which hears them Tuesday-Thursday at 9 a.m.

Your case is assigned to one or the other department when it is filed.

- For cases filed since about April 15, 2023: [check your case file online](https://prod-portal-sacramento-ca.journaltech.com/public-portal/) (<https://prod-portal-sacramento-ca.journaltech.com/public-portal/>) to find which department you are assigned to.
- For cases filed before then, if your case number is odd, it was assigned to Department 53. If it is even, it was assigned to Department 54.

Reserve the date for the hearing

In Departments 53 and 54, you must reserve a court date through the court’s online reservation system. For other departments, contact the department clerk to determine the procedure.

To use the online system, go to [the Sacramento Court Public Portal](https://prod-portal-sacramento-ca.journaltech.com/public-portal/) (<https://prod-portal-sacramento-ca.journaltech.com/public-portal/>) and choose “Reservation System (CRS).” You must have a free account on the system to use it.

Before you log on or call, figure out if there are any days you will *not* be available during the next couple of months. For instance, you don’t want to pick a date when you know you will be out of town.

You must choose a date far enough in the future that you can both **file** and **serve** your motion on time. Scheduling it four weeks in advance generally gives a comfortable margin for most types of motions. Usually, the first available date will be further away than that.

Determine the legal deadline to file the motion in court

Disclaimer! Some motions have different time requirements. Check the rules for the motion you are filing.

Tip: File the motion as soon as possible. Your reservation is not final until the motion has been filed and any fees paid.

The last legal day to file with the court is at least sixteen *court* (business) days prior to the motion date ([CCP § 1005](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005) ([http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005.](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005))). “Court days” are Monday through Friday, excluding court holidays. To determine whether a particular filing date will meet this deadline, start counting backwards on the day before your hearing until you reach the sixteenth court day. ([CCP § 12c](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12c.&lawCode=CCP) (https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=12c.&lawCode=CCP))

For example, suppose your reservation is for Monday, June 18. You would start counting backward using the previous court day, Friday, June 15, as day one, as shown in the calendar below. Skip weekends and court holidays (there is one court holiday in this example, which is Memorial Day, May 28). The sixteenth court day before the hearing would be May 24, which would be the last day that the motion could be filed.

MAY							JUNE						
Sun	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Mon	Tue	Wed	Thu	Fri	Sat
		1	2	3	4	5						1 Day 11	2
6	7	8	Day 5 falls on a weekend, so the last day for service by mail rolls over to the previous court day.			12	3	4 Day 10	5 Day 9	6 Day 8	7 Day 7	8 Day 6	9
13	14	15	16	17	18 Last day to serve by mail	19 Day 5	10	11 Day 5	12 Day 4	13 Day 3	14 Day 2	15 Day 1	16
20 Day 4	21 Day 3	22 Day 2	23 Day 1	24 Day 16 Last day to file	25 Day 15	26	17	18 Hearing Date	19	20	21	22	23
27	28 Holiday	29 Day 14	30 Day 13	31 Day 12			24	25	26	27	28	29	30

Make a note on your calendar to file the motion by this date. Do not miss this deadline. The court will cancel the hearing and you will have to start over.

Determine the legal deadline to serve the motion on the other parties or their attorneys

You must have all other attorneys (or self-represented parties) served with a copy of the motion, then have the server fill out a Proof of Service which you file along with the motion. This means that someone over the age of 18 who is not a party in the case must either mail or personally deliver a copy of the motion and related documents to them. There is a strict deadline to do this (earlier is always fine).

Personal service: 16 **court** days before the hearing, the same as the minimum filing deadline. The server can fill out [Proof of Personal Service—Civil \(POS-020\)](https://www.courts.ca.gov/documents/pos020.pdf) (<https://www.courts.ca.gov/documents/pos020.pdf>).

Service by mail: 16 court days before hearing PLUS five **calendar** days before the hearing (more if the mailing address is outside California). ([CCP § 1005](#))

(http://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=1005).

