

AMENDMENTS TO THE CALIFORNIA RULES OF COURT  
 Adopted by the Judicial Council on October 24, 2008,  
 effective on October 24, 2008, January 1, 2009, and July 1, 2009.

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1 **Rule 10.660. Enforcement of agreements—petitions (Gov. Code, §§ 71639.5,**  
2 **71825.2)**

3  
4 **(a) Application**

5  
6 This rule applies to petitions filed under Government Code sections 71639.5~~(a)~~ and  
7 71825.2~~(a)~~.

8  
9 *(Subd (a) amended effective October 24, 2008; previously amended effective December 10, 2004,*  
10 *and January 1, 2007.)*

11  
12 **(b)–(e) \*\*\***

13  
14 *Rule 10.660 amended effective October 24, 2008; adopted as rule 2211 effective January 1, 2001;*  
15 *previously amended effective December 10, 2004; previously amended and renumbered effective January*  
16 *1, 2007.*

17

1 **Rule 1.31. Mandatory forms**

2  
3 **(a)–(d) \*\*\***

4  
5 **(e) No alteration of forms**

6  
7 Except as provided in rule 5.504, concerning court orders in juvenile court  
8 proceedings, and rule 7.101.5, concerning court orders in proceedings under the  
9 Probate Code, courts may not ~~alter a mandatory Judicial Council form and~~ require  
10 the use of an altered mandatory Judicial Council form's use in place of the Judicial  
11 Council form. However, a judicial officer may modify a Judicial Council form order  
12 as necessary or appropriate to adjudicate a particular case.

13  
14 *(Subd (e) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

15  
16 **(f)–(g) \*\*\***

17  
18 *Rule 1.31 amended effective January 1, 2009; adopted effective January 1, 2007; previously amended*  
19 *effective January 1, 2007.*

20  
21  
22 **Rule 1.35. Optional forms**

23  
24 **(a)–(d) \*\*\***

25  
26 **(e) No alteration of forms**

27  
28 Courts may not ~~alter an optional Judicial Council form and~~ require the use of an  
29 altered optional Judicial Council form's use in place of the Judicial Council form.  
30 However, a judicial officer may modify a Judicial Council form order as necessary  
31 or appropriate to adjudicate a particular case.

32  
33 *(Subd (e) amended effective January 1, 2009.)*

34  
35 **(f) \*\*\***

36  
37 *Rule 1.35 amended effective January 1, 2009; adopted effective January 1, 2007.*

38  
39  
40 **Rule 2.260. Electronic service**

41  
42 **(a)–(e) \*\*\***

1 **(f) Proof of service**

2  
3 (1) Proof of electronic service may be by any of the methods provided in Code of  
4 Civil Procedure section 1013(a), except that the proof of service must state:

5  
6 (A) The electronic notification address of the person making the service, in  
7 ~~place of~~ addition to that person's residence or business address;

8  
9 (B)–(D) \*\*\*

10  
11 (2)–(4) \*\*\*

12  
13 *(Subd (f) amended effective January 1, 2009; adopted as subd (c) effective January 1, 2003;*  
14 *previously amended effective January 1, 2007; previously relettered effective January 1, 2008.)*

15  
16 **(g) \*\*\***

17  
18 *Rule 2.260 amended effective January 1, 2009; adopted as rule 2060 effective January 1, 2003;*  
19 *previously amended and renumbered effective January 1, 2007; previously amended effective January 1,*  
20 *2008.*

21  
22  
23 **Rule 2.400. Court records**

24  
25 **(a) Removal of papers**

26  
27 Only the clerk may remove and replace papers in the court's files. Unless otherwise  
28 ordered by the court, filed papers may only be inspected by the public in the office  
29 of the clerk and released to ~~a court officer or~~ authorized court personnel or an  
30 attorney of record for use in a court facility. No original papers filed with the clerk  
31 may be used in any location other than a court facility, unless so ordered by the  
32 presiding judge

33  
34 *(Subd (a) amended effective January 1, 2009; previously amended effective July 1, 1993, January*  
35 *1, 2007, and January 1, 2008.)*

36  
37 **(b)–(c) \*\*\***

38  
39 *Rule 2.400 amended effective January 1, 2009; adopted as rule 243 effective January 1, 1949; previously*  
40 *amended and renumbered effective January 1, 2007; previously amended effective July 1, 1993, and*  
41 *January 1, 2008.*

1 **Rule 2.810. Temporary judges appointed by the trial courts**

2  
3 **(a) Scope of rule**

4  
5 Rules 2.810–2.819 apply to attorneys who serve as court-appointed temporary  
6 judges in the trial courts. The rules do not apply to subordinate judicial officers, ~~to~~  
7 ~~retired judicial officers appointed by the courts to serve as temporary judges,~~ or to  
8 attorneys designated by the courts to serve as temporary judges at the parties’  
9 request.

10  
11 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

12  
13 **(b)–(d) \*\*\***

14  
15 *Rule 2.810 amended effective January 1, 2009; adopted as rule 243.11 effective July 1, 2006; previously*  
16 *amended and renumbered effective January 1, 2007.*

17  
18  
19 **Rule 2.812. Requirements for court appointment of an attorney to serve as a**  
20 **temporary judge**

21  
22 **(a)–(b) \*\*\***

23  
24 **(c) Education and training requirements**

25  
26 The presiding judge may appoint an attorney to serve as a temporary judge only if  
27 the following minimum training requirements are satisfied:

28  
29 (1) *Mandatory training on bench conduct and demeanor*

30  
31 Before appointment, the attorney must have attended and successfully  
32 completed, within the previous three years, a course of at least 3 hours’  
33 duration on the subjects identified in rule 2.813(a) approved by the court in  
34 which the attorney will serve. This course must be taken in person and be  
35 taught by a qualified judicial officer ~~or other person approved by the~~  
36 ~~Administrative Office of the Courts.~~

37  
38 (2) *Mandatory training in ethics*

39  
40 Before appointment, the attorney must have attended and successfully  
41 completed, within the previous three years, a course of at least 3 hours’  
42 duration on the subjects identified in rule 2.813(b) approved by the court in  
43 which the attorney will serve. This course may be taken by any means



1 approved by the court, including in-person, by broadcast with participation, or  
2 online.

3  
4 (3) *Substantive training*

5  
6 Before appointment, the attorney must have attended and successfully  
7 completed, within the previous three years, a course on the substantive law in  
8 each subject area in which the attorney will serve as a temporary judge. These  
9 courses may be taken by any means approved by the court, including in-  
10 person, by broadcast with participation, or online. The substantive courses  
11 have the following minimum requirements:

12  
13 (A) *Small claims*

14  
15 An attorney serving as a temporary judge in small claims cases must  
16 have attended and successfully completed, within the previous three  
17 years, a course of at least 3 hours' duration on the subjects identified in  
18 rule 2.813(c) approved by the court in which the attorney will serve.

19  
20 (B) *Traffic*

21  
22 An attorney serving as a temporary judge in traffic cases must have  
23 attended and completed, within the previous three years, a course of at  
24 least 3 hours' duration on the subjects identified in rule 2.813(d)  
25 approved by the court in which the attorney will serve.

26  
27 (C) *Other subject areas*

28  
29 If the court assigns attorneys to serve as temporary judges in other  
30 substantive areas such as civil law, family law, juvenile law, unlawful  
31 detainers, or case management, the court must determine what additional  
32 training is required and what additional courses are required before an  
33 attorney may serve as a temporary judge in each of those subject areas.  
34 The training required in each area must be of at least 3 hours' duration.  
35 The court may also require that an attorney possess additional years of  
36 practical experience in each substantive area before being assigned to  
37 serve as a temporary judge in that subject area.

38  
39 (D)–(E) \*\*\*

40  
41 *(Subd (c) amended effective January 1, 2009; previously amended effective January 1, 2007.)*  
42

1 **(d) Requirements for retired judicial officers**

2  
3 Commencing five years after the retired judicial officer last served in a judicial  
4 position either as a full-time judicial officer or as an assigned judge, a retired  
5 judicial officer serving as a temporary judge must satisfy all the education and  
6 training requirements of this rule. However, a retired judicial officer serving as a  
7 temporary judge in a small claims case must satisfy all the requirements of Code of  
8 Civil Procedure section 116.240(b) and the rules in this chapter before serving in  
9 the case.

10  
11 *(Subd (d) adopted effective January 1, 2009.)*

12  
13 ~~(d)~~**(e)** \*\*\*

14  
15 *(Subd (e) relettered effective January 1, 2009; adopted as subd (d) effective July 1, 2006.)*

16  
17 ~~(e)~~**(f)** \*\*\*

18  
19 *(Subd (f) relettered effective January 1, 2009; adopted as subd (e) effective July 1, 2006.)*

20  
21 ~~(f)~~**(g)** \*\*\*

22  
23 *(Subd (g) relettered effective January 1, 2009; adopted as subd (f) effective July 1, 2006.)*

24  
25 *Rule 2.812 amended effective January 1, 2009; adopted as rule 243.13 effective July 1, 2006; previously*  
26 *amended and renumbered effective January 1, 2007.*

27  
28  
29 **Rule 3.61. Court fees and costs waived by initial application**

30  
31 Court fees and costs that must be waived upon granting an application to proceed in  
32 forma pauperis include:

33  
34 (1)–(5) \*\*\*

35  
36 (6) Sheriff’s and marshal’s fees under article 7 of chapter 2 of part 3 of division 2 of  
37 title 3 of ~~division 2~~ of the Government Code (commencing with section 26720);

38  
39 (7)–(9) \*\*\*

40  
41 *Rule 3.61 amended effective January 1, 2009; adopted effective January 1, 2007.*

1 **Rule 3.220. Case cover sheet**

2  
3 **(a) Cover sheet required**

4  
5 The first paper filed in an action or proceeding must be accompanied by a case  
6 cover sheet as required in (b). The cover sheet must be on a form prescribed by the  
7 Judicial Council and must be filed in addition to any cover sheet required by local  
8 court rule. If the plaintiff indicates on the cover sheet that the case is complex under  
9 rule 3.400 et seq. or a collections case under rule 3.740, the plaintiff must serve a  
10 copy of the cover sheet with the complaint. In all other cases, the plaintiff is not  
11 required to serve the cover sheet. The cover sheet is used for statistical purposes and  
12 may affect the assignment of a complex case.

13  
14 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2000,*  
15 *January 1, 2002, and January 1, 2007.)*

16  
17 **(b)–(c) \*\*\***

18  
19 *Rule 3.220 amended effective January 1, 2009; adopted as rule 982.2 effective July 1, 1996; previously*  
20 *amended and renumbered as rule 201.8 effective July 1, 2002, and as rule 3.220 effective January 1,*  
21 *2007; previously amended effective January 1, 2000, January 1, 2002, and July 1, 2003.*

22  
23  
24 **Rule 3.740. Collections cases**

25  
26 **(a) \*\*\***

27  
28 **(b) *Civil Case Cover Sheet***

29  
30 If a case meets the definition in (a), a plaintiff must check the case type box on the  
31 *Civil Case Cover Sheet* (form CM-010) to indicate that the case is a collections case  
32 under rule 3.740 and serve the *Civil Case Cover Sheet* (form CM-010) with the  
33 initial complaint.

34  
35 *(Subd (b) amended effective January 1, 2009.)*

36  
37 **(c)–(f) \*\*\***

38  
39 *Rule 3.740 amended effective January 1, 2009; adopted effective July 1, 2007.*

40  
41  
42 **Rule 3.769. Settlement of class actions**

1 (a)–(g) \*\*\*

2  
3 (h) **Judgment and retention of jurisdiction to enforce**

4  
5 If the court approves the settlement agreement after the final approval hearing, the  
6 court must make and enter judgment. The judgment must include a provision for the  
7 retention of the court’s jurisdiction over the parties to enforce the terms of the  
8 judgment. The court may not enter an order dismissing the action at the same time  
9 as, or after, entry of judgment.

10  
11 *(Subd (h) amended effective January 1, 2009.)*

12  
13 *Rule 3.769 amended effective January 1, 2009; adopted as rule 1859 effective January 1, 2002;*  
14 *previously amended and renumbered effective January 1, 2007.*

15  
16  
17 **Rule 3.770. Dismissal of class actions**

18  
19 (a) **Court approval of dismissal**

20  
21 A dismissal of an entire class action, or of any party or cause of action in a class  
22 action, requires court approval. The court may not grant a request to dismiss a class  
23 action if the court has entered judgment following final approval of a settlement.  
24 Requests for dismissal must be accompanied by a declaration setting forth the facts  
25 on which the party relies. The declaration must clearly state whether consideration,  
26 direct or indirect, is being given for the dismissal and must describe the  
27 consideration in detail.

28  
29 *(Subd (a) amended effective January 1, 2009; adopted as untitled subd effective January 1, 1984;*  
30 *previously amended and lettered as subd (a) effective January 1, 2002; previously amended*  
31 *effective January 1, 2007.)*

32  
33 (b)–(c) \*\*\*

34  
35 *Rule 3.770 amended effective January 1, 2009; adopted as rule 365 effective January 1, 1984; previously*  
36 *amended and renumbered as rule 1860 effective January 1, 2002, and as rule 3.770 effective January 1,*  
37 *2007.*

38  
39  
40 **Rule 3.851. Application**

41  
42 (a) **Circumstances applicable**

43  
44 The rules in this article apply to mediations in which a mediator:

1  
2 (1) Has agreed to be included on a superior court’s list or panel of mediators for  
3 general civil cases and is notified by the court or the parties that he or she has  
4 been selected to mediate a case within that court’s mediation program; ~~and~~ or

5  
6 (2) \*\*\*

7  
8 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2007.)*  
9

10 **(b)–(e) \*\*\***

11  
12 *Rule 3.851 amended effective January 1, 2009; adopted as rule 1620.1 effective January 1, 2003;*  
13 *previously amended and renumbered effective January 1, 2007; previously amended effective July 1,*  
14 *2007.*

15  
16  
17 **Division 10. Discovery**

18  
19 **Chapter 3. Discovery Motions**

20  
21 **Division 11. Law and Motion**

22  
23 **Chapter 6. Particular Motions**

24  
25 **Article 1. Pleading and Venue Motions**

26  
27  
28 **Rule 3.1320. Demurrers**

29  
30 **(a)–(h) \*\*\***

31  
32 **(i) Motion to strike late-filed amended pleading**

33  
34 If an amended pleading is filed after the time allowed, an order striking the  
35 amended pleading must be obtained by noticed motion under Code of Civil  
36 Procedure section 1010.

37  
38 *(Subd (i) amended effective January 1, 2009; adopted as part of subd (f) effective January 1, 1984;*  
39 *previously amended effective July 1, 1995; previously amended and lettered effective January 1,*  
40 *2007.)*

41  
42 **(j) \*\*\***  
43

1 *Rule 3.1320 amended effective January 1, 2009; adopted as rule 325 effective January 1, 1984;*  
2 *previously amended effective July 1, 1984, July 1, 1995, and July 1, 2000; previously amended and*  
3 *renumbered effective January 1, 2007.*

4  
5  
6 **Rule 3.1327. Motions to quash or to stay action in summary proceeding involving**  
7 **possession of real property**

8  
9 **(a) Notice**

10  
11 In an unlawful detainer action or other action brought under chapter 4 of title 3 of  
12 part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a  
13 motion to quash service of summons on the ground of lack of jurisdiction or to stay  
14 or dismiss the action on the ground of inconvenient forum must be given in  
15 compliance with Code of Civil Procedure sections 1013 and 1167.4.

16  
17 **(b) Opposition and reply at hearing**

18  
19 Any opposition to the motion and any reply to an opposition may be made orally at  
20 the time of hearing or in writing as set forth in (c).

21  
22 **(c) Written opposition in advance of hearing**

23  
24 If a party seeks to have a written opposition considered in advance of the hearing,  
25 the written opposition must be filed and served on or before the court day before the  
26 hearing. Service must be by personal delivery, facsimile transmission, express mail,  
27 or other means consistent with Code of Civil Procedure sections 1010, 1011, 1012,  
28 and 1013, and reasonably calculated to ensure delivery to the other party or parties  
29 no later than the close of business on the court day before the hearing. The court, in  
30 its discretion, may consider written opposition filed later.

31  
32 *Rule 3.1327 adopted effective January 1, 2009.*

33  
34  
35 **Article 3. Motion to Dismiss**

36  
37  
38 **Rule 3.1342. Motion to dismiss for delay in prosecution**

39  
40 **(a) Notice of motion**

41  
42 A party seeking dismissal of a case under Code of Civil Procedure sections  
43 583.410–583.430 must serve and file a notice of motion at least 45 days before the

1 date set for hearing of the motion. The party may, with the memorandum, serve and  
2 file a declaration stating facts in support of the motion. The filing of the notice of  
3 motion must not preclude the opposing party from further prosecution of the case to  
4 bring it to trial.

5  
6 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 1986, and*  
7 *January 1, 2007.)*

8  
9 **(b)–(f) \*\*\***

10  
11 *Rule 3.1342 amended effective January 1, 2009; adopted as rule 373 effective January 1, 1984;*  
12 *previously amended effective January 1, 1986; previously amended and renumbered effective January 1,*  
13 *2007.*

14  
15  
16 **Article 4. Discovery Motions**

17  
18 *Title 3, Civil Rules—Division 11, Law and Motion—Chapter 6, Particular Motions—Article 4, Discovery*  
19 *Motions adopted effective January 1, 2009.*

20  
21  
22 **Rule 3.1345.3.1020. Format of discovery motions**

23  
24 **\*\*\***

25  
26 *Rule 3.1345 renumbered effective January 1, 2009; adopted as rule 335 effective January 1, 1984;*  
27 *previously amended effective July 1, 1987, January 1, 1992, January 1, 1997, and July 1, 2001;*  
28 *previously amended and renumbered as rule 3.1020 effective January 1, 2007.*

29  
30  
31 **Rule 3.1346.3.1025. Service of motion papers on nonparty deponent**

32  
33 **\*\*\***

34  
35 *Rule 3.1346 renumbered effective January 1, 2009; adopted as rule 337 effective January 1, 1984;*  
36 *previously amended effective July 1, 1987; previously amended and renumbered as rule 3.1025 effective*  
37 *January 1, 2007.*

38  
39  
40 **Rule 3.1347. Discovery motions in summary proceeding involving possession of real**  
41 **property**

42  
43 **(a) Notice**

1 In an unlawful detainer action or other action brought under chapter 4 of title 3 of  
2 part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a  
3 discovery motion must be given in compliance with Code of Civil Procedure  
4 sections 1013 and 1170.8.

5  
6 **(b) Opposition and reply at hearing**

7  
8 Any opposition to the motion and any reply to an opposition may be made orally at  
9 the time of hearing or in writing as set forth in (c).

10  
11 **(c) Written opposition in advance of hearing**

12  
13 If a party seeks to have a written opposition considered in advance of the hearing,  
14 the written opposition must be served and filed on or before the court day before the  
15 hearing. Service must be by personal delivery, facsimile transmission, express mail,  
16 or other means consistent with Code of Civil Procedure sections 1010, 1011, 1012,  
17 and 1013, and reasonably calculated to ensure delivery to the other party or parties  
18 no later than the close of business on the court day before the hearing. The court, in  
19 its discretion, may consider written opposition filed later.

20  
21 *Rule 3.1347 adopted effective January 1, 2009.*

22  
23 **Rule ~~3.1348~~3.1030. Sanctions for failure to provide discovery**

24  
25 \*\*\*

26  
27 *Rule 3.1348 renumbered effective January 1, 2009; adopted as rule 341 effective July 1, 2001; previously*  
28 *renumbered as rule 3.1030 effective January 1, 2007.*

29  
30 **Article 5.4 Summary Judgment Motions**

31  
32 *Title 3, Civil Rules—Division 11, Law and Motion—Chapter 6, Particular Motions—Article 5, Summary*  
33 *Judgment Motions renumbered effective January 1, 2009; adopted as article 4 effective January 1, 2007.*

34  
35 **Rule 3.1350. Motion for summary judgment or summary adjudication**

36  
37 **(a)–(b) \*\*\***

38  
39 **(c) Documents in support of motion**

40  
41 Except as provided in Code of Civil Procedure section 437c(r) and rule 3.1351, the  
42 motion must contain and be supported by the following documents:  
43



- 1 (1) Notice of motion by *[moving party]* for summary judgment or summary  
2 adjudication or both;  
3  
4 (2) Separate statement of undisputed material facts in support of *[moving party's]*  
5 motion for summary judgment or summary adjudication or both;  
6  
7 (3) Memorandum in support of *[moving party's]* motion for summary judgment or  
8 summary adjudication or both;  
9  
10 (4) Evidence in support of *[moving party's]* motion for summary judgment or  
11 summary adjudication or both; and  
12  
13 (5) Request for judicial notice in support of *[moving party's]* motion for summary  
14 judgment or summary adjudication or both (if appropriate).  
15

16 *(Subd (c) amended effective January 1, 2009; previously amended effective January 1, 2002, and*  
17 *January 1, 2007.)*  
18

19 **(d) \*\*\***

20  
21 **(e) Documents in opposition to motion**  
22

23 Except as provided in Code of Civil Procedure section 437c(r) and rule 3.1351, the  
24 opposition to a motion must consist of the following documents, separately stapled  
25 and titled as shown:  
26

- 27 (1) *[Opposing party's]* memorandum in opposition to *[moving party's]* motion for  
28 summary judgment or summary adjudication or both;  
29  
30 (2) *[Opposing party's]* separate statement of undisputed material facts in  
31 opposition to *[moving party's]* motion for summary judgment or summary  
32 adjudication or both;  
33  
34 (3) *[Opposing party's]* evidence in opposition to *[moving party's]* motion for  
35 summary judgment or summary adjudication or both (if appropriate); and  
36  
37 (4) *[Opposing party's]* request for judicial notice in opposition to *[moving*  
38 *party's]* motion for summary judgment or summary adjudication or both (if  
39 appropriate).  
40

41 *(Subd (e) amended effective January 1, 2009; previously amended effective January 1, 2002, and*  
42 *January 1, 2007.)*  
43

1 (f)–(i) \*\*\*

2  
3 *Rule 3.1350 amended effective January 1, 2009; adopted as rule 342 effective July 1, 1997; previously*  
4 *amended effective January 1, 1999, January 1, 2002, January 1, 2008, and July 1, 2008; previously*  
5 *amended and renumbered effective January 1, 2007.*  
6  
7

8 **Rule 3.1351. Motions for summary judgment in summary proceeding involving**  
9 **possession of real property**

10  
11 **(a) Notice**

12  
13 In an unlawful detainer action or other action brought under chapter 4 of title 3 of  
14 part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a  
15 motion for summary judgment must be given in compliance with Code of Civil  
16 Procedure sections 1013 and 1170.7.  
17

18 **(b) Opposition and reply at hearing**

19  
20 Any opposition to the motion and any reply to an opposition may be made orally at  
21 the time of hearing or in writing as set forth in (c).  
22

23 **(c) Written opposition in advance of hearing**

24  
25 If a party seeks to have a written opposition considered in advance of the hearing,  
26 the written opposition must be filed and served on or before the court day before the  
27 hearing. Service must be by personal delivery, facsimile transmission, express mail,  
28 or other means consistent with Code of Civil Procedure sections 1010, 1011, 1012,  
29 and 1013, and reasonably calculated to ensure delivery to the other party or parties  
30 no later than the close of business on the court day before the hearing. The court, in  
31 its discretion, may consider written opposition filed later.  
32

33 *Rule 3.1351 adopted effective January 1, 2009.*  
34  
35

36 **Article 6.5 Miscellaneous Motions**

37 *Title 3, Civil Rules—Division 11, Law and Motion—Chapter 6, Particular Motions—Article 6,*  
38 *Miscellaneous Motions renumbered effective January 1, 2009; adopted as article 5 effective January 1,*  
39 *2007.*  
40

41  
42 **Rule 3.1362. Motion to be relieved as counsel**  
43

1 (a)–(c) \*\*\*

2  
3 (d) **Service**

4  
5 The notice of motion and motion, ~~and the declaration,~~ and the proposed order must  
6 be served on the client and on all other parties who have appeared in the case. The  
7 notice may be by personal service or mail. If the notice is served on the client by  
8 mail under Code of Civil Procedure section 1013, it must be accompanied by a  
9 declaration stating facts showing that either:

10  
11 \*\*\*

12  
13 *(Subd (d) amended effective January 1, 2009; adopted as subd (c) effective July 1, 1984; previously*  
14 *amended effective July 1, 1991, January 1, 1996, and January 1, 2007; previously relettered and*  
15 *amended effective July 1, 2000.)*

16  
17 (e) **Order**

18  
19 The proposed order relieving counsel must be prepared on the *Order Granting*  
20 *Attorney’s Motion to Be Relieved as Counsel—Civil* (form MC-053) and must be  
21 lodged with the court ~~and served on the client~~ with the moving papers. The order  
22 must specify all hearing dates scheduled in the action or proceeding, including the  
23 date of trial, if known. If no hearing date is presently scheduled, the court may set  
24 one and specify the date in the order. After the order is signed, a copy of the signed  
25 order must be served on the client and on all parties that have appeared in the case.  
26 The court may delay the effective date of the order relieving counsel until proof of  
27 service of a copy of the signed order on the client has been filed with the court.

