

**TIPS FROM THE LEGAL RESEARCH STAFF—  
GETTING YOUR LAW AND MOTION PAPERS THROUGH  
THE ORANGE COUNTY SUPERIOR COURT SYSTEM  
(OR, HOW TO ENSURE THAT THE COURT WILL FOCUS ON THE  
MERITS OF YOUR PAPERS INSTEAD OF PROCEDURAL DEFECTS)**

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The Clerk's Office may reject the filing of your law and motion papers for any number of reasons. If your papers are rejected, the Clerk will return them accompanied by a Reject Sheet indicating the defects that you must correct. In the event you insist that the papers be filed "on demand," despite the defect, you run a very strong risk that the legal research attorney will catch the defect and point it out to the judge, who may consider it to your client's detriment in ruling on the motion. It is advisable, therefore, to make sure your papers comply with all state and local filing requirements so that you do not have to choose between refileing them or running the risk that a procedural defect may adversely affect the outcome of the motion.

The Legal Research Department essentially "grades" your papers and hands the "report card" to the judge. Some of the tips and reminders set forth below are based on procedural statutes and rules. Others are based on common sense or long-standing practice of the Legal Research staff. Your attention to them when drafting and preparing your motion or opposition papers will make it easier for the research attorney to understand what relief you are asking for or what you are arguing in opposition. Papers that disregard procedural requirements deflect the attention of the research attorney away from the substantive merits of your papers and, instead, onto the procedural defects. When the judge receives your "report card" from the research attorney, he or she is not going to be impressed by low grades in civil procedure and this may be reflected in your final grade (the ruling) after the judge independently reviews and considers your papers.

**A. SIX BASIC REMINDERS**

1. **NOTICE OF MOTION:** Format at CRC 311-312. In your opening paragraph, specify the nature of your order and your grounds. In other words, who you are, what you want and why you should get it.
2. **NOTICE OF HEARING:** Generally <sup>10 days</sup> 15 days. CCP 1005. But extend 5 days for mailing to Calif address. 10 days to out-of-state address. 2 days fax/express mail. If not enough notice, the motion will have to be continued.
3. **PROOF OF SERVICE:** Personal, mail, express mail and fax. CCP 1012-13. Common errors—unsigned; not signed by person doing service ("caused to be served"); bad address; leaving parties off. If there is an error, the motion will have to be continued for proper proof of service.

of contracts and insurances policies.

12. Lodge copies of relevant portions of deposition transcripts at least 5 days before hearing. OC 514 C.
13. Lodge administrative record at least 5 days before hearing in action for administrative writ of mandate. CRC 347.
14. File each motion as a separate document. OC 508 A. Avoid combining two or more discovery motions.
15. Don't forget to include with your motion a 335 statement when seeking further responses to discovery requests. CRC 335.
16. Lodge copies of federal and out-of-state authorities. OC 508 C.
17. In drafting demurrers, use arabic numerals instead of Roman numerals in numbering causes of action. Label your causes of action and identify parties asserting them and against whom. CRC 312(g).
18. In preparing motions for summary judgment or adjudication, make sure you comply with separate statement format requirements of CRC 342(h).
19. When seeking to compel a deposition answer or production of a document from a nonparty deponent, make sure you personally serve the nonparty deponent. CRC 337.
20. Remember that sanctions for frivolous or bad faith motions under CCP 128.5 are only available for pre-1995 actions. For actions filed after January 1, 1995, you must comply with CCP 128.7.
21. CCP 128.7 sanctions require a separate motion! Don't ask for them in a motion seeking other relief.
22. Be reasonable in your discovery sanctions requests. Not \$2,000 for a five page unopposed boilerplate motion to compel responses to interrogatories.
23. Sign original pleadings in blue instead of black ink--it is difficult to for the researcher to identify an original if you use black ink.
24. Don't forget your footer at the bottom of each page containing the title of your paper. CRC 201(f).
25. 378 Statement (formerly 504 Statement). Keep it short--don't detail every attempt to make contact before getting the point. Simply tell the court which issues have been resolved and which not. Label it as a 378 Statement and not something else. The courtroom assistant might not pick up on it and won't send the motion to Legal Research for lack of a 378 Statement.

4. DECLARATIONS: Law and motion matters are heard exclusively upon declarations. CRC 323; OC 514A. A declaration must contain the date and place of execution. CCP 2115.5. The declaration must demonstrate personal knowledge and not just recite that fact. OC 514B.
5. POINTS & AUTHORITIES: 15 page limit on moving party and opposition (20 pages if summary judgment motion). 10 page limit on replies. CRC 313(d). Don't exceed these limits! If you do, the research attorney will ask the judge how much he/she wants to read. Some judges won't read beyond the page limit; others won't read any of your papers if you exceed the page limit.
6. EXHIBITS: Tab at bottom so that they extend below. Separate by hard 8 1/2 x 11 sheet. Provide index. CRC 311(e). It is very difficult and frustrating to locate exhibits not properly marked. And avoid using the kind of tabs that slip out of their plastic sleeve. And make sure you attach the exhibits!

#### B. TWENTY-FIVE MORE IMPORTANT REMINDERS AND TIPS

1. Avoid inaccurate case cites; cite to the official reports, not Cal Rptr.
2. Avoid missing or upside down pages.
3. Avoid illegible copies (especially small-font insurance policies reduced to fit 8 1/2 x 11 page).
4. Avoid punching holes through material to be read.
5. Make sure your declarations state in the caption what motion they support or oppose. CRC 315. *Why - tear apart motion to read*
6. Clearly identify papers when multiple motions are filed for hearing on same day (e.g., "Declaration of John Jones in Support of Plaintiff's Reply to Defendant Smith's Opposition to Motion for Summary Judgment." Not simply, "Declaration of John Jones") Consider placing voluminous captioned documents in indexed notebooks and lodge for court's use.
7. If your motion goes off calendar for any reason, please notify courtroom clerk ASAP so the research attorney and judge do not spend unnecessary time on your motion. See CRC 321(b).
8. Indicate operative pleadings on face page of summary judgment/adjudication motions (e.g., "Motion for Summary Judgment as to Second Amended Complaint").
9. Identify which parties the attorneys listed on proof of service represent. CRC 387 requires the first-named plaintiff to maintain a list of parties.
10. Make sure to confirm client address when making motion to withdraw as attorney of record.
11. Highlight relevant portions of deposition pages. CRC 316(c). Also highlight relevant portions

