What we will cover

• Federal and California Jurisdictions:
  - Procedural practice guides, treatises, & form books
  - Court websites: court rules, forms, jury instructions, etc.
Federal Civil Procedural Practice Materials
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Additional actions:

Burden on Small Business of Federal Forms
E-BOOK | 1975
Available at LRC Internet (KF26 .P76 HRG-1975-SMB-0023 ONLINE) see all

Additional actions:

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E-JOURNAL
Available at LRC Internet (ONLINE) see all

Additional actions:

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### Moore

#### Sources
- Moore's Federal Practice - Civil
- Moore's Federal Practice - Civil
- Moore's Federal Practice - Criminal
- Moore's Answer Guide: Federal Civil Motion Practice

#### Documents
1. Moore's Federal Practice - Civil
2. Moore's Federal Practice - Civil
3. Virginia v. Moore, 553 U.S. 164
4. Moore's Federal Practice - Civil § 12.34
5. Moore's Federal Practice - Civil § 30.25
6. Moore's Federal Practice - Civil § 26.70

#### Legal Phrases
- moore dry dock rule
- moor

#### Suggested Questions
- What is the definition of moor?
- What is the definition of moored vessel?
- What is the definition of moore v little?
Secondary Materials

Treatises, Practice Guides and Jurisprudence

All Federal Treatises, Practice Guides & Jurisprudence

- Moore's Federal Practice - Civil
- Bender's Federal Practice Forms
- Weinstein's Federal Evidence
- Federal Habeas Corpus Practice and Procedure
- Federal Litigation Guide

Law Reviews & Journals

All Federal Law Reviews and Journals
Federal court websites

• U.S. Supreme Court

• Circuit Courts of Appeals
  • 12 regional circuits + Court of Appeals for the Federal Circuit
  • Ninth Circuit Court of Appeals

• Federal District Courts
  • 94 judicial districts
  • Court of International Trade & Court of Federal Claims

www.uscourts.gov
Current Rules of Practice & Procedure

Below are links to the national federal rules and forms in effect, as well as local rules (which are required to be consistent with the national rules) prescribed by district courts and courts of appeal.

Rules of Appellate Procedure


Rules of Bankruptcy Procedure

The Federal Rules of Bankruptcy Procedure govern procedures for bankruptcy proceedings. For many years, such proceedings were governed by the General Orders and Forms in Bankruptcy promulgated by the Supreme Court. By order dated April 24, 1973, effective October 1, 1973, the Supreme Court prescribed, pursuant to 28 U.S.C. § 2075, the Bankruptcy Rules and Official Bankruptcy Forms, which abrogated previous rules and forms. Over the years, the Bankruptcy Rules and Official Forms have been amended many times, most recently in 2015.
Rule 7. Pleadings Allowed; Form of Motions and Other Papers

(a) Pleadings. Only these pleadings are allowed:
   (1) a complaint;
   (2) an answer to a complaint;
   (3) an answer to a counterclaim designated as a counterclaim;
   (4) an answer to a crossclaim;
   (5) a third-party complaint;
   (6) an answer to a third-party complaint; and
   (7) if the court orders one, a reply to an answer.

(b) Motions and Other Papers.
   (1) In General. A request for a court order must be made by motion. The motion must:
       (A) be in writing unless made during a hearing or trial;
       (B) state with particularity the grounds for seeking the order; and
       (C) state the relief sought.
   (2) Form. The rules governing captions and other matters of form in pleadings apply to motions and other papers.


Rule 7.1. Disclosure Statement

(a) Who Must File; Contents. A nongovernmental corporate party must file 2 copies of a disclosure statement that:
Rule 7. Pleadings Allowed; Form of Motions and Other Papers

(a) Pleadings. Only these pleadings are allowed:

1. a complaint;
2. an answer to a complaint;
3. an answer to a counterclaim designated as a counterclaim;
4. an answer to a crossclaim;
5. a third-party complaint;
6. an answer to a third-party complaint; and
7. if the court orders one, a reply to an answer.

(b) Motions and Other Papers.

1. In General. A request for a court order must be made in writing and (A) be in writing unless made during a hearing or trial; (B) state with particularity the grounds for seeking the relief; and (C) state the relief sought.

