

Litigation & the Dispositive Motion

Article By:

Joshua L. Gablin

Litigation in the United States is notoriously slow and expensive — at least that's its reputation. This is one reason ADR (alternative dispute resolution, i.e., mediation, and arbitration) has become so popular. But if a lawsuit can be resolved with a dispositive motion, then the pain of litigation can be faster and cheaper.

Understanding the Power of Dispositive Motions

In litigation, dispositive motions serve as pivotal tools that can resolve legal disputes without the necessity of a full trial. When granted, these motions effectively 'dispose' of either the entire case or specific claims within it. Understanding when and how dispositive motions can be used is important for both attorneys and clients alike.

What Is a Dispositive Motion?

A dispositive motion is a formal request submitted to the court, seeking a ruling that either terminates the entire lawsuit or dismisses particular claims or defenses. The primary objective is to achieve a legal resolution without proceeding to the time-consuming and costly process of a trial. In the United States, the most prevalent types of dispositive motions include:

- **Motion to Dismiss:** Challenges the legal sufficiency of the opposing party's claims.
- **Motion for Summary Judgment:** Asserts that there are no genuine disputes of material fact, and the movant is entitled to judgment as a matter of law.
- **Motion for Judgment as a Matter of Law:** Contends that no reasonable jury could find for the opposing party based on the presented evidence.

Each of these motions serves distinct purposes and is utilized at various stages of litigation.

Motion To Dismiss: Challenging the Pleadings

A motion to dismiss is typically filed at the onset of litigation, targeting the initial pleadings — usually the plaintiff's complaint. The defendant asserts that, even if all alleged facts are accepted as true, there is no legal basis for the lawsuit to proceed. Common grounds for filing a motion to dismiss include:

-
- **Lack of Subject Matter Jurisdiction:** The court does not have the authority to hear cases of this nature.
 - **Lack of Personal Jurisdiction:** The court does not have authority over the defendant.
 - **Improper Venue:** The location where the lawsuit was filed is not appropriate.
 - **Insufficient Process or Service of Process:** Deficiencies in the delivery or content of legal documents.
 - **Failure to State a Claim Upon Which Relief Can Be Granted:** The complaint does not allege facts that constitute a legal violation.

For instance, under Rule 12(b)(6) of the Federal Rules of Civil Procedure, a defendant can seek dismissal if the plaintiff's complaint fails to state a claim upon which relief can be granted. This rule ensures that only claims with legal merit proceed, thereby conserving judicial resources.

According to [Jeff Leon](#), a veteran litigator at the law firm [Karon](#), motions to dismiss can be incredibly effective when used strategically, but they should not be filed reflexively. If the opposing party has the opportunity to amend their complaint and strengthen their case, it may be more beneficial to hold off.

Motion for Summary Judgment: Resolving Cases Without Trial

A [motion for summary judgment](#) is filed after the discovery phase, where both parties have exchanged pertinent information. The movant argues that there are no genuine disputes regarding material facts and that they are entitled to judgment as a matter of law. This motion hinges on the premise that even if all evidence is viewed in the light most favorable to the non-moving party, no reasonable jury could find in their favor.

The landmark case [Celotex Corp. v. Catrett](#) clarified the standards for summary judgment. The US Supreme Court held that the moving party does not need to provide affirmative evidence negating the opponent's claim but can simply demonstrate the absence of evidence supporting the non-moving party's case. This decision emphasized that [summary judgment is appropriate when the non-moving party fails to make a sufficient showing](#) on an essential element of their case.

[Timothy Pastore](#), a partner with [Montgomery McCracken Walker & Rhoads](#), notes that summary judgment is not about making a jury decision from the bench but rather about determining whether a trial is necessary. If there are no factual disputes, then the judge can resolve the legal issues without the need for a jury.

In practice, courts grant summary judgment when:

- **No Genuine Issue of Material Fact Exists:** The facts are undisputed and pivotal to the case's outcome.
- **Entitlement to Judgment as a Matter of Law:** The law unequivocally favors the movant based on the established facts.

It's important to note that summary judgment is not a mechanism for weighing evidence or assessing witness credibility; instead, it determines whether a trial is necessary to resolve factual disputes.

Motion for Judgment as a Matter of Law: Mid-Trial Resolution

Formerly known as a directed verdict, a motion for judgment as a matter of law is made during or after a trial. The movant contends that the opposing party has insufficient evidence to reasonably

support their case, and thus, no reasonable jury could rule in their favor. This motion can be presented:

- **After the Opposing Party's Presentation of Evidence**: Arguing that the evidence is legally inadequate to sustain a verdict.
- **After the Jury's Verdict**: Requesting the court to overturn the jury's decision on the grounds that it lacks evidentiary support.

According to [Adam Russ](#), a partner at [Gordon Arata](#), these motions are particularly important for defense attorneys. It provides one last opportunity to prevent an unfavorable verdict from being entered by highlighting weaknesses in the opposing party's evidence.

This motion ensures that judgments are grounded in law and evidence, preventing unjust outcomes based on insufficient proof.

Strategic Considerations in Filing Dispositive Motions

The decision to file a dispositive motion requires meticulous consideration, as it can significantly influence the trajectory of a case. Key factors to evaluate include:

- **Strength of Legal Arguments**: Assessing whether the law clearly supports the movant's position.
- **Evidentiary Support**: Ensuring robust and admissible evidence underpins the motion.
- **Potential Outcomes**: Weighing the benefits of an early resolution against the possibility of an unfavorable ruling.
- **Judicial Preferences**: Considering the presiding judge's history and inclinations regarding dispositive motions.

[Steven Reingold](#) of [Saul Ewing](#) cautions that filing a dispositive motion isn't always the best strategy. It's important to assess whether an unsuccessful motion might reveal too much about your case strategy or give the opposing party an opportunity to strengthen their claims.

Financial Implications of Dispositive Motions

Beyond their legal impact, dispositive motions carry significant financial implications. For businesses and individuals involved in litigation, these motions can either serve as cost-saving tools or escalate legal expenses. Considerations include:

- **Cost of Filing and Defending**: Drafting and responding to dispositive motions require substantial legal resources, including attorney fees and court filing costs.
- **Impact on Settlement Negotiations**: Successfully dismissing claims can strengthen a party's bargaining position in settlement discussions.
- **Potential for Delaying Litigation**: While dispositive motions can expedite case resolution, unsuccessful motions may prolong litigation and increase overall costs.

Understanding the cost-benefit analysis of dispositive motions can help companies, particularly those facing frequent litigation, make effective legal and financial planning decisions.

Conclusion

Dispositive motions are powerful litigation tools that can streamline legal proceedings, reduce costs, and achieve early case resolution. However, their effectiveness hinges on strategic deployment, strong evidentiary support, and a deep understanding of procedural rules. Whether seeking to dismiss a case at its outset, obtain judgment without trial, or challenge a jury's findings, litigants must carefully weigh the risks and benefits associated with these motions.

To learn more about this topic view [Litigation Basics / Dispositive Motions](#). The quoted remarks referenced in this article were made either during this webinar or shortly thereafter during post-webinar interviews with the panelists. Readers may also be interested to read other articles about litigation, including [temporary restraining orders and preliminary injunctions](#).

This article was originally published on [here](#).

©2025. DailyDAC™, LLC d/b/a/ Financial Poise™. This article is subject to the disclaimers found [here](#).

© Copyright 2025 Financial Poise

National Law Review, Volume XV, Number 108

Source URL: <https://natlawreview.com/article/litigation-dispositive-motion>