



A motion is essentially a request that a court make an order. “Every direction of a court or judge, made or entered in writing, and not included in a judgment, is denominated an order. An application for an order is a motion.” Cal Code Civ Proc § 1003; see also 1064 (special proceeding) Generally, motion procedure is governed by C.C.P. 1003 et seq. and by the Civil Law and Motion Rules (C.R.C., Rules 3.1100 et seq.). For example, the Cal Code of Civ Proc contains various statutes authorizing certain motions at specific stages of the proceeding, such as motion to quash service of summons (CCP 418.10); demurrers to complaints, cross-complaints or answers (CCP 430.10; 430.20); motions for summary adjudication/judgment (CCP 437c) Local court rules and policies also inform law and motion practice. (See e.g. Rutter Group, 2 Civil Proc. Before Trial §9:7 et seq.) Because of the almost limitless kind and number of motions, many of which have their own procedure prescribed by statute, much of motion practice has developed in connection with particular motions rather than as a general body of rules. (See C.R.C., Rules 3.1320 et seq.; C.E.B., 1 Civil Proc. Before Trial 4th, Chap. 12; Rutter Group, Civil Proc. Before Trial, Forms, Chap. 9A; 18 Am.Jur. P.P. Forms (2005 ed.), Motions, Rules, and Orders, Form 1 et seq.)

AN OVERVIEW FROM THE JUDGE'S PERSPECTIVE

- A sizeable percentage of motions are dropped due to defective service. The focus of this article is on C.C.P. 1005, but it shall also address, briefly, motions for summary judgment, which are subject to different time requirements, as well as other types of motions with different time requirements.
- Clients spend a lot of money and lawyers spend a lot of time preparing intricate motions, but it does no good if the motion is dropped at the outset for defective service. Here is how to avoid that fate:

The author (David I. Brown) is but one judge, and each judge has his/her own opinions which may or may not correspond with those of the author.

CAL CODE CIV PROC § 1005 (A)

- (a) **Written notice shall be given**, as prescribed in subdivisions (b) and (c), **for the following motions:**
- (1) Notice of Application and Hearing for Writ of Attachment under Section 484.040.
- (2) Notice of Application and Hearing for Claim and Delivery under Section 512.030.
- (3) Notice of Hearing for Claim of Exemption under Section 706.105.
- (4) Motion to Quash Summons pursuant to subdivision (b) of Section 418.10.
- (5) Motion for Determination of Good Faith Settlement pursuant to Section 877.6.
- (6) Hearing for Discovery of Peace Officer Personnel Records in a civil action pursuant to Section 1043 of the Evidence Code.
- (7) Notice of Hearing of Third-Party Claim pursuant to Section 720.320.
- (8) Motion for an Order to Attend Deposition more than 150 miles from deponent's residence pursuant to Section 2025.260.
- (9) Notice of Hearing of Application for Relief pursuant to Section 946.6 of the Government Code.
- (10) Motion to Set Aside Default or Default Judgment and for Leave to Defend Actions pursuant to Section 473.5.
- (11) Motion to Expunge Notice of Pendency of Action pursuant to Section 405.30.
- (12) Motion to Set Aside Default and for Leave to Amend pursuant to Section 585.5.
- (13) Any other proceeding under this code in which notice is required, and no other time or method is prescribed by law or by court or judge.
- NB: For many motions, there is no prohibition in obtaining an order shortening time on ex parte application to hear your motion, if good cause is shown, as will be seen.

As an example of “other time or method” (see e.g. subd (a) (13), see Cal Rules of Court, Rule 3.1342 (2013)

Rule 3.1342. Motion to dismiss for delay in prosecution

(a) Notice of motion A party seeking dismissal of a case under Code of Civil Procedure sections 583.410-583.430 must serve and file a notice of motion at least 45 days before the date set for hearing of the motion. The party may, with the memorandum, serve and file a declaration stating facts in support of the motion. The filing of the notice of motion must not preclude the opposing party from further prosecution of the case to bring it to trial.

(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 1986, and January 1, 2007.)