2. Form. The rules governing captions and other matters are prescribed by the rules of court.

(As amended Dec. 27, 1946, eff. Mar. 19, 1948; Jan. 21, 2007.)

Notes of Advisory Committee on Rules—1937

1. A provision designating pleadings and defining a motion is common in the State practice acts. See Ill.Rev.Stat. (1937), ch. 110, §156 (Designation and order of pleadings); 2 Minn.Stat. (Mason, 1927) §9246 (Definition of motion); and N.Y.C.P.A. (1937) §113 (Definition of motion). Former Equity Rules 18 (Pleadings—Technical Forms Abandoned), 29 (Defenses—How Presented), and 33 (Testing Sufficiency of Defense) abolished technical forms of pleading, demurrers, and pleas, and exceptions for insufficiency of an answer.


For amendment of pleadings, see Rule 15 dealing with amended and supplemental pleadings.

3. All statutes which use the words "petition", "Bill of complaint", "plea", "demurrer", and other such terminology are modified in form by this rule.

Notes of Advisory Committee on Rules—1946 Amendment

This amendment to subdivision (a) eliminates any question as to whether the compulsory reply, where a counterclaim is pleaded, is a reply only to the counterclaim or is a general reply to the answer containing the counterclaim. See Commentary, Scope of Reply Where Defendant Has Pledged Counterclaim (1939) 9 Fed.Rules Serv. 672; Fort Charlotes and Ivy Landing Drainage and Levee Dist No. Five v Thompson (E.D.Ill. 1945) 8 Fed.Rules Serv. 13.32. Case 1.

Notes of Advisory Committee on Rules—1963 Amendment

Certain redundant words are eliminated and the subdivision is modified to reflect the amendment of Rule 14(a) in which certain cases eliminates the requirement of obtaining leave to bring in a third-party defendant.

Notes of Advisory Committee on Rules—1983 Amendment

One of the reasons sanctions against improper motion practice have been employed infrequently is the lack of clarity of Rule 7. That rule has stated only generally that the pleading requirements relating to captions, signing, and other matters of form also apply to motions and other papers. The addition of Rule 7(b)(3) makes explicit the applicability of the signing requirement and the sanctions of Rule 11, which have been amplified.

Committee Notes on Rules—2007 Amendment

The language of Rule 7 has been amended as part of the general restyling of the Civil Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic only.

Former Rule 7(a) stated that "there shall be * * * an answer to a cross-claim, if the answer contains a cross-claim * * *.

Former Rule 12(c)(2) provided more generally that "a party served with a pleading stating a cross-claim against that party shall serve an answer thereto * * *

New Rule 7(a) corrects this inconsistency by providing for an answer to a cross-claim.

For the first time, Rule 7(a)(7) expressly authorizes the court to order a reply to a counterclaim answer. A reply may be as useful in this setting as a reply to an answer, a third-party answer, or a crossclaim answer.

Former Rule 7(b)(1) stated that the writing requirement is fulfilled if the motion is stated in a written notice of hearing. This statement was deleted as redundant because a single written document can satisfy the writing requirements both for a motion and for a Rule 6(c)(1) notice.

The cross-reference to Rule 11 in former Rule 7(b)(3) is deleted as redundant. Rule 11 applies by its own terms. The force and application of Rule 11 are not diminished by the deletion.

Former Rule 7(c) is deleted because it has done its work. If a motion or pleading is described as a demurrer, plea, or exception for insufficiency, the court will treat the paper as if properly captioned.
Federal Rules of Appellate Procedure (FRAP), Ninth Circuit Rules, Circuit Advisory Committee Notes

Effective June 1, 2017

This document contains the Federal Rules of Appellate Procedure, Ninth Circuit Rules and Circuit Advisory Committee Notes, and is provided in HTML format and as an Adobe Acrobat PDF document. To print this document, use the PDF version.
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Judges of the United States Court of Appeals for the Ninth Circuit

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Court Structure and Procedures

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   Circuit Rule 1-1. Title
   Circuit Rule 1-2. Scope of Circuit Rules

