

Dear Subscriber:

Enclosed is the 2020 update for *Federal Summary Judgment and Related Termination Motions*, published by The Rutter Group, a Thomson Reuters business. The book has been thoroughly reviewed and updated with new cases and statutory revisions for 2020.

Filing Instructions

REMOVE AND RECYCLE all of the pages from behind all of the tabs, retaining the tabs.

INSERT the new pages behind their respective tabs.

We love to hear from you. Feel free to give us a call at 1-800-747-3161, with any questions, concerns, or compliments you might have.

Thank you for your continued patronage.

Sincerely,

The Rutter Group

*The Rutter Group
Civil Litigation Series Deskbook*

Federal Summary Judgment

and Related Termination Motions

**by David N. Finley
and
Stephanie Hoit Lee**

*Adapted from a work by California
Appellate Specialist Donna Bader*



For Customer Assistance Call 1-800-328-4880

© 2020 Thomson Reuters/The Rutter Group, 1/2020

Mat #42592793

© 2020 Thomson Reuters/The Rutter Group

Permission is hereby granted for the copying of pages or portions of pages of this book by photocopy, Xerox or other similar process, or by manual transcription, by or under the direction of licensed attorneys for use in the practice of law. Otherwise, all rights reserved; no copying for in-house training distribution or other use is permitted that will infringe the copyright without the express written consent of The Rutter Group, a Division of West, a Thomson Reuters Business.

To contact us: Write to The Rutter Group at 15760 Ventura Blvd., Suite 630, Encino, CA 91436; or phone (818) 990-3260, tollfree (800) 747-3161; or fax (818) 986-2180; or visit our website, www.ruttergroup.com.

Please note: Programs and publications by The Rutter Group (TRG), a Division of West, a Thomson Reuters Business, are intended to provide attorneys with current and accurate information about the subjects covered. However, such information may not be sufficient in dealing with a client's particular legal problem, and TRG does not warrant or represent its suitability for such purpose. Attorneys attending programs presented by TRG or using its publications do so with the understanding that TRG is not engaged in the practice of law and does not render legal, accounting or other professional services; and that the information published by TRG should not be relied upon as a substitute for independent research to original sources of authority.

ABOUT THE AUTHORS

David N. Finley, Esq.

David N. Finley, Esq., has more than 20 years of combined experience in litigation, legal publishing and legal education. As a litigator, he was a senior member of Spray, Gould & Bowers' motion and appellate department, where he conducted extensive legal research in state and federal courts and prepared cases for trial and arbitration. He is currently an adjunct professor at the top-rated University of California Irvine School of Law, where he teaches an advanced legal drafting course on California motion drafting and procedure. He previously taught advanced motion practice at Chapman University School of Law from 2010-2016. He is currently the president and lead researcher at Esquire One Research Services, where he researches and drafts legal motion briefs for litigation attorneys and law firms. He is the founder and former president of Litigation One Publishing and has published numerous practice guides on motions and discovery. He is the nation's leading published author on *in limine* motions, having published a line of books on this topic in 16 jurisdictions including California, New York, Florida and Illinois. He is also the creator and former editor-in-chief of the national *voir dire* newsletter, *The Jury Expert*. He graduated from University of California Hastings College of the Law, where he was a student teaching fellow, award winning brief writer, and member of the Moot Court Honors Board.

Stephanie Hoit Lee

Stephanie Hoit Lee is a staff attorney with the Illinois State's Attorneys Appellate Prosecutor's Office. Prior to accepting her current position, she had a solo practice specializing in appellate and motion research, brief writing, and appellate oral argument in complex cases. She is a member of the Illinois State Bar Association and is admitted to practice in the 7th Circuit Court of Appeals and the Northern District Court of Illinois. Prior to her solo practice, Ms. Lee worked for the McHenry County State's Attorney's Office, the Cook County Public Guardian's Office, the Hennepin County Attorney's office, the Legal Aid Society of Minneapolis and several private firms.

SUMMARY JUDGMENT AND RELATED MOTIONS

She received her Bachelor of Arts, with Honors, from the University of Wisconsin-Madison, and is a 1993 graduate, Cum Laude, of the University of Minnesota Law School.

