

CHAPTER 15

Motion Practice: Research and Writing Issues

Nature and Purpose of Motions

- To request an order from the court
 - Usually in connection with a pending case
- Made in civil and criminal cases

General Motion Procedure

- Obtain hearing date from court
- Moving party serves documents on opposing party and files papers in court
- Opposing party serves and files documents
- Moving party can reply
- Brief court hearing occurs
- Court issues an order

Common Motions in Civil Cases

- Motions regarding the pleadings
- Discovery Motions
- Summary Judgment Motions
- Motions for Judgment as Matter of Law
- Motion for New Trial
- Motion for Relief from Judgment or Order

Common Motions in Criminal Cases

- Motions for change of venue
- Motions to suppress evidence
- Discovery motions
- Motions to dismiss
- Motions for acquittal
- Motions for new trial

Research Requirements

- Identifying legal basis for motion
- Procedural requirements for motions
- Substantive law

Types of Documents

- Notice of Motion
- Memorandum of Points and Authorities
- Declarations and Affidavits
- Specific Supporting Documents
- Orders