

## SUMMARY - MOTIONS

Motion	Requirements	Time for filing
<b>Motion to dismiss/pre-answer motion</b> FRCP Rule 12(b)	Needs to be based on: <ul style="list-style-type: none"> <li>- Lack of SMJ</li> <li>- Lack of PJ</li> <li>- Improper venue</li> <li>- Insufficiency of process</li> <li>- Insufficiency of service of process</li> <li>- Failure to state claim</li> <li>- Failure to join needed party</li> </ul>	Able to be raised any time incl. appeal: <ul style="list-style-type: none"> <li>- Lack of SMJ</li> </ul> Waived if not raised by motion/answer: <ul style="list-style-type: none"> <li>- Lack of PJ</li> <li>- Improper venue</li> <li>- Insufficiency of process</li> <li>- Insufficiency of service of process</li> </ul> Able to be raised any time before or at trial: <ul style="list-style-type: none"> <li>- Failure to state a claim upon which relief can be granted</li> <li>- Failure to join a party</li> </ul>
<b>Motion for a more definite statement</b> FRCP Rule 12(e)	Granted if the pleading is so vague or ambiguous that the moving party cannot reasonably prepare a response.	Before answer
<b>Motion to strike</b> FRCP Rule 12(f)	Granted if there is any insufficient defense or any redundant, immaterial, or scandalous matter.	Before answer
<b>Motion for judgement on the pleadings</b> FRCP Rule 12(c)	Granted if, on the face of the pleadings (without considering matters outside the pleadings), the moving party is entitled to judgement. Treated as a motion for summary judgement if accompanied by outside matters.	After pleadings are closed but not so late as to delay trial
<b>Summary judgement</b> FRCP Rule 56	Granted if there is no genuine dispute of material fact and the moving party is entitled to judgement as a matter of law. May be supported by pleadings, affidavits and discovery materials, affirmative defenses. Affidavits need to be based on personal knowledge, must state only matters admissible at trial, and show affiant competent to testify at trial.	Typically can be filed at any time until 30 days after close of discovery. If a motion is premature, the court may defer ruling on it.
<b>Motion for judgement as a matter of law (directed verdict)</b> FRCP Rule 50(a)	Granted if the evidence, when viewed in a light most favorable to motion's opponent, leads a reasonable person to conclude in favor of the moving party. (i.e. no legally sufficient evidentiary basis for a reasonable jury to reach a different conclusion)	After opponent has presented case but before submission of the case to the jury
<b>Renewed motion for judgement as a matter of law "JNOV"</b> FRCP Rule 50(b)	Granted if the verdict returned could not have been reached by reasonable persons. The moving party must have previously sought judgement as a matter of law sometime during the trial.	After verdict but within 28 days after entry of judgement
<b>Motion for a new trial</b> FRCP Rule 59	Jury trial: Granted if a jury verdict for the other party would be a gross miscarriage of justice. No jury: Granted if there was an error during the trial or because the verdict is against the weight of the evidence. <i>May be paired with remittitur or renewed motion for judgement as a matter of law.</i>	Within 28 days after entry of judgement
<b>Motion for relief from a judgement</b>	Granted if there is mistake/excusable neglect, newly discovered evidence that couldn't have been discovered in time for a new trial, fraud or misconduct by opposing party, juror misconduct etc.	Within a reasonable time, generally within a year.