). The server can fill out [Proof of Service by First-Class Mail—Civil](https://www.courts.ca.gov/documents/pos030.pdf). (<https://www.courts.ca.gov/documents/pos030.pdf>)

“Calendar days” include weekends and holidays, but if the final day lands on a weekend or holiday, it is pushed back to the previous court day.

Make a note on your calendar to have the motion served by mail before the deadline. If you miss the mail deadline, you can still have the motion served by personal service up until 16 court days before the hearing. If you miss that deadline, you will have to cancel your court date and start over.

2. Research and Write the Motion, Opposition, or Reply

Moving parties continue here.

The moving party must include a Notice of Motion and Motion, which specifies the date, time, and location where the hearing will take place, spells out what the party is requesting, and gives a *very brief* citation to the law supporting the request.

Note that in Sacramento, the Notice of Motion and Motion **must** include notification of the Tentative Ruling system if the department issues tentative rulings (not all do). If the hearing is in the Law and Motion departments (Departments 53 and 54), the paragraph from [Local Rule 1.06 \(D\)](http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf) (<http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf>) is required. In other departments, check with the clerk to learn what is required.

The customizable Motion template linked at the top of this guide includes the necessary language for Departments 53 and 54.

Begin here if you are preparing an Opposition or a Reply.

The rest of the motion consists of a Memorandum and Declaration with exhibits. Opposition papers and replies do not need a Notice of Motion and Motion, but the rest of their requirements are identical, so this part of the guide covers them together.

There are no Judicial Council forms for most civil motions, oppositions, or replies. Instead, the relevant documents must be typed on 28-line pleading paper. The customizable templates linked at the top of this guide are already in the correct format.

In your Memorandum, you must explain the law, demonstrate how it applies to your case, and (in Oppositions and Replies) show why the other party’s argument is wrong. This usually requires original research, analysis, and writing. At the end of this guide, you will find a list of reference books with good starting points for civil motion research.

The Reply is generally limited to responding to the points made in the Opposition instead of introducing new arguments or evidence.

Each type of filing requires a Declaration in which you state the facts under penalty of perjury, and attach any documents or photos you want the judge to consider. This becomes the evidence the judge uses to decide the

motion. For tips and examples of how to write a declaration, see our article "[Declaration Tips](https://saclaw.org/resource_library/declaration-tips/)."
(https://saclaw.org/resource_library/declaration-tips/)"

Information for Opposing Parties

Written Opposition is required. Going to the hearing is not sufficient. If you do not file a written Opposition on time, the judge will probably grant the Motion and cancel the hearing.

What if you can't attend on the hearing date? Call the other party RIGHT AWAY and ask them to re-schedule. If they refuse, you can file a motion or ex parte application asking the judge to postpone ("continue") the hearing, but you must have a very good reason, like pre-paid plane tickets.

What if you agree with the Motion? Call the other party and offer to sign a stipulation. Usually the Motion can then be canceled ("taken off calendar").

At the end of this Guide are a sample Motion and a sample Opposition, completed by the hypothetical parties "Petra Plaintiff" and "Doug Defendant."

3. Make Copies of your Documents

Make four (4) copies of your Motion, Opposition, or Reply and your Proposed Order, if any. Staple each of the copies, but leave the original unstapled so it can easily be scanned into the court's file system.

One of these copies is to be served on the other party's attorney (or the other party, if they do not have an attorney). The original and the other three copies are to be filed with the court. You should get one back after the clerk stamps ("endorses") it.

Attaching Exhibits

For each exhibit attached to your motion, you must place a page in front of the exhibit identifying it as Exhibit A, B, and so forth in alphabetical order.

4. Have Your Documents Served on the Attorney or Self-Represented Party

You must serve your papers on the other attorney or self-represented party in the case by specified deadlines. Earlier is fine.