She has written more than 100 briefs for the State's Attorneys Appellate Prosecutor's office and has performed contract work for a variety of attorneys in private practice. She is co-author of *Federal Motions in Limine* and *Illinois Motions in Limine*. She has published several journal articles and is an update contributor to *Lane's Goldstein Trial Techniques* and *Lane Medical Litigation Guide*.

HOW TO USE THIS BOOK

This unique war manual provides straightforward analysis, sample motions and ready-to-use citations to support or oppose the major civil “attack” motions: motion for summary judgment/adjudication, motion for dismissal, motion to quash summons, demurrer, motion to strike, and motion for judgment on the pleadings.

For the Defense: If you are representing a defendant, this book provides a fast entry into the detailed law and procedure supporting any of the above referenced pretrial motions. To make your motion, look to the “Suggested Motion Text” and “Key Supporting Citations” found in every chapter. The author provides statutory excerpts and pre-summarized case points that you can cite directly in your briefs. Be sure to crosscheck the “Key Opposition Citations” to ensure that your motion is well founded.

For the Plaintiff: We have gone to great lengths to separate out citations to support the opposition of commonly encountered defense motions. These authorities, found in the “Key Opposition Citations” section of each chapter, may be used to overcome any of the potential pre-trial attacks you may encounter as you work your way towards trial. Counsel is advised to also review the sections containing “Key Supporting Citations,” as these may also provide a useful basis for argument and opposition, especially where the moving party has failed to meet necessary procedural requirements. This section will also provide essential procedural guidance in opposing the motion, such as the requirements for a “separate statement” in the summary judgment context.

For All Parties: At the end of each chapter you will find sample supporting and opposition briefs, including sample notice pages, points and authorities, declarations, orders and/or judgments. These should serve as examples or templates for your own motion efforts. Note that the publisher has attempted to provide essential and up-to-date legal citations in this text. However, this source should not necessarily be your final reference. All cases should be cite-checked for continued validity, and, as with any secondary source, additional resources should be reviewed before filing your briefs.

MOTION TIPS

Although the motions discussed in this book may play a critical role in the outcome of your lawsuit, all are fairly typical motions. As such, they are governed by general rules of procedure pertaining to law and motion matters. Before filing any motion, you should consult with the local rules for the applicable court, including “local, local” rules, to determine hearing dates and preferences for the particular judge who will be hearing the motion. Note that certain motion types, such as the motion for summary judgment or summary adjudication, may be governed by separate rules. In the context of the motion for summary judgment, these rules may pertain to the preparation and structure of the separate statement of undisputed material facts, which is unique to this motion. Many courts routinely charge for filing motions, including a larger fee for motions for summary judgment or summary adjudication.



THOMSON REUTERS
WESTLAW™

MOST PREFERRED ONLINE LEGAL RESEARCH SERVICE

Thomson Reuters Westlaw has been voted the #1 Best Online Legal Research vendor year-after-year by industry professionals. That's because we continually invest more than any other online legal research provider in our people and technology where it matters most. As a result, you find exactly what you need quickly and confidently.

- Build the strongest argument with the most comprehensive collection of legal content
- Deliver better results confidently with WestSearch®, the only search engine designed specifically for the law
- Rely on the most current version of the law with proprietary editorial enhancements
- Access your legal research anytime, anywhere with the free Westlaw apps

LEARN MORE: <https://legal.thomsonreuters.com>

SIGN ON: westlaw.com

24/7 REFERENCE ATTORNEYS: 1-800-REF-ATTY (733-2889)

THOMSON REUTERS PROVIEW™

This title is one of many now available on your tablet as an eBook.

Take your research mobile. Powered by the Thomson Reuters ProView™ app, our eBooks deliver the same trusted content as your print resources, but in a compact, on-the-go format.

ProView eBooks are designed for the way you work. You can add your own notes and highlights to the text, and all of your annotations will transfer electronically to every new edition of your eBook.

You can also instantly verify primary authority with built-in links to WestlawNext® and KeyCite®, so you can be confident that you're accessing the most current and accurate information.

To find out more about ProView eBooks and available discounts, call 1-800-328-9352.