

Procedural Research

Legal Research Center Video Series



Liz Parker





What is Procedural Research?

- How and when to file documents in court
- What information needs to be included in filings
- What format filings need to be in



Procedural Resources

- Practice Guides
- Court Rules

Federal Courts

- **U.S. Supreme Court**
- **Circuit Courts of Appeals**
 - 12 regional circuits + Court of Appeals for the Federal Circuit
 - California federal courts are in the Ninth Circuit
- **Federal District Courts**
 - 94 judicial districts
 - Court of International Trade & Court of Federal Claims

Federal Court Rules

Court rules can be found easily on court websites; they are also available on Lexis and Westlaw.

- Rules of General Application that apply to *all* Federal Courts for procedural matters
 - Federal Rules of Civil Procedure (for district courts)
 - Federal Rules of Appellate Procedure (for appellate courts)
 - Federal Rules of Evidence
- Each Circuit Court also has its own set of court rules
 - e.g. the Ninth Circuit Court Rules
- Each District Court also has its own set of rules
 - e.g. the United States District Court for the Southern District of California Court Rules

California Courts

- **California Supreme Court**
- **California Courts of Appeal**
 - 6 Appellate Districts
 - San Diego is in the 4th Appellate District
- **California Superior Courts**
 - 58 Counties, each with a Superior Court

California Court Rules

Rules of general application that apply to *all* California courts

- California Code of Civil Procedure
- California Rules of Court

Each Court of Appeal also has its own set of court rules

- e.g. the 4th District Court of Appeal Court Rules

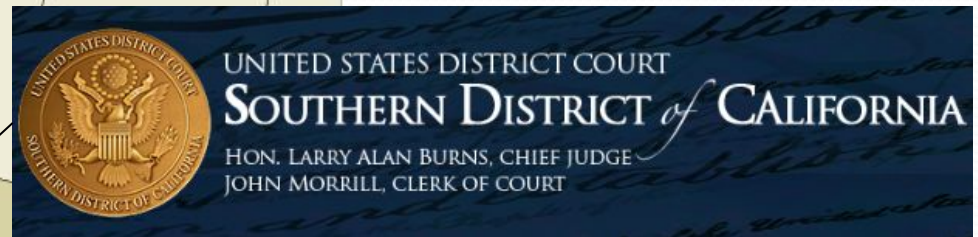
Each Superior Court also has its own set of rules

- e.g. the San Diego Superior Court local rules

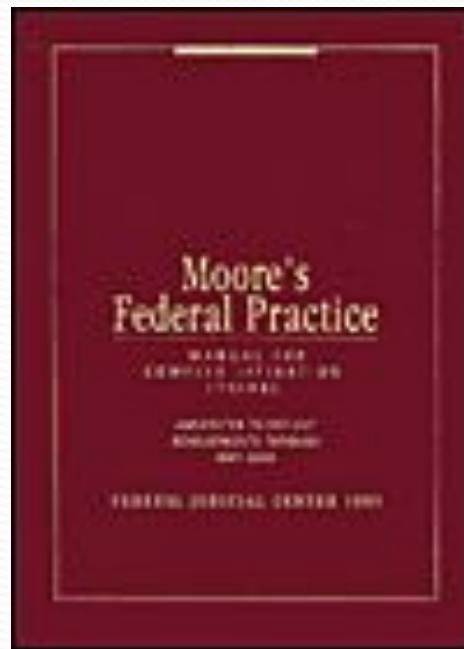
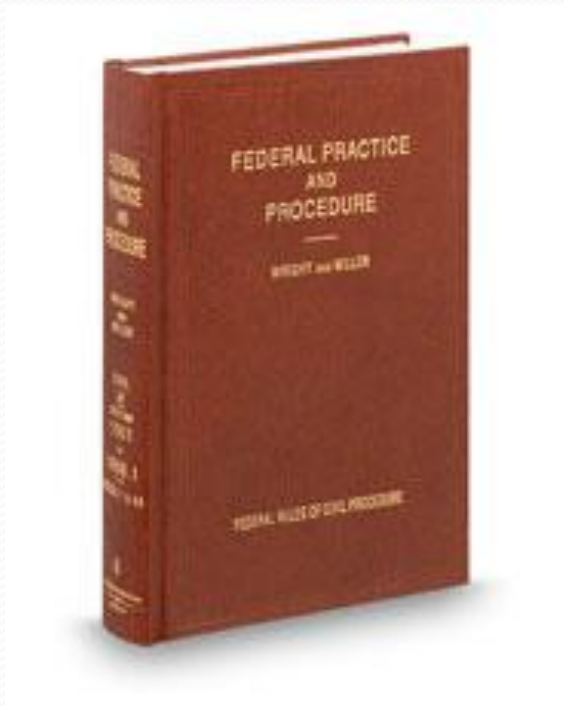
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Civil Procedure Practice Guides

