By Dr Neel Mani Tripathi

40 Different Motions Commonly Used In Courts

(Across Various Jurisdictions)

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What Is a Motion?

A **motion** is a formal request made by a party (or their attorney) to a court, asking the judge to issue a specific ruling or order. Motions can be used at various stages of a case—before trial, during trial, or even after a verdict—to help manage the proceedings or protect a party's rights.

Key Points:

- **Formal Request:** A motion is submitted in writing, following the court's rules.
- **Purpose:** It seeks to resolve issues without needing a full trial, or to manage certain aspects of the case (e.g., gathering evidence or dismissing a claim).
- **Variety:** There are many types of motions, each addressing a specific legal question or procedural need.

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How Motions Work

1. **Filing:** The party files the motion with the court along with supporting documents (e.g., affidavits, legal briefs).
2. **Notice:** The other party is notified and given an opportunity to respond.
3. **Hearing (if needed):** The judge may hold a hearing where both sides present their arguments.
4. **Decision:** The judge rules on the motion by granting, denying, or sometimes partially granting the request.

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1. Motion to Dismiss

Overview:

A request that the court dismiss a case or specific claims due to legal or procedural deficiencies (e.g., lack of jurisdiction, failure to state a claim, improper service).

Practical Usage:

- Often filed early in a case, before discovery.
- Common grounds include lack of subject-matter jurisdiction or personal jurisdiction, or the plaintiff not stating a legally valid claim.

Key Considerations:

- If granted, it can save substantial time and resources.
- Be sure to address each alleged defect thoroughly (factual and legal).

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2. Motion for Summary Judgment

Overview:

Asks the court to rule in favor of one party on all or part of a case without a trial, arguing that there are no material facts in dispute and that the moving party is entitled to judgment as a matter of law.

Practical Usage:

- Typically filed after discovery, when evidence establishes no genuine dispute of material fact.
- Useful for narrowing issues or potentially resolving the entire lawsuit.

Key Considerations:

- Must present clear, admissible evidence (affidavits, depositions, documents).
- If unsuccessful, it reveals the strengths and weaknesses of both sides' arguments.

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3. Motion to Strike

Overview:
Requests the court to remove or "strike" specific parts of a pleading (e.g., scandalous or irrelevant materials) or even an entire pleading if it's improper.

Practical Usage:

- Used to clean up the record and remove prejudicial or irrelevant statements.

- Helps ensure pleadings are concise and focused on pertinent issues.

Key Considerations:

- Courts often disfavor motions to strike unless the content is clearly objectionable.
- Must highlight why the material is improper (e.g., violates court rules, immaterial, prejudicial).

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4. Motion to Amend (Pleadings)

Overview:
Seeks permission to revise original documents such as complaints, answers, or counterclaims to correct errors or incorporate new facts or legal theories.

Practical Usage:

- Commonly used when new information emerges during discovery or initial pleadings require correction.
- Often granted if no prejudice to the opposing party is shown.

Key Considerations:

- Jurisdictions typically allow amendments more freely early in the proceedings.
- Provide detailed justification for the requested amendment.

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5. Motion for a More Definite Statement

Overview:

A request that the opposing party clarify

vague or ambiguous claims or defenses so that they can be meaningfully answered.

Practical Usage:

- Helps eliminate confusion when the complaint or answer lacks sufficient detail.
- Not all jurisdictions use this motion frequently, but it exists in many procedural rules.

Key Considerations:

- Must identify specific ambiguities or deficiencies.
- Courts may prefer discovery to clarify issues instead, so use this motion judiciously.

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6. Motion for Bill of Particulars

Overview:

Asks the court to require the opposing party to itemize or particularize the claims or allegations in detail.

Practical Usage:

- Similar to a Motion for a More Definite Statement but more common in criminal or some civil systems.
- Ensures that the defendant knows precisely the charges or claims to mount a defense.

Key Considerations:

- In criminal contexts, it safeguards the defendant's right to be informed of the nature of allegations.

- In civil contexts, used in some jurisdictions to demand detailed factual breakdowns.