FRAP 2. Suspension of Rules

**TITLE II. Appeal from a Judgment or Order of a District Court**

FRAP 3. Appeal as of Right—How Taken
   Circuit Rule 3-1. Filing the Appeal
   Circuit Rule 3-2. Representation Statement
   Circuit Rule 3-3. Preliminary Injunction Appeals
   Circuit Rule 3-4. Mediation Questionnaire
   Circuit Rule 3-5. Procedure for Recalcitrant Witness
      Circuit Advisory Committee Note to Rule 3-5
   Circuit Rule 3-6. Summary Disposition of Civil Appeals

FRAP 3.1. Appeal from a Judgment of a Magistrate

FRAP 4. Appeal as of Right—When Taken
   Circuit Rule 4-1. Counsel in Criminal Appeals

FRAP 5. Appeal by Permission

## CIRCUIT RULE 3-5. PROCEDURE FOR RECALCITRANT WITNESS APPEALS

Every notice of appeal from an order holding a witness in contempt and directing incarceration under 28 U.S.C. § 1826 shall bear the caption "RECALCITRANT WITNESS APPEAL." Immediately upon filing, the notice of appeal must be transmitted by the district court clerk's office to the Court of Appeals clerk's office. It shall also be the responsibility of the appellant to notify directly the motions unit of the Court of Appeals that such a notice of appeal has been filed in the district court. Such notification must be given by telephone (415/355-8000) within 24 hours of the filing of the notice of appeal.

A failure to provide such notice may result in sanctions against counsel imposed by the Court. (Eff. 7/1/97; Rev. 12/1/09)

**Cross Reference:** (Rev. 12/1/09)

- FRAP 27. Motions, specifically, Circuit Rule 27-1. Filing of Motions
- Interim Circuit Rule 27-13. Sealed Documents
- Circuit Rule 10-1. Notice of Filing Appeal
- Circuit Rule 25-1. Principal Office of Clerk

## CIRCUIT ADVISORY COMMITTEE NOTE TO RULE 3-5

A recalcitrant witness summarily ordered confined pursuant to 28 U.S.C. § 1826(a) is entitled to have the appeal from the order of confinement decided within 30 days after the filing of the notice of appeal. In the interest of obtaining a rapid disposition of the appeal, the Court impresses upon counsel that the record on appeal and briefs must be filed with the Court as soon as possible after the notice of appeal is filed. The Court will establish an expedited schedule for filing the record and briefs and will submit the appeal for decision on an expedited basis. If expedited treatment is sought for an interlocutory appeal, motions for expedition, summary affirmance or reversal, or dismissal may be filed pursuant to Circuit Rule 27-4. A party may file documents using a Doe designation or under seal to avoid disclosure of the identity of the applicant or the subject matter of the grand jury investigation. The party should file an accompanying motion to use such a designation. (Rev. 12/1/09)
LOCAL RULES

The Local Rules of Practice for the United States District Court for the Southern District of California are listed below. Civil Rules may be cited as CivLR__; criminal rules may be cited as CrimLR___.

Rules covering admiralty and habeas corpus proceedings may be cited as A.1-E.1; and HC.1, HC.2, et seq.

Click here to view the Local Rules

These rules are current as of 2/9/2016.

Click here to view the Electronic Case Filing Administrative Policies & Procedures Manual.

TIP: Searching the text of the PDF document enables users to find applicable rules or subjects. A search is initiated by <clicking> the Find button within Adobe Acrobat, which is depicted with binoculars.
California Civil Practice Materials
California Practice Guide™
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Judge William P. Hogoboom (Ret.)
Justice Donald B. King (Ret.)
THE RUTTER GROUP™
ADVISORS IN LAW
WEST

California Attorney’s Guide to Damages
Second Edition

California Community Property
WITH TAX ANALYSIS

California Civil Practice
REAL PROPER LITIGATION
1
Chapters 1–8

Rutter Group
CEB
Matthew Bender
Thomson West
Practice Guides

Pre-Trial
- Civil Procedure Before Trial (Rutter Guide) (WL)
- Cal. Civil Discovery (LEXIS)
- Cal. Civil Procedure Before Trial (CEB’s OnLaw)