(b) Written opposition Within 15 days after service of the notice of motion

CCP 1005 (B)

- (b) Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed at least **16 court days before the hearing**. The moving and supporting papers served shall be a copy of the papers filed or to be filed with the court. However, if the notice is served by mail, the required 16-day period of notice before the hearing shall be increased by five calendar days if the place of mailing and the place of address are within the State of California, 10 calendar days if either the place of mailing or the place of address is outside the State of California but within the United States, and 20 calendar days if either the place of mailing or the place of address is outside the United States, and if the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery, the required 16-day period of notice before the hearing shall be increased by **two calendar days**. **Section 1013, which extends the time within which a right may be exercised or an act may be done, does not apply to a notice of motion, papers opposing a motion, or reply papers governed by this section.** All papers opposing a motion so noticed shall be filed with the court and a copy served on each party at least **nine court days**, and all reply papers at least **five court days** before the hearing. The court, or a judge thereof, may prescribe a shorter time.
- **Practice note:** Check the specific statute for your motion to determine if different time requirements apply. (e.g. CCP 437(b)(2)—14 days for opposition).
- **NB:** But see Appendix I to the Emergency Rules Related to COVID-19

For example, an opposition to a motion for summary judgment must be “served and filed not less than 14 days preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise. ...” ([Code Civ. Proc., § 437c, \(b\)\(2\).](#)) Remember, presently, **ALL** motions must be reserved in Sacramento. In the past (pre-COVID), most motions could be self-set, with a few notable exceptions (MSJ/MSA, JOP, Demurrers, SLAPP). NB: different courts have different rules and be sensitive to the rules of the County in which you are filing the motion.

COVID 19 EMERGENCY RULES RE SERVICE, RULE 12

- (a) Application
- (1) Notwithstanding any other law, including Code of Civil Procedure section 1010.6, Probate Code section 1215, and rule 2.251, this rule applies in all general civil cases and proceedings under the Family and Probate Codes, unless a court orders otherwise.
- (2) Notwithstanding (1), the rule does not apply in cases where parties are already required by court order or local rule to provide or accept notices and documents by electronic service, and is not intended to prohibit electronic service in cases not addressed by this rule.
- (b) Required electronic service
- (1) A party represented by counsel, who has appeared in an action or proceeding, **must accept electronic service** of a notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission. **Before first serving a represented party electronically, the serving party must confirm by telephone or email the appropriate electronic service address for counsel being served.**
- (2) A party represented by counsel must, upon the request of any party who has appeared in an action or proceeding and who provides an electronic service address and a copy of this rule, electronically serve the requesting party with any notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission.
- (c) Permissive electronic service
- Electronic service on a self-represented party is permitted only with consent of that party, **confirmed in writing**. The written consent to accept electronic service may be 31 exchanged electronically.
- (d) Time
- (1) In general civil cases and proceedings under the Family Code, the provisions of Code of Civil Procedure section 1010.6(a)(4) and (5) apply to electronic service under this rule.
- (2) In proceedings under the Probate Code, the provisions of Probate Code 40 section 1215(c)(2) apply to electronic service under this rule.
- (e) Confidential documents
- Confidential or sealed records electronically served must be served through encrypted methods to ensure that the documents are not improperly disclosed.
- (f) Sunset of rule
- This rule will remain in effect until 90 days after the Governor declares that the state of emergency related to the COVID-19 pandemic is lifted, or until amended or repealed by the Judicial Council.
- Emergency Rule 12 adopted effective April 17, 2020. (SEE NOTES BELOW)
- NB: Given this Rule it is certain that most motions will be served electronically on opposing counsel and opposition and reply will be electronically served as well.

Note CCP § 1010.6. Electronic service by parties or court; Adoption of local rules; Adoption of uniform rules. The practitioner is urged to read the rule in its entirety. Under subd. (a) A document may be served electronically in an action filed with the court as provided in this section, in accordance with rules adopted pursuant to subdivision (f). (4)

(A) If a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of that document is deemed complete at the time of the electronic transmission of the document or at the time that the electronic notification of service of the document is sent.

(B) Any period of notice, or any right or duty to do any act or make any response within any period or on a date certain after the service of the document, which time period or date is prescribed by statute or rule of court, shall be extended after service by electronic means by two court days, but the extension shall not apply to extend the time for filing any of the following:

(i) A notice of intention to move for new trial.

(ii) A notice of intention to move to vacate judgment under Section 663a.

(iii) A notice of appeal.

(C) This extension applies in the absence of a specific exception provided by any other statute or rule of court.

