

**CALIFORNIA
CIVIL COURTROOM
HANDBOOK**

AND DESKTOP REFERENCE

2025 EDITION
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By
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THE EXPERT SERIES



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Introduction to the 2025 Edition of the California Civil Courtroom Handbook & Desktop Reference

The 2025 edition of the California Civil Courtroom Handbook and Desktop Reference has been updated to reflect the most recent case law, statutes, and rules of court.

Highlights of the 2025 edition include:

- Amended Code of Civil Procedure section 437c, now providing, among other things, increased notice and briefing periods for summary judgment/adjudication motions, now requiring at least 81 days notice must be given on such motions, with opposition due 20 days before the hearing, and any reply due 11 days before the hearing.
- *City of Los Angeles v. PricewaterhouseCoopers, LLP*, where the California Supreme Court held a court is not limited to imposing sanctions for each individual violation of the rules governing depositions or other methods of discovery, but rather under the general sanctions provisions of the Civil Discovery Act, Code of Civil Procedure sections 2023.010 and 2023.030, has the authority to impose sanctions for a party's "pattern of discovery abuse."
- *Quach v. California Commerce Club, Inc.*, where the California Supreme Court held that when a party is aware of its right to compel arbitration, but instead intentionally chooses to relinquish or abandon that right and instead defend itself in court, the party may be deemed to have waived its right to arbitration—no showing of prejudice from any delay in seeking to compel arbitration is required.
- *California Capital Insurance Company v. Hoehn*, where the California Supreme Court held there is no time limit to bring a motion for relief from a default judgment in the original action on the ground a judgment, though valid on its face, is void for lack of proper service (disapproving *Rogers v. Silverman* and *Trackman v. Kenney*)
- *Estrada v. Royalty Carpet Mills, Inc.*, where the California Supreme Court held a trial court possesses only a narrow inherent authority to dismiss claims based on limited circumstances (e.g., cases involving a failure to prosecute, frivolous claims, or egregious misconduct).

Dedication

This treatise is dedicated to my spectacular HARVARD girls, Kimberly Ann Thomas and Gwendolyn Rose Thomas. *Vincit qui patitur!*

DAD

About the Author

Michael Paul Thomas is a graduate of UC Berkeley School of Law and is widely recognized for his extensive expertise in California Civil Procedure. For over two decades, Mr. Thomas has been named in *The Best Lawyers in America*, universally regarded as the definitive referral guide to the nation's best legal talent; has been repeatedly named to *Super Lawyers*, an honor bestowed upon only 5% of California lawyers; and has received an "AV" rating by the Martindale-Hubbell Lawyers Directory, denoting the highest level of ethics and legal ability. He is also a multi-time member of the Million Dollar Advocates Forum, whose membership is limited to trial lawyers who have demonstrated exceptional skill, experience and excellence in advocacy by achieving a trial verdict, award or settlement in the amount of one million dollars or more. Mr. Thomas has been honored with a lifetime achievement award by *America's Top 100 Attorneys*.

In addition to his legal practice, Mr. Thomas is a well-known author and educator. He is co-author with Justice Eileen C. Moore of the authoritative six-volume California Civil Practice: Procedure; lead author of the five-volume California Civil Practice: Torts; coauthor of California Premises Liability; creator and author of The Rutter Group's *FlipLaw* legal guides, and has published over 150 articles on various legal topics, including seven MCLE articles for *California Lawyer Magazine*. As a law professor, he has taught courses in Civil Procedure, Lawyering Skills, and Legal Research and Writing at several Southern California law schools including Chapman University College of Law, Western State University College of Law, and Whittier Law School. He has also taught numerous continuing legal education courses and is frequently called upon to provide expert legal commentary for newspapers, radio, and television.

Mr. Thomas has served as a judge pro tem and is a CADRA certified mediator. He is a member of the Orange County Sheriff's Advisory Council and serves on the Advisory Board for Crime Survivors Inc., a crime victims' rights advocacy organization.

Preface

*I'll let you write the substance . . . and you let me write the procedure, and I'll screw you every time.*¹

Civil procedure is the rulebook for civil litigation. Just as Babe Ruth, Joe Montana, Michael Jordan, Wayne Gretsky, Tiger Woods—all superbly talented and skilled athletes in their respective sports—simply could not have excelled and become “the best of the best” without a fundamental understanding of the rules of the game they played, so too a lawyer, no matter how talented and skilled, cannot achieve consistent success without a strong working knowledge of the increasingly complex rules of civil procedure. This precept was the genesis of California *Civil Courtroom Handbook and Desktop Reference*, conceived to be a handy and nimble reference guide for the civil practitioner both in the courtroom and in the office. The book has several unique features that make it not only a tremendous value but also truly indispensable for the practicing attorney:

► The *Handbook* contains a comprehensive overview of California civil litigation practice from inception of a lawsuit through trial and initiation of appeal. Also included in the appendix section for easy reference are all relevant sections of the Code of Civil Procedure, complete Evidence Code, selected California Rules of Court, and other useful reference material.