- **Motions: 16 court days before hearing (+5 calendar days for mailing).** If the mailing deadline (16+5 days) has passed, but there are still more than 16 court days before the hearing, you can have it served by personal delivery. If you miss the service deadline entirely, you will need to re-schedule your motion.
- **Oppositions and Replies: serve on the day you file, using a form of service that will get the papers to the other party by end of business the next day.** For example, you can have them served via overnight delivery, messenger, or personal delivery. If the parties have agreed in writing to accept service by fax or email, you can use those methods.

Your server can use the Judicial Council form [Proof of Service – Civil](http://courts.ca.gov/documents/pos040.pdf) (<http://courts.ca.gov/documents/pos040.pdf>) (POS?040), which has checkboxes for all of these methods, or any other appropriate Proof of Service form. The form should be completely filled out at this point, but not signed. **Make a copy of the unsigned proof of service before proceeding.**

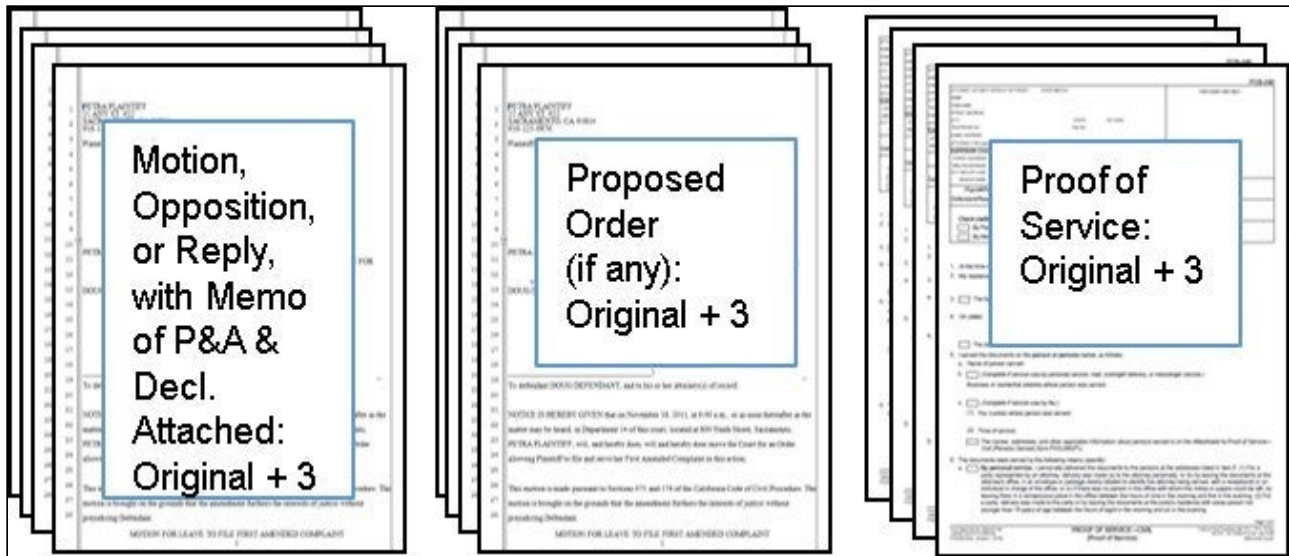
The server must serve a copy of the papers, along with a copy of the unsigned proof of service form, to the opposing attorney or self-represented litigant. The unsigned proof of service form can be attached as the last page of the Motion, Opposition, or Reply.

The person doing the serving then signs the Proof of Service form, and gives the signed Proof of Service to you.

Make three (3) copies of the signed Proof of Service. It is not necessary to copy the instruction page.

5. Assemble your Documents for Filing

Assemble your packet for filing as follows. The original should be unstapled, while each copy is stapled.



- Motion, Opposition or Reply, including Memorandum of Points and Authorities and Declaration with exhibits: original plus three (3) copies.
- Proposed Order, if included, plus three (3) copies.
- Completed Proof of Service form: The original plus three (3) copies. This proof of service can be filed as its own document, or it can be attached as the last page of the Motion, Opposition or Reply when filing. If it is attached, then attach the original Proof of Service to the original Motion, Opposition or Reply, and the copies of the Proof of Service should be attached to the copies of the Motion, Opposition or Reply.
- Any other documents, such as Request for Judicial Notice, should be treated the same way: create a stack of original plus three (3) copies and file along with the others.