(5) Any document that is served electronically between 12:00 a.m. and 11:59:59 p.m. on a court day shall be deemed served on that court day. Any document that is served electronically **on a noncourt day shall be deemed served on the next court day.**

CCP 1013 – READ IN CONJUNCTION WITH THE EMERGENCY RULE

- § 1013. Manner and completion of service by mail, Express Mail, facsimile transmission, or electronically
- (a) In case of service by mail, the notice or other paper shall be deposited in a post office, mailbox, subpost office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service, in a sealed envelope, with postage paid, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service by mail; otherwise at that party's place of residence. Service is complete at the time of the deposit, but any period of notice and any right or duty to do any act or make any response within any period or on a date certain after service of the document, which time period or date is prescribed by statute or rule of court, shall be extended five calendar days, upon service by mail, if the place of address and the place of mailing is within the State of California, 10 calendar days if either the place of mailing or the place of address is outside the State of California but within the United States, and 20 calendar days if either the place of mailing or the place of address is outside the United States, but the extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to [Section 663a](#), or notice of appeal. This extension applies in the absence of a specific exception provided for by this section or other statute or rule of court.
- (b) The copy of the notice or other paper served by mail pursuant to this chapter shall bear a notation of the date and place of mailing or be accompanied by an unsigned copy of the affidavit or certificate of mailing.
- (c) In case of service by Express Mail, the notice or other paper must be deposited in a post office, mailbox, subpost office, substation, or mail chute, or other like facility regularly maintained by the United States Postal Service for receipt of Express Mail, in a sealed envelope, with Express Mail postage paid, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service by Express Mail; otherwise at that party's place of residence. In case of service by another method of delivery providing for overnight delivery, the notice or other paper must be deposited in a box or other facility regularly maintained by the express service carrier, or delivered to an authorized courier or driver authorized by the express service carrier to receive documents, in an envelope or package designated by the express service carrier with delivery fees paid or provided for, addressed to the person on whom it is to be served, at the office address as last given by that person on any document filed in the cause and served on the party making service; otherwise at that party's place of residence. Service is complete at the time of the deposit, but any period of notice and any right or duty to do any act or make any response within any period or on a date certain after service of the document served by Express Mail or other method of delivery providing for overnight delivery shall be extended by two court days. The extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to [Section 663a](#), or notice of appeal. This extension applies in the absence of a specific exception provided for by this section or other statute or rule of court.
- (d) The copy of the notice or other paper served by Express Mail or another means of delivery providing for overnight delivery pursuant to this chapter shall bear a notation of the date and place of deposit or be accompanied by an unsigned copy of the affidavit or certificate of deposit.
- (e) Service by facsimile transmission shall be permitted only where the parties agree and a written confirmation of that agreement is made. The Judicial Council may adopt rules implementing the service of documents by facsimile transmission and may provide a form for the confirmation of the agreement required by this subdivision. In case of service by facsimile transmission, the notice or other paper must be transmitted to a facsimile machine maintained by the person on whom it is served at the facsimile machine telephone number as last given by that person on any document which he or she has filed in the cause and served on the party making the service. Service is complete at the time of transmission, but any period of notice and any right or duty to do any act or make any response within any period or on a date certain after service of the document, which time period or date is prescribed by statute or rule of court, shall be extended, after service by facsimile transmission, by two court days, but the extension shall not apply to extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to [Section 663a](#), or notice of appeal. This extension applies in the absence of a specific exception provided for by this section or other statute or rule of court.
- (f) The copy of the notice or other paper served by facsimile transmission pursuant to this chapter shall bear a notation of the date and place of transmission and the facsimile telephone number to which transmitted, or to be accompanied by an unsigned copy of the affidavit or certificate of transmission which shall contain the facsimile telephone number to which the notice or other paper was transmitted.
- (g) Electronic service shall be permitted pursuant to [Section 1010.6](#) and the rules on electronic service in the California Rules of Court.
- (h) Subdivisions (b), (d), and (f) are directory.

CCP 1005 (C)

- (c) Notwithstanding any other provision of this section, all papers **opposing** a motion and **all reply** papers shall be served by personal delivery, facsimile transmission, express mail, or other means consistent with Sections 1010, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties not later than the close of the next business day after the time the opposing papers or reply papers, as applicable, are filed. This subdivision applies to the service of opposition and reply papers regarding motions for summary judgment or summary adjudication, in addition to the motions listed in subdivision (a).
- **The court, or a judge thereof, may prescribe a shorter time.**

§ 1010. NOTICES AND PAPERS; FORM, CONTENTS, SERVICE ON PARTY, ETC.

