

Additional Materials

Cheat Sheets

What Judges Wish You Knew: Mastering Law and Motion
August 6, 2025

1. CRCs Applicable to Certain Motions
2. Motion For Summary Judgment Updates
3. Good Faith Settlement Motions & Motions For Sanctions

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CRCs Applicable to Certain Motions

DEMURRERS	CRC 3.1320
MOTIONS TO STRIKE	CRC 3.1322
AMENDED PLEADINGS	CRC 3.1324; CCP
CHANGE OF VENUE	CRC 3.1326
PETITIONS TO COMPEL ARBITRATION	CRC 3.1330
MOTIONS TO DISMISS	CRC 3.1340, 3.1342
DISCOVERY MOTIONS	CRC 3.1345-3.1348
SUMMARY JUDGMENT	CRC 3.1350-3.1354

Motions Requiring Mandatory Judicial Council Forms

Mandatory for some filings

Motion to withdraw as counsel	MC 051-053
Request for dismissal	CIV-110
Application and order for appearance and examination	AT-138/EJ-125
Notice of stay of proceedings	CM-180
Notice of settlement of entire case	CM-200

Motion For Summary Judgment Updates

Several important changes to California state court MSJ procedures went into effect at the beginning of this year, as a result of recent legislation amending Code of Civil Procedure section 473c. These included changes to key filing deadlines, but also to other notable MSJ rules and requirements.

Type of Filing	Old Filing Deadline	New Filing Deadline
Motion	75 days before the hearing	<u>81</u> days before the hearing
Opposition	14 days before the hearing	<u>20</u> days before the hearing
Reply	5 days before the hearing	<u>11</u> days before the hearing

(See CCP§473c, subds. (a)(2), (b)(2), (b)(4).)

Also, don't forget—these deadlines may be even earlier, as preexisting rules based on means of service still apply!

<i>If served via:</i>	<i>Add an additional:</i>
Mail (in CA)	5 days
Mail (outside CA)	10 days
Mail (international)	20 days
Fax, express mail, overnight delivery	2 court days

(See CCP § 473c, subd. (a)(2).)

Other Rule Changes

Serial MSJs

For a party to file more than one MSJ against the same opposing party, it will have to show good cause and receive court approval via motion. (See Code Civ. Proc., § 473c, subds. (a)(4), (a)(5).)

Evidence on Reply

Replies may not include new evidence, material facts, or separate statements. (See Code Civ. Proc., § 473c, subd. (b)(4).)

Required Papers

- Separate statemetn of undisputed facts (CCP §437c(b)(1), (3); CRC §3.1350)
- Failure of opponent to file may constitute a sufficient ground, in court's discretion, for granting the motion (CCP §437c(b)(3))

Determination of Good Faith Settlement

CCP §877.6: Two Options

Noticed motion by settling party/parties (§877.6(a)(1))	Notice of settlement, held by the Court for 20 or 25 days to enable a motion to contest good faith to be filed by non-settling party/parties (§877.6(a)(2))
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The Tech Built Factors

Tech-Bilt, Inc. v. Woodward-Clyde & Assoc. (1985) 38 Cal.3d 488, 498-501.)

The *Tech-Bilt* factors can be summarized as follows:

1. A rough approximation of plaintiff's total recovery and the settlor's proportionate liability ("ballpark");
2. The amount paid in settlement;
3. The allocation of settlement proceeds among defendants;
4. A recognition that a settlor should pay less in settlement than he would if he were found liable after a trial;
5. The financial conditions and insurance policy limits of settling defendants; and
6. The existence of collusion, fraud, or tortious conduct aimed to injure the interests of the nonsettling defendants.

Failure to allocate settlement proceeds can render settlement uncertain. (See *L.C. Rudd & Son, Inc. v. Superior Court* (1997) 52 Cal.App.4th 742, 747 [allocation required where each defendant was potentially liable for different areas of damage in the case].)

Motions for Sanctions

CCP §128.5	CCP §128.7
<ul style="list-style-type: none">• Based on actions or tactics, made in bad faith, that are frivolous intended to cause delay.• Subjective bad faith standard and must be made separately from any other motion or request, and must describe the specific alleged action or tactic. (CCP §128.5(f); <i>Changsha Metro Group Co., Ltd. v. Peng Xufeng</i> (2020) 57 Cal.App.5th 1, 8.)	<ul style="list-style-type: none">• Violation of the implied “certification” as to its legal and factual merit.• Objective standard as to whether the paper filed is frivolous, or without factual foundation.• May be filed by a party or the court and applies to attorneys, law firms and self-represented parties. Self-represented attorneys are not entitled to §128.7 fees. (<i>Musaelian v. Adams</i> (2009) 45 Cal.4th 512)

The Safe Harbor Provision

If motion made by a party:

- Motion must be served **but not filed for at least 21 days after service**
- “Offending” party may correct violations (e.g. by withdrawing or modifying offending pleadings)
- If violations corrected, moving party may not pursue motion; otherwise, OK to file after 21-day period

If court’s *sua sponte* OSC

- Hearing set at least 21 days after service of order describing specific conduct constituting violation (CCP §128.7(c)(1), (2))