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7. Motion to Compel Discovery

Overview:
A request for a court order forcing the other party to provide requested documents, information, or depositions that they have refused or failed to produce.

Practical Usage:

- Filed during discovery disputes to ensure all relevant evidence is disclosed.

- Often accompanied by meet-and-confer requirements (where attorneys must attempt resolution before filing).

Key Considerations:

- Must show that the requested discovery is relevant and proportional.
- Courts may impose sanctions if parties unreasonably refuse to comply.

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8. Motion for Protective Order

Overview:
Seeks court protection from undue burden, annoyance, or invasion of privacy in discovery. Limits, delays, or forbids certain discovery requests.

Practical Usage:

- Used when a discovery request is overly broad, seeks privileged/confidential information, or is harassing.
- Can request in-camera review (private review by the judge) for sensitive materials.

Key Considerations:

- Must demonstrate good cause, such as privacy concerns or trade secrets.
- Courts balance the request against the opposing party's need for the information.

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9. Motion in Limine

Overview:
Filed before or at the start of trial to exclude (or admit) specific evidence on grounds of

irrelevance, prejudice, or other rules of evidence concerns.

Practical Usage:

- Helps streamline the trial by resolving evidentiary disputes in advance.
- Prevents jurors from hearing evidence that might be highly prejudicial or confusing.

Key Considerations:

- Requires detailed argument about why the evidence is inadmissible.
- Can significantly shape the evidentiary landscape of the trial.

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10. Motion for Default Judgment

Overview:

Requests that the court enter judgment in favor of the filing party when the opposing party fails to respond or appear within the prescribed time.

Practical Usage:

- Common in collection lawsuits or any case where a defendant ignores summons or deadlines.
- Once granted, it typically concludes the lawsuit in favor of the moving party.

Key Considerations:

- Must prove that the defendant was properly served and that deadlines were missed.
- Courts may require proof of damages before awarding final judgment.

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11. Motion to Set Aside Default

Overview:
A request by the defaulting party to vacate a default or default judgment. Usually based on showing good cause (e.g., excusable neglect, lack of proper notice).

Practical Usage:

- Filed promptly after learning of the default.

- Allows a defendant to contest the case on merits if the court grants it.

Key Considerations:

- Must demonstrate valid reasons for not responding (e.g., illness, service issues).
- Courts typically favor resolving disputes on their merits, so they may grant such motions if good cause is shown.

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12. Motion for Judgment on the Pleadings

Overview:
Similar to a Motion to Dismiss, but filed after all pleadings (complaint and answer) are submitted. Argues the opposing side's

pleadings do not state a viable claim or defense.

Practical Usage:

- Used when no factual dispute exists based on the face of the pleadings.
- If successful, can fully or partially resolve the case without discovery.

Key Considerations:

- Courts assume all well-pleaded facts in the non-moving party's pleadings as true.
- Must focus on the content of the pleadings themselves, not external evidence.

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13. Motion to Continue (or Motion for Continuance)

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Overview:

Requests postponement of a hearing, trial, or other court proceedings.

Practical Usage:

- Often used if a key witness is unavailable, newly retained counsel needs time, or discovery is incomplete.
- Courts generally require a valid reason and affidavit detailing why a delay is necessary.

Key Considerations:

- Judges balance the need for a fair trial with avoiding undue delays.
- Excessive or last-minute requests may be viewed skeptically.

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14. Motion to Consolidate

Overview:

Seeks to combine two or more related cases into a single proceeding when they share common issues of fact or law.

Practical Usage:

- Improves efficiency, reduces duplicative testimony, and conserves judicial resources.
- Common in mass torts or cases with overlapping parties and claims.

Key Considerations:

- Must demonstrate that consolidation will not prejudice any party.
- Courts consider whether it will streamline, rather than complicate, the litigation.

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15. Motion to Sever

Overview:

Opposite of consolidation; requests separate trials or separate handling of joined claims or defendants if they are improperly joined or would cause prejudice or confusion.