During Trial
- Cal. Trial Practice: Civil Procedure During Trial (CEB’s Onlaw)
- Civil Trials & Evidence (Rutter Guide) (WL)
- Cal. Trial & Post-Trial Civil Procedure (LEXIS)

Post-Trial
- Cal. Civil Appellate Practice (CEB’s OnLaw)
- Enforcing Judgments & Debts (Rutter Guide) (WL)
- Civil Appeals and Writs (Rutter Guide) (WL)

California Practice Guide: Civil Procedure Before Trial Forms (The Rutter Group) E-JOURNAL | Available at LRC Internet (ONLINE) see all

Rutter Group Practice Guide: Federal Civil Procedure Before Trial, California and Ninth Circuit Edition E-JOURNAL | Available at LRC Internet (ONLINE) see all
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  Estate Planning 2017

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  Estate Planning for Special Assets
  California Domestic Partnerships and Same-Sex Marriage
  Estate Planning 2008

- Publication Dates
  Last Update, by Publication
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What's New

- New Title
  Estate Planning 2017
I. To Determine Deadlines

STEP 1. Calculate Deadlines

COUNT THE DAYS

To calculate any deadline for any act provided by law (CCP §§10, 12):

a. Exclude the first day (the day action begins); and

b. Include the last day, except if the last day is a state holiday, in which case you (CCP §§12, 12a, 13):

   (1) Also exclude the holiday (see below for definition of holiday); and

   (2) Perform the act on the next court day.

Example: If your client is served with a complaint on May 19, 2017, exclude May 19 and count forward 30 days. The 30th day is June 18, which falls on a Sunday. File the answer to the complaint on or before June 19, 2017, the next court day.

When Counting Backward

Be very careful when you calculate backward from a date. Exclude that date and then begin to count backward.

Example 1: When the trial is on June 29th (and the trial judge is known in advance), filing a CCP §170.6 motion on June 24th is timely, because you exclude the 29th as the “first day,” count backward 5 days, and include the 24th as the “last day.”

Example 2: If the “last day” is a holiday (including a Saturday or Sunday) continue to count backward to the immediately preceding court day, e.g., Friday, if the last day is a Saturday or Sunday. See CCP §12c(b); Pamela H. v Superior Court (1977) 68 CA3d 916, 919.

ADD DAYS FOR SERVICE BY MAIL

When applicable, add days for mailing under CCP §§1005(b) and 1013. To see whether CCP §§1005 and 1013 apply, use the information below relating to the type of deadline in your case.

ADD DAYS FOR SERVICE BY EXPRESS MAIL OR FAX

When applicable, add either 2 calendar days (CCP §1005(b)) or 2 court days (CCP §1013) for service by:

a. Express mail or any other method providing for overnight delivery; or
§14.9 2. Form: Sample Defendant's Memorandum in Support of Motion for Summary Judgment or Summary Adjudication

Superior Court, County of __________

[Name(s)] __________,
Plaintiff(s) vs

[Name(s)] __________,
Defendant(s)

MEMORANDUM IN SUPPORT OF MOTION OF __________ FOR SUMMARY JUDGMENT OR SUMMARY ADJUDICATION

Hearing: __________
Dep't: __________
Hearing judge: __________
Action filed: __________
Trial date: __________

FACTS: __________

I. STATUTE OF LIMITATIONS FOR MEDICAL MALPRACTICE ACTIONS IS THREE YEARS AFTER DATE OF INJURY OR ONE YEAR AFTER PLAINTIFF DISCOVERS, OR THROUGH USE OF REASONABLE DILIGENCE SHOULD HAVE DISCOVERED, INJURY.


Plaintiff __________'s medical malpractice claim is barred by Code of Civil Procedure §340.5 because the alleged acts of so-called medical malpractice occurred on or before March 3, 2004, the date of surgery (plaintiff's amended complaint at p 3; defendant's declaration, Exhibit E). In addition, plaintiff became aware of defendant __________'s alleged medical malpractice and all injuries allegedly sustained as a result on or before March 12, 2004 (defendant's declaration, Exhibit E; plaintiff's deposition at p 13, lines 5–8). This action was not filed until April 1, 2007 (plaintiff's original complaint). Accordingly, plaintiff's action is barred by the statute of limitations.

