

# **MOTIONS IN LIMINE**

## **Parts of a Motion in Limine**

A motion in limine (MIL) is simply a more-developed discussion of an evidentiary issue that you anticipate *may* present during trial.

**FOUR parts of a MIL written filing and, if permitted, oral argument:**

### **I. Introduce yourself, your client, and the context of the case.**

Trial courts typically have an expansive docket. Even the most prepared court cannot recall all cases and the important facts necessary to decide evidentiary issues. You, having command of the facts, should start with the context of the MIL.

### **II. Frame the evidence at issue.**

Your opponent, or you<sup>1</sup>, will offer evidence at trial at issue – an exhibit, a lawyer’s question, or a witness’ testimony in response. You must have a good faith belief that the evidence will be part of trial – based upon the pleadings, discovery, your case preparation, or witness/exhibit lists. Be very direct and explicit when framing the evidence at issue before the court.

### **III. Present & analyze case facts.**

MILs are requests for specific relief in *this* case. Thus, you must include and focus on the facts that contribute to the evidentiary issue before the court. A detailed “factual background” is not necessary in most cases; yet, the court does NOT decide an evidentiary argument in a vacuum.

In a MIL, argue that the trial court can decide the evidentiary issue based upon (a) rule(s) of evidence, policy (advisory committee notes), and/or analogous cases.<sup>2</sup>

### **IV. Request the specific relief that you seek.**

Describe the remedy and resulting treatment of the evidence (ie. “*The court should grant our MIL, sustain our hearsay objection, and the statement should be excluded*”). You should consider alternative remedies for the court, such as requesting a deferred ruling or precluding any mention of the evidence in opening statement. Lastly, you must defend the court’s ruling during MILs throughout trial (ie “*Objection, hearsay. Counsel’s question violates your pretrial ruling*”).

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<sup>1</sup> As the proponent of the evidence, you *may* file a MIL regarding the admissibility of your own evidence. More typically, as opponent, you file a MIL challenging the admissibility of the opposing side’s evidence.

<sup>2</sup> Trial courts may be persuaded by published cases AND other trial court decisions when deciding an evidentiary issue in a MIL.