

This page does not contain legal advice.

► Motions - other than for leave to appeal				
Narrative	Who	Does what	When	Source
Most motions in the Federal Court of Appeal are decided on the basis of written representations, without the need for an oral hearing	the Court	Decides motions on the basis of written representations, unless otherwise ordered	Varies.	Rule 369.2
The Moving Party initiates a motion by a notice of motion	Moving Party	Initiates a motion by notice of motion in Form 359. The notice of motion must be made returnable in accordance with rule 369.2, and the notice of motion may be served and filed as part of the party's motion record	Varies.	Rules 359 , 360(c) , 369.2 ; Form 359
The Moving Party serves and files its motion record	Moving Party	Serves and files a motion record, which must include the information and documents required by the Rules	Varies.	Rule 364 ; for service, see Rules 126.1-148.1 . See also Consolidated Practice Direction 20-24
Any additional facts may be set out in affidavit evidence on a motion	Any party	Sets out in an affidavit any facts to be relied on by that party in the motion that do not already appear in the Court file	no timeline for affidavit specifically, but it is generally included in the party's motion record.	Rule 363
After receiving the Moving Party's motion record, the Respondent serves and files its own motion record	Respondent to the motion	Prepares, serves and files motion record, including the required information in Rule 365(2)	no later than 10 days after the day on which they are served with the moving party's motion record.	Rules 365(1)(b) , 365(2)
A party may make a written request for the motion to be heard orally	Any party	May make a written request for a motion to be heard orally, by attaching the request as a separate page at the end of the party's motion record	at the time the party's motion record is filed.	Rule 369.2(2) ; see also Rules 35(2)(a) , 35(3)
Once the Respondent serves its motion record, the Moving Party may make a reply	Moving Party	May serve and file written representations in reply	within 4 days after the day on which they are served with the respondent's motion record, unless the motion is going to be heard orally.	Rule 369.2(3)

If a party has chosen to cross-examine the deponent of an affidavit on a motion, it cannot do so until it has filed its own affidavits. It must also order and pay for the transcript and send a copy to each other party.	Any party	May examine the deponent of an affidavit after it has filed its own affidavits. It must also order and pay for the transcript of the examination and send a copy to each other party.	"with due diligence", before the hearing of the motion.	Rules 83 , 84 , 85 , 86
In some cases, the motion is discarded by a notice of abandonment	Moving Party	May abandon a motion by serving and filing a notice of abandonment in Form 370. If an oral hearing is granted and the moving party fails to appear without making this notice, the party is deemed to have abandoned the motion.	Varies, but generally speaking it cannot be done after the motion is decided. An earlier abandonment may be less likely to attract costs consequences than a later one.	Rule 370 . For costs of abandonment see Rules 402 , 411 .

--