► The *Handbook* provides the practitioner with unique insight into how a court approaches and considers issues because of its extensive references to materials and checklists made available to judges through the California Judges Benchbook series, prepared by the California Center of Judicial Education and Research (CJER).

► The *Handbook* seeks to be authoritative by referencing the wisdom and experience from an array of California’s most esteemed judges, attorney experts, law professors and legal commentators. In addition to incorporating guidance from the *California Judges Benchbook* series, the *Handbook* regularly cites to Bernard Witkin’s treatises on California law, procedure, and evidence; the Rutter Group practice guides including *Civil Procedure Before Trial*, *Personal Injury, Trials & Evidence*, *Appeals & Writs*, *Federal Civil Procedure Before Trial*, *Alternative Dispute Resolution*, *Enforcing Judgments and*

¹ *Regulatory Reform Act: Hearing on H.R. 2327 before the Subcomm. on Admin. Law and Governmental Regulations of the House Comm. on the Judiciary, 98th Cong. 312 (1983) (statement of Rep. John Dingell).*

Debts, etc.; The West Group’s Expert Series including *Simmons on California Evidence*, *Dunne on Depositions*, *Schwing on Affirmative Defenses*, *Younger on California Motions, etc.*; and the West Group’s six-volume treatise *California Civil Practice: Procedure*. Of course the *Handbook* also contains liberal references to the most current California statutes, rules of court, and case law. This approach not only makes the *Handbook* authoritative, but an excellent beginning resource when in-depth legal research is required.

► The *Handbook* offers “Practice Notes” to provide practical guidance, strategies, and recommendations for dealing with many of the issues that commonly arise during civil litigation, as well as “Cautions” to warn about common pitfalls and dangers.

► The *Handbook* is designed to be convenient and easy-to-use. Because it is a single volume soft-cover book, it can easily be thrown in a briefcase when going to court or kept within reach behind the office desk—so that the attorney can always be prepared for what can be expected when practicing law—the unexpected. The *Handbook* is also written in an easy-to-use format that allows the user to both find the needed law quickly and then review the essential information point-by-point with pinpoint references to supporting statutes or case precedent. And, because a new edition of the *Handbook* will be issued every year, it will always be current without the burden of removing and inserting hundreds of update pages or remembering to replace supplements or pocket parts.

A final note about using the *Handbook*: A “scorched earth, feet-to-the-fire attitude” is “all too common in litigation today.” (*Pham v. Nguyen* (1997) 54 Cal.App.4th 11, 17, 62 Cal.Rptr.2d 422.) All counsel, regardless of practice, regardless of age, should keep in mind that zealous advocacy does not equate with “attack dog” or “scorched earth”; nor does it mean lack of civility. “Zeal and vigor in the representation of clients are commendable. So are civility, courtesy, and cooperation. They are not mutually exclusive.” (*In re Marriage of Davenport* (2011) 194 Cal.App.4th 1507, 1537, 125 Cal.Rptr.3d 292; *Interstate Specialty Marketing, Inc. v. ICRA Sapphire, Inc.* (2013) 217 Cal. App. 4th 708, 715, 158 Cal.Rptr.3d 74.)

MICHAEL PAUL THOMAS

Forward

Just as one might depend on a libretto to navigate through an opera or a street map to plot a route through a strange city, a lawyer might wisely keep Michael Thomas's book close at hand, both at the office and in court. The *California Civil Courtroom Handbook and Desktop Reference* is well thought-out and organized. What a superb and valuable resource it will be for the experienced as well as the novice lawyer.

Not only does the book hold countless practical tips to be used for a quick answer on the spur of the moment, it contains a complete overview of civil litigation for the California practitioner. Counsel will find assistance to help respond to a request for production of documents as well as specific tools to help draft a complex or unusual pleading. And this easy to use reference work will act as a second chair in trial.

The unexpected is the norm in a trial practice. You appear to argue a motion and the other side says, "I want to call two witnesses, Your Honor." What do you say? After you peek at your book, you will likely respond, "Your Honor, counsel did not comply with California Rules of Court, rule 323(b)." There you are, sitting in court, about to ask a witness about a writing and the judge says, "Don't you want to show that to the witness before you question about it?" This reference quickly takes you right to the answer, Evidence Code section 768(a).

Modern litigation is chocked full of pitfalls and dangers. This convenient guide provides checklists and warnings to avoid problems. It has pinpoint instructions with an expedient format. The inclusion of Code of Civil Procedure, Evidence Code and California Rules of Court sections negates the need to carry other reference books to court.

For many years I have known Michael Thomas's excellent reputation as a lawyer, author and scholar. He and I opposed each other in practice. We did committee work together. He has appeared before me in court. We co-author a publication. These experiences have given me the opportunity to observe his dedication and scholarship firsthand. He brings a wealth of expertise, experience and practical judgment to this work.

EILEEN C. MOORE
Associate Justice
Fourth District Court of Appeal



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