Federal Courts – 9th Circuit



Federal Procedural Practice Guides



Federal Procedure

Practice Guides

- Wright & Miller, Federal Practice and Procedure ([Westlaw](#))
- Federal Civil Procedure Before Trial, National Edition ([Westlaw](#))
- Federal Rules of Civil Procedure, Rules & Commentary ([Westlaw](#))
- Cyclopedia of Federal Procedure ([Westlaw](#))
- The Wagstaffe Group: Federal Civil Procedure Before Trial ([Lexis](#))
- Moore's Federal Practice ([Lexis](#))
- Federal Civil Procedure Before Trial, CA & 9th Circuit ([Westlaw](#))
- Matthew Bender: Federal Pretrial Civil Procedure in California ([Lexis](#))

Form Books

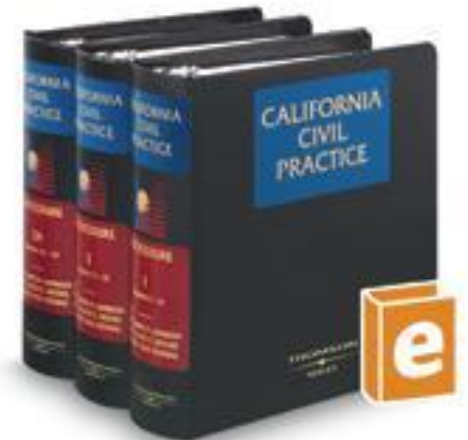
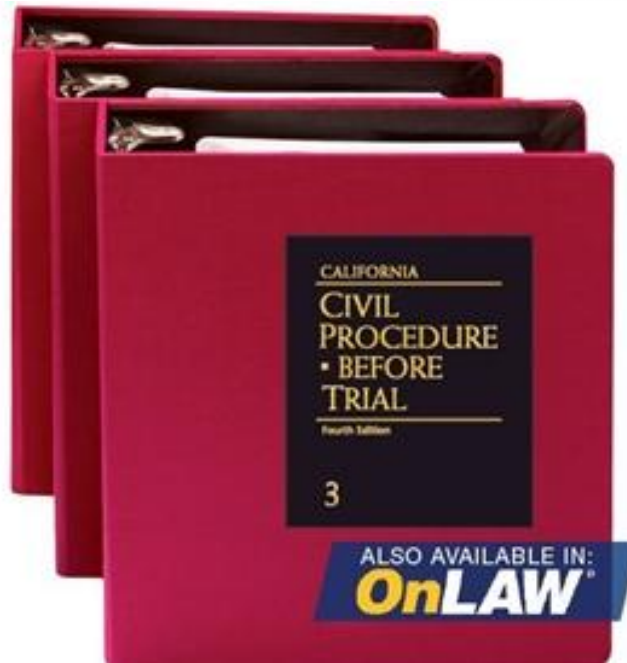
- West's Federal Forms ([Westlaw](#))
- Federal Procedural Forms ([Westlaw](#))
- Nichols Cyclopedia of Federal Procedure Forms ([Westlaw](#))
- Bender's Federal Practice Forms ([Lexis](#))

State of California • Courts of Appeal Appellate Districts



California Civil Practice Materials

California Procedural Practice Guides



California Procedure

Pre-Trial

Civil Procedure Before Trial (Rutter Guide) ([Westlaw](#))

Cal. Civil Discovery ([Lexis](#))

Cal. Civil Procedure Before Trial ([CEB Pro](#) or [Lexis](#))

During Trial

Cal. Trial Practice: Civil Procedure During Trial ([CEB Pro](#) and [Lexis](#))

Civil Trials & Evidence (Rutter Guide) ([Westlaw](#))

Cal. Trial & Post-Trial Civil Procedure ([Lexis](#))

Post-Trial

Cal. Civil Appellate Practice ([CEB Pro](#))

Enforcing Judgments & Debts (Rutter Guide) ([Westlaw](#))

Civil Appeals and Writs (Rutter Guide) ([Westlaw](#))

Finding Procedural Practice Guides

The easiest way to access procedural practice guides is to search by **title** (e.g. Federal Practice and Procedure).