28  
29 *(Subd (e) amended effective January 1, 2009; adopted as subd (d) effective July 1, 1984; previously*  
30 *amended effective January 1, 1996, and January 1, 2007; previously amended and relettered*  
31 *effective July 1, 2000.)*

32  
33 *Rule 3.1362 amended effective January 1, 2009; adopted as rule 376 effective July 1, 1984; previously*  
34 *amended effective July 1, 1991, January 1, 1996, and July 1, 2000; previously amended and renumbered*  
35 *effective January 1, 2007.*

36  
37  
38 **Rule 3.1385. Duty to notify court and others of settlement of entire case**

39  
40 (a) \*\*\*

41  
42 (b) **Dismissal of case**

1 Except as provided in (c) or (d), each plaintiff or other party seeking affirmative  
2 relief must serve and file a request for dismissal of the entire case within 45 days  
3 after the date of settlement of the case. If the plaintiff or other party required to  
4 serve and file the request for dismissal does not do so, the court must dismiss the  
5 entire case 45 days after it receives notice of settlement unless good cause is shown  
6 why the case should not be dismissed.

7  
8 *(Subd (b) amended effective January 1, 2009; adopted effective January 1, 1989; previously*  
9 *amended effective July 1, 2002, January 1, 2004, and January 1, 2006.)*

10  
11 (c) \*\*\*

12  
13 **(d) Compromise of claims of a minor or disabled person**

14  
15 If the settlement of the case involves the compromise of the claim of a minor or  
16 person with a disability, the court must not hold an order to show cause hearing  
17 under (b) before the court has held a hearing to approve the settlement, provided the  
18 parties have filed appropriate papers to seek court approval of the settlement.

19  
20 *(Subd (d) adopted effective January 1, 2009.)*

21  
22 **(e) Request for additional time to complete settlement**

23  
24 If a party who has served and filed a notice of settlement under (a) determines that  
25 the case cannot be dismissed within the prescribed 45 days, that party must serve  
26 and file a notice and a supporting declaration advising the court of that party's  
27 inability to dismiss the case within the prescribed time, showing good cause for its  
28 inability to do so, and proposing an alternative date for dismissal. The notice and a  
29 supporting declaration must be served and filed at least 5 court days before the time  
30 for requesting dismissal has elapsed. If good cause is shown, the court must  
31 continue the matter to allow additional time to complete the settlement. The court  
32 may take such other actions as may be appropriate for the proper management and  
33 disposition of the case.

34  
35 *(Subd (e) adopted effective January 1, 2009.)*

36  
37 *Rule 3.1385 amended effective January 1, 2009; adopted as rule 225 effective January 1, 1985;*  
38 *previously amended effective January 1, 1989, January 1, 1992, July 1, 2001, July 1, 2002, January 1,*  
39 *2004, and January 1, 2006; previously amended and renumbered effective January 1, 2007.*

40  
41  
42 **Rule 3.1702. Claiming attorney's fees**

1 (a) \*\*\*

2  
3 (b) **Attorney's fees before trial court judgment**

4  
5 (1) \*\*\*

6  
7 (2) *Stipulation for extension of time*

8  
9 The parties may, by stipulation filed before the expiration of the time allowed  
10 under (b)(1), extend the time for filing a motion for attorney's fees:

11  
12 (A) Until 60 days after the expiration of the time for filing a notice of appeal;  
13 or

14  
15 (B) If a notice of appeal is filed, until the time within which a memorandum  
16 of costs must be served and filed under rule ~~8.276(d)~~ 8.278(c).

17  
18 *(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 1999,*  
19 *January 1, 2006, and January 1, 2007.)*

20  
21 (c)–(e) \*\*\*

22  
23 *Rule 3.1702 amended effective January 1, 2009; adopted as rule 870.2 effective January 1, 1994;*  
24 *previously amended and renumbered effective January 1, 2007; previously amended effective January 1,*  
25 *1999, January 1, 2006, and July 1, 2008.*

26  
27  
28 **Rule 4.551. Habeas corpus proceedings**

29  
30 (a) **Petition; form and court ruling**

31  
32 (1) Except as provided in (2), the petition must be on the *Petition for Writ of*  
33 *Habeas Corpus* (form MC-275), ~~and must be served as required in Penal Code~~  
34 ~~section 1475.~~

35  
36 (2)–(5) \*\*\*

37  
38 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2002,*  
39 *January 1, 2004, and January 1, 2007.)*

40  
41 (b)–(h) \*\*\*

1 Rule 4.551 amended effective January 1, 2009; adopted as rule 260 effective January 1, 1982; previously  
2 renumbered as rule 4.500 effective January 1, 2001; previously amended and renumbered effective  
3 January 1, 2002; previously amended effective January 1, 2004, and January 1, 2007.

4  
5  
6 **Rule 5.505. Juvenile dependency court performance measures**

7  
8 **(a) Purpose**

9  
10 The juvenile dependency court performance measures and related procedures set  
11 forth in this rule are intended to:

- 12  
13 (1) Protect abused and neglected children by assisting courts in promoting  
14 children’s placement in safe and permanent homes, enhancing their well-being  
15 and that of their families, and ensuring that all participants receive timely and  
16 fair treatment;  
17  
18 (2) Assist trial courts in meeting the mandated timelines for dependency hearings,  
19 securing due process for all litigants, and, in collaboration with the child  
20 welfare agency, improving safety, permanency, and well-being outcomes for  
21 children and families under the jurisdiction of the juvenile dependency court;  
22 and  
23  
24 (3) Assist courts in making well-informed resource allocation decisions.

25  
26 **(b) Performance measures**

27  
28 Detailed definitions of the performance measures and descriptions of the methods  
29 for producing the performance measures in accordance with (c)(2) and (3) are  
30 contained in the Judicial Council–approved *Implementation Guide to Juvenile*  
31 *Dependency Court Performance Measures*.

32  
33 The juvenile dependency court performance measures are:

- 34  
35 (1) Hearing timeliness:  
36  
37 (A) Percentage of children for whom the initial hearing is completed within  
38 the statutory time frame following the filing of the initial petition;  
39  
40 (B) Percentage of children for whom the jurisdictional hearing is completed  
41 within the statutory time frame following the initial hearing;  
42

- 1 (C) Percentage of children for whom the disposition hearing is completed  
2 within the statutory time frame following the finding of jurisdiction;  
3
- 4 (D) Percentage of children for whom a 3-month or other interim review  
5 hearing is held;  
6
- 7 (E) Percentage of children for whom the 6-month review hearing is  
8 completed within 6 months of the date the child entered foster care;  
9
- 10 (F) Percentage of children for whom the 12-month permanency hearing is  
11 completed within 12 months of the date the child entered foster care;  
12
- 13 (G) Percentage of children for whom the 18-month review hearing is  
14 completed within 18 months of the date of original protective custody;  
15
- 16 (H) Percentage of children for whom the first section 366.26 hearing is  
17 completed within 120 days of the termination of reunification services;  
18
- 19 (I) Percentage of children whose postpermanency hearing is completed  
20 within 6 months of the section 366.26 hearing or the last  
21 postpermanency hearing;  
22
- 23 (J) Percentage of children in long-term foster care whose subsequent section  
24 366.26 hearing is completed within 12 months of the previous section  
25 366.26 hearing;  
26
- 27 (K) Percentage of children whose adoption is finalized within 180 days after  
28 termination of parental rights;  
29
- 30 (L) Median time from disposition or section 366.26 hearing to order  
31 establishing guardianship;  
32
- 33 (M) Percentage of children for whom the first and subsequent  
34 postpermanency review hearings are completed within the statutory time  
35 frame;  
36
- 37 (N) Percentage of hearings delayed by reasons for delay and hearing type;  
38
- 39 (O) Median time from filing of original petition to implementation of a  
40 permanent plan by permanent plan type; and  
41
- 42 (P) Median time from filing of original petition to termination of jurisdiction  
43 by reason for termination of jurisdiction.

1  
2 (2) Court procedures and due process:

3  
4 (A) Percentage of cases in which all hearings are heard by one judicial  
5 officer;

6  
7 (B) Percentage of cases in which all parties and other statutorily entitled  
8 individuals are served with a copy of the original petition;

9  
10 (C) Percentage of hearings in which notice is given to all statutorily entitled  
11 parties and individuals within the statutory time frame;

12  
13 (D) Percentage of hearings in which child or parents are present if statutorily  
14 entitled to be present;

15  
16 (E) Percentage of hearings in which a judicial inquiry is made when a child  
17 10 years of age or older is not present at hearing;

18  
19 (F) Percentage of hearings in which other statutorily entitled individuals  
20 who are involved in the case (e.g., CASA volunteers, caregivers, de facto  
21 parents, others) are present;

22  
23 (G) Percentage of cases in which legal counsel for parents, children, and the  
24 child welfare agency are present at every hearing;

25  
26 (H) Point at which children and parents are assigned legal counsel;

27  
28 (I) Percentage of cases in which legal counsel for children or parents  
29 changes;

30  
31 (J) Percentage of cases in which no reunification services are ordered and  
32 reasons;

33  
34 (K) Percentage of cases for which youth have input into their case plans; and

35  
36 (L) Cases in compliance with the requirements of the Indian Child Welfare  
37 Act (ICWA).

38  
39 (3) Child safety in the child welfare system:

40  
41 (A) Percentage of children who are not victims of another substantiated  
42 maltreatment allegation within 6 and 12 months after the maltreatment  
43 incident that led to the filing of the initial petition; and



1  
2 (B) For all children served in foster care during the year, percentage of  
3 children who were not victims of substantiated maltreatment by a foster  
4 parent or facility staff member.

5  
6 (4) Child permanency:

7  
8 (A) Percentage of children reunified in less than 12 months;

9  
10 (B) Percentage of children who were reunified but reentered foster care  
11 within 12 months;

12  
13 (C) Percentage of children who were discharged from foster care to a  
14 finalized adoption within 24 months;

15  
16 (D) Percentage of children in foster care who were freed for adoption;

17  
18 (E) Percentage of children in long-term foster care who were discharged to a  
19 permanent home before their 18th birthdays;

20  
21 (F) Of children discharged to emancipation or aging out of foster care,  
22 percentage who were in foster care 3 years or longer;

23  
24 (G) Percentage of children with multiple foster-care placements;

25  
26 (5) Child and family well-being:

27  
28 (A) Percentage of children 14 years of age or older with current transitional  
29 independent living plans;

30  
31 (B) Percentage of children for whom a section 391 termination of  
32 jurisdiction hearing was held;

33  
34 (C) Percentage of section 391 termination of jurisdiction hearings that did  
35 not result in termination of jurisdiction and reasons jurisdiction did not  
36 terminate;

37  
38 (D) Percentage of youth present at section 391 termination of jurisdiction  
39 hearing with judicial confirmation of receipt of all services and  
40 documents mandated by section 391(b)(1-5);

41  
42 (E) Percentage of children placed with all siblings who are also under court  
43 jurisdiction, as appropriate;

- 1  
2 (F) Percentage of children placed with at least one but not all siblings who  
3 are also under court jurisdiction, as appropriate;  
4  
5 (G) For children who have siblings under court jurisdiction but are not  
6 placed with all of them, percentage of cases in which sibling visitation is  
7 not ordered and reasons;  
8  
9 (H) Percentage of cases in which visitation is not ordered for parents and  
10 reasons;  
11  
12 (I) Number of visitation orders for adults other than parents and siblings,  
13 (e.g., grandparents, other relatives, extended family members, others) as  
14 appropriate;  
15  
16 (J) Number of cases in which the court has requested relative-finding efforts  
17 from the child welfare agency;  
18  
19 (K) Percentage of children placed with relatives;  
20  
21 (L) For children 10 years of age or older and in foster care for at least 6  
22 months, percentage for whom the court has inquired whether the social  
23 worker has identified persons important to the child; and  
24  
25 (M) For children 10 years of age or older in foster care for at least 6 months,  
26 percentage for whom the court has made orders to enable the child to  
27 maintain relationships with persons important to that child.  
28

29 **(c) Data collection**

- 30  
31 (1) California's Court Case Management System (CCMS) family and juvenile  
32 law module must be capable of collecting the data described in the  
33 *Implementation Guide to Juvenile Dependency Court Performance Measures*  
34 in order to calculate the performance measures and to produce performance  
35 measure reports.  
36  
37 (2) Before implementation of the CCMS family and juvenile law module, each  
38 local court must collect and submit to the AOC the subset of juvenile  
39 dependency data described in (b) and further delineated in the *Implementation*  
40 *Guide to Juvenile Dependency Court Performance Measures* that it is  
41 reasonably capable of collecting and submitting with its existing court case  
42 management system and resources.  
43

1 (3) On implementation of the CCMS family and juvenile law module in a local  
2 court, and as the necessary data elements become electronically available, the  
3 local court must collect and submit to the AOC the juvenile dependency data  
4 described in (b) and further delineated in the *Implementation Guide to Juvenile*  
5 *Dependency Court Performance Measures*. For the purposes of this  
6 subdivision, “implementation of the CCMS family and juvenile law module”  
7 in a local court means that the CCMS family and juvenile law module has been  
8 deployed in that court, is functioning, and has the ability to capture the  
9 required data elements and that local court staff has been trained to use the  
10 system.

11  
12 **(d) Use of data and development of measures before CCMS implementation**

13 Before CCMS implementation, the AOC must:

- 14  
15  
16 (1) Establish a program to assist the local courts in collecting, preparing,  
17 analyzing, and reporting the data required by this rule;  
18  
19 (2) Establish a procedure to assist the local courts in submitting the required data  
20 to the AOC;  
21  
22 (3) Use the data submitted under (c)(2) to test and refine the detailed definitions  
23 of the performance measures and descriptions of the methods for producing  
24 the performance measures described in the *Implementation Guide to Juvenile*  
25 *Dependency Court Performance Measures*;  
26  
27 (4) Consult with local courts about the accuracy of the data submitted under  
28 (c)(2). After such consultation, use data to generate aggregate data reports on  
29 performance measures, consistent with section 16543, while not disclosing  
30 identifying information about children, parents, judicial officers, and other  
31 individuals in the dependency system; and  
32  
33 (5) Assist the courts in using the data to achieve improved outcomes for children  
34 and families in the dependency system, make systemic improvements, and  
35 improve resource allocation decisions.

36  
37 **(e) Use of data after CCMS implementation**

38  
39 On implementation of CCMS, the AOC must:

- 40  
41 (1) Use the data submitted under (c)(3) to conduct ongoing testing, refining, and  
42 updating of the information in the *Implementation Guide to Juvenile*  
43 *Dependency Court Performance Measures*;



1 (j) **Acceptability in the courts**

2  
3 (1) In all actions for child or family support brought by or otherwise involving the  
4 local child support agency under title IV-D of the Social Security Act, the  
5 Department of Child Support Services' California Guideline Child Support  
6 Calculator software program must be used by:

7  
8 (A) Parties and attorneys to present support calculations to the court; and

9  
10 (B) The court to prepare support calculations.

11  
12 (2) In all non-title IV-D proceedings, the All-courts may use and must permit  
13 parties or attorneys to use any software certified by the Judicial Council under  
14 this rule.

15  
16 *(Subd (j) amended effective January 1, 2009; adopted as subd (k) effective January 1, 2000;*  
17 *previously relettered effective January 1, 2003.)*

18  
19 *Rule 5.275 amended effective January 1, 2009; adopted as rule 1258 effective December 1, 1993;*  
20 *previously amended effective January 1, 2000, and January 1, 2007; previously amended and*  
21 *renumbered effective January 1, 2003.*

22  
23 **Rule 5.552. Confidentiality of records (§§ 827, 828)**

24  
25 (a) \*\*\*

26  
27 (b) ~~Inspection~~ **General provisions**

28  
29 (1) ~~Only those persons specified in sections 827 and 828 may inspect, but may not~~  
30 ~~copy, juvenile court records without authorization from the court. The~~  
31 ~~following individuals and entities may inspect, receive, and copy the juvenile~~  
32 ~~case file without an order of the juvenile court:~~

33  
34 (A) ~~Counsel who are entitled to inspect juvenile court records include any~~  
35 ~~trial court or appellate attorney representing a party in the juvenile court~~  
36 ~~proceeding. Court personnel;~~

37  
38 (B) The district attorney, a city attorney, or a city prosecutor authorized to  
39 prosecute criminal or juvenile cases under the law;

40  
41 (C) The child who is the subject of the proceeding;

42  
43 (D) The child's parents;

- 1 (E) The child’s guardians;  
2  
3 (F) The attorneys for the parties, including any trial court or appellate  
4 attorney representing a party in the juvenile proceeding or related  
5 appellate proceeding;  
6  
7 (G) Judges, referees, other hearing officers, probation officers, and law  
8 enforcement officers who are actively participating in criminal or  
9 juvenile proceedings involving the child;  
10  
11 (H) The county counsel, city attorney, or any other attorney representing the  
12 petitioning agency in a dependency action;  
13  
14 (I) Members of child protective agencies as defined in Penal Code section  
15 11165.9; and  
16  
17 (J) The California Department of Social Services in order to carry out its  
18 duty to oversee and monitor county child welfare agencies, children in  
19 foster care or receiving foster-care assistance, and out- of-state  
20 placements.  
21  
22 (2) The following individuals and entities may inspect the juvenile case file  
23 without a court order and may receive a copy of the juvenile case file pursuant  
24 to a court order:  
25  
26 (A) All persons and entities listed in Welfare and Institutions Code sections  
27 827 and 828 who are not listed in (b)(1) above; and  
28  
29 (B) An Indian child’s tribal representative if the tribe has intervened in the  
30 child’s case.  
31  
32 ~~(B)~~(3) Authorization for any other person or entity to inspect, obtain, or copy  
33 juvenile ~~court records~~ case files may be ordered only by the juvenile court  
34 presiding judge or a judicial officer of the juvenile court.  
35  
36 ~~(C)~~ The child, the child’s attorney, the child’s parents and their attorneys, the  
37 child’s social worker, the county counsel, and a child’s identified Indian  
38 tribe, can obtain a copy of a juvenile case file document that was  
39 previously disseminated during the proceedings, while the case is  
40 pending.  
41  
42 ~~(D)~~(4) Juvenile ~~court records~~ case files may not be obtained or inspected by  
43 civil or criminal subpoena.

1  
2 (E) ~~In determining whether to authorize inspection or release of juvenile~~  
3 ~~court records, in whole or in part, the court must balance the interests of~~  
4 ~~the child and other parties to the juvenile court proceedings, the interests~~  
5 ~~of the petitioner, and the interests of the public.~~

6  
7 (F) ~~The court may permit disclosure of, discovery of, or access to juvenile~~  
8 ~~court records or proceedings only insofar as is necessary, and only if~~  
9 ~~there is a reasonable likelihood that the records in question will disclose~~  
10 ~~information or evidence of substantial relevance to the pending~~  
11 ~~litigation, investigation, or prosecution.~~

12  
13 (G) ~~The court may issue protective orders to accompany authorized~~  
14 ~~disclosure, discovery, or access.~~

15  
16 (2)(5) When a petition is sustained for any offense listed in section 676, the  
17 charging petition, the minutes of the proceeding, and the orders of  
18 adjudication and disposition that are contained in the ~~court~~ juvenile case file  
19 must be available for public inspection, unless the court has prohibited  
20 disclosure of those records under that section.

21  
22 *(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2004, and*  
23 *January 1, 2007.)*

24  
25 (c) \*\*\*

26  
27 (d) **Notice of petition for disclosure**

28  
29 (1) At least ~~five~~ 10 days before the petition is submitted to the court, the petitioner  
30 must personally or by first-class mail serve, or attempt to serve, a copy of the  
31 ~~petition~~ *Request for Disclosure of Juvenile Case File* (form JV-570), *Notice of*  
32 *Request for Disclosure of Juvenile Case File* (form JV-571), and a blank copy  
33 of *Objection to Release of Juvenile Case File* (form JV-572) on the following:

34  
35 (A) The county counsel, city attorney, or any other attorney representing the  
36 petitioning agency in a dependency action if the child's petition was filed  
37 under section 300;

38  
39 (B) The district attorney if the child's petition was filed under section 601 or  
40 602;

41  
42 (C) The child;

1 (D) The attorney of record for the child who remains a ward or dependent of  
2 the court;

3  
4 (E) The parents or guardian of the child if:

5  
6 (i) The child who is under 18 years of age or if a dependency petition (§  
7 300 et seq.) was filed regarding the child ; or

8  
9 (ii) The child's petition was filed under section 300;

10  
11 (F) The guardians of the child if:

12  
13 (i) The child is under 18 years of age; or

14  
15 (ii) The child's petition was filed under section 300;

16  
17 (G) The probation department or child welfare services program agency, or  
18 both, if applicable.;

19  
20 (H) The Indian child's tribe; and

21  
22 (I) The child's CASA volunteer.

23  
24 (2) The petitioner must complete *Proof of Service—Request for Disclosure* (form  
25 JV-569) and file it with the court.

26  
27 (3) If the petitioner does not know the identity or address of any of the parties in  
28 (d)(1) above, the clerk must:

29  
30 (A) Serve personally or by first-class mail to the last known address a copy  
31 of *Request for Disclosure of Juvenile Case File* (form JV-570), *Notice of*  
32 *Request for Disclosure of Juvenile Case File* (form JV-571), and a blank  
33 copy of *Objection to Release of Juvenile Case File* (form JV-572); and

34  
35 (B) Complete *Proof of Service—Request for Disclosure* (form JV-569) and  
36 file it with the court.

37  
38 (4) For good cause, the court may, on the motion of the person seeking the order  
39 or on its own motion, shorten the time for service of the petition for  
40 disclosure.

41  
42 (Subd (d) amended effective January 1, 2009; previously amended effective January 1, 2007.)



1 (e) Procedure  
2

3 (1) The court must review the petition and, ~~grant or~~ if petitioner does not show  
4 good cause, deny it summarily;  
5

6 (2) ~~or~~ If petitioner shows good cause, the court may set a hearing. The clerk must  
7 notice ~~all parties of the hearing;~~ to the persons and entities listed in (d)(1)  
8 above.~~If at the hearing~~  
9

10 (3) Whether or not the court holds a hearing, if the court determines that there  
11 may be information or documents in the records sought to which the petitioner  
12 may be entitled, ~~review of records must be in camera and~~ the juvenile court  
13 judicial officer must conduct an in camera review of the juvenile case file and  
14 any objections and assume that all legal claims of privilege are asserted.  
15

16 (4) In determining whether to authorize inspection or release of juvenile case  
17 files, in whole or in part, the court must balance the interests of the child and  
18 other parties to the juvenile court proceedings, the interests of the petitioner,  
19 and the interests of the public.  
20

21 (5) If the court grants the petition, the court must find that the need for discovery  
22 outweighs the policy considerations favoring confidentiality of juvenile case  
23 files. The confidentiality of juvenile case files is intended to protect the  
24 privacy rights of the child.  
25

26 (6) The court may permit disclosure of juvenile case files only insofar as is  
27 necessary, and only if petitioner shows by a preponderance of the evidence  
28 that the records requested are necessary and have substantial relevance to the  
29 legitimate need of the petitioner.  
30

31 (7) If, after in-camera review and review of any objections, the court determines  
32 that all or a portion of the ~~records~~ juvenile case file may be disclosed, the  
33 court must make appropriate orders, specifying the information to be disclosed  
34 and the procedure for providing access to it.  
35

36 (8) The court may issue protective orders to accompany authorized disclosure,  
37 discovery, or access.  
38

39 *(Subd (e) amended effective January 1, 2009; previously amended effective January 1, 2007.)*  
40

41 ~~(f) Case files of deceased dependent child~~  
42

1 Case files pertaining to a deceased child who was within the jurisdiction of the  
2 juvenile court under section 300 must be released to the public by order of the court  
3 following procedures in (b) and (c) of this rule. If the court orders the release of  
4 case files pertaining to a deceased child, any information regarding the child or that  
5 could identify a child other than the deceased must be redacted from the case file  
6 before its release, absent a specific order to the contrary. The presiding judge of the  
7 juvenile court may prohibit or limit access to a juvenile court file of a deceased  
8 child if such a release would be detrimental to the safety, protection, or physical or  
9 mental well-being of another child who is directly or indirectly connected to the  
10 deceased child's case.

11  
12 ~~(g)~~ (f) \*\*\*

13  
14 *(Subd (f) relettered effective January 1, 2009; adopted as subd (f) effective January 1, 1994;*  
15 *previously relettered as subd (g) effective January 1, 2001; previously amended effective January*  
16 *1, 2007.)*

17  
18 ~~(h)~~ (g) \*\*\*

19  
20 *(Subd (g) relettered effective January 1, 2009; adopted as subd (g) effective July 1, 1995;*  
21 *previously relettered effective as subd (h) effective January 1, 2001; previously amended effective*  
22 *January 1, 2007.)*

23  
24 ~~(i)~~ (h) \*\*\*

25  
26 *(Subd (h) relettered effective January 1, 2009; adopted as subd (f) effective July 1, 1992;*  
27 *previously relettered as subd (g) effective January 1, 1994, and as subd (i) effective January 1,*  
28 *2001; previously amended and relettered as subd (h) effective July 1, 1995; previously amended*  
29 *effective January 1, 2007.)*

30  
31 *Rule 5.552 amended effective January 1, 2009; adopted as rule 1423 effective July 1, 1992; previously*  
32 *amended effective January 1, 1994, July 1, 1995, July 1, 1997, January 1, 2001, and January 1, 2004;*  
33 *previously amended and renumbered effective January 1, 2007.*

34  
35 **Advisory Committee Comment**

36  
37 ~~In 1990, the Judicial Council Advisory Committee on Juvenile Court Law assumed the responsibility for~~  
38 ~~drafting a rule of court to address the issue of confidentiality of juvenile court records. The committee~~  
39 ~~received requests from throughout the state for clarification of sections 827 and 828. County counsel,~~  
40 ~~district attorneys, and representatives of probation departments and child welfare services programs, as~~  
41 ~~well as judicial officers, expressed a need for guidance in this area.~~

42  
43 ~~Some counties have developed their own protocols for access to and release of records; others handle the~~  
44 ~~issue on a case-by-case basis with no clear guidelines regarding definitions or procedures. The rules and~~  
45 ~~forms subcommittee undertook a thorough analysis of the relevant statutes and cases interpreting them.~~  
46 ~~As subcommittee members examined the procedures set up in different jurisdictions, and the complex~~  
47 ~~issues presented, they agreed that the rule needed to define "juvenile court records."~~

1  
2 Once the definition was established, the primary concern was recognition of both the purposes of  
3 confidentiality protections and the legitimate interests that certain agencies and individuals may have in  
4 seeking access to identified materials. Essential to the process were the notice requirements and the  
5 procedure for the court to follow in assessing the merits of a request for disclosure or release. In order to  
6 make these considerations as clear and structured as possible, the subcommittee recommended that a  
7 petition form also be prepared.

