

## SUMMARY HANDOUT

### California Motions for Summary Judgment & Summary Adjudication

CCP §437c • CRC 3.1350–3.1354 (Updated through 2025)

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## Key Timing Requirements

### Filing & Hearing

- **Earliest filing date:**
  - ▶ **60 days after the opposing party appears**
- **Latest hearing date:**
  - ▶ **No later than 30 days before trial**  
(A continuance requires **court order + good cause**)

### Notice to Parties

- **Notice must be served 81 days before hearing**
  - - **5 days** for mail (total **86**)
  - - **2 days** for overnight/express service (total **83**)
- **Verify electronic service agreement** in writing

### Opposition & Reply

- **Opposition due: ≥ 20 days before hearing**
- **Reply due: ≥ 11 days before hearing**

- All timelines adjust for weekends/holidays  
(count backward to business day)
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### **Burden of Proof — CCP §437c(p)**

#### **Defendant Moving for MSJ**

Must show:

- ✓ One or more **elements cannot be established**, OR
- ✓ An **affirmative defense bars the claim and**
- ✓ **Each separate statement material fact is undisputed**

#### **Plaintiff Opposing**

Must show:

- ✓ **A triable issue of material fact exists**
- 💡 **One disputed material fact defeats the motion**

#### **Summary Adjudication (MSA)**

Granted only if issue **fully disposes of**:

- A cause of action
  - Affirmative defense
  - Damage claim
  - Issue of duty
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### **Required Components**

#### **Moving Papers Must Include**

1. Notice
2. **Separate Statement of Undisputed Material Facts**
3. Memorandum of Points & Authorities
4. Supporting Evidence  
(Declarations, depositions, discovery responses, records)

5. Request for Judicial Notice (if needed)

 Missing documents = ground to deny MSJ

### Opposition Must Include

1. Points & Authorities in opposition
2. **Separate Statement responding** to each fact
  - Admit/deny each fact
  - Cite supporting evidence
  -  Failure to follow Rules format can lead to denial or granting of the motion
3. **Additional Material Facts**, if any
4. Supporting evidence + RJN if needed

 Missing documents = ground to grant MSJ

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### Separate Statements — CRC 3.1350(h)

Required formatting:

- **Two columns**
    - Left: Moving party's fact + citation
    - Right: Response
      - **"Undisputed" or "Disputed"**
      - If disputed → identify **evidence**
  - Additional facts listed **separately**
  - **No incorporation by reference**
  - Must include **only material facts**
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### Evidence & Objections

**Required Evidence Standards**

All evidence must:

- ✓ Be admissible
- ✓ Be based on personal knowledge
- ✓ Show proper foundation
- ✓ Be competent under the Evidence Code

### Objections

- Must be filed **with opposition or reply**
- Follow **CRC 3.1352 & 3.1354** formatting
- **Untimely objections = waived**

### What Courts Reject Automatically

- ⊘ Speculation or conjecture
- ⊘ Unsupported expert opinion
- ⊘ Sham affidavits contradicting deposition testimony

Note: Be practical and do not over object

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### Reply Limitations

Replies may:

- ✓ Address issues raised in opposition
- ✓ Object to evidence

Replies may **NOT**:

- ✗ Add new evidence
  - ✗ Add new separate statement facts
  - ✗ Cure a defective motion
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### Experts — Use Carefully

Defense (moving):

- Expert opinions often **create** triable disputes
- Consider using only to lay **foundation** facts

### Plaintiff (opposing):

- Experts proper to dispute elements
- Avoid overreaching, bias, or cumulative opinions

Courts will exclude:

- Opinions without reasoning  
*McGonnell v. Kaiser Gypsum Co. (2002) 98 Cal.App.4th 1100*
  - Opinions unnecessary to common-sense issues  
*Caloroso citation: Caloroso v. Hathaway (2004) 122 Cal.App.4th 922*
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### Judicial Standards to Remember

- Evidence is **liberally construed** in favor of opposing party
  - Any factual uncertainty → **jury question**
  - Credibility determinations are **not permitted**
  - Circumstantial evidence may create triable issues
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### Bottom-Line Checklist

- ✓ Start MSJ prep at intake
- ✓ Know and calendar all statutory deadlines
- ✓ Build your record deliberately through discovery
- ✓ Use separate statements strategically
- ✓ Evidence > argument
- ✓ One material fact dispute defeats the motion
- ✓ Failure to comply with CRC 3.1350 can cause the court to deem the motion meritorious (if the opposition is faulty) or deny it (if the moving party is faulty). Code Civ. Proc., § 437c, subd. (b)(1).
- ✓ Many California courts enforce what is denominated as the “Golden Rule” of summary judgment and summary adjudication: if it is not set forth in the separate statement, *it does not exist*. *United Community Church v. Garcin* (1991) 231 Cal.App.3d 327, 337