6. File at 813 6th St. Room 212; Moving Party Pays Fee

Most Motions, Oppositions, and Replies are filed at the Hall of Justice building, 813 6th St. (6th and H). Check the [“Overview of Which Departments Hear Civil Matters \(https://www.saccourt.ca.gov/civil/motions-hearings-general.aspx\)”](https://www.saccourt.ca.gov/civil/motions-hearings-general.aspx) page to see if your motion needs to be filed elsewhere.

At this time there is a \$60 filing fee for a motion, unless your fees were waived. There is no fee for filing an opposition or reply.

7. Review Tentative Ruling at 2 p.m. the Court Day before the Hearing; Schedule Argument by 4 p.m. if necessary

Pursuant to [Local Rule 1.06 \(http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf\)](http://www.saccourt.ca.gov/local-rules/docs/chapter-01.pdf), the court in most departments makes a tentative ruling on the motion by 2:00 p.m. **the court day before the hearing**. You then have two hours to request oral argument, if you choose to do so.

Warning! **Your hearing will be canceled**

If neither you nor the other party calls the court, the hearing will be canceled and you will not be permitted to talk to the judge.

You may read the tentative ruling online or call the assigned department to hear it. For more information, see the Sacramento County Superior Court’s [Civil Tentative Rulings \(http://www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx\)](http://www.saccourt.ca.gov/civil/motions-hearings-tentative.aspx) page.

Closely review the Tentative Ruling. If you are making the motion, you are looking for your motion to be “GRANTED.” If you are opposing the motion, you are looking for the motion to be “DENIED.” The motion may also be “GRANTED IN PART” and “DENIED IN PART.” The judge sometimes orders the parties to appear, even if neither party requests oral argument.

Losing party: If you are not happy with the Tentative Ruling, and wish to present oral argument in front of the judge, you must call all opposing counsel and/or self-represented parties, and the clerk for Department 53 ((916) 874-7858) or Department 54 ((916) 874-7848) no later than 4:00 p.m. the court day before your hearing and state that you are requesting oral argument. **Note:** carefully consider whether it is worth your time to request oral argument. It is very rare for judges to change their mind, but it does happen sometimes.

Winning party: If you are happy with the Tentative Ruling, you **do not** need to do anything unless the Tentative Ruling orders you to appear, or the other side calls you before 4:00 p.m. that day to request oral argument. If that happens, you should go to the court hearing and be prepared to argue your case.

If neither party requests oral argument by 4:00 p.m., the court will simply make the tentative ruling permanent, and no oral argument will be permitted.

8. Attend the Hearing, if Required

If you or the other party request oral argument, arrive or log onto Zoom early. There will probably be other cases scheduled at the same time; there is usually a list posted on the wall outside the courtroom that lists the order in which cases will be heard. Go into the courtroom or Zoom waiting room and check in with the bailiff or clerk.

Zoom Hearings

For most types of motions, you can appear remotely by connecting on the Zoom app. The tentative ruling will explain how to connect.

When your name is called, be ready to speak and to answer any questions the judge has. You will only have a few minutes. After both sides speak, the judge may make a decision right away, or may “take it under consideration” and mail out the decision in a few days.

For more information

On the Web

For information about the Sacramento County Superior Court’s motion requirements, visit [Motions and Hearings: General Information](https://www.saccourt.ca.gov/civil/motions-hearings-general.aspx) (<https://www.saccourt.ca.gov/civil/motions-hearings-general.aspx>).

At the Law Library:

California Civil Procedure Before Trial KFC 995 .C34

Chap. 12, “Noticed Motions”

Electronic Access: On the Law Library’s computers, using *OnLaw*.