8  
9 Proposed rule 5.552 and proposed *Petition for Disclosure of Juvenile Court Records* (form JV 570) were  
10 drafted and circulated for comment. There were many responses, all of which were carefully considered  
11 by the committee as a whole, and several suggestions and amendments were incorporated. The comments  
12 universally welcomed the addition of the rule and the formalization of a procedure through the use of the  
13 form.

14  
15 The rule does not attempt to set forth a procedure for access to records protected under other statutes or to  
16 include documents or materials not specifically under the authority of the juvenile court. Thus, the files  
17 maintained by probation departments and child welfare services programs may be the subject of a JV 570  
18 petition to disclose only if a section 300, 601, or 602 petition concerning the subject child has been filed  
19 in juvenile court at some time (before, after, or concurrent with the acquisition of the materials in the  
20 files). The protection of reports of suspected child abuse is recognized and specifically identified in (f) of  
21 the rule. (Reference to Pen. Code, § 11165 et seq.)

22  
23 Notice to the subject child that his or her records are being sought is fundamental, as is notice to the  
24 parents of a child who has not reached majority. Because dependency files contain many references to  
25 and details of family issues, notice to parents of children on whom section 300 petitions were filed is also  
26 mandated. Because their records are most commonly the subjects of such requests, the probation  
27 department and child welfare services program were added to the list of persons and agencies requiring  
28 notice. Although some commentators questioned the requirement of notice to both the county counsel and  
29 the district attorney because there are frequent “cross overs” of purposes of disclosure, it was felt that  
30 notice to both offices would assure the court that all those interested in the records would have an  
31 opportunity to respond to the petition.

32  
33 Because these are confidential records and the protection of the interest of the child is paramount, specific  
34 procedural safeguards are appropriate.

### 35 36 37 **Rule 5.553. Juvenile case file of a deceased child**

38  
39 When the juvenile case file of a deceased child is sought, the court must proceed as  
40 follows:

- 41  
42 (1) Under section 827(a)(2) if the request is made by a member of the public; or  
43  
44 (2) Under section 16502.5 if the request is made by a county board of supervisors.

45  
46 *Rule 5.553 adopted effective January 1, 2009.*  
47

1  
2 **Rule 5.570. Request to change court order**

3  
4 **(a) Contents of petition (§§ 388, 778)**

5  
6 A petition for modification must be liberally construed in favor of its sufficiency.  
7 The petition must be verified and, to the extent known to the petitioner, must  
8 contain the following:

9  
10 (1)–(3) \*\*\*

11  
12 (4) The address of the child, unless confidential under ~~(b)~~(c);

13  
14 (5) The name and residence address of the parent or guardian or an adult relative  
15 of the child, if appropriate ~~under circumstances described in rule 5.524 to~~  
16 receive notice following the procedures found in Welfare and Institutions  
17 Code sections 291 and 297(c);

18  
19 (6)–(10) \*\*\*

20  
21 *(Subd (a) amended effective January 1, 2009; previously amended effective July 1, 2002, and*  
22 *January 1, 2007.)*

23  
24 **(b)–(i) \*\*\***

25  
26 *Rule 5.570 amended effective January 1, 2009; adopted as rule 1432 effective January 1, 1991;*  
27 *previously amended effective January 1, 1992, July 1, 1995, July 1, 2000, July 1, 2002, and January 1,*  
28 *2003; previously amended and renumbered effective January 1, 2007.*

29  
30  
31 **Rule 5.600. Writ petition after orders setting hearing under section 366.26; appeal**

32  
33 **(a)–(e) \*\*\***

34  
35 **(f) Record**

36  
37 Immediately on the filing of the notice of intent to file a writ petition and request for  
38 record, the clerk of the juvenile court must assemble the record:

39  
40 (1) \*\*\*

41  
42 (2) Preparing the clerk’s transcript under rule ~~8.616(a)~~ 8.450(g).

43  
44 \*\*\*

1  
2 (Subd (f) amended effective January 1, 2009; adopted as subd (f) effective January 1, 1995;  
3 previously amended effective January 1, 1996; previously amended and relettered as subd (h)  
4 effective January 1, 2006, and as subd (f) effective January 1, 2007.)  
5

6 **(g)–(j) \*\*\***  
7

8 *Rule 5.600 amended effective January 1, 2009; adopted as rule 1436.5 effective January 1, 1995;*  
9 *previously amended effective July 1, 1995, January 1, 1996, and July 1, 2006; previously amended and*  
10 *renumbered effective January 1, 2007.*  
11

12  
13 **Rule 5.640. Psychotropic medications**  
14

15 **(a) Definition (§§ ~~369.5(b)~~369.5(d), 739.5(d))**  
16

17 \*\*\*  
18

19 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2007.)*  
20

21 **(b) Authorization to administer (§§ 369.5, 739.5)**  
22

23 (1) Once a child is declared a dependent child of the court and is removed from  
24 the custody of the parents or guardian, only a juvenile court judicial officer is  
25 authorized to make orders regarding the administration of psychotropic  
26 medication to the child.  
27

28 (2) Once a child is declared a ward of the court, removed from the custody of the  
29 parents or guardian, and placed into foster care, as defined in Welfare and  
30 Institutions Code section 727.4, only a juvenile court judicial officer is  
31 authorized to make orders regarding the administration of psychotropic  
32 medication to the child.  
33

34 *(Subd (b) amended effective January 1, 2009.)*  
35

36 **(c) Procedure to obtain authorization**  
37

38 (1) *Application Regarding Psychotropic Medication* (form JV-220), *Prescribing*  
39 *Physician’s Statement—Attachment* (form JV-220(A)), *Proof of Notice:*  
40 *Application Regarding Psychotropic Medication* (form JV-221), *Opposition to*  
41 *Application Regarding Psychotropic Medication* (form JV-222), and *Order*  
42 *Regarding Application for Psychotropic Medication* (form JV-223) must be  
43 used to obtain authorization to administer psychotropic medication to a  
44 dependent child of the court who is removed from the custody of the parents

1 or guardian, or to a ward of the court who is removed from the custody of the  
2 parents or guardian and placed into foster care.

3  
4 (2)–(4) \*\*\*

5  
6 (5) *Application Regarding Psychotropic Medication* (form JV-220) may be  
7 completed by the prescribing physician, medical office staff, child welfare  
8 services staff, probation officer, or the child’s caregiver. The physician  
9 prescribing the administration of psychotropic medication for the ~~dependent~~  
10 child must complete and sign *Prescribing Physician’s Statement—Attachment*  
11 (form JV-220(A)).

12  
13 (6)–(8) \*\*\*

14  
15 (9) The court may grant the application without a hearing or may set the matter  
16 for hearing at the court’s discretion. If the court sets the matter for a hearing,  
17 the clerk of the court must provide notice of the date, time, and location of the  
18 hearing to the parents or legal guardians, their attorneys of record, the  
19 dependent child if 12 years of age or older, a ward of the juvenile court of any  
20 age, the child’s attorney of record, the child’s current caregiver, the child’s  
21 social worker, the social worker’s attorney of record, the child’s Child Abuse  
22 Prevention and Treatment Act guardian ad litem, and the child’s Court  
23 Appointed Special Advocate, if any, at least two court days before the hearing.  
24 Notice must be provided to the child’s probation officer and the district  
25 attorney, if the child is a ~~delinquent child~~ ward of the juvenile court.

26  
27 *(Subd (c) amended effective January 1, 2009; previously amended effective January 1, 2007, and*  
28 *January 1, 2008.)*

29  
30 (d)–(g) \*\*\*

31  
32 **(h) Section 601–602 wardships; local rules**

33  
34 A local rule of court may be adopted providing that authorization for the  
35 administration of such medication to a child declared a ward of the court under  
36 sections 601 and 602 and removed from the custody of the parent or guardian for  
37 placement in a facility that is not considered a foster-care placement may be  
38 similarly restricted to the juvenile court. If the local court adopts such a local rule,  
39 then the procedures under this rule apply; any reference to social worker also  
40 applies to probation officer.

41  
42 *(Subd (h) amended effective January 1, 2009; adopted as subd (i) effective January 1, 2001;*  
43 *previously amended effective January 1, 2007; previously relettered effective January 1, 2008.)*

1  
2 *Rule 5.640 amended effective January 1, 2009; adopted as rule 1432.5 effective January 1, 2001;*  
3 *previously amended effective January 1, 2003, and January 1, 2008; previously amended and*  
4 *renumbered effective January 1, 2007.*

5  
6  
7 **Rule 5.645. Mental health or condition of child; court procedures**

8  
9 **(a)–(b) \*\*\***

10  
11 **(c) Findings regarding mental retardation (§ 6551)**

12  
13 Article ~~I~~ 1 of chapter 2 of part 1 of division 5 (commencing with section 5150)  
14 applies.

15  
16 **(1)–(3) \*\*\***

17  
18 *(Subd (c) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

19  
20 **(d) \*\*\***

21  
22 *Rule 5.645 amended effective January 1, 2009; adopted as rule 1498 effective January 1, 1999;*  
23 *previously amended and renumbered effective January 1, 2007.*

24  
25  
26 **Rule 5.690. General conduct of disposition hearing**

27  
28 **(a)–(b) \*\*\***

29  
30 **(c) Case plan (§ 16501.1)**

31  
32 Whenever child welfare services are provided, the social worker must prepare a  
33 case plan.

34  
35 **(1)** A written case plan ~~must~~ must be completed and filed with the court by the  
36 date of disposition or within 60 calendar days of initial removal or of the in-  
37 person response required under section 16501(f) if the child has not been  
38 removed from his or her home, whichever occurs first.

39  
40 **(2)–(3) \*\*\***

41  
42 *(Subd (c) amended effective January 1, 2009; adopted effective January 1, 2007.)*

1 *Rule 5.690 amended effective January 1, 2009; adopted as rule 1455 effective January 1, 1991;*  
2 *previously amended effective July 1, 1995, and January 1, 2000; previously amended and renumbered*  
3 *effective January 1, 2007.*

4  
5  
6 **Rule 5.725. Selection of permanent plan (§§ 366.26, 727.31)**

7  
8 **(a) Application of rule**

9  
10 This rule applies to children who have been declared dependents or wards of the  
11 juvenile court.

12  
13 (1) ~~For those dependents,~~ Only section 366.26 and division 12, part 3, chapter 5  
14 (commencing with section 7660) of the Family Code or Family Code sections  
15 8604, 8605, 8606, and 8700 apply for the termination of parental rights. Part 4  
16 (commencing with section 7800) of division 12 of the Family Code, ~~or former~~  
17 ~~Civil Code section 232,~~ does not apply.

18  
19 (2) The court may not terminate the rights of only one parent under section 366.26  
20 unless that parent is the only surviving parent; or unless the rights of the other  
21 parent have been terminated under ~~former Civil Code section 224, 224m, 232,~~  
22 ~~or 7017,~~ or division 12, part 3, chapter 5 (commencing with section 7660), or  
23 division 12, part 4 (commencing with section 7800) ~~of division 12~~ of the  
24 Family Code, or Family Code sections 8604, 8605, or 8606; or unless the  
25 other parent has relinquished custody of the child to the welfare department.

26  
27 (3) \*\*\*

28  
29 (4) For termination of the parental rights of an Indian child, the procedures in this  
30 rule and in rule 5.485 must be followed.

31  
32 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 1994, July*  
33 *1, 2002, and January 1, 2007.*

34  
35 **(b)–(d) \*\*\***

36  
37 **(e) Conduct of hearing**

38  
39 At the hearing, the court must state on the record that the court has read and  
40 considered the report of petitioner, the report of any CASA volunteer, the case plan  
41 submitted for this hearing, any report submitted by the child’s caregiver under  
42 section 366.21(d), and any other evidence, and must proceed as follows:  
43



1 (1) Order parental rights terminated and the child placed for adoption if the court  
2 determines, by clear and convincing evidence, that it is likely the child will be  
3 adopted, unless:  
4

5 (A) \*\*\*  
6

7 (B) The child is living with a relative who is unable or unwilling to adopt the  
8 child because of circumstances that do not include an unwillingness to  
9 accept legal or financial responsibility for the child, but who is willing  
10 and capable of providing the child with a stable and permanent  
11 environment through legal guardianship, and removal from the home of  
12 the relative would be detrimental to the emotional well-being of the  
13 child. For an Indian child, “relative” includes an “extended family  
14 member,” as defined in the federal Indian Child Welfare Act (25 U.S.C.  
15 §1903(2)); or  
16

17 ~~(B)~~ (C) The court finds a compelling reason to determine that termination  
18 would be detrimental to the child because of the existence of one of the  
19 following circumstances:  
20

21 (i)–(iii) \*\*\*  
22

23 (iv) The child is living with a ~~relative or~~ foster parent or Indian  
24 custodian who is unable or unwilling to adopt the child because of  
25 exceptional circumstances, but who is willing and capable of  
26 providing the child with a stable and permanent home, and removal  
27 from the home of the ~~relative or~~ foster parent or Indian custodian  
28 would be detrimental to the emotional well-being of the child. This  
29 exception does not apply to (1) a child under 6 or (2) a child who  
30 has a sibling under 6 who is also a dependent and with whom the  
31 child should be placed permanently; or  
32

33 (v) \*\*\*  
34

35 (2)–(9) \*\*\*  
36

37 *(Subd (e) amended effective January 1, 2009; repealed and adopted as subd (c) effective January*  
38 *1, 1991; previously amended and relettered as subd (d) effective January 1, 1992, and as subd (e)*  
39 *effective January 1, 2005; previously amended effective July 1, 1994, January 1, 1999, July 1,*  
40 *1999, July 1, 2002, January 1, 2006, and January 1, 2007.)*  
41

42 (f)–(i) \*\*\*  
43

1 Rule 5.725 amended effective January 1, 2009; repealed and adopted as rule 1463 effective January 1,  
2 1991; previously amended effective January 1, 1992, July 1, 1992, January 1, 1994, July 1, 1994,  
3 January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, July 1, 2002, January 1, 2005,  
4 and January 1, 2006; previously amended and renumbered effective January 1, 2007.  
5  
6

7 **Rule 5.772. Conduct of fitness hearings under sections 707(a)(2) and 707(c)**  
8

9 **(a)–(g) \*\*\***

10  
11 **(h) Continuance to seek review**  
12

13 If the prosecuting attorney informs the court orally or in writing that a review of a  
14 finding of fitness will be sought and requests a continuance of the jurisdiction  
15 hearing, the court must grant a continuance for not less than 2 judicial days to allow  
16 time within which to obtain a stay of further proceedings from the reviewing judge  
17 or appellate court.  
18

19 *(Subd (h) amended effective January 1, 2009; adopted as subd (f) effective January 1, 1991;*  
20 *previously relettered as subd (g) effective January 1, 1996; previously amended and relettered*  
21 *effective January 1, 2001; previously amended effective January 1, 2007.)*  
22

23 **(i)–(j) \*\*\***

24  
25 *Rule 5.772 amended effective January 1, 2009; adopted as rule 1483 effective January 1, 1991;*  
26 *previously amended effective January 1, 1996, and January 1, 2001; previously amended and*  
27 *renumbered effective January 1, 2007.*  
28  
29

30 **Rule 7.1011. Taking possession of an asset of the ward at an institution or opening**  
31 **or changing ownership of an account or safe-deposit box in a financial**  
32 **institution**  
33

34 **(a) Definitions**  
35

36 As used in this rule, the following terms have the meanings stated below:  
37

38 **(1) An “institution” is an insurance company, insurance broker, insurance agent,**  
39 **investment company, investment bank, securities broker-dealer, investment**  
40 **advisor, financial planner, financial advisor, or any other person who takes,**  
41 **holds, or controls an asset subject to a guardianship that is not a “financial**  
42 **institution” within the meaning of this rule;**  
43

- 1 (2) A “financial institution” is a bank, trust (except as provided in (d)), savings  
2 and loan association, savings bank, industrial bank, or credit union; and  
3  
4 (3) “Taking possession” or “taking control” of an asset held or controlled by an  
5 institution includes changing title to the asset, withdrawing all or any portion  
6 of the asset, or transferring all or any portion of the asset from the institution.  
7

8 **(b) Responsibilities of the guardian when taking possession or control of an asset**  
9 **of the ward at an institution**

10  
11 When taking possession or control of an asset held by an institution in the name of  
12 the ward, the temporary or general guardian of the estate must provide the following  
13 to the institution:  
14

- 15 (1) A certified copy of the guardian’s *Letters of Temporary Guardianship or*  
16 *Conservatorship* (form GC-150) or *Letters of Guardianship* (form GC-250)  
17 containing the Notice to Institutions and Financial Institutions on the second  
18 page; and  
19  
20 (2) A blank copy of a *Notice of Taking Possession or Control of an Asset of*  
21 *Minor or Conservatee* (form GC-050).  
22

23 **(c) Responsibilities of the guardian when opening or changing the name on an**  
24 **account or a safe-deposit box in a financial institution**

25  
26 When opening or changing the name on an account or a safe-deposit box in a  
27 financial institution, the temporary or general guardian of the estate must provide  
28 the following to the financial institution:  
29

- 30 (1) A certified copy of the guardian’s *Letters of Temporary Guardianship or*  
31 *Conservatorship* (form GC-150) or *Letters of Guardianship* (form GC-250)  
32 containing the Notice to Institutions and Financial Institutions on the second  
33 page; and  
34  
35 (2) A blank copy of a *Notice of Opening or Changing a Guardianship or*  
36 *Conservatorship Account or Safe-Deposit Box* (form GC-051).  
37

38 **(d) Application of this rule to trust arrangements**

39  
40 This rule applies to Totten trust accounts but does not apply to any other trust  
41 arrangement described in Probate Code section 82(b).  
42

43 *Rule 7.1011 adopted effective January 1, 2009.*

1  
2  
3 **Rule 7.1012. The good cause exception to notice of the hearing on a petition for**  
4 **appointment of a temporary guardian**

5  
6 **(a) Purpose**

7  
8 The purpose of this rule is to establish uniform standards for the good cause  
9 exception to the notice of the hearing required on a petition for appointment of a  
10 temporary guardian under Probate Code section 2250~~(e)~~(e).

11  
12 *(Subd (a) amended effective January 1, 2009.)*

13  
14 **(b) Good cause for exceptions to notice limited**

15  
16 Good cause for an exception to the notice required by section 2250~~(e)~~(e) must be  
17 based on a showing that the exception is necessary to protect the proposed ward or  
18 his or her estate from immediate and substantial harm.

19  
20 *(Subd (b) amended effective January 1, 2009.)*

21  
22 **(c) Court may waive or change the time or manner of giving notice**

23  
24 An exception to the notice requirement of section 2250~~(e)~~(e) may include one or  
25 any combination of the following:

26  
27 (1)–(3) \*\*\*

28  
29 *(Subd (c) amended effective January 1, 2009.)*

30  
31 **(d) Good cause exceptions to notice**

32  
33 Good cause for an exception to the notice requirement of section 2250~~(e)~~(e) may  
34 include a showing of:

35  
36 (1)–(5) \*\*\*

37  
38 *(Subd (d) amended effective January 1, 2009.)*

39  
40 **(e) Contents of request for good cause exception to notice**

41  
42 (1) When the temporary guardianship petition is prepared on the *Petition for*  
43 *Appointment of Temporary Guardian* (form GC-110), a request for a good

1 cause exception to the notice requirement of section 2250~~(e)~~(e) must be in  
2 writing, separate from the petition for appointment of a temporary guardian,  
3 and must include:

4  
5 ~~(1)~~(A) An application containing the case caption and stating the relief  
6 requested;

7  
8 ~~(2)~~(B) An affirmative factual showing in support of the application in a  
9 declaration under penalty of perjury containing competent testimony  
10 based on personal knowledge;

11  
12 ~~(3)~~(C) A declaration under penalty of perjury based on personal  
13 knowledge containing the information required for an ex parte  
14 application under rule 3.1204(b); and

15  
16 ~~(4)~~ A memorandum; and

17  
18 ~~(5)~~(D) A proposed order.

19  
20 (2) When the temporary guardianship petition is prepared on the *Petition for*  
21 *Appointment of Temporary Guardian of the Person* (form GC-110(P)), a  
22 request for a good cause exception to the notice requirement of section  
23 2250(e) may be included in the petition.

24  
25 *(Subd (e) amended effective January 1, 2009.)*

26  
27 *Rule 7.1012 amended effective January 1, 2009; adopted effective January 1, 2008.*

28  
29  
30 **Rule 7.1061. Taking possession of an asset of the conservatee at an institution or**  
31 **opening or changing ownership of an account or safe-deposit box in a financial**  
32 **institution**

33  
34 **(a) Definitions**

35  
36 As used in this rule, the following terms have the meanings stated below:

37  
38 (1) An “institution” is an insurance company, insurance broker, insurance agent,  
39 investment company, investment bank, securities broker-dealer, investment  
40 advisor, financial planner, financial advisor, or any other person who takes,  
41 holds, or controls an asset subject to a guardianship that is not a “financial  
42 institution” within the meaning of this rule;

- 1           (2) A “financial institution” is a bank, trust (except as provided in (d)), savings  
2           and loan association, savings bank, industrial bank, or credit union; and  
3  
4           (3) “Taking possession” or “taking control” of an asset held or controlled by an  
5           institution includes changing title to the asset, withdrawing all or any portion  
6           of the asset, or transferring all or any portion of the asset from the institution.  
7

8   **(b) Responsibilities of the conservator when taking possession or control of an**  
9   **asset of the conservatee at an institution**

10  
11   When taking possession or control of an asset held by an institution in the name of  
12   the conservatee, the temporary, general, or limited conservator of the estate must  
13   provide the following to the institution:  
14

- 15   (1) A certified copy of the conservator’s *Letters of Temporary Guardianship or*  
16   *Conservatorship* (form GC-150) or *Letters of Conservatorship* (form GC-350)  
17   containing the Notice to Institutions and Financial Institutions on the second  
18   page; and  
19  
20   (2) A blank copy of a *Notice of Taking Possession or Control of an Asset of*  
21   *Minor or Conservatee* (form GC-050).  
22

23   **(c) Responsibilities of the conservator when opening or changing the name on an**  
24   **account or a safe-deposit box at a financial institution**

25  
26   When opening or changing the name on an account or a safe-deposit box in a  
27   financial institution, the temporary, general, or limited conservator of the estate  
28   must provide the following to the financial institution:  
29

- 30   (1) A certified copy of the guardian’s *Letters of Temporary Guardianship or*  
31   *Conservatorship* (form GC-150) or *Letters of Conservatorship* (form GC-350)  
32   containing the Notice to Institutions and Financial Institutions on the second  
33   page; and  
34  
35   (2) A blank copy of a *Notice of Opening or Changing a Guardianship or*  
36   *Conservatorship Account or Safe-Deposit Box* (form GC-051).  
37

38   **(d) Application of this rule to Totten trust accounts**

39  
40   This rule applies to Totten trust accounts but does not apply to any other trust  
41   arrangement described in Probate Code section 82(b).  
42

43   Rule 7.1061 adopted effective January 1, 2009.

1  
2  
3 **Rule 7.1062. The good cause exception to notice of the hearing on a petition for**  
4 **appointment of a temporary conservator**

5  
6 **(a) Purpose**

7  
8 The purpose of this rule is to establish uniform standards for the good cause  
9 exception to the notice of the hearing required on a petition for appointment of a  
10 temporary conservator under Probate Code section 2250~~(e)~~(e).

11  
12 *(Subd (a) amended effective January 1, 2009.)*

13  
14 **(b) Good cause for exceptions to notice limited**

15  
16 Good cause for an exception to the notice required by section 2250~~(e)~~(e) must be  
17 based on a showing that the exception is necessary to protect the proposed  
18 conservatee or his or her estate from immediate and substantial harm.

19  
20 *(Subd (b) amended effective January 1, 2009.)*

21  
22 **(c) \*\*\***

23  
24 **(d) Good cause exceptions to notice**

25  
26 Good cause for an exception to the notice requirement of section 2250~~(e)~~(e) may  
27 include a showing of:

28  
29 (1)–(4) \*\*\*

30  
31 *(Subd (d) amended effective January 1, 2009.)*

32  
33 **(e) Contents of request for good cause exception to notice**

34  
35 A request for a good cause exception to the notice requirement of section 2250~~(e)~~(e)  
36 must be in writing, separate from the petition for appointment of a temporary  
37 conservator, and must include:

38  
39 (1)–(2) \*\*\*

40  
41 (3) A declaration under penalty of perjury based on personal knowledge  
42 containing the information required for an ex parte application under rule  
43 3.1204(b); and

1  
2 (4) — A memorandum; and

3  
4 (5)(4) A proposed order.