- Notices must be in writing, and the notice of a motion, other than for a new trial, must state when, and the **grounds upon which it will be made**, and the papers, if any, upon which it is to be based. If any such paper has not previously been served upon the party to be notified and was not filed by him, a copy of such paper must accompany the notice. **Notices and other papers may be served upon the party or attorney in the manner prescribed in this chapter, when not otherwise provided by this code.** No bill of exceptions, notice of appeal, or other notice or paper, other than amendments to the pleadings, or an amended pleading, need be served upon any party whose default has been duly entered or who has not appeared in the action or proceeding.

PROCEDURAL REQUIREMENTS

- Although this slide is not "time line" related, it does bear noting that motions have additional procedural requirements that ought to be observed:
- Follow format of motion papers – CRC Rules 3.1110 and 3.1112. See also CCP 1010.
- [Notices must be in writing, and the notice of a motion, other than for a new trial, must state when, and the grounds upon which it will be made]: CRC 3.1110 [a notice of motion must state in the opening paragraph the nature of the order being sought]. In determining a motion, court may consider only grounds stated in notice of motion. *Hernandez v. National Dairy Products Co.* (1954) 126 Cal App 2d 490.]
- Memorandum of Points and Authorities required by CRC 3.1112(a)(3), 3.1113(a)[court may construe absence of memo as an admission].
- Make sure Notice of Motion states in opening paragraph the nature of order being sought and grounds. CRC Rule 3.1110(a).
- [PRACTICE NOTE] In responding to a motion, the Court may construe a party's failure to oppose the motion as a concession on the merits. (*D.I. Chadbourne, Inc. v. Superior Court* (1964) 60 Cal.2d 723, 728, fn. 4 [where nonmoving party fails to oppose a ground for a motion "it is assumed that [nonmoving party] concedes" that ground].) However, lack of opposition, by itself, does not deprive the Court of discretion to consider the motion on its merits. Law and motion is not done by default.

CCP 1010.6 – ELECTRONIC SERVICE EXTENDS 16 DAYS REQUIRED NOTICE BY 2 CALENDAR DAYS

- The practitioner is urged to read the entire text of the section but for the purposes of this lecture, it suffices to note:
- Under subd. (a)
- (4)
- (A) If a document may be served by mail, express mail, overnight delivery, or facsimile transmission, **electronic service of that document is deemed complete at the time of the electronic transmission of the document or at the time that the electronic notification of service of the document is sent.**
- (B) Any period of notice, or any right or duty to do any act or make any response within any period or on a date certain after the service of the document, which time period or date is prescribed by statute or rule of court, **shall be extended after service by electronic means by two court days (NB: GO BACK TO LOOK AT 1005), but the extension shall not apply to extend the time for filing any of the following:**
 - (i) A notice of intention to move for new trial.
 - (ii) A notice of intention to move to vacate judgment under Section 663a.
 - (iii) A notice of appeal.
- (C) This extension applies in the absence of a specific exception provided by any other statute or rule of court.

See note to SLIDE #5. Personal service (See CCP 1011) does not extend time at all; 16 days (and no additional days) applies on personal service. The same is true of summary judgments, with, of course, the 75 day rule. Again, as with other motions, if the MSJ/MSA motion is served, for example, by electronic mail, add two (2) days for that type of service. First class mail, add 5 days per CCP 1005.

HOW SHALL WE COUNT THE DAYS?

- As we now understand, generally, C.C.P., sec. 1005 requires 16 court days for a notice of motion, with five additional calendar days for service by US Mail (assuming service within the State) or 2 days for electronic service, etc.. Under subd. (b) of 1005 the court may shorten time for the hearing of a motion, upon a showing of good cause. Such an application is normally done by ex parte application.
- **PRACTICE NOTE** The Court may prescribe shorter times for the filing and service of papers other than the times specified in CCP 1005 (CRC 3.1300(b)); however, it must do so on a showing of good cause, such as irreparable harm, immediate danger or other statutory basis. CRC 3.1202(c). **Be familiar with the Court Rules applicable to ex parte applications.**

