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Deering's California Codes Annotated  
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CALIFORNIA RULES OF COURT  
Title 3. Civil Rules  
Division 11. Law and Motion  
Chapter 2. Format of Motion Papers

*Cal Rules of Court, Rule 3.1113 (2010)*

**Rule 3.1113. Memorandum**

**(a) Memorandum in support of motion** A party filing a motion, except for a motion listed in rule 3.1114, must serve and file a supporting memorandum. The court may construe the absence of a memorandum as an admission that the motion or special demurrer is not meritorious and cause for its denial and, in the case of a demurrer, as a waiver of all grounds not supported.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2004.)

**(b) Contents of memorandum** The memorandum must contain a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the statutes, cases, and textbooks cited in support of the position advanced.

(Subd (b) amended effective January 1, 2004.)

**(c) Case citation format** A case citation must include the official report volume and page number and year of decision. The court must not require any other form of citation.

(Subd (c) amended effective January 1, 2007; previously amended effective July 1, 1984, January 1, 1992, and January 1, 2004.)

**(d) Length of memorandum** Except in a summary judgment or summary adjudication motion, no opening or responding memorandum may exceed 15 pages. In a summary judgment or summary adjudication motion, no opening or responding memorandum may exceed 20 pages. No reply or closing memorandum may exceed 10 pages. The page limit does not include exhibits, declarations, attachments, the table of contents, the table of authorities, or the proof of service.

(Subd (d) amended effective January 1, 2004; adopted as part of a longer subd (d); previously amended effective

July 1, 1984 and January 1, 1992.)

**(e) Application to file longer memorandum** A party may apply to the court ex parte but with written notice of the application to the other parties, at least 24 hours before the memorandum is due, for permission to file a longer memorandum. The application must state reasons why the argument cannot be made within the stated limit.

(Subd (e) amended and relettered effective January 1, 2004; adopted as part of subd (d).)

**(f) Format of longer memorandum** A memorandum that exceeds 10 pages must include a table of contents and a table of authorities. A memorandum that exceeds 15 pages must also include an opening summary of argument.

(Subd (f) amended and lettered effective January 1, 2007; adopted as part of subd (d); subd (d) previously amended and relettered as subd (e) effective January 1, 2004.)

**(g) Effect of filing an oversized memorandum** A memorandum that exceeds the page limits of these rules must be filed and considered in the same manner as a late-filed paper.

(Subd (g) amended and lettered effective January 1, 2007; adopted as part of subd (d); previously amended and relettered as subd (e) effective January 1, 2004.)

**(h) Pagination of memorandum** Notwithstanding any other rule, a memorandum that includes a table of contents and a table of authorities must be paginated as follows:

(1) The caption page or pages must not be numbered;

(2) The pages of the tables must be numbered consecutively using lower-case roman numerals starting on the first page of the tables; and

(3) The pages of the text must be numbered consecutively using Arabic numerals starting on the first page of the text.

(Subd (h) amended and relettered effective January 1, 2007; previously amended and relettered as subd (f) effective January 1, 2004; adopted as subd (e) effective July 1, 2000.)

**(i) Copies of non-California authorities** If any authority other than California cases, statutes, constitutional provisions, or state or local rules is cited, a copy of the authority must be lodged with the papers that cite the authority and tabbed as required by rule 3.1110(f). If a California case is cited before the time it is published in the advance sheets of the Official Reports, a copy of that case must also be lodged and tabbed as required by rule 3.1110(f).

(Subd (i) relettered effective January 1, 2008; adopted as part of subd (e) effective January 1, 1992; previously amended effective July 1, 1997; previously relettered as part of subd (f) effective July 1, 2000; previously amended and relettered as subd (h) effective January 1, 2004, and as subd (j) effective January 1, 2007.)

**(j) Attachments** To the extent practicable, all supporting memorandums and declarations must be attached to the notice of motion.