5  
6 (Subd (e) amended effective January 1, 2009.)

7  
8 Rule 7.1062 amended effective January 1, 2009; adopted effective January 1, 2008; previously amended  
9 effective July 1, 2008.

10  
11  
12 **Rule 7.1101. Qualifications and continuing education required of counsel appointed**  
13 **by the court in guardianships and conservatorships**

14  
15 **(a) Definitions**

16  
17 As used in this rule, the following terms have the meanings stated below:

18  
19 (1)–(6) \*\*\*

20  
21 (7) “Counsel in private practice” includes attorneys employed by or performing  
22 services under contracts with nonprofit organizations.

23  
24 (Subd (a) amended effective January 1, 2009.)

25  
26 **(b) Qualifications of appointed counsel in private practice**

27  
28 Except as provided in this rule, each counsel in private practice appointed by the  
29 court on or after January 1, 2008, must be an active member of the State Bar of  
30 California for at least three years immediately before the date of appointment, with  
31 no ~~disciplinary proceedings pending and no~~ discipline imposed within the 12  
32 months immediately preceding ~~the~~ any date of ~~first~~ availability for appointment  
33 after January 1, 2008; and

34  
35 (1)–(2) \*\*\*

36  
37 (3) Except as provided in (e)(2), private counsel qualified under (1) or (2) must  
38 also be covered by professional liability insurance satisfactory to the court in  
39 the amount of at least \$100,000 per claim and \$300,000 per year.

40  
41 (Subd (b) amended effective January 1, 2009.)

42  
43 **(c)–(d) \*\*\***



1 (e) **Exemption for small courts**

2  
3 (1) Except as provided in (2) and (3), the qualifications required under (b) or (c)  
4 may be waived by a court with four or fewer authorized judges if it cannot  
5 find qualified counsel or for other grounds of hardship.

6  
7 (2) A court described in (1) may, without a waiver, appoint counsel in private  
8 practice who do not satisfy the insurance requirements of (b)(3) if counsel  
9 demonstrate to the court that they are adequately self-insured.

10  
11 ~~(2)(3)~~ A court may not waive or disregard the ~~insurance or~~ self-insurance  
12 requirements of ~~(b)(3) or (c)(2)~~ applicable to deputy public defenders.

13  
14 ~~(3)(4)~~ A court waiving the qualifications required under (b) or (c) must make  
15 express written findings showing the circumstances supporting the waiver and  
16 disclosing all alternatives considered, including appointment of qualified  
17 counsel from adjacent counties and other alternatives not selected.

18  
19 *(Subd (e) amended effective January 1, 2009.)*

20  
21 (f) **Continuing education of appointed counsel**

22  
23 Beginning on January 1, 2008, counsel appointed by the court must complete three  
24 hours of education each calendar year that qualifies for ~~mandatory~~ Minimum  
25 Continuing Legal Education credit for State Bar-certified specialists in estate  
26 planning, trust, and probate law.

27  
28 *(Subd (f) amended effective January 1, 2009.)*

29  
30 (g) \*\*\*

31  
32 (h) **Initial certification of qualifications; and continuing education annual post-**  
33 **qualification reports and certifications**

34  
35 (1)–(2) \*\*\*

36  
37 (3) Each counsel appointed or eligible for appointment by the court under this rule  
38 must immediately advise the court of the imposition of any State Bar  
39 discipline.

40  
41 ~~(3)(4)~~ Beginning in 2009, each appointed counsel must certify to the court  
42 before the end of March of each year that:

1 (A) His or her history of State Bar discipline and professional liability  
2 insurance coverage or, if appointed by a court with four or fewer  
3 authorized judges under (e)(2), the adequacy of his or her self-insurance,  
4 either has or has not changed since the date of his or her qualification  
5 certification or last annual certification; and  
6

7 (B) He or she has completed the continuing education required for the  
8 preceding calendar year.  
9

10 (5) Annual certifications required under this subdivision showing changes in State  
11 Bar disciplinary history, professional liability insurance coverage, or adequacy  
12 of self-insurance must include descriptions of the changes.  
13

14 (4)(6) Certifications required under this subdivision must be submitted to the  
15 court but are not to be filed or lodged in a case file.  
16

17 *(Subd (h) amended effective January 1, 2009.)*  
18

19 (i) \*\*\*  
20

21 *Rule 7.1101 amended effective January 1, 2009; adopted effective January 1, 2008.*  
22  
23

## 24 **Rule 8.18. Documents violating rules not to be filed**

  
25

26 \*\*\*  
27

### 28 **Advisory Committee Comment**

  
29

30 The exception in this rule acknowledges that there are different rules that apply to certain nonconforming  
31 documents. For example, this rule does not apply to nonconforming or late briefs, which are addressed by  
32 rules 8.204(e) and 8.220(a), respectively, or to nonconforming supporting documents accompanying a  
33 writ petition under ~~rule 8.490~~ chapter 7, which are addressed by rule ~~8.490(d)(2)~~ 8.486(c)(2).  
34  
35

## 36 **Rule 8.25. Service and filing**

  
37

38 (a) \*\*\*  
39

40 (b) **Filing**  
41

42 (1) \*\*\*  
43

1 (2) ~~Except as provided in (3)~~ Unless otherwise provided by these rules or other  
2 law, a filing is not timely unless the clerk receives the document before the  
3 time to file it expires.

4  
5 (3)–(4) \*\*\*

6  
7 *(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

8  
9 *Rule 8.25 amended effective January 1, 2009; adopted as rule 40.1 effective January 1, 2005; previously*  
10 *amended and renumbered effective January 1, 2007.*

11  
12 **Advisory Committee Comment**

13  
14 **Subdivision (a).** Subdivision (a)(1) requires service “by any method permitted by the Code of Civil  
15 Procedure.” The reference is to the several permissible methods of service provided in Code of Civil  
16 Procedure sections 1010–1020. Information Sheet for Proof of Service (Court of Appeal) (form APP-009-  
17 INFO) provides additional information about how to serve documents and how to provide proof of  
18 service.

19  
20 **Subdivision (b)(2).** In general, to be filed on time, a document must be received by the clerk before the  
21 time for filing that document expires. There are, however, some limited exceptions to this general rule.  
22 For example, the rules currently provide that if the superior court clerk receives a notice of appeal in a  
23 criminal, juvenile, or conservatorship case or notice of intent in a juvenile dependency case by mail from  
24 a custodial institution after the deadline for filing the notice has expired but the envelope shows that the  
25 notice was mailed or delivered to custodial officials for mailing before the deadline expired, the notice is  
26 deemed timely (see rules 8.308(e), 8.400(f), 8.450(e)(5), 8.480(a)). These provisions reflect the “prison-  
27 delivery” exception articulated by the California Supreme Court in *In re Jordan* (1992) 4 Cal.4th 116.

28  
29  
30 **Rule 8.112. Petition for writ of supersedeas**

31  
32 (a)–(c) \*\*\*

33  
34 (d) **Issuing the writ**

35  
36 (1)–(2) \*\*\*

37  
38 (3) The court must notify the superior court, under rule ~~8.490(k)~~ 8.489, of any  
39 writ or temporary stay that it issues.

40  
41 *(Subd (d) amended effective January 1, 2009; previously amended effective January 1, 2007, and*  
42 *January 1, 2008.)*

43  
44 *Rule 8.112 amended effective January 1, 2009; repealed and adopted as rule 49 effective January 1,*  
45 *2005; previously amended and renumbered effective January 1, 2007; previously amended effective*  
46 *January 1, 2008.*

1  
2  
3 **Rule 8.200. Briefs by parties and amici curiae**  
4

5 **(a)–(b) \*\*\***  
6

7 **(c) Amicus curiae briefs**  
8

9 (1)–(2) \*\*\*  
10

11 (3) The application must also identify:  
12

13 (A) Any party or any counsel for a party in the pending appeal who:

14 (i) Authored the proposed amicus brief in whole or in part; or

15 (ii) Made a monetary contribution intended to fund the preparation or  
16 submission of the brief; and  
17

18 (B) Every person or entity who made a monetary contribution intended to  
19 fund the preparation or submission of the brief, other than the amicus  
20 curiae, its members, or its counsel in the pending appeal.  
21

22 ~~(3)~~(4) \*\*\*  
23

24 ~~(4)~~(5) \*\*\*  
25

26 ~~(5)~~(6) \*\*\*  
27

28 ~~(6)~~(7) The Attorney General may file an amicus curiae brief without the presiding  
29 justice’s permission, unless the brief is submitted on behalf of another state  
30 officer or agency. The Attorney General must serve and file the brief within  
31 14 days after the last appellant’s reply brief is filed or could have been filed  
32 under rule 8.212, whichever is earlier, and must provide the information  
33 required by (2) and comply with ~~(4)~~(5). Any party may serve and file an  
34 answer within 14 days after the brief is filed.  
35  
36

37  
38 *(Subd (c) amended effective January 1, 2009; adopted as subd (b) effective January 1, 2002;*  
39 *previously relettered effective January 1, 2003; previously amended effective January 1, 2007, and*  
40 *January 1, 2008.)*  
41

42 *Rule 8.200 amended effective January 1, 2009; repealed and adopted as rule 13 effective January 1,*  
43 *2002; previously amended and renumbered effective January 1, 2007; previously amended effective*  
44 *January 1, 2003, and January 1, 2008.*

1  
2 **Advisory Committee Comment**  
3

4 **Subdivision (b).** \*\*\*  
5

6 **Subdivision (c)(1).** The time within which a reply brief “could have been filed under rule 8.212” includes  
7 any authorized extension of the deadline specified in rule 8.212.  
8  
9

10 **Rule 8.208. Certificate of Interested Entities or Persons**  
11

12 **(a)–(c)** \*\*\*  
13

14 **(d) Serving and filing a certificate**  
15

16 (1) \*\*\*  
17

18 (2) If the identity of any party or any entity or person subject to disclosure under  
19 this rule has not been publicly disclosed in the proceedings and a party wants  
20 to keep that identity confidential, the party may serve and file an application  
21 for permission to file its certificate under seal separately from its principal  
22 brief, motion, application, or opposition. If the application is granted, the party  
23 must file the certificate under seal and without service within 10 days of the  
24 court’s order granting the application.  
25

26 ~~(2)~~(3) \*\*\*  
27

28 ~~(3)~~(4) \*\*\*  
29

30 *(Subd (d) amended effective January 1, 2009; adopted as subd (c) effective July 1, 2006; previously*  
31 *amended and relettered effective January 1, 2008.)*  
32

33 **(e) Contents of certificate**  
34

35 (1) \*\*\*  
36

37 (2) If a party knows of any ~~other~~ person or entity, other than the parties  
38 themselves, that has a financial or other interest in the outcome of the  
39 proceeding that the party reasonably believes the justices should consider in  
40 determining whether to disqualify themselves under canon 3E of the Code of  
41 Judicial Ethics, the party’s certificate must list that entity or person and  
42 identify the nature of the interest of the person or entity. For purposes of this  
43 subdivision:  
44

1 (A)–(B) \*\*\*

2  
3 (C) A party’s insurer does not have a financial interest in the outcome of the  
4 proceeding solely on the basis of its status as insurer for that party.

5  
6 (3) \*\*\*

7  
8 *(Subd (e) amended effective January 1, 2009; adopted as subd (d) effective July 1, 2006; previously*  
9 *amended effective January 1, 2007; previously relettered effective January 1, 2008.)*

10  
11 (f) \*\*\*

12  
13 *Rule 8.208 amended effective January 1, 2009; adopted as rule 14.5 effective July 1, 2006; previously*  
14 *amended and renumbered effective January 1, 2007; previously amended effective January 1, 2008.*

15  
16  
17 **Rule 8.216. Appeals in which a party is both appellant and respondent**

18  
19 (a) \*\*\*

20  
21 (b) **Contents of briefs**

22  
23 (1) \*\*\*

24  
25 (2) A combined brief must address the points raised in each appeal separately but  
26 may include a single summary of the significant facts.

27  
28 (3) \*\*\*

29  
30 *(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

31  
32 *Rule 8.216 amended effective January 1, 2009; repealed and adopted as rule 16 effective January 1,*  
33 *2002; previously amended and renumbered effective January 1, 2007.*

34  
35  
36 **Rule 8.252. Judicial notice; findings and evidence on appeal**

37  
38 (a) **Judicial notice**

39  
40 (1) \*\*\*

41  
42 (2) The motion must state:

43  
44 (A) Why the matter to be noticed is relevant to the appeal;

1  
2 (B) Whether the matter to be noticed was presented to the trial court and, if  
3 so, whether judicial notice was taken by that court; and

4  
5 (C) Whether the matter to be noticed relates to proceedings occurring after  
6 the order or judgment that is the subject of the appeal.

7  
8 ~~(2)(3)~~ \*\*\*

9  
10 *(Subd (a) amended effective January 1, 2009.)*

11  
12 **(b)–(c) \*\*\***

13  
14 *Rule 8.252 amended effective January 1, 2009; repealed and adopted as rule 22 effective January 1,*  
15 *2003; previously amended and renumbered effective January 1, 2007.*

16  
17  
18 **Rule 8.264. Filing, finality, and modification of decision**

19  
20 **(a) \*\*\***

21  
22 **(b) Finality of decision**

23  
24 (1) Except as otherwise provided in this rule, a Court of Appeal decision in a civil  
25 appeal, including an order dismissing an appeal involuntarily, is final in that  
26 court 30 days after filing.

27  
28 (2) The following Court of Appeal decisions are final in that court on filing:

29  
30 ~~(A) The denial of a petition for a writ within the court's original jurisdiction~~  
31 ~~without issuance of an alternative writ or order to show cause;~~

32  
33 ~~(B)~~(A) The denial of a petition for writ of supersedeas; and

34  
35 ~~(C) The denial of an application for bail or to reduce bail pending appeal;~~

36  
37 ~~(D) The denial of a transfer of a case within the appellate jurisdiction of the~~  
38 ~~superior court; and~~

39  
40 ~~(E)~~(B) The dismissal of an appeal on request or stipulation.

41  
42 ~~(3) If necessary to prevent mootness or frustration of the relief granted or to~~  
43 ~~otherwise promote the interests of justice, a Court of Appeal may order early~~

1 finality in that court of a decision granting a petition for a writ within its  
2 original jurisdiction or denying such a petition after issuing an alternative writ  
3 or order to show cause. The decision may provide for finality in that court on  
4 filing or within a stated period of less than 30 days.

5  
6 ~~(4)~~—A Court of Appeal decision denying a petition for writ of habeas corpus  
7 without issuing an order to show cause is final in that court on the same day  
8 that its decision in a related appeal is final if the two decisions are filed on the  
9 same day. If the Court of Appeal orders rehearing of the decision in the  
10 appeal, its decision denying the petition for writ of habeas corpus is final when  
11 its decision on rehearing is final.

12  
13 ~~(5)~~(3) If a Court of Appeal certifies its opinion for publication or partial publication  
14 after filing its decision and before its decision becomes final in that court, the  
15 finality period runs from the filing date of the order for publication.

16  
17 *(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

18  
19 **(c)–(d) \*\*\***

20  
21 *Rule 8.264 amended effective January 1, 2009; repealed and adopted as rule 24 effective January 1,*  
22 *2003; previously amended and renumbered effective January 1, 2007.*

### 23 **Advisory Committee Comment**

24  
25  
26 **Subdivision (b).** As used in subdivision (b)(1), “decision” includes all interlocutory orders of the Court of  
27 Appeal. (See Advisory Committee Comment to rule 8.500(a) and (e).) This provision addresses the  
28 finality of decisions in civil appeals and, through a cross-reference in rule 8.470, in juvenile appeals. See  
29 rule 8.366 for provisions addressing the finality of decisions in proceedings under chapter 3, relating to  
30 criminal appeals; rule 8.387 for provisions addressing finality of decisions under chapter 4, relating to  
31 habeas corpus proceedings; and rule 8.490 for provisions addressing the finality of decisions in  
32 proceedings under chapter 7, relating to writs of mandate, certiorari, and prohibition.

33  
34 Subdivision (b)~~(5)~~(3) provides that a postfiling decision of the Court of Appeal to publish its opinion in  
35 whole under rule 8.1105(c) or in part under rule 8.1100(a) restarts the 30-day finality period. This  
36 provision is based on rule 40-2 of the United States Circuit Rules (9th Cir.). It is intended to allow parties  
37 sufficient time to petition the Court of Appeal for rehearing and/or the Supreme Court for review—and to  
38 allow potential amici curiae sufficient time to express their views—when the Court of Appeal changes the  
39 publication status of an opinion. The rule thus recognizes that the publication status of an opinion may  
40 affect a party’s decision whether to file a petition for rehearing and/or a petition for review.

### 41 42 **Rule 8.268. Rehearing**

43  
44  
45 **(a) \*\*\***



1 **(b) Petition and answer**

2  
3 (1) A party may serve and file a petition for rehearing within 15 days after:

4  
5 (A) \*\*\*

6  
7 (B) A publication order restarting the finality period under rule  
8 8.264(b)(~~5~~)(3), if the party has not already filed a petition for rehearing;

9  
10 (C)–(D) \*\*\*

11  
12 (2)–(4) \*\*\*

13  
14 *(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2004, and*  
15 *January 1, 2007.)*

16  
17 **(c)–(d) \*\*\***

18  
19 *Rule 8.268 amended effective January 1, 2009; repealed and adopted as rule 25 effective January 1,*  
20 *2003; previously amended effective January 1, 2004; previously amended and renumbered effective*  
21 *January 1, 2007.*

22  
23  
24 **Rule 8.272. Remittitur**

25  
26 \*\*\*

27 **Advisory Committee Comment**

28  
29 See rule 8.386 for provisions addressing remittitur in habeas corpus proceedings and rule ~~8.499~~ 8.490 for  
30 provisions addressing remittitur in other writ proceedings.

31  
32  
33 **Rule 8.278. Costs on appeal**

34  
35 \*\*\*

36 **Advisory Committee Comment**

37  
38 This rule is not intended to expand the categories of appeals subject to the award of costs. See rule  
39 ~~8.490(m)~~ 8.493 for provisions addressing costs in writ proceedings.

40  
41 **Subdivision (c).** \*\*\*

42  
43 **Subdivision (d).** \*\*\*

1 **Rule 8.312. Stay of execution and release on appeal**

2  
3 (a)–(c) \*\*\*

4  
5 (d) **Interim relief**

6  
7 Pending its ruling on the application, the reviewing court may grant the relief  
8 requested. The reviewing court must notify the superior court under rule ~~8.490(k)~~  
9 8.489 of any stay that it grants.

10  
11 *(Subd (d) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

12  
13 *Rule 8.312 amended effective January 1, 2009; adopted as rule 30.2 effective January 1, 2004; previously*  
14 *amended and renumbered effective January 1, 2007.*

15  
16 **Advisory Committee Comment**

17  
18 **Subdivision (a).** \*\*\*

19  
20 An order of the Court of Appeal denying bail or reduction of bail, or for release on other conditions, is  
21 final on filing. (See rule ~~8.264(b)(2)(C)~~ 8.366(b)(2)(A).)

22  
23 **Subdivision (d).** The first sentence of (d) recognizes the case law holding that a reviewing court may  
24 grant bail or reduce bail, or release the defendant on other conditions, pending its ruling on an application  
25 for that relief. (See, e.g., *In re Fishman* (1952) 109 Cal.App.2d 632, 633; *In re Keddy* (1951) 105  
26 Cal.App.2d 215, 217.) The second sentence of the subdivision requires the reviewing court to notify the  
27 superior court under rule ~~8.490(k)~~ 8.489 when it grants either (~~1~~) a stay to preserve the status quo  
28 pending its ruling on a stay application or (~~2~~) the stay requested by that application.

29  
30  
31 **Rule 8.361. Certificate of interested entities or persons**

32  
33 In criminal cases in which an entity is a defendant, that defendant must comply with the  
34 requirements of rule 8.208 concerning serving and filing a certificate of interested entities  
35 or persons.

36  
37 *Rule 8.361 adopted effective January 1, 2009.*

38  
39 **Advisory Committee Comment**

40  
41 Under rule 8.208(c), for purposes of certificates of interested entities or persons, an “entity” means a  
42 corporation, a partnership, a firm, or any other association but does not include a governmental entity or  
43 its agencies or a natural person.

1 **Rule 8.366. Hearing and decision in the Court of Appeal**

2  
3 **(a) General application of rules 8.252–8.272**

4  
5 Except as provided in this rule, rules 8.252 through 8.272 govern the hearing and  
6 decision in the Court of Appeal of an appeal in a criminal case.

7  
8 *(Subd (a) amended and lettered effective January 1, 2009; adopted as unlettered subd effective*  
9 *January 1, 2004.)*

10  
11 **(b) Finality**

12  
13 (1) Except as otherwise provided in this rule, a Court of Appeal decision in a  
14 proceeding under this chapter, including an order dismissing an appeal  
15 involuntarily, is final in that court 30 days after filing.

16  
17 (2) The following Court of Appeal decisions are final in that court on filing:

18  
19 (A) The denial of an application for bail or to reduce bail pending appeal;  
20 and

21  
22 (B) The dismissal of an appeal on request or stipulation.

23  
24 (3) If a Court of Appeal certifies its opinion for publication or partial publication  
25 after filing its decision and before its decision becomes final in that court, the  
26 finality period runs from the filing date of the order for publication.

27  
28 (4) If an order modifying an opinion changes the appellate judgment, the finality  
29 period runs from the filing date of the modification order.

30  
31 *(Subd (b) adopted effective January 1, 2009.)*

32  
33 **(c) Sanctions**

34  
35 Except for (a)(1), rule 8.276 also applies in criminal appeals.

36  
37 *(Subd (c) amended and lettered effective January 1, 2009; adopted as unlettered subd effective*  
38 *January 1, 2004.)*

39  
40 *Rule 8.366 amended effective January 1, 2009; adopted as rule 33.1 effective January 1, 2004; previously*  
41 *amended and renumbered effective January 1, 2007; previously amended effective January 1, 2008.*

42  
43 **Advisory Committee Comment**

1 **Subdivision (b).** As used in subdivision (b)(1), “decision” includes all interlocutory orders of the Court of  
2 Appeal. (See Advisory Committee Comment to rule 8.500(a) and (e).) This provision addresses the  
3 finality of decisions in criminal appeals. See rule 8.264(b) for provisions addressing the finality of  
4 decisions in proceedings under chapter 2, relating to civil appeals, and rule 8.490 for provisions  
5 addressing the finality of proceedings under chapter 7, relating to writs of mandate, certiorari, and  
6 prohibition.  
7  
8

9 **Rule 8.380. Petition for writ of habeas corpus filed by petitioner not represented by**  
10 **an attorney**

11  
12 **(a) Required Judicial Council form**

13  
14 ~~(1)~~ A person who is not represented by an attorney and who petitions a reviewing  
15 court for writ of habeas corpus seeking release from, or modification of the  
16 conditions of, custody of a person confined in a state or local penal institution,  
17 hospital, narcotics treatment facility, or other institution must file the petition on  
18 *Petition for Writ of Habeas Corpus* (form MC-275). For good cause the court may  
19 permit the filing of a petition that is not on that form.  
20

21 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2006, and*  
22 *January 1, 2007.)*  
23

24 **(b) Form and content**

25  
26 ~~(2)~~ A petition filed under ~~(1)~~(a) need not comply with the provisions of rules 8.40,  
27 8.204, or ~~8.490~~ 8.486 that prescribe the form and content of a petition and require  
28 the petition to be accompanied by a memorandum.  
29

30 *(Subd (b) amended and lettered effective January 1, 2009; adopted as part of subd (a) effective*  
31 *January 1, 2005.)*  
32

33 **(c) Number of copies**

34  
35 ~~(3)~~ In the Court of Appeal, the petitioner must file the original of the petition under  
36 ~~(1)~~(a) and one set of any supporting documents. In the Supreme Court, the  
37 petitioner must file an original and 10 copies of the petition and an original and 2  
38 copies of any supporting document accompanying the petition unless the court  
39 orders otherwise.  
40

41 *(Subd (c) amended and lettered effective January 1, 2009; adopted as part of subd (a) effective*  
42 *January 1, 2005.)*  
43

44 **~~(b)~~—Record**

45

1 Before ruling on the petition, the court may order the custodian of any relevant  
2 record to produce the record or a certified copy to be filed with the court.

3  
4 **(c) — Informal response**

5  
6 (1) — The court may request an informal written response from the respondent, the  
7 real party in interest, or an interested person. The court must send a copy of  
8 any request to the petitioner.

9  
10 (2) — The response must be served and filed within 15 days or as the court specifies.

11  
12 (3) — If a response is filed, the court must notify the petitioner that a reply may be  
13 served and filed within 15 days or as the court specifies. The court may not  
14 deny the petition until that time has expired.

15  
16 **(d) — Petition filed in an inappropriate court**

17  
18 (1) — A Court of Appeal may deny without prejudice a petition for writ of habeas  
19 corpus that is based primarily on facts occurring outside the court's appellate  
20 district, including petitions that question:

21  
22 (A) The validity of judgments or orders of trial courts located outside the  
23 district; or

24  
25 (B) The conditions of confinement or conduct of correctional officials  
26 outside the district.

