

FEDERAL PRACTICE PROGRAM

“SOMETIMES A GREAT MOTION”

May 31, 2005 -- 5:30 p.m. to 7:00 p.m.

**United States District Courthouse
San Francisco Ceremonial Courtroom**

Introductory Remarks

Strategic Considerations

Motions as key elements in overall litigation plan:

- Cost-effectiveness
- Thematic consistency
- Understanding and evaluating the parties' claims
- Shaping the case and prioritizing issues in dispute
- Effective case management tool

Credibility

Relationship with Court and adversaries

Timing

Relationship to other planned or potential motions

Setting up a motion

Relationship to settlement or ADR

Avoiding unnecessary motions (i.e., stipulations)

Ethics

Motion Advocacy -- General

Opening statement

Brevity

Issue selection

Clarity and focus

Candor

Creativity

Telling the “story”

Know your Judge

Civility and tone

Written Advocacy

Framing the issues
Short sentences and paragraphs
Style and language
Text design
Visual aids
Presenting the evidence
Momentum
Opening, opposition and reply briefs
Working sets of papers for court

Oral Advocacy

Engaging the judge
Using the facts
Paying attention
Being responsive
Technology and advocacy

Questions and Answers