California Forms of Pleading and Practice KFC 1010 .B4 (Ready Reference)

Chap. 372, “Motions and Orders,” and various chapters on specific types of motions.

Electronic Access: On the Law Library's computers, using *Lexis Advance*.

California Points and Authorities KFC 1010 .B4 (Ready Reference)

Provides sample Points and Authorities on hundreds of topics.

Electronic Access: On the Law Library's computers, using *Lexis Advance*.

California Law & Motion Model Forms

KFC 1012 .A65 P37

Opposing California Civil Motions: Model Opposition Briefs

KFC 1012 .O6 P37

These guides from the Rutter Group contain excellent starting points for points and authorities on a wide range of California civil matters.

Samples

Motion

MOVING PARTY	
1	Petra Plaintiff
2	123 Any St. Sacramento, CA 95828
IMPORTANT: Text that appears in BLUE is text you will change to fit your case. On the customizable templates, these are represented by gray boxes. RED boxes are instructions, and not part of your completed document. This motion is presented as a sample only. You will have to research the appropriate law and make extensive changes to use it as a template for your own motion. You can download the customizable template from www.saclaw.org/motions-general .	
SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO	
7	
8	
9	Petra Plaintiff,
10	Plaintiff,
11	vs.
12	Doug Defendant and DOES 1 to 10,
13	Defendants
14	Case No.: 34-2015-01234567
15	NOTICE OF MOTION AND MOTION FOR ORDER PERMITTING THE FILING OF A FIRST AMENDED COMPLAINT (CCP §473(a)); POINTS AND AUTHORITIES; DECLARATION
16	Date: July 18, 2016
17	Dept: 53
18	Time: 2:00 p.m.
19	To defendant DOUG DEFENDANT, and to his or her attorney(s) of record:
20	NOTICE IS HEREBY GIVEN that on July 18, 2016, at 9:00 a.m., or as soon thereafter
21	as the matter may be heard, in Department 53 of this court, located at 813 Sixth Street,
22	Sacramento, PETRA PLAINTIFF, will, and hereby does, will and hereby does move the Court
23	for an Order allowing Plaintiff to file and serve her First Amended Complaint in this action.
24	This motion is made pursuant to Sections 473 and 576 of the California Code of Civil
25	Procedure. The motion is brought on the grounds that the amendment furthers the interests of
26	justice without prejudicing Defendant.
27	The motion will be based on this notice of motion, on the declaration of Petra Plaintiff,
28	and the supporting memorandum served and filed herewith, on the records and file herein, and
	on such evidence as may be presented at the hearing of the motion. This motion is further based
	on the proposed First Amended Complaint filed concurrently herewith as Exhibit A.
	NOTICE OF MOTION AND MOTION FOR ORDER PERMITTING THE FILING OF A FIRST AMENDED COMPLAINT (CCP §473(a)); POINTS AND AUTHORITIES; DECLARATION
	1

Motion (Page 1 of 4)

This language is required in **Sacramento**. If you are not in Sacramento, erase it. Check with your court whether they use a tentative ruling system and if so, if there is required language you must include.

1 Pursuant to Local Rule 1.06 (A), the court will make a tentative ruling on the merits of this
2 matter by 2:00 p.m., the court day before the hearing. The complete text of the tentative rulings
3 for the department may be downloaded from the Court's public access site. If you do not have
4 online access, you may call the dedicated phone number for the department as referenced in the
5 local telephone directory, between the hours of 2:00 p.m. and 4:00 p.m. on the court day before
6 the hearing and listen to the tentative ruling. If you do not call the court and the opposing party
7 by 4:00 p.m. the court day before the hearing, no hearing will be held.