(Subd (j) relettered effective January 1, 2008; adopted as subd (f) effective July 1, 1997; previously relettered as subd (g) effective July 1, 2000; previously amended and relettered as subd (i) effective January 1, 2004, and as subd (k) effective January 1, 2007.)

**(k) Exhibit references** All references to exhibits or declarations in supporting or opposing papers must reference the number or letter of the exhibit, the specific page, and, if applicable, the paragraph or line number.

## Cal Rules of Court, Rule 3.1113

(Subd (k) relettered effective January 1, 2008; adopted as subd (g) effective July 1, 1997; previously relettered as subd (h) effective July 1, 2000, and as subd (l) effective January 1, 2007; previously amended and relettered as subd (j) effective January 1, 2004.)

**(l) Requests for judicial notice** Any request for judicial notice must be made in a separate document listing the specific items for which notice is requested and must comply with rule 3.1306(c).

(Subd (l) relettered effective January 1, 2008; adopted as subd (h) effective July 1, 1997; relettered as subd (i) effective July 1, 2000; previously amended effective January 1, 2003; previously amended and relettered as subd (k) effective January 1, 2004, and as subd (m) effective January 1, 2007.)

**(m) Proposed orders or judgments** If a proposed order or judgment is submitted, it must be lodged and served with the moving papers but must not be attached to them.

(Subd (m) relettered effective January 1, 2008; adopted as subd (i) effective July 1, 1997; previously relettered as subd (j) effective July 1, 2000, and as subd (n) effective January 1, 2007; previously amended and relettered as subd (l) effective January 1, 2004.)

**HISTORY:**

Rule 3.1113 amended effective January 1, 2008; adopted as rule 313 effective January 1, 1984; previously amended effective July 1, 1984, January 1, 1992, July 1, 1997, July 1, 2000, January 1, 2003, and January 1, 2004; previously amended and renumbered effective January 1, 2007.

**NOTES:****Advisory Committee Comment**

See also rule 1.200 concerning the format of citations.

**Collateral References:**

Cal. Fam. Law Practice & Procedure (Matthew Bender(R)), § 31.100.

Cal. Fam. Law Practice & Procedure (Matthew Bender(R)), § 95.21.

Cal. Fam. Law Practice & Procedure (Matthew Bender(R)), § 130.04.

Cal Class Actions Practice & Procedure ch 21.02, 20.03, 21.04.

Matthew Bender (R) Practice Guide: Cal. Trial and Post Trial Civil Procedure §§ 2.03[1], 2.07[3], 2.11[1], 2.30[1], 2.35[1], 4.20[1], 4.20[2], 4.25[2], 12.25, 14.03, 14.11[3], 14.30.

Matthew Bender(R) Practice Guide: California Contract Litigation, 19.32.

Matthew Bender(R) Practice Guide: California Pretrial Civil Procedure, 26.01, 26.05, 26.17, 26.39, 26.43, 26.60, 26.63, 26.66, 26.67, 26.76, 26.82.

**NOTES OF DECISIONS**

**Decisions Under Former Rules**

## 1. Compliance

**1. Compliance**

Substantial failure to comply with Rule XIX (1) of the former Rules of the Superior Court which required the memorandum of points and authorities to accompany a demurrer, was cured by failure to make objection thereto in the lower court, and the filing of briefs by both parties at the court's request. *Cyr v. White* (1947, Cal App) 83 Cal App 2d 22, 187 P2d 834, 1947 Cal App LEXIS 1363.

In an employment discrimination case, Cal. R. Ct. 313(d) did not entitle the employees to file separate memoranda, and any complaint on that issue was moot because the trial court allowed them to submit the number of pages they wished. *Collins v. Hertz Corp.* (2006, Cal App 2d Dist) 144 Cal App 4th 64, 50 Cal Rptr 3d 149, 2006 Cal App LEXIS 1687, review denied *Collins (Donna) v. Hertz Corporation* (2007, Cal) 2007 Cal LEXIS 278.