

Summary Judgment

- 1) Before you get the motion:
 - a. Complete your affirmative discovery.
 - b. Rehabilitate witnesses during deposition.
- 2) When you get the motion:
 - a. Move to amend complaint to include all theories.
 - b. Move to continue hearing if discovery is outstanding.
 - c. Motion to strike or for sanctions for abusive papers?
- 3) Drafting your opposition P & A's:
 - a. Quote the evidence in your separate statement.
 - b. Don't save evidence for trial.
- 4) Drafting objections to evidence:
 - a. Quote specific evidence objected to.
 - b. State all grounds (no new grounds on appeal).
 - c. File objections with opposition.
 - d. Objections are preserved even if no ruling (*Reid*).
- 5) Grounds for objections to expert and lay evidence:
 - a. Is the jurat deficient?
 - b. Depo offered from another case may be hearsay.
 - c. Experts must state facts, not just conclusions.
- 6) When you get the reply, object to any new evidence.
- 7) If summary judgment granted, consider a motion for new trial if judge misunderstood law or facts or evidence is newly discovered or couldn't be presented.