Practical Usage:

- Used when issues or parties are dissimilar, or evidence might cause unfair prejudice to co-parties.
- Helps clarify distinct legal or factual issues.

Key Considerations:

- Courts balance judicial efficiency against potential prejudice.

- In criminal cases, severance often arises if one defendant's statements harm another co-defendant's defense.

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16. Motion to Join

Overview:
Seeks to add necessary or additional parties into an existing lawsuit. Could be plaintiffs or defendants.

Practical Usage:

- Ensures that all parties with a potential interest or liability in the dispute are included.
- Avoids multiple lawsuits over the same dispute.

Key Considerations:

- Must show the party is necessary for complete relief or to avoid inconsistent judgments.
- Timeliness is crucial to avoid prejudice or delay.

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17. Motion to Transfer Venue

Overview:
Requests moving the case from one court location to another, typically for convenience of witnesses, parties, or in the interest of justice.

Practical Usage:

- Useful when the original venue is improper or significantly inconvenient.
- In some jurisdictions, mandatory if an error in venue is discovered.

Key Considerations:

- Weigh factors like location of evidence, witnesses, and potential jury bias.
- Some jurisdictions have strict rules on when and how to raise venue challenges.

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18. Motion to Recuse (or Disqualify Judge)

Overview:

Seeks the removal of a judge from the case due to potential bias, conflict of interest, or other reasons that question impartiality.

Practical Usage:

- Must present concrete evidence of bias or conflict, not mere speculation.

- Maintains fairness and impartiality in proceedings.

Key Considerations:

- Timing is critical; filing late may be seen as strategic rather than genuine.
- Each jurisdiction has its own standards for judicial disqualification.

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19. Motion to Reinstate (or Reopen a Case)

Overview:
Requests that a court restore a case to its active docket after it has been dismissed, stayed, or closed for various reasons.

Practical Usage:

- Common if a dismissal was “without prejudice” or the reasons for closure have been resolved (e.g., bankruptcy stay lifted).
- Often requires demonstrating new evidence or changed circumstances.

Key Considerations:

- Must provide persuasive reasons for reinstatement.
- If too much time has passed, the court may deny the motion based on laches or statute of limitations.

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20. Motion for Reconsideration (or Motion to Rehear)

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Overview:

Asks the court to review and possibly change an earlier ruling or order due to oversight, new evidence, or legal error.

Practical Usage:

- Used if a party believes the court misunderstood facts or misapplied law.
- Must typically be filed promptly after the order is issued.

Key Considerations:

- Generally not a re-argument of the same points, but requires identifying something the court missed.
- Courts disfavor repeated requests absent compelling reasons.

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21. Motion for Preliminary Injunction

Overview:

Requests short-term court relief preventing or mandating certain actions until the case is decided. Typically requires showing likelihood of success on the merits and irreparable harm.

Practical Usage:

- Used to maintain the status quo (e.g., stopping property sale, preventing ongoing harm).
- Often accompanied by a bond to protect the opposing party if the injunction is later found unwarranted.

Key Considerations:

- High burden of proof: must show irreparable harm, lack of adequate legal remedy, and public interest factors.
- Common in commercial disputes, patent infringements, or property matters.

22. Motion to Quash Service

Overview:
Seeks to invalidate service of process, typically because of improper service methods or failure to serve the correct individual/entity.

Practical Usage:

- Used when a defendant contends they were never properly served under local procedural rules.

- If granted, the court may require re-service before proceeding.

Key Considerations:

- Must strictly adhere to the rules of service in the jurisdiction.
- Often the first procedural defense before responding to the substance of the complaint.

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23. Motion to Quash Subpoena

Overview:
Requests the court to nullify a subpoena, usually on grounds of irrelevance, overbreadth, privilege, or undue burden.

Practical Usage:

- Protects individuals or entities from providing unnecessary, privileged, or burdensome information.
- Courts balance the requesting party's need for the evidence against the burden or privilege claim.

Key Considerations:

- Provide a clear, specific objection to the subpoena's scope or legal basis.
- Partial quashing (limiting scope) is also common.