27  
28 (2) — A Court of Appeal must deny without prejudice a petition for writ of habeas  
29 corpus that challenges the denial of parole or the petitioner's suitability for  
30 parole if the issue was not first adjudicated by the trial court that rendered the  
31 underlying judgment.

32  
33 (3) — If the court denies a petition solely under (1), the order must state the basis of  
34 the denial and must identify the appropriate court in which to file the petition.

35  
36 *Rule 8.380 amended effective January 1, 2009; repealed and adopted as rule 60 effective January 1,*  
37 *2005; previously amended effective January 1, 2006; previously amended and renumbered effective*  
38 *January 1, 2007.*

39  
40 **Advisory Committee Comment**

41  
42 **Subdivision (d).** Except for subdivision (d)(2), revised rule 8.380(d) restates former section 6.5 of the  
43 Standards of Judicial Administration. New subdivision (d)(2) is based on the California Supreme Court  
44 decision in *In re Roberts* (2005) 36 Cal.4th 575, which provides that petitions for writ of habeas corpus

1 challenging denial or suitability for parole are first to be adjudicated in the trial court that rendered the  
2 underlying judgment.  
3

4  
5 **Rule 8.384. Petition for writ of habeas corpus filed by an attorney for a party**  
6

7 ~~(a) General application of rule 8.380~~  
8

9 Except as provided in this rule, rule 8.380 applies to any petition for a writ of  
10 habeas corpus filed by an attorney.  
11

12 ~~(b) Special requirements for a petition filed by an attorney~~  
13

14 **(a) Form and content of petition and memorandum**  
15

16 (1) A petition for habeas corpus filed by an attorney need not be filed on *Petition*  
17 *for Writ of Habeas Corpus* (form MC-275) but must contain the information  
18 requested in that form. All petitions filed by attorneys, whether or not on form  
19 MC-275, must be either typewritten or produced on a computer, and must  
20 comply with this rule and rules 8.40(b)–(c)–(d) relating to document covers,  
21 and 8.204(a)(1)(A) relating to tables of contents and authorities. A petition  
22 that is not on form MC-275 must also comply with the remainder of rule  
23 8.204(a) and 8.204(b), and 8.490(b)(6).  
24

25 (2) Any memorandum accompanying the petition must comply with rule  
26 8.204(a)–(b). Except in habeas corpus proceedings related to sentences of  
27 death, any memorandum must also comply with the length limits in rule  
28 8.204(c).  
29

30 ~~(6)(3)~~ (3) The petition and any memorandum must support any reference to a matter in  
31 the supporting documents by a citation to its index tab and page.  
32

33 *(Subd (a) amended and lettered effective January 1, 2009; adopted as part of subd (b) effective*  
34 *January 1, 2006.)*  
35

36 **(b) Supporting documents**  
37

38 ~~(3)(1)~~ (1) The petition must be accompanied by a copy of any petition—excluding  
39 exhibits—pertaining to the same judgment and petitioner that was previously  
40 filed in any lower-state court or any federal court. If such documents have  
41 previously been filed in the same Court of Appeal where the petition is filed or  
42 in the Supreme Court, and the petition need only so states and identifies the  
43 documents by case name and number, copies of these documents need not be  
44 included in the supporting documents.

1  
2 (4)(2) If the petition asserts a claim that was the subject of an evidentiary hearing,  
3 the petition must be accompanied by a certified transcript of that hearing.  
4

5 (5)(3) Rule 8.486(c)(1) and (2) govern the form of any supporting documents  
6 accompanying the petition ~~must comply with rule 8.490(d).~~  
7

8 *(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2007.)*  
9

10 **(c) Number of copies**

11  
12 (7) If the petition is filed in the Supreme Court, the attorney must file the number of  
13 copies of the petition and supporting documents required by rule 8.44(a). If the  
14 petition is filed in the Court of Appeal, the attorney must file the number of copies  
15 of the petition and supporting documents required by rule 8.44(b).  
16

17 *(Subd (c) amended and lettered effective January 1, 2009; adopted as part of subd (b) effective*  
18 *January 1, 2006.)*  
19

20 **(d) Noncomplying petitions**

21  
22 (8) The clerk must file an attorney's petition not complying with ~~(1)-(7)~~ (a)-(c) if it  
23 otherwise complies with the rules of court, but the court may notify the attorney that  
24 it may strike the petition or impose a lesser sanction if the petition is not brought  
25 into compliance within a stated reasonable time of not less than five days.  
26

27 *(Subd (d) amended and lettered effective January 1, 2009; adopted as part of subd (b) effective*  
28 *January 1, 2006.)*  
29

30 *Rule 8.384 amended effective January 1, 2009; adopted as rule 60.5 effective January 1, 2006; previously*  
31 *amended and renumbered effective January 1, 2007.*  
32

33  
34 **Rule 8.385. Proceedings after the petition is filed**

35  
36 **(a) Record**

37  
38 Before ruling on the petition, the court may order the custodian of any relevant  
39 record to produce the record or a certified copy to be filed with the court.  
40

41 **(b) Informal response**  
42

- 1       (1) Before ruling on the petition, the court may request an informal written  
2       response from the respondent, the real party in interest, or an interested  
3       person. The court must send a copy of any request to the petitioner.  
4  
5       (2) The response must be served and filed within 15 days or as the court specifies.  
6  
7       (3) If a response is filed, the court must notify the petitioner that a reply may be  
8       served and filed within 15 days or as the court specifies. The court may not  
9       deny the petition until that time has expired.

10  
11 **(c) Petition filed in an inappropriate court**

- 12  
13       (1) A Court of Appeal may deny without prejudice a petition for writ of habeas  
14       corpus that is based primarily on facts occurring outside the court’s appellate  
15       district, including petitions that question:  
16  
17           (A) The validity of judgments or orders of trial courts located outside the  
18           district; or  
19  
20           (B) The conditions of confinement or the conduct of correctional officials  
21           outside the district.  
22  
23       (2) A Court of Appeal must deny without prejudice a petition for writ of habeas  
24       corpus that challenges the denial of parole or the petitioner’s suitability for  
25       parole if the issue was not first adjudicated by the trial court that rendered the  
26       underlying judgment.  
27  
28       (3) If the court denies a petition solely under (1), the order must state the basis of  
29       the denial and must identify the appropriate court in which to file the petition.  
30

31 **(d) Order to show cause**

32  
33 If the petitioner has made the required prima facie showing that he or she is entitled  
34 to relief, the court must issue an order to show cause. An order to show cause does  
35 not grant the relief sought in the petition.  
36

37 **(e) Return to the superior court**

38  
39 The reviewing court may order the respondent to file a return in the superior court.  
40 The order vests jurisdiction over the cause in the superior court, which must  
41 proceed under rule 4.551.  
42



1 **(f) Return to the reviewing court**

2  
3 If the return is ordered to be filed in the Supreme Court or the Court of Appeal, rule  
4 8.386 applies and the court in which the return is ordered filed must appoint counsel  
5 for any unrepresented petitioner who desires but cannot afford counsel.

6  
7 *Rule 8.385 adopted effective January 1, 2009.*

8  
9 **Advisory Committee Comment**

10  
11 **Subdivision (c).** Except for subdivision (c)(2), rule 8.385(c) restates former section 6.5 of the Standards  
12 of Judicial Administration. Subdivision (c)(2) is based on the California Supreme Court decision in *In re*  
13 *Roberts* (2005) 36 Cal.4th 575, which provides that petitions for writ of habeas corpus challenging denial  
14 or suitability for parole are first to be adjudicated in the trial court that rendered the underlying judgment.

15  
16 **Subdivision (d).** Case law establishes the specificity of the factual allegations and support for these  
17 allegations required in a petition for a writ of habeas corpus (see, e.g., *People v. Duvall* (1995) 9 Cal.4th  
18 464, 474–475, and *Ex parte Swain* (1949) 34 Cal.2d 300, 303–304). A court evaluating whether a petition  
19 meeting these requirements makes a prima facie showing asks whether, assuming the petition’s factual  
20 allegations are true, the petitioner would be entitled to relief (*People v. Duvall*, supra).

21  
22 Issuing an order to show cause is just one of the actions a court might take on a petition for a writ of  
23 habeas corpus. Examples of other actions that a court might take include denying the petition summarily,  
24 requesting an informal response from the respondent under (b), or denying the petition without prejudice  
25 under (c) because it is filed in an inappropriate court.

26  
27  
28 **Rule 8.386. Proceedings if the return is ordered to be filed in the reviewing court**

29  
30 **(a) Application**

31  
32 This rule applies if the Supreme Court orders the return to be filed in the Supreme  
33 Court or the Court of Appeal or if the Court of Appeal orders the return to be filed  
34 in the Court of Appeal.

35  
36 **(b) Serving and filing return**

37  
38 (1) Unless the court orders otherwise, any return must be served and filed within  
39 30 days after the court issues the order to show cause.

40  
41 (2) If the return is filed in the Supreme Court, the attorney must file the number of  
42 copies of the return and any supporting documents required by rule 8.44(a). If  
43 the return is filed in the Court of Appeal, the attorney must file the number of  
44 copies of the return and any supporting documents required by rule 8.44(b).  
45 Two copies of the return and any supporting documents must be served on the  
46 petitioner’s counsel, and if the return is to the Court of Appeal and the

1            petitioner is not represented by privately retained counsel, one copy must be  
2            served on the district appellate project.

3  
4    **(c) Form and content of return**

5  
6    (1) The return must be either typewritten or produced on a computer and must  
7    comply with Penal Code section 1480 and rules 8.40(b)–(c) and 8.204(a)–(b).  
8    Except in habeas corpus proceedings related to sentences of death, any return  
9    must also comply with the length limits in rule 8.204(c).

10  
11    (2) Rule 8.486(c)(1) and (2) govern the form of any supporting documents  
12    accompanying the return. The return must support any reference to a matter in  
13    the supporting documents by a citation to its index tab and page.

14  
15    (3) Any material allegation of the petition not controverted by the return is  
16    deemed admitted for purposes of the proceeding.

17  
18    **(d) Traverse**

19  
20    (1) Unless the court orders otherwise, within 30 days after the respondent files a  
21    return, the petitioner may serve and file a traverse.

22  
23    (2) Any traverse must be either typewritten or produced on a computer and must  
24    comply with Penal Code section 1484 and rules 8.40(b)–(c) and 8.204(a)–(b).  
25    Except in habeas corpus proceedings related to sentences of death, any  
26    traverse must also comply with the length limits in rule 8.204(c).

27  
28    (3) Any material allegation of the return not denied in the traverse is deemed  
29    admitted for purposes of the proceeding.

30  
31    (4) If the return is filed in the Supreme Court, the attorney must file the number of  
32    copies of the traverse required by rule 8.44(a). If the return is filed in the  
33    Court of Appeal, the attorney must file the number of copies of the traverse  
34    required by rule 8.44(b).

35  
36    **(e) Judicial notice**

37  
38    Rule 8.252(a) governs judicial notice in the reviewing court.

39  
40    **(f) Evidentiary hearing ordered by the reviewing court**

41  
42    (1) An evidentiary hearing is required if, after considering the verified petition,  
43    the return, any traverse, any affidavits or declarations under penalty of perjury,

1 and matters of which judicial notice may be taken, the court finds there is a  
2 reasonable likelihood that the petitioner may be entitled to relief and the  
3 petitioner's entitlement to relief depends on the resolution of an issue of fact.

- 4  
5 (2) The court may appoint a referee to conduct the hearing and make  
6 recommended findings of fact.

7  
8 **(g) Oral argument and submission of the cause**

9  
10 Unless the court orders otherwise:

- 11  
12 (1) Rule 8.256 governs oral argument and submission of the cause in the Court of  
13 Appeal.

- 14  
15 (2) Rule 8.524 governs oral argument and submission of the cause in the Supreme  
16 Court.

17  
18 *Rule 8.386 adopted effective January 1, 2009.*

19  
20 **Rule 8.387. ~~8.386. Remittitur~~ Decision in habeas corpus proceedings**

21  
22 **(a) Filing the decision**

- 23  
24 (1) Rule 8.264(a) governs the filing of the decision in the Court of Appeal.

- 25  
26 (2) Rule 8.532(a) governs the filing of the decision in the Supreme Court.

27  
28 *(Subd (a) adopted effective January 1, 2009.)*

29  
30 **(b) Finality of decision in the Court of Appeal**

- 31  
32 (1) General finality period

33  
34 Except as otherwise provided in this rule, a Court of Appeal decision in a  
35 habeas corpus proceeding is final in that court 30 days after filing.

- 36  
37 (2) Denial of a petition for writ of habeas corpus without issuance of an order to  
38 show cause

39  
40 (A) Except as provided in (B), a Court of Appeal decision denying a petition  
41 for writ of habeas corpus without issuance of an order to show cause is  
42 final in the Court of Appeal upon filing.

1 (B) A Court of Appeal decision denying a petition for writ of habeas corpus  
2 without issuing an order to show cause is final in that court on the same  
3 day that its decision in a related appeal is final if the two decisions are  
4 filed on the same day. If the Court of Appeal orders rehearing of the  
5 decision in the appeal, its decision denying the petition for writ of habeas  
6 corpus is final when its decision on rehearing is final.

7  
8 (3) Decision in a habeas corpus proceeding after issuance of an order to show  
9 cause

10  
11 (A) If necessary to prevent mootness or frustration of the relief granted or to  
12 otherwise promote the interests of justice, a Court of Appeal may order  
13 early finality in that court of a decision in a habeas corpus proceeding  
14 after issuing an order to show cause. The decision may provide for  
15 finality in that court on filing or within a stated period of less than 30  
16 days.

17  
18 (B) If a Court of Appeal certifies its opinion for publication or partial  
19 publication after filing its decision and before its decision becomes final  
20 in that court, the finality period runs from the filing date of the order for  
21 publication.

22  
23 *(Subd (b) adopted effective January 1, 2009.)*

24  
25 **(c) Finality of decision in the Supreme Court**

26  
27 Rule 8.532(b) governs finality of a decision in the Supreme Court.

28  
29 *(Subd (c) adopted effective January 1, 2009.)*

30  
31 **(d) Modification of decision**

32  
33 (1) A reviewing court may modify a decision until the decision is final in that  
34 court. If the clerk's office is closed on the date of finality, the court may  
35 modify the decision on the next day the clerk's office is open.

36  
37 (2) An order modifying an opinion must state whether it changes the appellate  
38 judgment. A modification that does not change the appellate judgment does  
39 not extend the finality date of the decision. If a modification changes the  
40 appellate judgment, the finality period runs from the filing date of the  
41 modification order.

42  
43 *(Subd (d) adopted effective January 1, 2009.)*

1  
2 **(e) Rehearing**

3  
4 **(1) Rule 8.268 governs rehearing in the Court of Appeal.**

5  
6 **(2) Rule 8.536 governs rehearing in the Supreme Court.**

7  
8 *(Subd (e) adopted effective January 1, 2009.)*

9  
10 **(f) Remittitur**

11  
12 A Court of Appeal must issue a remittitur in a habeas corpus proceeding under this  
13 chapter except when the court denies the petition without issuing an order to show  
14 cause or orders the return filed in the superior court. Rule 8.272(b)–(d) governs  
15 issuance of a remittitur by a Court of Appeal in habeas corpus proceedings.

16  
17 *(Subd (f) amended and lettered effective January 1, 2009; adopted as unlettered subd effective*  
18 *January 1, 2008.)*

19  
20 *Rule 8.387 amended and renumbered effective January 1, 2009; adopted as rule 8.386 effective January*  
21 *1, 2008.*

22  
23 **Advisory Committee Comment**

24  
25 A party may seek review of a Court of Appeal decision in a habeas corpus proceeding by way of a  
26 petition for review in the Supreme Court under rule 8.500.

27  
28  
29 **Rule 8.450. Notice of intent to file writ petition to review order setting hearing**  
30 **under Welfare and Institutions Code section 366.26**

31  
32 **(a) Application**

33  
34 Rules 8.450–8.452 and 5.600 govern writ petitions to review orders setting a  
35 hearing under Welfare and Institutions Code section 366.26. ~~Rules 8.490–8.493~~  
36 8.485–8.493 do not apply to petitions governed by these rules.

37  
38 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2006, July*  
39 *1, 2006, and January 1, 2007.)*

40  
41 **(b)–(i) \*\*\***

42  
43 *Rule 8.450 amended effective January 1, 2009; adopted as rule 38 effective January 1, 2005; previously*  
44 *amended and renumbered effective January 1, 2007; previously amended effective January 1, 2006, July*  
45 *1, 2006, and January 1, 2008.*

1  
2  
3 **Rule 8.454. Notice of intent to file writ petition under Welfare and Institutions Code**  
4 **section 366.28 to review order designating specific placement of a dependent**  
5 **child after termination of parental rights**  
6

7 **(a) Application**  
8

9 Rules 8.454–8.456 govern writ petitions to review placement orders following  
10 termination of parental rights entered on or after January 1, 2005. “Posttermination  
11 placement order” as used in this rule and rule 8.456 refers to orders following  
12 termination of parental rights. Rules ~~8.490~~ 8.485–8.493 do not apply to  
13 petitions governed by these rules.  
14

15 *(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2007.)*  
16

17 **(b)–(j) \*\*\***  
18

19 *Rule 8.454 amended effective January 1, 2009; adopted as rule 38.2 effective January 1, 2005; previously*  
20 *amended and renumbered effective January 1, 2007; previously amended effective January 1, 2006, July*  
21 *1, 2006, and January 1, 2008.*  
22

23  
24 **Chapter 7. Writs of Mandate, Certiorari, and Prohibition in the**  
25 **Supreme Court and Court of Appeal**  
26

27 *Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of Appeal—*  
28 *Chapter 7, Writs of Mandate, Certiorari, and Prohibition in the Supreme Court and Court of Appeal*  
29 *adopted effective January 1, 2009.*  
30

31 **Rule 8.485 Application**  
32

33 **(a) Writ proceedings governed**  
34

35 Except as provided in (b), the rules in this chapter govern petitions to the Supreme  
36 Court and Court of Appeal for writs of mandate, certiorari, or prohibition, or other  
37 writs within the original jurisdiction of these courts. In all respects not provided for  
38 in these rules, rule 8.204 governs the form and content of documents in the  
39 proceedings governed by this chapter.  
40

41 **(b) Writ proceedings not governed**  
42

43 These rules do not apply to petitions for writs of mandate, certiorari, or prohibition  
44 in the appellate division of the superior court under rules 8.930–8.936, petitions for

1 writs of supersedeas under rule 8.116, petitions for writs of habeas corpus except as  
2 provided in rule 8.384, or petitions for writs of review under rules 8.495–8.498.

3  
4 *Rule 8.485 adopted effective January 1, 2009.*

5  
6  
7 **Rule 8.486.8.490. Petitions for writ of mandate, certiorari, or prohibition**

8  
9 **(a) Application**

10  
11 (1) ~~Except as provided in (2), this rule governs petitions to the reviewing court for~~  
12 ~~writs of mandate, certiorari, or prohibition, or other writs within its original~~  
13 ~~jurisdiction. In all respects not provided for in this rule, rule 8.204 applies.~~

14  
15 (2) ~~This rule does not apply to petitions for writs of supersedeas under rule 8.116,~~  
16 ~~to petitions for writs of habeas corpus except as provided in rule 8.384, or to~~  
17 ~~petitions for writs of review under rules 8.494–8.498.~~

18  
19 **(~~b~~)(a) Contents of petition**

20  
21 (1)–(6) \*\*\*

22  
23 (7) If the petition requests a temporary stay, it must comply with ~~rule 8.116 and~~  
24 the following or the reviewing court may decline to consider the request for a  
25 temporary stay:

26  
27 (A) The petition must explain the urgency.

28  
29 (B) The cover of the petition must prominently display the notice “STAY  
30 REQUESTED” and identify the nature and date of the proceeding or act  
31 sought to be stayed.

32  
33 (C) The trial court and department involved and the name and telephone  
34 number of the trial judge whose order the request seeks to stay must  
35 appear either on the cover or at the beginning of the text.

36  
37 *(Subd (a) amended and relettered effective January 1, 2009; adopted as subd (b) effective January*  
38 *1, 2005; previously amended effective January 1, 2006, and January 1, 2007.)*

39  
40 **(~~e~~)(b) Contents of supporting documents**

41  
42 (1) \*\*\*

1           ~~(4)~~(2) In exigent circumstances, the petition may be filed without the documents  
2           required by (1)(A)–(C) if counsel or, if the petitioner is unrepresented, the  
3           petitioner files a declaration that explains the urgency and the circumstances  
4           making the documents unavailable and fairly summarizes their substance.

5  
6           ~~(2)~~(3) If a transcript under (1)(D) is unavailable, the record must include a  
7           declaration by counsel or, if the petitioner is unrepresented, the petitioner:

8  
9           (A) Explaining why the transcript is unavailable and fairly summarizing the  
10           proceedings, including ~~counsel's~~ the petitioner's arguments and any  
11           statement by the court supporting its ruling. This declaration may omit a  
12           full summary of the proceedings if part of the relief sought is an order to  
13           prepare a transcript for use by an indigent criminal defendant in support  
14           of the petition and if the declaration demonstrates the petitioner's need  
15           for and entitlement to the transcript; or

16  
17           (B) \*\*\*

18  
19           ~~(3)~~—~~A declaration under (2) may omit a full summary of the proceedings if part of~~  
20           ~~the relief sought is an order to prepare a transcript for use by an indigent~~  
21           ~~criminal defendant in support of the petition and if the declaration~~  
22           ~~demonstrates the petitioner's need for and entitlement to the transcript.~~

23  
24           ~~(5)~~(4) \*\*\*

25  
26           *(Subd (b) amended and relettered effective January 1, 2009; adopted as subd (c) effective January*  
27           *1, 2005; previously amended effective January 1, 2006, July 1, 2006, and January 1, 2007.)*

28  
29           ~~(d)~~(c) **Form of supporting documents**

30  
31           (1) Documents submitted under ~~(e)~~(b) must comply with the following  
32           requirements:

33  
34           (A)–(C) \*\*\*

35  
36           (2)–(3) \*\*\*

37  
38           *(Subd (c) amended and relettered effective January 1, 2009; adopted as subd (d) effective January*  
39           *1, 2005; previously amended effective January 1, 2006, and January 1, 2007.)*

40  
41           ~~(e)~~(d) **Sealed records**

42  
43           \*\*\*



1  
2 *(Subd (d) relettered effective January 1, 2009; adopted as subd (e) effective January 1, 2005;*  
3 *previously amended effective January 1, 2007.)*  
4  
5

6 **~~(f)~~(e) Service**  
7

8 \*\*\*  
9

10 *(Subd (e) relettered effective January 1, 2009; adopted as subd (f) effective January 1, 2005;*  
11 *previously amended effective January 1, 2007.)*  
12

13 **~~(g)~~ Preliminary opposition**  
14

15 ~~(1) Within 10 days after the petition is filed, the respondent or any real party in~~  
16 ~~interest, separately or jointly, may serve and file a preliminary opposition.~~  
17

18 ~~(2) An opposition must contain a memorandum and a statement of any material~~  
19 ~~fact not included in the petition.~~  
20

21 ~~(3) Within 10 days after an opposition is filed, the petitioner may serve and file a~~  
22 ~~reply.~~  
23

24 ~~(4) Without requesting opposition or waiting for a reply, the court may grant or~~  
25 ~~deny a request for temporary stay, deny the petition, issue an alternative writ~~  
26 ~~or order to show cause, or notify the parties that it is considering issuing a~~  
27 ~~peremptory writ in the first instance.~~  
28

29 **~~(h)~~ Return or opposition; reply**  
30

31 ~~(1) If the court issues an alternative writ or order to show cause, the respondent or~~  
32 ~~any real party in interest, separately or jointly, may serve and file a return by~~  
33 ~~demurrer, verified answer, or both. If the court notifies the parties that it is~~  
34 ~~considering issuing a peremptory writ in the first instance, the respondent or~~  
35 ~~any real party in interest may serve and file an opposition.~~  
36

37 ~~(2) Unless the court orders otherwise, the return or opposition must be served and~~  
38 ~~filed within 30 days after the court issues the alternative writ or order to show~~  
39 ~~cause or notifies the parties that it is considering issuing a peremptory writ in~~  
40 ~~the first instance.~~  
41

42 ~~(3) Unless the court orders otherwise, the petitioner may serve and file a reply~~  
43 ~~within 15 days after the return or opposition is filed.~~

1  
2 (4) — If the return is by demurrer alone and the demurrer is not sustained, the court  
3 may issue the peremptory writ without granting leave to answer.  
4

5 **(i) — Certificate of Interested Entities or Persons**  
6

7 (1) — This subdivision applies in writ proceedings in civil cases other than family,  
8 juvenile, guardianship, and conservatorship cases.  
9

10 (2) — Each party must comply with the requirements of rule 8.208 concerning  
11 serving and filing a Certificate of Interested Entities or Persons.  
12

13 (3) — The petitioner's certificate must be included in the petition. The certificates of  
14 the respondent and real party in interest must be included in their preliminary  
15 opposition or, if no such opposition is filed, in their return, if any. The  
16 certificate must appear after the cover and before the tables. If the identity of  
17 any party has not been publicly disclosed in the proceedings, the party may  
18 file an application for permission to file its certificate under seal separately  
19 from the petition, preliminary opposition, or return.  
20

21 (4) — If a party fails to file a certificate as required under (2) and (3), the clerk must  
22 notify the party by mail that the party must file the certificate within 10 days  
23 after the clerk's notice is mailed and that if the party fails to comply, the court  
24 may impose one of the following sanctions:  
25