II. AN EMPLOYER IS NOT LIABLE FOR PUNITIVE DAMAGES BASED ON ACTS OF AN EMPLOYEE ABSENT ADVANCE KNOWLEDGE OF THE EMPLOYEE'S UNFITNESS.
Californian Court websites

• California Courts Website
  • California Rules of Court
  • Judicial Council Forms
  • Jury instructions

• San Diego Superior Court Website
  • Local Rules
  • Local Forms
  • Fee Schedules
Forms & Rules

BROWSE MORE FORMS

The Judicial Council of California forms presented in this section are current as of September 1, 2018.

The California Rules of Court were reorganized and renumbered to improve their format and usability, effective January 1, 2007. Use the conversion tables below to match old rules to reorganized rules.

RULES OF COURT

- Rules conversion table PDF (from new rule numbers to old rule numbers 255 KB)
- Reverse rules conversion table PDF (from old rule numbers to new rule numbers 202 KB)
- New and Amended California Rules of Court
Local Rules

Alameda County (Eff. January 1, 2019)
Alpine County (Eff. July 1, 2011)
Amador County (Eff. July 1, 2017)

Riverside County (Eff. January 1, 2019)
Sacramento County (Eff. January 1, 2019)
San Benito County (Eff. January 1, 2019)
San Bernardino County (Eff. January 1, 2019)
San Diego County (Eff. January 1, 2019)
San Francisco County
Rules of Court

- California Rules of Court
- Local court rules are published by Daily Journal Corporation.
  Printed copies may be purchased by contacting
  San Diego Commerce
  2652 4th Ave. 2nd Floor
  San Diego, CA 92103
  Telephone (619) 232-3486

Orders Affecting Superior Court Local Rules

Order No. 010118-25 In re Language Access

Order No. 010118-31 in re Family Court Reporters

2019 San Diego County Superior Court Rules

San Diego County Superior Court Rules - PDF Version

All Divisions (I - VIII) inclusive
Effective January 1, 2019 through December 31, 2019

Separated into Divisions:
- Division I - General and Administrative
  Revised: January 1, 2019
- Division II - Civil
  Revised: January 1, 2019
- Division III - Criminal
  Revised: January 1, 2019
- Division IV - Probate
  Revised: January 1, 2019
- Division V - Family Law
  Revised: January 1, 2019
- Division VI - Juvenile

http://www.sdcourt.ca.gov/
2019 San Diego County Superior Court Rules

Separated into Divisions:

Division I - General and Administrative
Revised: January 1, 2019

Division II - Civil
Revised: January 1, 2019

Division III - Criminal
Revised: January 1, 2019

Division IV - Probate
Revised: January 1, 2019

Division V - Family Law
Revised: January 1, 2019

Division VI - Juvenile
Revised: January 1, 2019

Division VII - Appellate
Revised: January 1, 2019

Division VIII - Mental Health
Revised: January 1, 2019

2019 DIVISION II - CIVIL

The following chapters are contained in the document above:

CHAPTER 1  General Policies and Procedures

2.1.1 Policy (Rev. 1/1/2010)
2.1.2 Filing and Service of Papers (Rev. 1/1/2015)
2.1.3 Case Assignment (Rev. 1/1/2018)
2.1.4 Electronic Filing Program (Rev. 1/1/2018)
2.1.5 Service of Complaint (Rev. 1/1/2018)
2.1.6 Defendant’s Appearance (Rev. 1/1/2013)
2.1.7 Request for Entry of Default (Rev. 1/1/2010)
2.1.8 Default Judgment (Rev. 1/1/2016)
2.1.9 Case Management Conference (Rev. 1/1/2018)
2.1.10 Discovery Status Conferences (Adopted 1/1/2019)
2.1.11 Expert Witnesses (Rev. 1/1/2010)
2.1.12 Reserved for Future Use (Del. 1/1/2009)
2.1.13 Stays of Actions (Rev. 1/1/2011)
2.1.14 Settlements, Taking Matters Off Calendar (Rev. 1/1/2019)
2.1.15 Trial Readiness Conference (Rev. 1/1/2016)
2.1.16 Jury Instructions (Renum. 1/1/2006)
2.1.17 Juror Questionnaire (Renum. 1/1/2006)
2.1.18 Motions in Limine (Rev. 1/1/2012)
2.1.19 Law and Motion Procedures (Rev. 1/1/2016)
2.1.20 Taking Motions Off Calendar (Rev. 1/1/2016)
A Message From Tani Cantil-Sakauye, Chief Justice of California

"Trial by jury is one of the fundamental ideals of American democracy; serving as juror reminds us that these ideals exist only as long as individual citizens are willing to uphold them."