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24. Motion to Vacate (or Set Aside) a Judgment or Order

Overview:
Asks the court to nullify or cancel a previously issued judgment or order,

typically because of procedural errors or newly discovered evidence.

Practical Usage:

- Used if a default judgment was erroneously entered or if an order was obtained through fraud.
- In some jurisdictions, has strict time limits (e.g., 30 days, 1 year).

Key Considerations:

- Must present strong grounds like mistake, fraud, or newly discovered evidence.
- Different rules apply depending on whether it's a final or interlocutory order.

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25. Motion for Substituted Service

Overview:

Requests an alternative method of delivering legal documents to a party who is difficult to serve, such as posting on a door or publication in a newspaper.

Practical Usage:

- Common when the defendant is intentionally evading service or cannot be located.
- Must prove due diligence in attempting regular service.

Key Considerations:

- Court approval is mandatory before using substituted methods.

- Strict compliance with the court's instructions is critical to avoid invalid service.

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26. Motion for Stay (of Proceedings)

Overview:
Asks the court to halt further action in the case temporarily. Reasons might include ongoing settlement talks, parallel proceedings, or appeals.

Practical Usage:

- Prevents unnecessary litigation steps if an appellate decision or settlement might render the case moot.

- In bankruptcy contexts, an automatic stay often applies to litigation against the debtor.

Key Considerations:

- Must show that a stay will not unfairly prejudice the opposing party.
- Stays can be partial (affecting certain aspects) or complete (halting the entire case).

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27. Motion for Directed Verdict (or Judgment as a Matter of Law)

Overview:
Filed during a jury trial, asserting that no reasonable jury could find for the opposing party based on the evidence presented.

Practical Usage:

- Typically made after the opposing side rests their case.
- If granted, it removes the issue from the jury and the judge rules directly.

Key Considerations:

- Courts usually deny it if there is any credible evidence supporting the opposing party's case.
- If denied, can be renewed after the verdict as a Motion for Judgment Notwithstanding the Verdict.

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28. Motion for Mistrial

Overview:

Seeks to declare the trial invalid due to a

fundamental error, prejudice, or misconduct that prevents a fair proceeding.

Practical Usage:

- Often arises if juror misconduct, attorney misconduct, or external influences contaminate the trial.
- If granted, the case may be retried with a new jury.

Key Considerations:

- Must show that no remedial measure (like a jury instruction) can cure the harm.
- Courts are generally reluctant to grant mistrials unless absolutely necessary.

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29. Motion to Bifurcate

Overview:

Requests splitting a trial into two phases (e.g., liability phase and damages phase) or separating different issues for clarity and efficiency.

Practical Usage:

- Common in complex cases where initial liability must be decided before addressing damages.
- Also used in personal injury or insurance cases to avoid prejudice.

Key Considerations:

- Helps streamline evidence presentation and reduce jury confusion.
- Must show that separate trials won’t cause unnecessary delay or prejudice.

30. Motion to Exclude Evidence

Overview:

A more targeted motion (similar to a motion in limine) aiming to prevent certain documents, testimony, or exhibits from being introduced at trial.

Practical Usage:

- Can be filed at various stages but often just before or during trial.
- Grounds: irrelevance, hearsay, privilege, or undue prejudice.

Key Considerations:

- Provide a clear legal basis under evidence rules (e.g., Federal Rules of Evidence 401-403 in the U.S.).

- Judges often rule on these motions during pretrial conferences or just before witness testimony.

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31. Motion for Judgment Notwithstanding the Verdict (JNOV)

Overview:
Asks the judge to override the jury's verdict because the evidence presented does not legally support the verdict.

Practical Usage:

- Only available in jury trials and typically filed soon after the verdict.
- Similar standard to a directed verdict but invoked post-verdict.

Key Considerations:

- Courts rarely grant JNOV because it overturns the jury's findings.
- Must show no reasonable jury could have reached the given verdict.

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32. Motion for New Trial

Overview:

Requests a completely new trial, often based on errors in the original proceeding, newly discovered evidence, or a verdict against the weight of the evidence.