26 (A) — If the party is the petitioner, the court may strike the petition; or  
27

28 (B) — If the party is the respondent or the real party in interest, the court may  
29 strike the document.  
30

31 (5) — If the party fails to file the certificate as specified in the notice under (4), the  
32 court may impose the sanctions specified in the notice.  
33

34 **(j) — Attorney General's amicus curiae brief**  
35

36 (1) — If the court issues an alternative writ or order to show cause, the Attorney  
37 General may file an amicus curiae brief without the permission of the Chief  
38 Justice or presiding justice, unless the brief is submitted on behalf of another  
39 state officer or agency.  
40

41 (2) — The Attorney General must serve and file the brief within 14 days after the  
42 return is filed or, if no return is filed, within 14 days after the date it was due.  
43

1           (3) ~~The brief must provide the information required by rule 8.200(c)(2) and~~  
2           ~~comply with rule 8.200(c)(4).~~

3  
4           (4) ~~Any party may serve and file an answer within 14 days after the brief is filed.~~

5  
6 **(k) ~~Notice to trial court~~**

7  
8           (1) ~~If a writ or order issues directed to any judge, court, board, or other officer,~~  
9           ~~the reviewing court clerk must promptly send a certified copy of the writ or~~  
10           ~~order to the person or entity to whom it is addressed.~~

11  
12           (2) ~~If the writ or order stays or prohibits proceedings set to occur within 7 days or~~  
13           ~~requires action within 7 days — or in any other urgent situation — the reviewing~~  
14           ~~court clerk must make a reasonable effort to notify the clerk of the respondent~~  
15           ~~court by telephone. The clerk of the respondent court must then notify the~~  
16           ~~judge or officer most directly concerned.~~

17  
18           (3) ~~The clerk need not give telephonic notice of the summary denial of a writ,~~  
19           ~~whether or not a stay previously issued.~~

20  
21 **(l) ~~Responsive pleading under Code of Civil Procedure section 418.10~~**

22  
23           ~~If the Court of Appeal denies a petition for writ of mandate brought under Code of~~  
24           ~~Civil Procedure section 418.10(e) and the Supreme Court denies review of the~~  
25           ~~Court of Appeal's decision, the time to file a responsive pleading in the trial court is~~  
26           ~~extended until 10 days after the Supreme Court files its order denying review.~~

27  
28 **(m) ~~Costs~~**

29  
30           (1) ~~Except in a criminal or juvenile or other proceeding in which a party is~~  
31           ~~entitled to court appointed counsel:~~

32  
33           (A) ~~Unless otherwise ordered by the court under (B), the prevailing party in~~  
34           ~~an original proceeding is entitled to costs if the court resolves the~~  
35           ~~proceeding by written opinion after issuing an alternative writ, an order~~  
36           ~~to show cause, or a peremptory writ in the first instance.~~

37  
38           (B) ~~In the interests of justice, the court may also award or deny costs as it~~  
39           ~~deems proper in the proceedings listed in (A) and in other circumstances.~~

40  
41           (2) ~~The opinion or order resolving the proceeding must specify the award or~~  
42           ~~denial of costs.~~

1 ~~(3) — Rule 8.278(b) (d) governs the procedure for recovering costs under this rule.~~

2  
3 **(n) — Sanctions**

4  
5 ~~(1) — On motion of a party or its own motion, a Court of Appeal may impose~~  
6 ~~sanctions, including the award or denial of costs under (m), on a party or an~~  
7 ~~attorney for:~~

8  
9 ~~(A) — Filing a frivolous petition or filing a petition solely to cause delay; or~~

10  
11 ~~(B) — Committing any other unreasonable violation of these rules.~~

12  
13 ~~(2) — The court must give notice in writing if it is considering imposing sanctions.~~

14  
15 ~~(3) — Within 10 days after the court sends such notice, a party or attorney may serve~~  
16 ~~and file an opposition, but failure to do so will not be deemed consent. An~~  
17 ~~opposition may not be filed unless the court sends such notice.~~

18  
19 ~~(4) — Unless otherwise ordered, oral argument on the issue of sanctions must be~~  
20 ~~combined with any oral argument on the merits of the petition.~~

21  
22 *Rule 8.486 amended and renumbered effective January 1, 2009; repealed and adopted as rule 56 effective*  
23 *January 1, 2005; previously amended and renumbered as rule 8.490 effective January 1, 2007;*  
24 *previously amended effective July 1, 2005, January 1, 2006, July 1, 2006, and January 1, 2008.*

25  
26 **Advisory Committee Comment**

27  
28 **Subdivision ~~(b)~~(a).** Because of the importance of the point, rule ~~8.490(b)(6)~~ 8.486(a)(6) explicitly states  
29 that the provisions of rule 8.204(c)—and hence the word-count limits imposed by that rule—apply to a  
30 petition for original writ.

31  
32 **Subdivision ~~(a)~~(e).** Rule 8.25, which generally governs service and filing in reviewing courts, also  
33 applies to the original proceedings covered by this rule.

34  
35 **Subdivision (g).** ~~Consistent with practice, rule 8.490 draws a distinction between a “preliminary~~  
36 ~~opposition,” which the respondent or a real party in interest may file before the court takes any action on~~  
37 ~~the petition ((g)(1)), and a more formal “opposition,” which the respondent or a real party in interest may~~  
38 ~~file if the court notifies the parties that it is considering issuing a peremptory writ in the first instance~~  
39 ~~((h)(1)).~~

40  
41 ~~Subdivision (g)(1) allows the respondent or any real party in interest to serve and file a preliminary~~  
42 ~~opposition within 10 days after the petition is filed. The reviewing court retains the power to act in any~~  
43 ~~case without obtaining an opposition ((g)(4)).~~

1 Subdivision (g)(3) allows a petitioner to serve and file a reply within 10 days after an opposition is filed.  
2 To permit prompt action in urgent cases, however, the provision recognizes that the reviewing court may  
3 act on the petition without waiting for a reply.  
4

5 Subdivision (g)(4) recognizes that the reviewing court may “grant or deny a request for temporary stay”  
6 without requesting opposition or waiting for a reply.  
7

8 The several references in rule 8.490 to the power of the court to issue a peremptory writ in the first  
9 instance after notifying the parties that it is considering doing so ((g) (h)) implement the rule of *Palma v.*  
10 *U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171.  
11

12 **Subdivision (h).** Subdivision (h)(2) requires that the return or opposition be served and filed within 30  
13 days after the court issues the alternative writ or order to show cause or notifies the parties that it is  
14 considering issuing a peremptory writ in the first instance. To permit prompt action in urgent cases,  
15 however, the provision recognizes that the reviewing court may order otherwise.  
16

17 Subdivision (h)(3) formalizes the common practice of permitting petitioners to file replies to returns and  
18 specifies that such a reply must be served and filed within 15 days after the return is filed. To permit  
19 prompt action in urgent cases, however, the provision recognizes that the reviewing court may order  
20 otherwise.  
21

22 **Subdivision (i).** The Judicial Council has adopted an optional form, *Certificate of Interested Entities or*  
23 *Persons* (form APP-008), that can be used to file the certificate required by this provision.  
24

## 25 **Rule 8.487. Opposition and Attorney General amicus briefs**

### 26 **(a) Preliminary opposition**

- 27
- 28 (1) Within 10 days after the petition is filed, the respondent or any real party in  
29 interest, separately or jointly, may serve and file a preliminary opposition.
  - 30 (2) A preliminary opposition must contain a memorandum and a statement of any  
31 material fact not included in the petition.
  - 32 (3) Within 10 days after a preliminary opposition is filed, the petitioner may serve  
33 and file a reply.
  - 34 (4) Without requesting preliminary opposition or waiting for a reply, the court  
35 may grant or deny a request for temporary stay, deny the petition, issue an  
36 alternative writ or order to show cause, or notify the parties that it is  
37 considering issuing a peremptory writ in the first instance.  
38

### 39 **(b) Return or opposition; reply**

40  
41  
42  
43  
44  
45

- 1           (1) If the court issues an alternative writ or order to show cause, the respondent or  
2 any real party in interest, separately or jointly, may serve and file a return by  
3 demurrer, verified answer, or both. If the court notifies the parties that it is  
4 considering issuing a peremptory writ in the first instance, the respondent or  
5 any real party in interest may serve and file an opposition.  
6  
7           (2) Unless the court orders otherwise, the return or opposition must be served and  
8 filed within 30 days after the court issues the alternative writ or order to show  
9 cause or notifies the parties that it is considering issuing a peremptory writ in  
10 the first instance.  
11  
12           (3) Unless the court orders otherwise, the petitioner may serve and file a reply  
13 within 15 days after the return or opposition is filed.  
14  
15           (4) If the return is by demurrer alone and the demurrer is not sustained, the court  
16 may issue the peremptory writ without granting leave to answer.  
17

18 **(c) Attorney General’s amicus curiae brief**

- 19  
20           (1) If the court issues an alternative writ or order to show cause, the Attorney  
21 General may file an amicus curiae brief without the permission of the Chief  
22 Justice or presiding justice, unless the brief is submitted on behalf of another  
23 state officer or agency.  
24  
25           (2) The Attorney General must serve and file the brief within 14 days after the  
26 return is filed or, if no return is filed, within 14 days after the date it was due.  
27  
28           (3) The brief must provide the information required by rule 8.200(c)(2) and  
29 comply with rule 8.200(c)(4).  
30  
31           (4) Any party may serve and file an answer within 14 days after the brief is filed.  
32

33 *Rule 8.487 adopted effective January 1, 2009.*

34  
35 **Advisory Committee Comment**

36  
37 **Subdivision (a).** Consistent with practice, rule 8.487 draws a distinction between a “preliminary  
38 opposition,” which the respondent or a real party in interest may file before the court takes any action on  
39 the petition ((a)(1)), and a more formal “opposition,” which the respondent or a real party in interest may  
40 file if the court notifies the parties that it is considering issuing a peremptory writ in the first instance  
41 ((b)(1)).  
42

1 Subdivision (a)(1) allows the respondent or any real party in interest to serve and file a preliminary  
2 opposition within 10 days after the petition is filed. The reviewing court retains the power to act in any  
3 case without obtaining preliminary opposition ((a)(4)).

4  
5 Subdivision (a)(3) allows a petitioner to serve and file a reply within 10 days after a preliminary  
6 opposition is filed. To permit prompt action in urgent cases, however, the provision recognizes that the  
7 reviewing court may act on the petition without waiting for a reply.

8  
9 Subdivision (a)(4) recognizes that the reviewing court may “grant or deny a request for temporary stay”  
10 without requesting preliminary opposition or waiting for a reply.

11  
12 The several references in rule 8.487 to the power of the court to issue a peremptory writ in the first  
13 instance after notifying the parties that it is considering doing so ((a)–(b)) implement the rule of *Palma v.*  
14 *U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171.

15  
16 **Subdivision (b).** Subdivision (b)(2) requires that the return or opposition be served and filed within 30  
17 days after the court issues the alternative writ or order to show cause or notifies the parties that it is  
18 considering issuing a peremptory writ in the first instance. To permit prompt action in urgent cases,  
19 however, the provision recognizes that the reviewing court may order otherwise.

20  
21 Subdivision (b)(3) formalizes the common practice of permitting petitioners to file replies to returns and  
22 specifies that such a reply must be served and filed within 15 days after the return is filed. To permit  
23 prompt action in urgent cases, however, the provision recognizes that the reviewing court may order  
24 otherwise.

## 25 26 27 **Rule 8.488. Certificate of Interested Entities or Persons**

### 28 29 **(a) Application**

30  
31 This rule applies in writ proceedings in criminal cases in which an entity is the  
32 defendant and in civil cases other than family, juvenile, guardianship, and  
33 conservatorship cases.

### 34 35 **(b) Compliance with rule 8.208**

36  
37 Each party in a civil case and any entity that is a defendant in a criminal case must  
38 comply with the requirements of rule 8.208 concerning serving and filing a  
39 certificate of interested entities or persons.

### 40 41 **(c) Placement of certificates**

42  
43 (1) The petitioner’s certificate must be included in the petition.  
44

- 1           (2) The certificates of the respondent and real party in interest must be included in  
2           their preliminary opposition or, if no such opposition is filed, in their return, if  
3           any.  
4  
5           (3) The certificate must appear after the cover and before the tables.  
6  
7           (4) If the identity of any party has not been publicly disclosed in the proceedings,  
8           the party may file an application for permission to file its certificate under seal  
9           separately from the petition, preliminary opposition, or return.

10  
11 **(d) Failure to file a certificate**

- 12  
13           (1) If a party fails to file a certificate as required under (b) and-(c), the clerk must  
14           notify the party by mail that the party must file the certificate within 10 days  
15           after the clerk’s notice is mailed and that if the party fails to comply, the court  
16           may impose one of the following sanctions:  
17  
18                   (A) If the party is the petitioner, the court may strike the petition; or  
19  
20                   (B) If the party is the respondent or the real party in interest, the court may  
21                   strike that party’s document.  
22  
23           (2) If the party fails to file the certificate as specified in the notice under (1), the  
24           court may impose the sanctions specified in the notice.

25  
26 *Rule 8.488 adopted effective January 1, 2009.*

27  
28 **Advisory Committee Comment**

29  
30 The Judicial Council has adopted an optional form, *Certificate of Interested Entities or Persons* (form  
31 APP-008), that can be used to file the certificate required by this provision.

32  
33 **Subdivision (a).** Under rule 8.208(c), for purposes of certificates of interested entities or persons, an  
34 “entity” means a corporation, a partnership, a firm, or any other association, but does not include a  
35 governmental entity or its agencies or a natural person.

36  
37  
38 **Rule 8.489. Notice to trial court**

39  
40 **(a) Notice if writ issues**

41  
42 If a writ or order issues directed to any judge, court, board, or other officer, the  
43 reviewing court clerk must promptly send a certified copy of the writ or order to the  
44 person or entity to whom it is addressed.



1  
2 **(b) Notice by telephone**  
3

- 4 (1) If the writ or order stays or prohibits proceedings set to occur within 7 days or  
5 requires action within 7 days—or in any other urgent situation—the reviewing  
6 court clerk must make a reasonable effort to notify the clerk of the respondent  
7 court by telephone. The clerk of the respondent court must then notify the  
8 judge or officer most directly concerned.  
9  
10 (2) The clerk need not give telephonic notice of the summary denial of a writ,  
11 whether or not a stay previously issued.  
12

13 *Rule 8.489 adopted effective January 1, 2009.*  
14  
15

16 **Rule 8.490. Filing, finality, and modification of decisions; remittitur**  
17

18 **(a) Filing and modification of decisions**  
19

20 Rule 8.264(a) and (c) govern the filing and modification of decisions in writ  
21 proceedings.  
22

23 **(b) Finality of decision**  
24

- 25 (1) The denial of a petition for a writ within the court’s original jurisdiction  
26 without issuance of an alternative writ or order to show cause is final in that  
27 court when filed.  
28  
29 (2) Except as otherwise provided in this rule, a decision in a writ proceeding is  
30 final 30 days after the decision is filed.  
31  
32 (3) If necessary to prevent mootness or frustration of the relief granted or to  
33 otherwise promote the interests of justice, the court may order early finality in  
34 that court of a decision granting a petition for a writ within its original  
35 jurisdiction or denying such a petition after issuing an alternative writ or order  
36 to show cause. The decision may provide for finality in that court on filing or  
37 within a stated period of less than 30 days.  
38  
39 (4) If a Court of Appeal certifies its opinion for publication or partial publication  
40 after filing its decision and before its decision becomes final in that court, the  
41 finality period runs from the filing date of the order for publication.  
42

1           (5) If an order modifying an opinion changes the appellate judgment, the finality  
2           period runs from the filing date of the modification order.

3  
4   **(c) Remittitur**

5  
6           A Court of Appeal must issue a remittitur in a writ proceeding under this chapter  
7           except when the court denies the petition without issuing an alternative writ or order  
8           to show cause. Rule 8.272(b)–(d) governs issuance of a remittitur by a Court of  
9           Appeal in writ proceedings under this chapter.

10  
11 *Rule 8.490 adopted effective January 1, 2009.*

12  
13                                   **Advisory Committee Comment**

14  
15 **Subdivision (b).** This provision addresses the finality of decisions in proceedings relating to writs of  
16 mandate, certiorari, and prohibition. See rule 8.264(b) for provisions addressing the finality of decisions  
17 in proceedings under chapter 2, relating to civil appeals, and rule 8.366 for provisions addressing the  
18 finality of decisions in proceedings under chapter 3, relating to criminal appeals.

19  
20  
21 **Rule 8.491. Responsive pleading under Code of Civil Procedure section 418.10**

22  
23 If the Court of Appeal denies a petition for writ of mandate brought under Code of Civil  
24 Procedure section 418.10(c) and the Supreme Court denies review of the Court of  
25 Appeal’s decision, the time to file a responsive pleading in the trial court is extended until  
26 10 days after the Supreme Court files its order denying review.

27  
28 *Rule 8.491 adopted effective January 1, 2009.*

29  
30  
31 **Rule 8.492. Sanctions**

32  
33 **(a) Grounds for sanctions**

34  
35 On motion of a party or its own motion, a Court of Appeal may impose sanctions,  
36 including the award or denial of costs under rule 8.493, on a party or an attorney  
37 for:

38  
39           (1) Filing a frivolous petition or filing a petition solely to cause delay; or

40  
41           (2) Committing any other unreasonable violation of these rules.

42  
43 **(b) Notice**

1        The court must give notice in writing if it is considering imposing sanctions.

2  
3        **(c) Opposition**

4  
5        Within 10 days after the court sends such notice, a party or attorney may serve and  
6        file an opposition, but failure to do so will not be deemed consent. An opposition  
7        may not be filed unless the court sends such notice.

8  
9        **(d) Oral argument**

10  
11        Unless otherwise ordered, oral argument on the issue of sanctions must be  
12        combined with any oral argument on the merits of the petition.

13  
14        *Rule 8.492 adopted effective January 1, 2009.*

15  
16  
17        **Rule 8.493. Costs**

18  
19        **(a) Award of costs**

20  
21        (1) Except in a criminal or juvenile or other proceeding in which a party is  
22        entitled to court-appointed counsel:

23  
24            (A) Unless otherwise ordered by the court under (B), the prevailing party in  
25            an original proceeding is entitled to costs if the court resolves the  
26            proceeding by written opinion after issuing an alternative writ, an order  
27            to show cause, or a peremptory writ in the first instance.

28  
29            (B) In the interests of justice, the court may also award or deny costs as it  
30            deems proper in the proceedings listed in (A) and in other circumstances.

31  
32        (2) The opinion or order resolving the proceeding must specify the award or  
33        denial of costs.

34  
35        **(b) Procedures for recovering costs**

36  
37        Rule 8.278(b)–(d) governs the procedure for recovering costs under this rule.

38  
39        *Rule 8.493 adopted effective January 1, 2009.*

40  
41  
42                    **Chapter 7-8. Miscellaneous Writs of Review**

1 *Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of Appeal—*  
2 *Chapter 8, Miscellaneous Writs of Review amended and renumbered effective January 1, 2009; adopted*  
3 *as chapter 7 effective January 1, 2007.*

4  
5  
6 **Rule 8.495.8.494. Review of Workers’ Compensation Appeals Board cases**

7  
8 \*\*\*

9 *Rule 8.495 renumbered effective January 1, 2009; repealed and adopted as rule 57 effective January 1,*  
10 *2005; previously amended effective July 1, 2006; previously amended and renumbered as rule 8.494*  
11 *effective January 1, 2007.*

12  
13 **Chapter 8.9. Proceedings in the Supreme Court**

14  
15 *Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of Appeal—*  
16 *Chapter 9, Proceedings in the Supreme Court renumbered effective January 1, 2009; adopted as chapter*  
17 *8 effective January 1, 2007.*

18  
19 **Rule 8.500. Petition for review**

20  
21 **(a)–(d) \*\*\***

22  
23 **(e) Time to serve and file**

24  
25 A petition for review must be served and filed within 10 days after the Court of  
26 Appeal decision is final in that court ~~under rule 8.264~~. For purposes of this rule, the  
27 date of finality is not extended if it falls on a day on which the clerk’s office is  
28 closed.

29  
30 **(2)–(5) \*\*\***

31  
32 *(Subd (e) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

33  
34 **(f)–(g) \*\*\***

35  
36 *Rule 8.500 amended effective January 1, 2009; repealed and adopted as rule 28 effective January 1,*  
37 *2003; previously amended effective January 1, 2004, and July 1, 2004; previously amended and*  
38 *renumbered effective January 1, 2007.*

39  
40 **Advisory Committee Comment**

41  
42 **Subdivision (a). \*\*\***

43  
44 **Subdivision (e).** Subdivision (e)(1) provides that a petition for review must be served and filed within 10  
45 days after the Court of Appeal decision is *final in that court*. Finality in the Court of Appeal is generally  
46 governed by rules 8.264(b) (civil appeals), 8.366(b) (criminal appeals), 8.387(b) (habeas corpus

1 proceedings), and 8.480 (proceedings for writs of mandate, certiorari, and prohibition). These rules  
2 8.264(b) declares the general rule that a Court of Appeal decision is final in that court 30 days after filing.  
3 They provision then carves out five specific exceptions—decisions that ~~it~~ they declares to be final  
4 immediately on filing (see rules 8.264(b)(2), 8.366(b)(2), and 8.490(b)(1)). The plain implication is that  
5 all other Court of Appeal orders—specifically, interlocutory orders that may be the subject of a petition  
6 for review—are not final on filing. This implication is confirmed by current practice, in which parties  
7 may be allowed to apply for—and the Courts of Appeal may grant—reconsideration of such interlocutory  
8 orders; reconsideration, of course, would be impermissible if the orders were in fact final on filing.  
9

10 Contrary to paragraph (2) of subdivision (e), paragraphs (4) and (5) do not prohibit extending the time to  
11 file an answer or reply; because the subdivision thus expressly forbids an extension of time only with  
12 respect to the petition for review, by clear negative implication it permits an application to extend the time  
13 to file an answer or reply under rule 8.50.  
14

15 **Subdivision (f).** \*\*\*  
16  
17

## 18 **Rule 8.504. Form and contents of petition, answer, and reply**

19

20 **(a)** \*\*\*  
21

22 **(b) Contents of a petition**  
23

24 (1)–(4) \*\*\*  
25

26 (5) If the petition seeks review of a Court of Appeal order, a copy of the order  
27 showing the date it was entered must be bound at the back of the original  
28 petition and each copy filed in the Supreme Court.  
29

30 ~~(5)~~(6) \*\*\*  
31

32 ~~(6)~~(7) \*\*\*  
33

34 *(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2004, and*  
35 *January 1, 2007.)*  
36

37 **(c)–(d)** \*\*\*  
38

39 **(e) Attachments and incorporation by reference**  
40

41 (1) No attachments are permitted except:  
42

43 (A) An opinion or order from which the party seeks relief required to be  
44 attached under (b)(4) or (5);  
45

1 (B)–(D) \*\*\*

2  
3 (2) The attachments under (1)(A)(B)–(C) must not exceed a combined total of 10  
4 pages.

5  
6 (3) \*\*\*

7  
8 *(Subd (e) amended effective January 1, 2009; adopted as subd (f) effective January 1, 2003;*  
9 *previously relettered effective January 1, 2004; previously amended effective January 1, 2007.)*

10  
11 *Rule 8.504 amended effective January 1, 2009; adopted as rule 28.1 effective January 1, 2003; previously*  
12 *amended effective January 1, 2004; previously amended and renumbered effective January 1, 2007.*

13  
14  
15 **Rule 8.520. Briefs by parties and amici curiae; judicial notice**

16  
17 (a)–(b) \*\*\*

18  
19 (c) **Length**

20  
21 (1) If produced on a computer, an opening or answering brief on the merits must  
22 not exceed 14,000 words, including footnotes, and a reply brief on the merits  
23 must not exceed ~~4,200~~ 8,400 words, including footnotes. Each brief must  
24 include a certificate by appellate counsel or an unrepresented party stating the  
25 number of words in the brief. The person certifying may rely on the word  
26 count of the computer program used to prepare the brief.

27  
28 (2) If typewritten, an opening or answering brief on the merits must not exceed 50  
29 pages and a reply brief on the merits must not exceed ~~45~~ 30 pages.

30  
31 (3)–(4) \*\*\*

32  
33 *(Subd (c) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

34  
35  
36 (d)–(e) \*\*\*

37  
38 (f) **Amicus curiae briefs**

39  
40 (1)–(3) \*\*\*

41  
42 (4) The application must also identify:

43  
44 (A) Any party or any counsel for a party in the pending appeal who:

- 1  
2 (i) Authored the proposed amicus brief in whole or in part; or  
3  
4 (ii) Made a monetary contribution intended to fund the preparation or  
5 submission of the brief; and  
6

7 (B) Every person or entity who made a monetary contribution intended to  
8 fund the preparation or submission of the brief, other than the amicus  
9 curiae, its members, or its counsel in the pending appeal.

10  
11 ~~(4)~~(5) \*\*\*

12  
13 ~~(5)~~(6) \*\*\*

14  
15 ~~(6)~~(7) \*\*\*

16  
17 ~~(7)~~(8) The Attorney General may file an amicus curiae brief without the Chief  
18 Justice's permission unless the brief is submitted on behalf of another state  
19 officer or agency. The Attorney General must serve and file the brief within  
20 the time specified in (2) and must provide the information required by (3) and  
21 comply with ~~(5)~~(6). Any answer must comply with ~~(6)~~(7).