HOW TO, CONTINUED

- Motion must be filed and served 16 court days prior to hearing.
- [Practice note: check the Court's website for court holidays; see also CCP 12a] Defective notice deprives the Court of jurisdiction to act.
- Add **five calendar days for mail**. [NB: while Emergency Rule 12 addresses electronic service, there is no rule that precludes service by mail. If you decide to serve the motion by mail, add the 5 calendar days!]
- Add **10 calendar days if out of state**.
- Add **two, (2)** calendar days if service by electronic service, fax service, overnight, or express mail.
- Count backwards from hearing date (excluding the hearing date), add service days last. CCP § 12c.
- CCP 1005 also addresses Opposition and Reply papers.
- [Practice Note: service defects may be waived if opposition is filed on the merits and no mention is made of the service defect. *Carlton v. Quint* (2000) 77 Cal. App. 4th 690; *Reedy v. Bussell* 148 Cal. App. 4th 1272.] Different judges see this issue differently. Know the culture of the court in which your motion is filed.]

The waiver issue puts lawyers on the horns of a dilemma; if they file nothing in opposition, the service defect is preserved but that is a risky proposition; if they file an objection the service but file a substantive opposition a court may say that the defect is waived. It is perhaps best to raise the service defect at the outset of the opposition, and address the merits “in an abundance of caution”. Again, the culture of the court may determine how best the practitioner should proceed.

HOLIDAYS AND COUNTING

- ❑ The term "holiday" includes Saturday [Code Civ. Proc. § 12a] and Sunday [Code Civ. Proc. § 12a, Gov. Code § 6700(a)]. It also includes holidays specified in Gov. Code § 6700, as adjusted for weekends pursuant to Gov. Code § 6701 [Code Civ. Proc. § 12a, Gov. Code § 6700(b), (d)-(e), (g)-(o)]:

The time in which any act provided by law is to be done is computed by excluding the first day, and including the last, unless the last day is a holiday, and then it is also excluded.

- ❑ Effective Jan 1, 2011, Cal Code Civ Proc § 12c provides for calculation of the last day to perform act before hearing date as follows:
- ❑ "(a) Where any law requires an act to be performed no later than a specified number of days before a hearing date, the last day to perform that act shall be determined by counting backward from the hearing date, excluding the day of the hearing as provided by Section 12." [emphasis added]
- ❑ "(b) Any additional days added to the specified number of days because of a particular method of service shall be computed by counting backward from the day determined in accordance with subdivision (a)."
- ❑ HYPOTHETICAL : A hearing date is set for Dec. 2, 2025. The motion is filed Nov. 3, 2025. Counting backward from the hearing date and excluding the date of hearing, the first "counted" court day would be Dec. 1, 2025. The practitioner and reviewing judge must keep in mind the THREE court holidays – Nov. 24, and 25, and Nov. 11. The 16th "court day" is Nov. 5, 2025. With this date, one can now start counting the five "calendar days". The motion is defective because only 2 calendar days are present, not the requisite five days. This hypothetical presupposes service by mail. Service by express mail, electronic mail, facsimile or overnight express requires only 2 calendar days (CCP 1005(b)), and under those facts service would be proper.

As already noted, the amount of time required to notice various motions or serve court documents depends on the procedure sought [see, e.g., Code Civ. Proc. § 437c(a) (notice of motion for summary judgment must be served 75 days before hearing on the motion); Code Civ. Proc. § 1005(b) (motion to quash service of summons must be served 16 days before hearing)] or the documents issued (see e.g., Code Civ. Proc. § 537(d)(2) (temporary restraining order must be served within 5 days)]. Review the specific statutes for time requirements and exceptions peculiar to the procedure sought.

PRACTICE NOTE: IF the last calendar day falls on a holiday, go to the next prior day.