8
9
10 Dated: June 30, 2016

11
12 Petra Plaintiff
13 Plaintiff, In Pro Per
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NOTICE OF MOTION AND MOTION FOR ORDER PERMITTING THE FILING OF A FIRST AMENDED COMPLAINT
(CCP §473(a)); POINTS AND AUTHORITIES; DECLARATION

1

Motion (Page 2 of 4)

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>Memorandum of Points and Authorities</p> <p>I. Background</p> <p>On 4/21/2015, Plaintiff filed a Complaint in this court. The defendant's response to the</p> <div style="border: 1px solid red; padding: 5px;"><p>In the Memorandum of Points and Authorities, you provide the factual background for what you are requesting (based on the evidence in your declaration), and the statutes, cases, and/or regulations that support your request. You will need to research and write these for your particular circumstances. There is a 10-page page limit.</p></div> <p>and for products liability.</p> <p>II. LEGAL ARGUMENT</p> <p>A. Pursuant to California Code of Civil Procedure 473(a), the Court May Permit Parties to Amend their Pleadings</p> <p>California Code of Civil Procedure §473(a)(1) permits the court, in furtherance of justice, and upon any terms as may be proper, to allow any party to amend their pleadings.</p> <p>In the present case, causes of action existed as to Acme, but as described in the attached declaration this remained unknown until after the other named defendant responded to the Complaint. Unfortunately, the liability of this new defendant cannot be properly alleged without new causes of action specific to the defendant.</p> <p>For these reasons, and the reasons expressed in the attached Declaration, Plaintiff requests leave of this court to file a First Amended Complaint.</p> <p style="text-align: right;">Dated: March 8, 2016</p> <p style="text-align: right;">_____ Petra Plaintiff Plaintiff, In Pro Per</p> <hr/> <p style="text-align: center;">NOTICE OF MOTION AND MOTION FOR ORDER PERMITTING THE FILING OF A FIRST AMENDED COMPLAINT (CCP §473(a)); POINTS AND AUTHORITIES; DECLARATION 1</p>	
---	---	--

Motion (Page 3 of 4)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION

I, Petra Plaintiff, am the plaintiff in this matter, and I declare the following in support of my motion for leave to file a First Amended Complaint:

1. This lawsuit arises from the installation of a water heater at my place of business, Petra's Boutique, and the damages and loss of business arising from that installation.
2. On September 23, 2009, I signed a contract with Doug Defendant to supply and install a water heater. A true and correct copy of this contract is attached as Exhibit A.

[Continue with facts relevant to your motion.]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: June 30, 2011

Petra Plaintiff

You can attach a document as an exhibit by photocopying the document and writing "Exhibit A" on the bottom of the first page. If the exhibit is longer than one page, number each page.

To use a document as evidence, you must verify under penalty of perjury that it is a "true and correct copy" using the language above.

Important: Sacramento County Superior Court requires each of the *Exhibits* in one of your sets of copies be separated by a rigid sheet of card stock with a tab identifying the letter of the exhibit on the bottom. Exhibits for the original and other copies should be separated by a blank piece of pleading paper with their exhibit letter or number (for instance, "Exhibit A") typed or written on the bottom of the page.

Note: The Law Library sells card stock with tabs at the Circulation Desk.

EXHIBIT A A FIRST AMENDED COMPLAINT
NOTICE OF MOTION AND MOTION FOR ORDER PERMIT (CCP §473(a)); POINTS AND AUTHORITIES; DECLARATION
1

Motion (Page 4 of 4)

Proposed Order

1	11 ANY ST. #22	
2	SACRAMENTO, CA 95814	
3	916-123-9876	
4	Plaintiff, In Pro Per	
5		
6		
7		
8	SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO	
9		
10	PETRA PLAINTIFF,	Case No.: 34-2009-00012345
11	Plaintiff,	[PROPOSED] ORDER GRANTING
12	vs.	LEAVE TO FILE FIRST AMENDED
13	DOUG DEFENDANT,	COMPLAINT
14	Defendant	Date: November 19, 2011
15		Dept: 53
16		Time: 2:00 p.m.
17		Mandatory Settlement: December 14, 2011
18		Trial Date: January 13, 2012
19	The motion of plaintiff for an order allowing amendment of the complaint came on	
20	regularly for hearing by the court this date. Plaintiff appeared representing herself; defendant	
21	appeared by counsel _____. On proof made to the	
22	satisfaction of the court that the motion ought, in furtherance of justice, to be granted,	
23	IT IS ORDERED that the motion be, and hereby is, granted and that plaintiff be allowed	
24	to file the first amended complaint, a copy of which is attached to the notice of motion herein.	
25	Dated: _____	
26	_____	
27	Judge of the Superior Court	
28	_____	
	[PROPOSED] ORDER GRANTING LEAVE TO FILE FIRST AMENDED COMPLAINT - 1	