22  
23 *(Subd (f) amended effective January 1, 2009; previously amended effective January 1, 2008.)*

24  
25 **(g)–(h) \*\*\***

26  
27 *Rule 8.520 amended effective January 1, 2009; adopted as rule 29.1 effective January 1, 2003; previously*  
28 *amended and renumbered effective January 1, 2007; previously amended effective January 1, 2008.*

29  
30  
31 **Rule 8.552. Transfer for decision**

32  
33 **(a) \*\*\***

34  
35 **(b) When a cause is pending**

36  
37 For purposes of this rule, a cause within the appellate jurisdiction of the superior  
38 court is not pending in the Court of Appeal until that court orders it transferred  
39 under rule 8.1002. Any cause pending in the Court of Appeal remains pending until  
40 the decision of the Court of Appeal is final in that court ~~under rule 8.264.~~

41  
42 *(Subd (b) amended effective January 1, 2009; previously amended effective January 1, 2007.)*  
43

1 (c)–(e) \*\*\*

2  
3 *Rule 8.552 amended effective January 1, 2009; repealed and adopted as rule 29.9 effective January 1,*  
4 *2003; previously amended and renumbered effective January 1, 2007.*

5  
6 **Advisory Committee Comment**

7  
8 Rule 8.552 applies only to causes that the Supreme Court transfers to itself for the purpose of reaching a  
9 decision on the merits. The rule implements a portion of article VI, section 12(a) of the Constitution. As  
10 used in article VI, section 12(a) and the rule, the term “cause” is broadly construed to include “ ‘all cases,  
11 matters, and proceedings of every description’ ” adjudicated by the Courts of Appeal and the Supreme  
12 Court. (*In re Rose* (2000) 22 Cal.4th 430, 540, quoting *In re Wells* (1917) 174 Cal. 467, 471.)

13  
14 **Subdivision (b).** For provisions addressing the finality of Court of Appeal decisions, see rules 8.264(b)  
15 (civil appeals), 8.366(b) (criminal appeals), 8.490 (proceedings for writs of mandate, certiorari, and  
16 prohibition), and 8.1018(a) (transfer of appellate division cases).

17  
18  
19 **Chapter 9-10. Appeals From Judgments of Death**

20  
21 *Title 8, Appellate Rules—Division 1, Rules Relating to the Supreme Court and Courts of Appeal—*  
22 *Chapter 10, Appeals From Judgments of Death amended and renumbered effective January 1, 2009;*  
23 *adopted as chapter 9 effective January 1, 2007.*

24  
25  
26 **Rule 8.805. Amendments to rules and statutes**

27  
28 **(a) Amendments to rules**

29  
30 Only the Judicial Council may amend these rules, except the rules in division 5,  
31 which may be amended only by the Supreme Court. An amendment by the Judicial  
32 Council must be published in the advance pamphlets of the Official Reports and  
33 takes effect on the date ordered by the Judicial Council.

34  
35 **(b) Amendments to statutes**

36  
37 In these rules, a reference to a statute includes any subsequent amendment to the  
38 statute.

39  
40 *Rule 8.805 adopted effective January 1, 2009.*

41  
42  
43 **Rule 8.817. Service and filing**



1 **(a) Service**  
2

- 3 (1) Before filing any document, a party must serve, by any method permitted by  
4 the Code of Civil Procedure, one copy of the document on the attorney for  
5 each party separately represented, on each unrepresented party, and on any  
6 other person or entity when required by statute or rule.  
7  
8 (2) The party must attach to the document presented for filing a proof of service  
9 showing service on each person or entity required to be served under (1). The  
10 proof must name each party represented by each attorney served.  
11

12 **(b) Filing**  
13

- 14 (1) A document is deemed filed on the date the clerk receives it.  
15  
16 (2) Unless otherwise provided by these rules or other law, a filing is not timely  
17 unless the clerk receives the document before the time to file it expires.  
18  
19 (3) A brief, a petition for rehearing, or an answer to a petition for rehearing is  
20 timely if the time to file it has not expired on the date of:  
21  
22 (A) Its mailing by priority or express mail as shown on the postmark or the  
23 postal receipt; or  
24  
25 (B) Its delivery to a common carrier promising overnight delivery as shown  
26 on the carrier’s receipt.  
27  
28 (4) The provisions of (3) do not apply to original proceedings.  
29

30 *Rule 8.817 adopted effective January 1, 2009.*  
31

32 **Advisory Committee Comment**  
33

34 **Subdivision (a).** Subdivision (a)(1) requires service “by any method permitted by the Code of Civil  
35 Procedure.” The reference is to the several permissible methods of service provided in Code of Civil  
36 Procedure sections 1010–1020. *What Is Proof of Service?* (form APP-109-INFO) provides additional  
37 information about how to serve documents and how to provide proof of service.  
38

39 **Subdivision (b)(2).** In general, to be filed on time, a document must be received by the clerk before the  
40 time for filing that document expires. There are, however, some limited exceptions to this general rule.  
41 For example, rule 8.853(e) provides that in a misdemeanor appeal, if the superior court clerk receives a  
42 notice of appeal by mail from a custodial institution after the deadline for filing the notice has expired but  
43 the envelope shows that the notice was mailed or delivered to custodial officials for mailing before the  
44 deadline expired, the notice is deemed timely. This provision reflects the “prison-delivery” exception  
45 articulated by the California Supreme Court in *In re Jordan* (1992) 4 Cal.4th 116.

1  
2  
3 **Rule 8.843. Transmitting exhibits**  
4

5 **(a) Notice of designation**  
6

- 7 (1) If a party wants the appellate division to consider any original exhibits that  
8 were admitted in evidence, refused, or lodged but that were not copied in the  
9 clerk's transcript under rule 8.832 or included in the original file under rule  
10 8.833, within 10 days after the last respondent's brief is filed or could be filed  
11 under rule 8.882 the party must serve and file a notice in the trial court  
12 designating such exhibits.  
13  
14 (2) Within 10 days after a notice under (1) is served, any other party wanting the  
15 appellate division to consider additional exhibits must serve and file a notice in  
16 the trial court designating such exhibits.  
17  
18 (3) A party filing a notice under (1) or (2) must serve a copy on the appellate  
19 division.  
20

21 **(b) Application for later transmittal**  
22

23 After the periods specified in (a) have expired, a party may apply to the appellate  
24 division for permission to send an exhibit to that court.  
25

26 **(c) Request by appellate division**  
27

28 At any time the appellate division may direct the trial court or a party to send it an  
29 exhibit.  
30

31 **(d) Transmittal**  
32

33 Unless the appellate division orders otherwise, within 20 days after notice under (a)  
34 is filed or after the appellate division directs that an exhibit be sent:  
35

- 36 (1) The trial court clerk must put any designated exhibits in the clerk's possession  
37 into numerical or alphabetical order and send them to the appellate division  
38 with two copies of a list of the exhibits sent. If the appellate division clerk  
39 finds the list correct, the clerk must sign and return one copy to the trial court  
40 clerk.  
41  
42 (2) Any party in possession of designated exhibits returned by the trial court must  
43 put them into numerical or alphabetical order and send them to the appellate

1 division with two copies of a list of the exhibits sent. If the appellate division  
2 clerk finds the list correct, the clerk must sign and return one copy to the party.

3  
4 **(e) Return by appellate division**

5  
6 On request, the appellate division may return an exhibit to the trial court or to the  
7 party that sent it. When the remittitur issues, the appellate division must return all  
8 exhibits to the trial court or to the party that sent them.

9  
10 *Rule 8.843 adopted effective January 1, 2009.*

11  
12  
13 **Rule 8.851. Appointment of appellate counsel**

14  
15 \*\*\*

16 **Advisory Committee Comment**

17  
18 *Request for Court-Appointed Lawyer in Misdemeanor Appeal (form CR-133) may be used to request that*  
19 *appellate counsel be appointed in a misdemeanor case. If the appellant was not represented by the public*  
20 *defender or other appointed counsel in the trial court, the appellant must use Defendant's Financial*  
21 *Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public*  
22 *Expense (form MC-210) to show indigency. These forms are available at any courthouse or county law*  
23 *library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).*

24  
25  
26 **Rule 8.866. Preparation of reporter's transcript**

27  
28 \*\*\*

29 **Advisory Committee Comment**

30  
31 **Subdivision (a).** If the appellant was not represented by the public defender or other appointed counsel in  
32 the trial court, the appellant must use *Defendant's Financial Statement on Eligibility for Appointment of*  
33 *Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210) to show indigency.  
34 This form is available at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

35  
36  
37 **Rule 8.868. Record when trial proceedings were officially electronically recorded**

38  
39 \*\*\*

40 **Advisory Committee Comment**

41  
42 **Subdivision (d).** If the appellant was not represented by the public defender or other appointed counsel in  
43 the trial court, the appellant must use *Defendant's Financial Statement on Eligibility for Appointment of*  
44 *Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210) to show indigency.  
45 This form is available at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

1 **Rule 8.882. Briefs by parties and amici curiae**

2  
3 (a) \*\*\*

4  
5 **(b) Extensions of time**

6  
7 (1) In a civil case, the parties may extend each period under (a) by up to 30 days  
8 by filing one or more stipulations in the appellate division before the brief is  
9 due. Stipulations must be signed by and served on all parties. The original  
10 signature of at least one party must appear on the stipulation filed in the  
11 appellate division; the signatures of the other parties may be in the form of fax  
12 copies of the signed signature page of the stipulation.

13  
14 (2) A stipulation under (1) is effective on filing. The appellate division may not  
15 shorten such a stipulated extension.

16  
17 *(Subd (b) adopted effective January 1, 2009.)*

18  
19 ~~(b)~~(c) \*\*\*

20  
21 *(Subd (c) relettered effective January 1, 2009; adopted as subd (b) effective January 1, 2009.)*

22  
23 ~~(e)~~(d) **Amicus curiae briefs**

24  
25 (1)–(2) \*\*\*

26  
27 (3) The application must also identify:

28  
29 (A) Any party or any counsel for a party in the pending appeal who:

30  
31 (i) Authored the proposed amicus brief in whole or in part; or

32  
33 (ii) Made a monetary contribution intended to fund the preparation or  
34 submission of the brief; and

35  
36 (B) Every person or entity who made a monetary contribution intended to  
37 fund the preparation or submission of the brief, other than the amicus  
38 curiae, its members, or its counsel in the pending appeal.

39  
40 ~~(3)~~(4) \*\*\*

41  
42 ~~(4)~~(5) \*\*\*

1 (Subd (d) amended and relettered effective January 1, 2009; adopted as subd (c) effective January  
2 1, 2009.)

3  
4 **(d)(e) Service and filing**

5  
6 (1) \*\*\*

7  
8 (2) Unless the ~~appellate division~~ court provides otherwise by local rule or order in  
9 the specific case, only the original brief, with proof of service, must be filed in  
10 the appellate division.

11  
12 (3)–(4) \*\*\*

13  
14 (Subd (e) amended and relettered effective January 1, 2009; adopted as subd (d) effective January  
15 1, 2009.)

16  
17 *Rule 8.882 amended effective January 1, 2009; adopted effective January 1, 2009.*

18  
19  
20 **Rule 8.884. Appeals in which a party is both appellant and respondent**

21  
22 (a) \*\*\*

23  
24 (b) **Contents of briefs**

25  
26 (1)–(2) \*\*\*

27  
28 (3) A combined brief must address the points raised in each appeal separately but  
29 may include a single summary of the significant facts.

30  
31 (Subd (b) amended effective January 1, 2009.)

32  
33 *Rule 8.884 amended effective January 1, 2009; adopted effective January 1, 2009.*

34  
35  
36 **Rule 8.917. Record when trial proceedings were officially electronically recorded**

37  
38 \*\*\*

39 **Advisory Committee Comment**

40  
41 **Subdivision (d).** The appellant must use *Defendant’s Financial Statement on Eligibility for Appointment*  
42 *of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210) to show  
43 indigency. This form is available at any courthouse or county law library or online at  
44 [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

1  
2 **Rule 8.919. Preparation of reporter’s transcript**

3  
4 \*\*\*

5 **Advisory Committee Comment**

6  
7 **Subdivision (a).** The appellant must use *Defendant’s Financial Statement on Eligibility for Appointment*  
8 *of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210) to show  
9 indigency. This form is available at any courthouse or county law library or online at  
10 [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).  
11

12  
13 **Rule 8.931. Petitions filed by persons not represented by an attorney**

14  
15 (a) \*\*\*

16  
17 (b) **Contents of supporting documents**

18  
19 (1) \*\*\*

20  
21 ~~(4)~~(2) In extraordinary circumstances, the petition may be filed without the  
22 documents required by (1)(A)–(C) if ~~counsel or, if the petitioner is~~  
23 ~~unrepresented~~, the petitioner files a declaration that explains the urgency and  
24 the circumstances making the documents unavailable and fairly summarizes  
25 their substance.  
26

27 ~~(2)~~(3) If a transcript or electronic recording under (1)(D) is unavailable, the record  
28 must include a declaration by ~~counsel or, if the petitioner is unrepresented~~, by  
29 the petitioner:  
30

31 (A) Explaining why the transcript or electronic recording is unavailable and  
32 fairly summarizing the proceedings, including the petitioner’s arguments  
33 and any statement by the court supporting its ruling. This declaration  
34 may omit a full summary of the proceedings if part of the relief sought is  
35 an order to prepare a transcript for use by an indigent criminal defendant  
36 in support of the petition and if the declaration demonstrates the  
37 petitioner’s need for and entitlement to the transcript; or  
38

39 (B) Stating that the transcript or electronic recording has been ordered, the  
40 date it was ordered, and the date it is expected to be filed, which must be  
41 a date before any action requested of the appellate division other than  
42 issuance of a temporary stay supported by other parts of the record.  
43

1           ~~(3)~~—A declaration under ~~(2)~~ may omit a full summary of the proceedings if part of  
2           the relief sought is an order to prepare a transcript for use by an indigent  
3           criminal defendant in support of the petition and if the declaration  
4           demonstrates the petitioner’s need for and entitlement to the transcript.  
5

6           ~~(5)~~(4) \*\*\*

7  
8           *(Subd (b) amended effective January 1, 2009.)*  
9

10          ~~(c)~~–~~(d)~~ \*\*\*

11  
12          *Rule 8.931 amended effective January 1, 2009; adopted effective January 1, 2009.*  
13  
14

15          **Rule 8.1018. Finality and remittitur**

16  
17          **(a) Finality**

18  
19                 The denial of a transfer of a case from the appellate division of the superior court is  
20                 final immediately.

21  
22                 *(Subd (a) adopted effective January 1, 2009.)*  
23

24          ~~(a)~~(b) \*\*\*

25  
26                 *(Subd (b) relettered effective January 1, 2009; adopted as subd (a) effective January 1, 2003.)*  
27

28          ~~(b)~~(c) \*\*\*

29  
30                 *(Subd (c) relettered effective January 1, 2009; adopted as subd (b) effective January 1, 2003.)*  
31

32          ~~(e)~~(d) \*\*\*

33  
34                 *(Subd (d) relettered effective January 1, 2009; adopted as subd (c) effective January 1, 2003.)*  
35

36          *Rule 8.1018 amended effective January 1, 2009; repealed and adopted as rule 69 effective January 1,*  
37          *2003; previously renumbered effective January 1, 2007.*  
38

39                                 **Advisory Committee Comment**

40  
41          **Subdivision (a).** The finality of Court of Appeal decisions in appeals is generally addressed in rules 8.264  
42          (civil appeals) and 8.366 (criminal appeals).  
43

1  
2 **Rule 10.172. Court security plans**

3  
4 **(a) Responsibility**

5  
6 The presiding judge and the sheriff or marshal are responsible for developing an  
7 annual or multiyear comprehensive, countywide court security plan.

8  
9 **(b) Scope of security plan**

10  
11 (1) Each court security plan must, at a minimum, address the following general  
12 security subject areas:

13  
14 (A) Composition and role of court security committees;

15  
16 (B) Composition and role of executive team;

17  
18 (C) Incident command system;

19  
20 (D) Self-assessments and audits of court security;

21  
22 (E) Mail handling security;

23  
24 (F) Identification cards and access control;

25  
26 (G) Courthouse landscaping security plan;

27  
28 (H) Parking plan security;

29  
30 (I) Interior and exterior lighting plan security;

31  
32 (J) Intrusion and panic alarm systems;

33  
34 (K) Fire detection and equipment;

35  
36 (L) Emergency and auxiliary power;

37  
38 (M) Use of private security contractors;

39  
40 (N) Use of court attendants and employees;

41  
42 (O) Administrative/clerk's office security;



- 1           (P) Jury personnel and jury room security;
- 2
- 3           (Q) Security for public demonstrations;
- 4
- 5           (R) Vital records storage security;
- 6
- 7           (S) Evacuation planning;
- 8
- 9           (T) Security for after-hours operations;
- 10
- 11          (U) Custodial services;
- 12
- 13          (V) Computer and data security;
- 14
- 15          (W) Workplace violence prevention; and
- 16
- 17          (X) Public access to court proceedings.
- 18

19       (2) Each court security plan must, at a minimum, address the following law  
20 enforcement subject areas:

- 21
- 22          (A) Security personnel and staffing;
- 23
- 24          (B) Perimeter and entry screening;
- 25
- 26          (C) Prisoner and inmate transport;
- 27
- 28          (D) Holding cells;
- 29
- 30          (E) Interior and public waiting area security;
- 31
- 32          (F) Courtroom security;
- 33
- 34          (G) Jury trial procedures;
- 35
- 36          (H) High-profile and high-risk trial security;
- 37
- 38          (I) Judicial protection;
- 39
- 40          (J) Incident reporting and recording;
- 41
- 42          (K) Security personnel training;
- 43

1           (L) Courthouse security communication;

2  
3           (M) Hostage, escape, lockdown, and active shooter procedures;

4  
5           (N) Firearms policies and procedures; and

6  
7           (O) Restraint of defendants.

8  
9       (3) Each court security plan should address additional security issues as needed.

10  
11 **(c) Court security assessment and assessment report**

12  
13 At least once every two years, the presiding judge and the sheriff or marshal are  
14 responsible for conducting an assessment of security with respect to all court  
15 operations. The assessment must include a comprehensive review of the court’s  
16 physical security profile and security protocols and procedures. The assessment  
17 should identify security weaknesses, resource deficiencies, compliance with the  
18 court security plan, and any need for changes to the court security plan. The  
19 assessment must be summarized in a written assessment report.

20  
21 **(d) Submission of court security plan to the Administrative Office of the Courts**

22  
23 On or before November 1, 2009, each superior court must submit a court security  
24 plan to the Administrative Office of the Courts (AOC). On or before February 1,  
25 2011, and each succeeding February 1, each superior court must report to the AOC  
26 whether it has made any changes to the court security plan and, if so, identify each  
27 change made and provide copies of the current court security plan and current  
28 assessment report. In preparing any submission, a court may request technical  
29 assistance from the AOC.

30  
31 **(e) Plan review process**

32  
33 The AOC will evaluate for completeness submissions identified in (d). Annually,  
34 the submissions and evaluations will be provided to the Working Group on Court  
35 Security. Any submissions determined by the working group to be incomplete or  
36 deficient must be returned to the submitting court for correction and completion. No  
37 later than July 1 of each year, the working group must submit to the Judicial  
38 Council a summary of the submissions for the Judicial Council’s report to the  
39 Legislature.

40  
41 **(f) Delegation**

1        The presiding judge may delegate any of the specific duties listed in this rule to  
 2        another judge or, if the duty does not require the exercise of judicial authority, to  
 3        the court executive officer or other court employee. The presiding judge remains  
 4        responsible for all duties listed in this rule even if he or she has delegated particular  
 5        tasks to someone else.

6  
 7        *Rule 10.172 adopted effective January 1, 2009.*

8  
 9    **Advisory Committee Comment**

10  
 11        This rule is adopted to comply with the mandate in Government Code section 69925, which requires the  
 12        Judicial Council to provide for the areas to be addressed in a court security plan and to establish a process  
 13        for the review of such plans. The Working Group on Court Security is authorized by Government Code  
 14        section 69927 and established by rule 10.170 for the purpose of studying and making recommendation to  
 15        the Judicial Council regarding court security matters. For the assistance of the courts and sheriffs in  
 16        preparing and submitting their court security plans, the Working Group on Court Security has prepared  
 17        Court Security Plan Guidelines with respect to each of the subject areas identified in subsections (b)(1)  
 18        and (b)(2). The courts and sheriffs may obtain copies of the Court Security Plan Guidelines from the  
 19        Administrative Office of the Courts' Emergency Response and Security unit.

20  
 21  
 22        **Rule 10.173. Court security committees**

23  
 24        **(a) Establishment**

25  
 26        Each superior court must establish a standing court security committee.

27  
 28        **(b) Role of the court security committee**

29  
 30        The court security committee and any subcommittees advise the presiding judge  
 31        and sheriff or marshal on the preparation of court security plans and on the  
 32        formulation and implementation of all other policies and procedures related to  
 33        security for court operations and security for facilities where the court conducts its  
 34        operations. The presiding judge and sheriff or marshal may delegate to a court  
 35        security committee or subcommittee the responsibility for conducting the court  
 36        security assessment and preparing the assessment report.

37  
 38        **(c) Members**

39  
 40        (1) The court security committee must be chaired by the presiding judge or a  
 41        judge designated by the presiding judge.

42  
 43        (2) In addition to the chair, each court security committee must include at least  
 44        one representative designated by the sheriff or marshal and either the court

1 executive officer or other court administrator as designated by the presiding  
2 judge.

3  
4 (3) The chair may appoint additional members as appropriate. Additional  
5 members may include representatives from other government agencies,  
6 including:

7  
8 (A) The facilities management office of the government entity, or entities,  
9 that hold title to or are responsible for the facilities where the court  
10 conducts its operations;

11  
12 (B) Local fire protection agencies;

13  
14 (C) Agencies that occupy portions of a court facility; and

15  
16 (D) Agencies other than the sheriff that manage local corrections or state  
17 prison facilities.

18  
19 **(d) Facility contact person**

20  
21 In those courts having more than one court facility, the chair of the court security  
22 committee must designate for each facility a single contact person to coordinate  
23 activities in the event of an emergency and to collaborate with the court security  
24 committee, at its request.

25  
26 **(e) Subcommittees**

27  
28 The chair of the court security committee may form subcommittees if appropriate,  
29 including a subcommittee for each court facility. The chair must determine the  
30 composition of each subcommittee based on the individual court's circumstances.

31  
32 *Rule 10.173 adopted effective January 1, 2009.*

33  
34 **Rule 10.613. Local court rules—adopting, filing, distributing, and maintaining**

35  
36 **(a)–(c) \*\*\***

37  
38 **(d) Filing rules with the Judicial Council**

39  
40 (1) ~~Thirty~~ Forty-five days before the effective date of January 1 or July 1, each  
41 court must file with the Judicial Council an electronic copy of rules and  
42 amendments to rules adopted by the court in a format authorized by the  
43 Judicial Council.

1  
2 (2)–(3) \*\*\*

3  
4 *(Subd (d) amended effective January 1, 2009; adopted as subd (e) effective July 1, 1991; amended*  
5 *and relettered effective July 1, 1999; previously amended effective January 1, 2003, and January 1,*  
6 *2007.)*

7  
8 (e)–(j) \*\*\*

9  
10 *Rule 10.613 amended effective January 1, 2009; adopted as rule 981 effective July 1, 1991; previously*  
11 *amended effective January 1, 1993, July 1, 1999, July 1, 2001, and January 1, 2003; previously amended*  
12 *and renumbered effective January 1, 2007.*

13  
14  
15 **Rule 10.820. Acceptance of credit cards by the superior courts**

16  
17 (a)–(d) \*\*\*

18  
19 (e) **Existing approvals ratified**

20  
21 The approval of any board of supervisors for any superior court to accept credit  
22 cards or charge a fee for the use of credit cards that was effective as of December  
23 31, 1999, is ratified by the council as of January 1, 2000.

24  
25 *(Subd (e) amended effective January 1, 2009; previously amended effective January 1, 2007.)*

26  
27 *Rule 10.820 amended effective January 1, 2009; adopted as rule 6.703 effective January 1, 2000;*  
28 *previously amended and renumbered effective January 1, 2007.*

29  
30  
31 **~~Standard 10.40. Court security~~**

32  
33 **~~(a) Court security officer~~**

34  
35 ~~Each trial court should designate a specified peace officer as Court Security Officer~~  
36 ~~to be responsible to the court for all matters relating to its security, including~~  
37 ~~security of courtrooms, buildings, and grounds. The peace officer designated as~~  
38 ~~Court Security Officer should be the sheriff or the sheriff's designee, except that~~  
39 ~~where local conditions dictate otherwise another peace officer may be designated.~~  
40 ~~The Court Security Officer should be in operational command of all peace officers~~  
41 ~~and others charged with a court security function while acting in that capacity and~~  
42 ~~should be responsible for the adequacy of security equipment, the competence~~  
43 ~~training and assignment of security forces, and the effective execution of the Court~~  
44 ~~Security Plan described in (b).~~

1  
2 **(b) Preparation of court security plan**

3  
4 Each court should require the Court Security Officer to prepare a Court Security  
5 Plan for its review and consideration. The Court Security Plan should:

- 6  
7 (1) Be the operational plan for achieving the desired level of security for  
8 courtrooms, buildings, and grounds, including the planned allocation of  
9 security forces and equipment;
- 10  
11 (2) Describe the place and functional assignment and the dress and arming of all  
12 security forces (e.g., bailiffs), and propose plans for maintaining courtroom  
13 decorum and safety within courthouses and grounds in high-risk situations;  
14 and
- 15  
16 (3) Include an evaluation of the court's security needs, and an assessment of the  
17 adequacy and effectiveness of the equipment and forces available to meet  
18 those needs.