SCAM ALERT:

The Judicial Council of California and staff of the superior courts will never ask past or prospective jurors for financial information, credit card numbers, bank account information, or personal information like Social Security numbers. **Do not provide this type of information to anyone claiming to be associated with the courts. En español.**

FOR JURORS

You do not need any special skills or legal knowledge to be a juror. All you need is an open mind and a readiness to work with the other jurors to make decisions.

FOR EMPLOYERS

Juries play an important and crucial role in our country’s democratic process. Without them, our legal system would grind to a halt. Your help is essential in ensuring that all citizens are available to serve on juries when called.
Jury Instructions For Judges and Attorneys

The Judicial Council of California has adopted award-winning plain language civil and criminal jury instructions that accurately convey the law using language that is understandable to jurors.

California Civil
Jury Instructions for Judges and Attorneys (CACI)

California Criminal
Jury Instructions for Judges and Attorneys (CALCRIM)

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Civil Jury Instructions

Judicial Council of California Civil Jury Instructions (CACI)

- 2019 Edition Complete Text
  10 MB, as adopted by the Judicial Council November 2018

Note: This document offers a bookmark panel for easier navigation. If it does not display in your browser, please save the document and open it from your local drive.

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503B. Affirmative Defense—Psychotherapist’s Communication of Threat to Victim and Law Enforcement

[Name of defendant] is not responsible for [(name of plaintiff)’s injury/the death of [name of decedent]] if [name of defendant] proves that [he/she] made reasonable efforts to communicate the threat to [name of plaintiff/decedent] and to a law enforcement agency.

Derived from former CACI No. 503 April 2007; Revised June 2013

Directions for Use

Read this instruction for a Tarasoff cause of action for professional negligence against a psychotherapist (Tarasoff v. Regents of Univ. of Cal. (1976) 17 Cal.3d 425 [131 Cal.Rptr. 14, 551 P.2d 334]) if there is a dispute of fact regarding whether the defendant made reasonable efforts to communicate to the victim and to a law enforcement agency a threat made by the defendant’s patient. The therapist is immune from liability under Tarasoff if he or she makes reasonable efforts to communicate the threat to the victim and to a law enforcement agency. (Civ. Code, § 43.92(b);) CACI No. 503A, Psychotherapist’s Duty to Protect Intended Victim From Patient’s Threat, sets forth the elements of a Tarasoff cause of action if the defendant is not immune.

In a wrongful death case, insert the name of the decedent victim where applicable.

Sources and Authority

- Failure to inform a law enforcement agency concerning a homicidal threat made by a patient against his work supervisor did not abrogate the “firefighter’s rule” and, therefore, did not render the psychiatrist liable to a police officer who was subsequently shot by the patient. (Tilley v. Schulte (1999) 70 Cal.App.4th 79, 85–86 [82 Cal.Rptr.2d 497].)
- “When the communication of the serious threat of physical violence is received by the therapist from a member of the patient’s immediate family and is shared for the purpose of facilitating and furthering the patient’s treatment, the fact that the family member is not technically a ‘patient’ is not crucial to the statute’s purpose.” (Ewing v. Goldstein (2004) 120 Cal.App.4th 807, 817 [15 Cal.Rptr.3d 864].)

Secondary Sources

6 Witkin, Summary of California Law (10th ed. 2005) Torts, §§ 1050, 1051
32 California Forms of Pleading and Practice, Ch. 361A. Mental Health and Mental Disabilities: Judicial Commitment, Health Services and Civil Rights, § 361A.93 (Matthew Bender)
QUESTIONS? NEED HELP?

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lrcrefer@sandiego.edu