EXCEPTIONS* (SELECTED)

- UNLAWFUL DETAINER:
- A motion for summary judgment may be made at any time after the answer is filed; only **five days' notice** is required. Summary judgment must be granted and denied on the same basis as a motion under Code Civ. Proc. § 437c [Code Civ. Proc. § 1170.7; see Code Civ. Proc. § 1177 (application of provisions of Part Two of Code of Civil Procedure, which includes Code Civ. Proc. § 437c, to unlawful detainer proceedings)]. Notice of a discovery motion must be given in compliance with Code Civ. Proc. §§ 1010.6 or 1013 and 1170.7 [Cal. Rules of Ct., Rule 3.1347(a)]. Any opposition to the motion and any reply to an opposition may be made orally at the time of hearing or in writing [Cal. Rules of Ct., Rule 3.1347(b)]. If a party seeks to have a written opposition considered before the hearing, the written opposition must be served and filed on or before the court day before the hearing. Service must be by personal delivery, electronic service, fax transmission, express mail, or other means consistent with Code Civ. Proc. §§ 1010, 1010.6, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties no later than the close of business on the court day before the hearing. The court, in its discretion, may consider written opposition filed later [Cal. Rules of Ct., Rule 3.1347(c)].
- This illustrates the necessity to check the statutes for the time requirements.

EXCEPTIONS CONT'D

- Cal Rules of Court, Rule 3.1342 (2013)

- Rule 3.1342. Motion to dismiss for delay in prosecution

(a) Notice of motion A party seeking dismissal of a case under Code of Civil Procedure sections 583.410-583.430 must serve and file a notice of motion **at least 45 days before the date set for hearing of the motion**. The party may, with the memorandum, serve and file a declaration stating facts in support of the motion. The filing of the notice of motion must not preclude the opposing party from further prosecution of the case to bring it to trial.

- (Subd (a) amended effective January 1, 2009; previously amended effective January 1, 1986, and January 1, 2007.)

(b) Written opposition **Within 15 days after service of the notice of motion**, the opposing party may serve and file a written opposition. The failure of the opposing party to serve and file a written opposition may be construed by the court as an admission that the motion is meritorious, and the court may grant the motion without a hearing on the merits.

- (Subd (b) amended effective January 1, 2007.)

(c) Response to opposition **Within 15 days after service of the written opposition**, if any, the moving party may serve and file a response.

- (Subd (c) amended effective January 1, 2007.)

(d) Reply **Within five days after service of the response**, if any, the opposing party may serve and file a reply. (NOTE THIS IS NOT THE COMPLETE TEXT OF THE RULE OF COURT).

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(f) Court action The court may grant or deny the motion or, where the facts warrant, the court may continue or defer its ruling on the matter pending performance by either party of any conditions relating to trial or dismissal of the case that may be required by the court to effectuate substantial justice.

MOTION FOR SANCTIONS CCP 128.7

A motion for sanctions under this section shall be made separately from other motions or requests and shall describe the specific conduct alleged to violate subdivision (b). Notice of motion shall be **served as provided in Section 1010, but shall not be filed with or presented to the court unless, within 21 days after service of the motion**, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. ***(This is not the full text of the statute.)**

SUMMARY JUDGMENT/ ADJUDICATION

- Because a summary judgment motion must be served at a minimum of 105 days before trial [see CCP § 437c(a)], the practitioner should start thinking about what is needed for the motion early on in the litigation to assure there is time to obtain the necessary discovery.
- Service. Time requirements pertaining to service of notice of the motion and supporting papers for motion for summary judgment and summary adjudication motions are as follows [CCP § 437c(a)]:
 - 75 days before the time appointed for the hearing, if personally served.
 - 77 days (75 days, plus an additional 2 days) before the time appointed for the hearing if the notice is served by:
 - Facsimile transmission;
 - Express mail; or
 - Another method of delivery providing for overnight delivery (e.g. electronic mail.)
 - 80 days (75 days, plus an additional 5 days) before the time appointed for the hearing if notice is served by regular mail, and the address is within California.
 - 85 days (75 days, plus an additional 10 days) before the time appointed for the hearing, if notice is served by regular mail, and the address is outside of California, but within the United States.
 - 95 days (75 days, plus an additional 20 days) before the time appointed for the hearing, if the notice is served by regular mail, and the address is outside the United States.
- NB: Again, this illustrates that different motions may have specific time/service requirements that are not governed by CCP 1005. But note section 1005 (a) (13), which essentially states that 1005 is the controlling statute where no other time periods are prescribed.

Recall that under subd. (b) An opposition to the motion shall be served and filed not less than **14 days (CALENDAR DAYS)** preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise. Absent stipulation time for the hearing of the motion cannot be shortened. Under subd. (b) (4) of 437c, a reply to the opposition shall be served and filed by the moving party not less than **five days** preceding the noticed or continued date of hearing, unless the court for good cause orders otherwise.

