

HOW TO WIN AND HOW TO DEFEAT A MOTION FOR SUMMARY JUDGMENT

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ROADMAP

- Start early
- Strategies for both sides
- CCP 437c + CRC 3.1350
- Structure of motion
- Deadlines
- Experts
- Practice tips

START EARLY – PLAINTIFF

- Assume MSJ in every case
- Build record day one
- Depos = MSJ prep
- Identify MSJ-sensitive claims

START EARLY - DEFENSE

- Verify pleadings + parties - Do you have the complete file?
- Calendar deadlines
- Demurrer/MSJ/MSA strategy
- Prepare discovery plan

CCP 437C TIMING RULES

- File ≥ 60 days after appearance
- Notice ≥ 81 days before the hearing (aka, 111 days before first trial date)
- +5 mail / +2 overnight
- Hearing ≥ 30 days before trial

BURDENS OF PROOF

- Defense:
 - One missing element
 - One affirmative defense
 - Every SS material fact
- Plaintiff: one disputed fact defeats MSJ
- MSA must dispose of entire cause of action

REQUIRED COMPONENTS

Moving party:
Notice, Memo, Separate
Statement, Evidence, RJN

Opposition:
Memo, Response SS,
Evidence, AMFs, Points &
Authorities

All documents must conform to and comply with CRC

SEPARATE STATEMENTS

- Required format CRC 3.1350(h)
- Left column facts + cites
- Right column admit/deny + cite
- AMFs allowed

EVIDENCE & OBJECTIONS

- Must be admissible + competent
- Foundation required
- Credibility conflicts = triable issues
- Objections or waived

REPLY LIMITS

- Due \geq 11 days before hearing
- No new evidence
- No new SS facts
- Brief + focused

OPPOSITION THEMES

- Strict MSJ standard
- One triable issue in dispute = denial
- Circumstantial evidence counts
- Use 437c(h) continuance

EXPERTS

- Defense: caution – invites dispute
- Plaintiff: use sparingly
- No speculation (Saelzler)
- Opinions need foundation

KNOW YOUR JUDGE

- Be concise + credible
- Follow length limits
- Organize exhibits
- Maintain professionalism

PRACTICAL PLAINTIFF TIPS

- Tell story up front
- Highlight key facts
- Attack notice/causation/breach
- Use objections
- Never assume every exhibit has been read - highlight/repeat key facts

PRACTICAL DEFENSE TIPS

- Control the narrative
- Target one missing element
- Pick strongest facts
- Acknowledge weaknesses

FINAL TAKEAWAYS

- Start day one
- Know rules
- Discovery shapes MSJ
- One fact defeats MSJ
- Evidence wins

Thank You



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