If searching across the database by keyword, filter to

- **Secondary sources**
- Jurisdiction (**Federal** or **California**)
- Publication type (Westlaw: **Texts & treatises**, Lexis: **Treatises and Guides**)



All content

Enter terms, citations, databases, questions, anything ...



All Federal

Search Tips >
Advanced >

B. Preparing and Filing Motions

CACIVP CH 9(I)-B • The Rutter Group California Practice Guide: Civil Procedure Before Trial • Law and Motion (Approx. 96 pages)

↓ Related documents

Document



Reading Mode



View Full TOC

Chapter 9 Part I. Law and Motion

B. Preparing and Filing Motions

1. Rules Governing Form and Content of Motion Papers

a. [9:19] CRC Rules

(1) [9:20] Form of papers presented for filing

(a) [9:20.1] Local rules preempted

(b) [9:20.2] Additional rules applicable to Judicial Council forms

(2) [9:21] Essential data beneath case number

(3) [9:22] Line numbering and spacing

(a) [9:22.1] Exceptions

(4) [9:22.2] Footers

(5) [9:23] Consecutive numbering

(6) [9:23.1] References to earlier-filed documents

(7) [9:23.2] Points and authorities

(8) [9:23.3] Binding

(9) [9:23.5] Exhibits

(a) [9:23.6] Index required

(b) [9:23.7] Deposition excerpts

1) [9:23.7a] Format requirements

(c) [9:23.8] Foreign language exhibits

(d) [9:23.10] Electronic exhibits

b. [9:24] Optional procedures

(1) [9:24.1] Paragraph numbering

(2) [9:24.2] Lodge “bench book” before hearing

c. [9:24.3] Separate vs. combined motions

(1) [9:24.5] Compare—motion to strike filed in conjunction with demurrer

Cal. Prac. Guide Civ. Pro. Before Trial Ch. 9(I)-B

The Rutter Group | June 2022 Update

California Practice Guide: Civil Procedure Before Trial

Original authors, Judge Robert I. Weil (Ret.) and Judge Ira A. Brown, Jr. (Ret.), Current edition authors, Presiding Justice Lee Smalley Edmon and Judge Curtis E.A. Karnow

Chapter 9 Part I. Law and Motion

B. Preparing and Filing Motions

↔ [9:14] **PRACTICE POINTERS:** Saving time is a vital consideration for law and motion practitioners. Before filing any motion, ask yourself, “Is this motion really necessary?” Try to find an alternative way to obtain the relief you seek without the time and expense of a formal motion. Often, the simplest way is to obtain a stipulation from opposing counsel—who, if your motion is well-taken, would be well-advised to agree, to save time and money for his or her client.

Therefore, as a first step before filing any motion (short of dismissal or summary judgment which you know will be opposed), try a telephone request to opposing counsel for a stipulation to the relief you seek. If you’re told to “make your motion,” then see that it is *done right the first time*, so as to save the maximum amount of time and money for all concerned.

Here are some common pitfalls to avoid:

- [9:15] **Timing “traps”:** Make certain you allocate sufficient time in your office routine to actually prepare the motion.

Make sure you notice your motion for hearing on a date the court hears law and motion matters (in some courts, you must also reserve the date in advance, see ¶ 9:34); and that the date chosen allows for service and filing in compliance with applicable statutes and court rules. [See CCP § 1005, discussed at ¶ 9:31 ff.]

Also, be sure not to file your motion before or after the time permitted by statute or court rules for the particular motion. [E.g., CCP § 437c(a)—60-day “hold” on filing summary judgment motions at outset of litigation, and bar on setting such motions for hearing within 30 days of trial, ¶ 10:56, 10:71; and CCP § 2024.020(a)—15-day “cut-off” on hearing discovery motions prior to trial, ¶ 8:445]

- [9:15a] **Motions filed prematurely protected?** For most purposes, a motion is deemed “made” and pending as of the date the notice of motion is served and filed *except* where this would “deprive a party of a hearing of the motion to which he is otherwise

B. Preparing and Filing Motions

CACIVP CH 9(I)-B • The Rutter Group California Practice Guide: Civil Procedure Before Trial • Law and Motion (Approx. 96 pages)

