

CODE OF CIVIL PROCEDURE

SECTION 1003-1008

1003. **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.**

1004. Except as provided in section 166 of this code, motions must be **made in the court in which the action is pending.**

1005. (a) Written notice shall be given, as prescribed in subdivisions (b) and (c), for the following motions:

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(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.**

(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.

1005.5. A motion upon all the grounds stated in the written notice thereof is deemed to have been made and to be pending before the court for all purposes, upon the due service and filing of the notice of motion, but this shall not deprive a party of a hearing of the motion to which he is otherwise entitled. Procedure upon a motion for new trial shall be as otherwise provided.

1006. When a notice of motion is given, or an order to show cause is made returnable before a judge out of court, and at the time fixed for the motion, or on the return day of the order, the judge is unable to hear the parties, the **matter may be transferred** by his order to some other judge, before whom it might originally have been brought.

1008. (a) When an **application for an order has been made** to a judge, or to a **court, and refused in whole or in part, or granted**, or granted conditionally, or on terms, any party affected by the order may, **within 10 days** after service upon the party of written notice of entry of the order and **based upon new or different facts, circumstances, or law**, make **application to the same judge** or court that made the order, to **reconsider the matter and modify, amend, or revoke the prior order**. The party making the application shall state by affidavit what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown

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