Order (Page 1 of 1)

Opposition or Reply

1	DIMITRI DEFENDANT	
23		
2	SA	OPPOSITION OR REPLY
3	916	
4	Pla	
4		
IMPORTANT: Text that appears in BLUE is text you will change to fit your case. On the customizable templates, these are represented by gray boxes. RED boxes are instructions, and not part of your completed document. This template is generic. It is presented as a sample only. You will have to research the appropriate law and make extensive changes to use it as a template for your own motion. You can download the customizable template at www.saclaw.org/motions-general .		
9		
10	PLACIDO PLAINTIFF,	Case No.: 34-2010-0019876
11	Plaintiff,	OPPOSITION TO MOTION FOR ORDER
12	vs.	CONTINUING TRIAL AND
13		MANDATORY SETTLEMENT
14	DIMITRI DEFENDANT,	CONFERENCE; DECLARATION OF
15	Defendant	DIMITRI DEFENDANT
16		Date: November 19, 2011
17		Dept.: 53
18		Time: 2:00 p.m.
19		Mandatory Settlement: December 14, 2011
20		Trial Date: January 13, 2012
21		
22		I. BACKGROUND
23		This lawsuit arises from \$15,000 that was loaned by the plaintiff to the defendant. <i>[Continue</i>
24		<i>with factual background for your opposition or reply.]</i>
25		II. LEGAL ARGUMENT
26		NO GOOD CAUSE EXISTS FOR CONTINUANCE IN THAT
27		A. Good Cause. A court may grant a... <i>[Continue with legal argument for your opposition or reply.]</i>
28		Respectfully submitted,
29	Dated: October 18, 2011	By: _____
30		DIMITRI DEFENDANT
31		Defendant, In Pro Per
32		
33		OPPOSITION TO MOTION FOR ORDER CONTINUING TRIAL AND MANDATORY
34		SETTLEMENT CONFERENCE; DECLARATION OF DIMITRI DEFENDANT
35		1

Opposition/Reply (Page 1 of 2)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DECLARATION OF DIMITRI DEFENDANT

I, DIMITRI DEFENDANT, am the Defendant in this matter, and I declare the following in support of my opposition to the motion for continuance:

1. On August 12, 2011, plaintiff Placido Plaintiff's attorney, Laura Lawyer, withdrew from the case.
2. On August 23, 2011, Plaintiff wrote to me, requesting a postponement of his deposition, because he was trying to replace his attorney. A true and correct copy of this letter is attached as Exhibit A.

[Continue with facts relevant to your motion.]

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: October 27, 2012

By: _____
DIMITRI DEFENDANT
Defendant, In Pro Per

You can attach a document as an exhibit by photocopying the document and writing "Exhibit A" on the bottom of the first page. If the exhibit is longer than one page, number each page.

To use a document as evidence, you must verify under penalty of perjury that it is a "true and correct copy" using the language above.

Important: Sacramento County Superior Court requires each of the Exhibits in one of your sets of copies be separated by a rigid sheet of card stock with a tab identifying the letter of the exhibit on the bottom. Exhibits for the original and other copies should be separated by a blank piece of pleading paper with their exhibit letter or number (for instance, "Exhibit A") typed or written on the bottom of the page.

Note: The Law Library sells card stock with tabs at the Circulation Desk.

EXHIBIT A

DECLARATION OF DIMITRI DEFENDANT

1

Opposition/Reply (Page 2 of 2)

Date Created
03/30/2023