↓ Related documents

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(3) [9:22] **Line numbering and spacing:** Lines on each page shall be numbered consecutively and shall be *either* double-spaced or with 1 1/2 spaces between lines. [See [CRC 2.108](#)]

⇔ [9:22a] **PRACTICE POINTER:** Double-spacing is recommended because it is easier to read. Page limits on memoranda (see ¶ 9:64.10) may tempt you to use the denser, 1 1/2 line spacing, but this will be harder for the judge to read. Therefore, stick with double-spacing. If necessary, edit your arguments to fit within the page limits or seek leave to file a longer memorandum. *See further discussion at* ¶ 9:64.13.

(a) [9:22.1] **Exceptions:** Single-spacing is permitted in:

- descriptions of real property; and
- footnotes and quotations (from cases, statutes or other materials). [See [CRC 2.108](#)]

Also, where corporate surety bonds are filed (e.g., on preliminary injunctions), they may be single-spaced and the lines need not be numbered. (But the first page format requirements (¶ 9:21) still apply.) [See [CRC 2.108](#)]

(4) [9:22.2] **Footers:** Except for exhibits, each paper filed with the court must bear a “footer”: The bottom of each page must display the page number, then a printed line, then the title of the document (“clear and concise” abbreviations permitted) in at least 10-point type. [[CRC 2.110](#)]

(5) [9:23] **Consecutive numbering:** Documents bound together must be consecutively paginated. [[CRC 2.109](#), 3.1110(c)]

The nature or title of any attached document other than an exhibit must be listed on the cover page (first page). [[CRC 3.1110\(b\)](#)]

To the extent practicable, all supporting declarations and memoranda “must be attached” to the notice of motion. [[CRC 3.1113\(j\)](#)]

⇔ [9:23a] **PRACTICE POINTER:** It can be helpful to the judge to put your notice of motion, declarations, memorandum of points and authorities and proof of service under one cover and bind them together to avoid their getting separated or misfiled. List the attached papers in your notice of motion. However, if you do so, the pages must be numbered serially *throughout* the package—rather than beginning anew with each of the documents. [[CRC 2.109](#) & 3.1110(c)]

The everything-bound-together format may not work, however, for lengthy motions (e.g., motions for summary judgment with numerous separate declarations and lengthy points and authorities). Although all such documents should be filed at the same time, many judges prefer to have each document *filed and paginated separately*.

(6) [9:23.1] **References to earlier-filed documents:** Any paper previously filed shall be referred to by *date of execution* (not

Top of Document



Moore's Manual--Federal Practice and Procedure

PART V Pretrial Stage

CHAPTER 17 SUMMARY JUDGMENT

PART IV. SUMMARY JUDGMENT PROCEDURAL REQUIREMENTS

§ 17.62 Time Requirements *

[1] Requirements for Filing and Responding to Motion

Generally, a party may file a motion for summary judgment at any time until 30 days after the close of all discovery, unless a different time is set by local rule or the court orders otherwise. ¹ Thus, other than for this general rule allowing a summary judgment motion until 30 days after the close of discovery, local rules and court scheduling orders commonly set all other time limits on filing a motion and response to a motion for summary judgment. The timing provisions in former Rule 56 have been superseded. ² The current rule allows a motion for summary judgment to be filed as early as the commencement of an action; however, in most cases the motion will be premature until the nonmovant has had time to file a responsive pleading, and other pretrial proceedings and conferences have been held. ³ Scheduling orders or other pretrial orders can regulate timing to fit the needs of the case. ⁴ In particular, at an early pretrial conference, the court and attorneys may consider and take action on the appropriateness and timing of summary judgment motions under Rule 56. ⁵

[2] Request by Nonmovant for Additional Time to Ascertain Facts

[a] Options for Trial Court When Nonmovant Requests Additional Time

In relatively simple cases, a party may move for summary judgment well before discovery is complete. ⁶ However, it frequently occurs that, because of more access to the facts regarding the claims and defenses, a movant may have more documentation to prepare for a summary judgment motion than a nonmovant may have documentation to prepare for a response in opposition to the motion. ⁷ In contemplation of such circumstances, Rule 56 authorizes a procedure that allows

Footnotes



LRC Reference Desk

- **Chat:** <https://www.sandiego.edu/law/library/>
- **Email:** lrcrefer@sandiego.edu
- **619.260.4612**