Practical Usage:

- Must be filed within a set time (varies by jurisdiction).

- Errors might include improper jury instructions, evidentiary rulings, or juror misconduct.

Key Considerations:

- The moving party must demonstrate that the errors significantly affected the outcome.
- Courts weigh fairness and finality in deciding.

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33. Motion for Sanctions

Overview:
Seeks punitive or remedial measures against a party or lawyer for misconduct, such as failing to obey court orders, frivolous filings, or discovery abuses.

Practical Usage:

- Ranges from monetary penalties to dismissal of claims or defenses.
- A deterrent against bad faith litigation tactics.

Key Considerations:

- Must document the specific violations and the harm caused.
- Sanctions can be severe, so courts generally require clear evidence of wrongdoing.

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34. Motion for Contempt

Overview:
Alleges that a party or witness has disobeyed a court order or acted disrespectfully toward the court, asking the court to impose penalties.

Practical Usage:

- Used to enforce compliance (e.g., with subpoenas, discovery orders) or punish defiance.
- Can be civil contempt (coercive) or criminal contempt (punitive).

Key Considerations:

- Must show a clear and valid order was violated willfully.
- Contempt proceedings can lead to fines or incarceration.

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35. Motion to Withdraw (as Counsel)

Overview:

Filed by an attorney seeking to end their representation of a client in ongoing

litigation, due to conflict, non-payment, or client misconduct.

Practical Usage:

- Often requires court approval to avoid prejudicing the client.
- Must comply with ethical obligations (e.g., providing notice and opportunity to secure new counsel).

Key Considerations:

- Timing is crucial—withdrawal close to trial might be denied if it prejudices the client or disrupts proceedings.
- Some courts require a compelling reason, especially in criminal cases.

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36. Motion to Substitute Counsel

Overview:

Requests the court's approval to replace the current attorney with a new one. Typically filed by the client or new counsel.

Practical Usage:

- Ensures the court recognizes the change in representation.
- Straightforward if the client consents and no conflict arises.

Key Considerations:

- Must not delay proceedings unnecessarily.
- The new attorney must file their appearance and the outgoing attorney must be released by the court.

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37. Motion to Reopen Discovery

Overview:

Seeks to allow additional discovery after the official discovery period has closed, usually due to newly discovered evidence or other justifications.

Practical Usage:

- Helpful if critical evidence surfaces late or if a party was unable to complete discovery for valid reasons.
- Courts may grant it if there is no undue prejudice or delay.

Key Considerations:

- Must show good cause and diligence in earlier discovery efforts.

- Courts weigh the importance of the new discovery against disruption to trial schedules.

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38. Motion for Bifurcated Discovery

Overview:
Requests the court to divide discovery into phases—for example, addressing liability first, then damages.

Practical Usage:

- Useful in large or complex lawsuits where resolving liability might eliminate the need for extensive damages discovery.
- May reduce costs and streamline proceedings.

Key Considerations:

- Must show that phased discovery will promote efficiency and not unfairly limit necessary evidence for the other side.
- Timing and scope must be clearly defined.

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39. Motion to Enforce Settlement

Overview:

Asks the court to compel a party to comply with the terms of a previously agreed-upon settlement or enforce a settlement that a party is attempting to renege on.

Practical Usage:

- Filed if one side refuses to uphold negotiated terms or disputes the settlement's finality.
- Often involves presenting evidence of a valid agreement (written or on the record).

Key Considerations:

- A written settlement or a clear record (e.g., transcript) is crucial.
- Courts generally favor enforcing valid settlements to prevent wasted judicial resources.

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40. Motion for Execution (or Writ of Execution)

Overview:
Filed after a final judgment to enforce the

court's decision—e.g., seizing assets, garnishing wages, or selling property to satisfy a monetary judgment.

Practical Usage:

- Used in the post-judgment phase to collect money or compel performance.
- Particularly relevant in debt collection or breach of contract matters.

Key Considerations:

- Must abide by local enforcement rules (e.g., exemptions, notice requirements).
- Timing and notice to the judgment debtor are critical.

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