19  
20 **(c) Adoption and review of Court Security Plan**

21  
22 Each trial court should adopt, reject, or request modification of the proposed Court  
23 Security Plan after giving due consideration to all local conditions affecting its  
24 security and to the effect of the plan on the conduct of trials and other proceedings.  
25 Each trial court should provide for a periodic review of its security plan and for a  
26 periodic assessment of the effectiveness of its execution.

27  
28 **(d) Wearing of firearms in court**

29  
30 No trial court should approve a Court Security Plan that does not limit the wearing  
31 of firearms in the courthouse or courtrooms to peace officers and proscribe the  
32 wearing of firearms in such places by all other persons.

33  
34 **(e) Security of Courts of Appeal**

35  
36 Each Court of Appeal should review its security needs and, if necessary, should  
37 request personnel and equipment deemed necessary to maintain the desired level of  
38 security.

39  
40 *Standard 10.40 repealed effective January 1, 2009; adopted as sec. 7 effective July 1, 1971; previously*  
41 *amended and renumbered effective January 1, 2007.*

1  
2 **Division 8. Alternative Dispute Resolution**

3  
4 **Chapter 3. General Rules Relating to Mediation of Civil Cases**

5  
6 **Article 3. Requirements for Addressing Complaints About Court-Program**  
7 **Mediators**

8 *Title 3, Civil Rules—Division 8, Alternative Dispute Resolution—Chapter 3, General Rules*  
9 *Relating to Mediation of Civil Cases—Article 3, Requirements for Addressing Complaints About*  
10 *Court-Program Mediators adopted effective July 1, 2009.*

11  
12 **Rule 3.865. Application and purpose**

13  
14 The rules in this article apply to each superior court that makes a list of mediators  
15 available to litigants in general civil cases or that recommends, selects, appoints,  
16 or compensates a mediator to mediate any general civil case pending in that court.  
17 These rules are intended to promote the resolution of complaints that mediators in  
18 court-connected mediation programs for civil cases may have violated a provision  
19 of the rules of conduct for such mediators in article 2. They are intended to help  
20 courts promptly resolve any such complaints in a manner that is respectful and fair  
21 to the complainant and the mediator and consistent with the California mediation  
22 confidentiality statutes.

23  
24 *Rule 3.865 adopted effective July 1, 2009.*

25  
26 **Advisory Committee Comment**

27  
28 As used in this article, complaint means a written communication presented to a court's  
29 complaint coordinator indicating that a mediator may have violated a provision of the rules of  
30 conduct for mediators in article 2.

31  
32 Complaints about mediators are relatively rare. To ensure the quality of court mediation panels  
33 and public confidence in the mediation process and the courts, it is, nevertheless, important to  
34 ensure that any complaints that do arise are resolved through procedures that are consistent with  
35 California mediation confidentiality statutes (Evid. Code, §§ 703.5 and 1115 et seq.), as well as  
36 fair and respectful to the interested parties.

37  
38 The requirements and procedures in this article do not abrogate or limit a court's inherent or other  
39 authority, in its sole and absolute discretion, to determine who may be included on or removed  
40 from a court list of mediators; to approve or revoke a mediator's eligibility to be recommended,  
41 selected, appointed, or compensated by the court; or to follow other procedures or take other  
42 actions to ensure the quality of mediators who serve in the court's mediation program in contexts  
43 other than when addressing a complaint. The failure to follow a requirement or procedure in this  
44 article will not invalidate any action taken by the court in addressing a complaint.

1 **Rule 3.866. Definitions**

2  
3 As used in this article, unless the context or subject matter requires otherwise:

- 4  
5 (1) “The rules of conduct” means rules 3.850–3.860 of the California Rules of  
6 Court in article 2.  
7  
8 (2) “Court-program mediator” means a person subject to the rules of conduct  
9 under rule 3.851.  
10  
11 (3) “Inquiry” means an unwritten communication presented to the court’s  
12 complaint coordinator indicating that a mediator may have violated a  
13 provision of the rules of conduct.  
14  
15 (4) “Complaint” means a written communication presented to the court’s  
16 complaint coordinator indicating that a mediator may have violated a  
17 provision of the rules of conduct.  
18  
19 (5) “Complainant” means the person who makes or presents a complaint.  
20  
21 (6) “Complaint coordinator” means the person designated by the presiding judge  
22 under rule 3.867(a) to receive complaints and inquiries about the conduct of  
23 mediators.  
24  
25 (7) “Complaint committee” means a committee designated or appointed to  
26 investigate and make recommendations concerning complaints under rule  
27 3.869(d)(2).  
28  
29 (8) “Complaint procedure” means a procedure for presenting, receiving,  
30 reviewing, responding to, investigating, and acting on any inquiry or  
31 complaint.  
32  
33 (9) “Complaint proceeding” means all of the proceedings that take place as part  
34 of a complaint procedure concerning a specific inquiry or complaint.  
35  
36 (10) “Mediation communication” means any statement that is made or any  
37 writing that is prepared for the purpose of, in the course of, or pursuant to a  
38 mediation or a mediation consultation, as defined in Evidence Code section  
39 1115, and includes any communications, negotiations, and settlement  
40 discussions between participants in the course of a mediation or a mediation  
41 consultation.

42  
43 *Rule 3.866 adopted effective July 1, 2009.*



1  
2 **Advisory Committee Comment**  
3

4 **Paragraph (2).** Under rule 3.851, the rules of conduct apply when a mediator, or a firm with  
5 which a mediator is affiliated, has agreed to be included on a superior court’s list or panel of  
6 mediators for general civil cases and is notified by the court or the parties that he or she has been  
7 selected to mediate a case within that court’s mediation program or when a mediator has agreed  
8 to mediate a general civil case after being notified that he or she was recommended, selected, or  
9 appointed by a court, or will be compensated by a court, to mediate a case within a court’s  
10 mediation program.

11  
12 **Paragraphs (3) and (4).** The distinction between “inquiries” and “complaints” is significant  
13 because some provisions of this article apply only to complaints (i.e., written communications  
14 presented to the court’s complaint coordinator indicating that a mediator may have violated a  
15 provision of the rules of conduct) and not to inquiries.

16  
17  
18 **Rule 3.867.3.866. Designation of person to receive inquiries and complaints**  
19 **Complaint coordinator**

20  
21 **(a) Designation of the complaint coordinator**  
22

23 ~~In each superior court that is required to establish a complaint procedure~~  
24 ~~under rule 3.865, The presiding judge must designate a person who is~~  
25 ~~knowledgeable about mediation to receive and coordinate the investigation~~  
26 ~~of any inquiries or complaints about the conduct of mediators who are~~  
27 ~~subject to rule 3.865 serve as the complaint coordinator.~~

28  
29 *(Subd (a) amended and lettered effective July 1, 2009; adopted as unlettered subd effective*  
30 *January 1, 2006.)*

31  
32 **(b) Identification of the complaint coordinator**  
33

34 The court must make the complaint coordinator’s identity and contact  
35 information readily accessible to litigants and the public.

36  
37 *(Subd (b) adopted effective July 1, 2009.)*

38  
39 *Rule 3.867 amended and renumbered effective July 1, 2009; adopted as rule 1622.1 effective*  
40 *January 1, 2006; previously amended and renumbered as rule 3.866 effective January 1, 2007.*

41  
42 **Advisory Committee Comment**  
43

44  
45 The alternative dispute resolution program administrator appointed under rule 10.783(a) may also  
46 be appointed as the complaint coordinator if that person is knowledgeable about mediation.

1  
2  
3 **Rule ~~3.868~~3.865. Complaint procedure required**  
4

5 **~~(a) Court procedures required~~**  
6

7 Each superior court that makes a list of mediators available to litigants in  
8 general civil cases or that recommends, selects, appoints, or compensates a  
9 mediator to mediate any general civil case pending in the court to which this  
10 article applies under rule 3.865 must establish a complaint procedures by  
11 local rule of court that is consistent with this article. ~~for receiving,~~  
12 ~~investigating, and resolving complaints that mediators who are on the court's~~  
13 ~~list or who are recommended, selected, appointed, or compensated by the~~  
14 ~~court failed to comply with the rules for conduct of mediators set forth in this~~  
15 ~~article, when applicable.~~

16  
17 *(Subd (a) amended and unlettered effective July 1, 2009; adopted as subd (a) effective*  
18 *January 1, 2003; previously amended effective January 1, 2006, and January 1, 2007.)*  
19

20 **~~(b) Actions court may take~~**  
21

22 The court may ~~impose additional mediation training requirements on a~~  
23 ~~mediator, reprimand a mediator, remove a mediator from the court's panel or~~  
24 ~~list, or otherwise prohibit a mediator from receiving future mediation~~  
25 ~~referrals from the court if the mediator fails to comply with the rules of~~  
26 ~~conduct for mediators in this article, when applicable.~~

27  
28 *Rule 3.868 amended and renumbered effective July 1, 2009; adopted as rule 1622 effective*  
29 *January 1, 2003; previously amended effective January 1, 2006; previously amended and*  
30 *renumbered as rule 3.865 effective January 1, 2007.*  
31

32  
33 **Rule 3.869. General requirements for complaint procedures and complaint**  
34 **proceedings**  
35

36 **(a) Submission and referral of inquiries and complaints to the complaint**  
37 **coordinator**  
38

39 All inquiries and complaints should be submitted or referred to the complaint  
40 coordinator.  
41

42 **(b) Acknowledgment of complaint**  
43

1           The complaint coordinator must send the complainant a written  
2           acknowledgment that the court has received the complaint.

3  
4           **(c) Preliminary review and disposition of complaints**

5  
6           The complaint coordinator must conduct a preliminary review of all  
7           complaints to determine whether the complaint can be informally resolved or  
8           closed, or whether the complaint warrants investigation.

9  
10          **(d) Procedure for complaints not resolved through the preliminary review**

11  
12          The following procedures are required only if a complaint is not resolved or  
13          closed through the preliminary review.

14  
15          (1)    Mediator's notice and opportunity to respond

16  
17                  The mediator must be given notice of the complaint and an opportunity  
18                  to respond.

19  
20          (2)    Investigation and recommendation

21  
22                  (A)   Except as provided in (B), the complaint must be investigated and  
23                  a recommendation concerning court action on the complaint must  
24                  be made by either an individual who has experience as a mediator  
25                  and who is familiar with the rules of conduct stated in article 2 or  
26                  a complaint committee that has at least one such individual as a  
27                  member.

28  
29                  (B)   A court with eight or fewer authorized judges may waive the  
30                  requirement in (A) for participation by an individual who has  
31                  experience as a mediator in conducting the investigation and  
32                  making the recommendation if the court cannot find a suitable  
33                  qualified individual to perform the functions described in (A) or  
34                  for other grounds of hardship.

35  
36          (3)    Final decision

37  
38                  The final decision on the complaint must be made by the presiding  
39                  judge or his or her designee, who must not be the complaint coordinator  
40                  or an individual who investigated the complaint before its submission  
41                  for final decision.

1 **(e) Notice of final action**

2  
3 (1) The court must send the complainant notice of the final action taken by  
4 the court on the complaint.

5  
6 (2) If the complaint was not closed during the preliminary review, the court  
7 must send notice of the final action to the mediator.

8  
9 **(f) Promptness**

10  
11 The court must process complaints promptly at all stages.

12  
13 **(g) Records of complaints**

14  
15 The court should maintain sufficient information about each complaint and  
16 its disposition to identify any history or patterns of complaints submitted  
17 under these rules.

18  
19 *Rule 3.869 adopted effective July 1, 2009.*

20  
21 **Advisory Committee Comment**

22  
23 The Administrative Office of the Courts has developed model local rules that satisfy the  
24 requirements of this rule. These model local rules were developed with input from judicial  
25 officers, court administrators, alternative dispute resolution (ADR) program administrators, court-  
26 program mediators, and public commentators and are designed so that they can be readily adapted  
27 to the circumstances of individual courts and specific complaints. Courts are encouraged to adopt  
28 rules that follow the model rules, to the extent feasible. Courts can obtain copies of these model  
29 rules from civil ADR program staff at the Administrative Office of the Courts.

30  
31 **Subdivision (a).** Coordination of inquiries and complaints by a person knowledgeable about  
32 mediation is important to help ensure that the requirements of this article are followed and that  
33 mediation confidentiality is preserved.

34  
35 **Subdivision (c).** Courts are encouraged to resolve inquiries and complaints about mediators using  
36 the simplest, least formal procedures that are appropriate under the circumstances, provided that  
37 they meet the requirements stated in this article.

38  
39 Most complaints can be appropriately resolved during the preliminary review stage of the  
40 complaint process, through informal discussions between or among the complaint coordinator,  
41 the complainant, and the mediator. Although complaint coordinators are not required to  
42 communicate with the mediator during the preliminary review, they are encouraged to consider  
43 doing so. For example, some complaints may arise from a misunderstanding of the mediator's  
44 role or from behavior that would not violate the standards of conduct. These types of complaints  
45 might appropriately be addressed by providing the complainant with additional information or by  
46 informing the mediator that certain behavior was upsetting to a mediation participant.  
47

1 The circumstances under which a complaint coordinator might informally resolve or close a  
2 complaint include, for example, when (1) the complaint is withdrawn; (2) no violation of the rules  
3 of conduct appears to have occurred; (3) the alleged violation of the rules of conduct is very  
4 minor and the mediator has provided an acceptable explanation or response; and (4) the  
5 complainant, the mediator, and the complaint coordinator have agreed on a resolution. In  
6 determining whether to close a complaint, the complaint coordinator might also consider whether  
7 there are or have been other complaints about the mediator.

8  
9 **Subdivision (d).** At the investigation and recommendation stage, all courts are encouraged to  
10 consider using a complaint committee comprised of members with a variety of backgrounds,  
11 including at least one person with experience as a mediator, to investigate and make  
12 recommendations concerning those rare complaints that are not resolved during the preliminary  
13 review.

14  
15 Courts are also encouraged to have a judicial officer who is knowledgeable about mediation, or a  
16 committee that includes another person who is knowledgeable about mediation, make the final  
17 decision on complaints that are not resolved through the preliminary review.

### 18 19 20 **Rule 3.870. Permissible court actions on complaints**

21  
22 After an investigation has been conducted, the presiding judge or his or her  
23 designee may do one or more of the following:

- 24  
25 (1) Direct that no action be taken on the complaint;  
26  
27 (2) Counsel, admonish, or reprimand the mediator;  
28  
29 (3) Impose additional training requirements as a condition of the mediator  
30 remaining on the court's panel or list;  
31  
32 (4) Suspend the mediator from the court's panel or list or otherwise temporarily  
33 prohibit the mediator from receiving future mediation referrals from the  
34 court; or  
35  
36 (5) Remove the mediator from the court's panel or list or otherwise prohibit the  
37 mediator from receiving future mediation referrals from the court.

38  
39 *Rule 3.870 adopted effective July 1, 2009.*

#### 40 41 **Advisory Committee Comment**

42  
43 This rule does not abrogate or limit any existing legal right or duty of the court to take other  
44 actions, including interim suspension of a mediator pending final action by the court on a  
45 complaint.

1  
2 **Rule ~~3.871,3.867~~. Confidentiality of complaint procedures proceedings,**  
3 **information, and records**

4  
5 (a) **Intent** ~~This rule's requirement that rule 3.865 complaint procedures be~~  
6 ~~confidential is~~

7  
8 This rule is intended to:

- 9  
10 (1) Preserve the confidentiality of mediation communications as required  
11 by Evidence Code sections 1115–1128;  
12  
13 (2) Promote cooperation in the reporting, investigation, and resolution of  
14 complaints about court-program mediators ~~on court panels~~; and  
15  
16 (3) Protect mediators against damage to their reputations that might result  
17 from the disclosure of unfounded complaints against them.

18  
19 *(Subd (a) amended effective July 1, 2009; previously amended effective January 1, 2007.)*  
20

21 (b) **Preserving the confidentiality of mediation communications**

22  
23 All ~~procedures for receiving, investigating, and resolving inquiries or~~  
24 ~~complaints about the conduct of mediators~~ complaint procedures and  
25 complaint proceedings must be designed and conducted in a manner that ~~to~~  
26 preserves the confidentiality of mediation communications, including but not  
27 limited to the confidentiality of any communications between the mediator  
28 and individual mediation participants or subgroups of mediation participants.

29  
30 *(Subd (b) amended effective July 1, 2009.)*  
31

32 (c) **Confidentiality of complaint proceedings**

33  
34 All ~~communications, inquiries, complaints, investigations, procedures,~~  
35 ~~deliberations, and decisions about the conduct of a mediator under rule 3.865~~  
36 complaint proceedings must occur in private and must be kept confidential.  
37 No information or records concerning the receipt, investigation, or resolution  
38 of an inquiry or a complaint ~~under rule 3.865~~ may be open to the public or  
39 disclosed outside the course of the ~~rule 3.865 complaint procedure~~  
40 proceeding except as provided in (d) or as otherwise required by law.

41  
42 *(Subd (c) amended effective July 1, 2009; previously amended effective January 1, 2007.)*  
43

1 **(d) Authorized disclosures**

2  
3 After the decision on a complaint, the presiding judge, or a person designated  
4 by whom the presiding judge for this purpose designates to do so, may, in his  
5 or her discretion, authorize the public disclosure of information or records  
6 concerning ~~rule 3.865~~ the complaint ~~procedures~~ proceeding that do not  
7 reveal any mediation communications, including ~~The disclosures that may~~  
8 be authorized under this subdivision include the name of a mediator against  
9 whom action has been taken under rule ~~3.865~~ 3.870, the action taken, and the  
10 general basis on which the action was taken. In determining whether to  
11 authorize the disclosure of information or records under this subdivision, the  
12 presiding judge or the designee should consider the purposes of the  
13 confidentiality of ~~rule 3.865~~ complaint ~~procedures~~ proceedings stated in  
14 (a)(2) and (a)(3).

15  
16 *(Subd (d) amended effective July 1, 2009; previously amended effective January 1, 2007.)*

17  
18 **(e) Disclosures required by law**

19  
20 In determining whether the disclosure of information or records concerning  
21 rule ~~3.865~~ a complaint ~~procedures~~ proceeding is required by law, courts  
22 should consider the purposes of the confidentiality of ~~rule 3.865~~ complaint  
23 procedures proceedings stated in (a). ~~Before~~ If it appears that the disclosure  
24 of information or records concerning a complaint ~~procedures~~ under rule  
25 3.865 proceeding that would reveal mediation communications is ordered  
26 required by law, before the information or records are disclosed, notice  
27 should be given to any person whose mediation communications may  
28 thereby be revealed.

29  
30 *(Subd (e) amended effective July 1, 2009; previously amended effective January 1, 2007.)*

31  
32 *Rule 3.871 amended and renumbered effective July 1, 2009; adopted as rule 1622.2 effective*  
33 *January 1, 2006; previously amended and renumbered as rule 3.867 effective January 1, 2007.*

34  
35  
36 **Advisory Committee Comment**

37  
38 Under rule 3.866(9), the complaint proceedings covered by this rule include proceedings to  
39 address inquiries as well as complaints (i.e., to unwritten as well as written communications  
40 indicating that a mediator may have violated a provision of the rules of conduct).

41  
42 **Subdivision (a).** See Evidence Code sections 1115 and 1119 concerning the scope and types of  
43 mediation communications protected by mediation confidentiality. Rule 3.871 is intended to  
44 supplement the confidentiality of mediation communications established by the Evidence Code  
45 by ensuring that disclosure of information or records about a complaint proceeding does not

1 reveal confidential mediation communications. Rule 3.871 is not intended to supersede or  
2 abrogate the confidentiality of mediation communications established by the Evidence Code.  
3

4 **Subdivision (b).** Private meetings, or “caucuses,” between a mediator and subgroups of  
5 participants are common in court-connected mediations, and it is frequently understood that these  
6 communications will not be disclosed to other participants in the mediation. (See Cal. Rules of  
7 Court, rule 3.854(c).) It is important to protect the confidentiality of these communications in ~~rule~~  
8 ~~3.865~~ complaint procedures, proceedings so that one participant in the mediation does not learn  
9 what another participant discussed in confidence with the mediator without the consent of the  
10 participants in the caucus communication.  
11

12 **Subdivisions (c)–(e).** The provisions of (c)–(e) that authorize the disclosure of information and  
13 records related to ~~rule 3.865~~ complaint procedures proceedings do not create any new exceptions  
14 to mediation confidentiality. Although public disclosure of information and records about  
15 complaint proceedings that do not reveal mediation communications may be authorized under (d),  
16 information and records about ~~rule 3.865~~ ~~complaint procedures~~ that would reveal mediation  
17 communications should only may be publicly disclosed only as required by law (e.g., in response  
18 to a subpoena or court order) and consistent with the statutes and case law governing mediation  
19 confidentiality. A person who is knowledgeable about California’s mediation confidentiality laws  
20 should determine whether the disclosure of mediation communications is required by law.  
21

22 Evidence Code sections 915 and 1040 establish procedures and criteria for deciding whether  
23 information acquired in confidence by a public employee in the course of his or her duty is  
24 subject to disclosure. These sections may be applicable or helpful in determining whether the  
25 disclosure of information or records acquired by judicial officers, court staff, and other persons  
26 ~~while receiving, investigating, or resolving complaints under rule 3.865 in the course of a~~  
27 complaint proceeding is required by law or should be authorized in the discretion of the presiding  
28 judge.  
29  
30

31 **Rule ~~3.872~~ ~~3.868~~. Disqualification from subsequently serving as an**  
32 **adjudicator**  
33

34 A person who has participated in ~~or received information about the receipt,~~  
35 ~~investigation or resolution of an inquiry or a complaint under rule 3.865 a~~  
36 complaint proceeding or otherwise received information about the substance of a  
37 complaint, other than information that is publicly disclosed under rule 3.871(d),  
38 must not subsequently hear or determine any contested issue of law, fact, or  
39 procedure concerning the dispute that was the subject of the underlying mediation  
40 or any other dispute that arises from the mediation as a judge, an arbitrator, a  
41 referee, or a juror, or in any other adjudicative capacity, in any court action or  
42 proceeding.  
43

44 *Rule 3.872 amended and renumbered effective July 1, 2009; adopted as rule 1622.3 effective*  
45 *January 1, 2006; previously amended and renumbered as rule 3.868 effective January 1, 2007.*  
46  
47

48 **Advisory Committee Comment**  
49



1 Persons who participated in a complaint proceeding are prohibited from subsequently  
2 adjudicating the dispute that was the subject of the underlying mediation or any other dispute that  
3 arises from the mediation because they may have learned of confidential mediation  
4 communications that were disclosed in the complaint proceeding or may have been influenced by  
5 what transpired in that proceeding. Because the information that can be disclosed publicly under  
6 rule 3.871(d) is limited and excludes mediation communications, it is unnecessary to disqualify  
7 persons who received only publicly disclosed information from subsequently adjudicating the  
8 dispute.  
9

## 10 **Chapter 4. Civil Action Mediation Program Rules**

### 11 **Rule 3.890-3.870. Application**

12  
13  
14  
15 \*\*\*

16  
17 *Rule 3.890 renumbered effective July 1, 2009; adopted as rule 1630 effective March 1, 1994;*  
18 *previously amended and renumbered as rule 3.870 effective January 1, 2007.*  
19

### 20 21 **Rule 3.891-3.871. Actions subject to mediation**

22  
23 \*\*\*

24  
25 *Rule 3.891 renumbered effective July 1, 2009; adopted as rule 1631 effective March 1, 1994;*  
26 *previously amended and renumbered as rule 3.871 effective January 1, 2007.*  
27

### 28 29 **Rule 3.892-3.872. Panels of mediators**

30  
31 \*\*\*

32  
33 *Rule 3.892 renumbered effective July 1, 2009; adopted as rule 1632 effective March 1, 1994;*  
34 *previously amended and renumbered as rule 3.872 effective January 1, 2007.*  
35

### 36 37 **Rule 3.893-3.873. Selection of mediators**

38  
39 \*\*\*

40  
41 *Rule 3.893 renumbered effective July 1, 2009; adopted as rule 1633 effective March 1, 1994;*  
42 *previously amended and renumbered as rule 3.873 effective January 1, 2007.*  
43

### 44 **Rule 3.894-3.874. Attendance, participant lists, and mediation statements**

45  
46 \*\*\*

1  
2 *Rule 3.894 renumbered effective July 1, 2009; adopted as rule 1634 effective March 1, 1994;*  
3 *previously amended and renumbered as rule 3.874 effective January 1, 2007.*  
4

5  
6 **Rule 3.895-3.875. Filing of statement by mediator**

7  
8 \*\*\*

9  
10 *Rule 3.895 renumbered effective July 1, 2009; adopted as rule 1635 effective March 1, 1994;*  
11 *previously amended and renumbered as rule 3.875 effective January 1, 2007.*  
12

13  
14 **Rule 3.896-3.876. Coordination with Trial Court Delay Reduction Act**

15  
16 \*\*\*

17  
18 *Rule 3.896 renumbered effective July 1, 2009; adopted as rule 1637 effective March 1, 1994;*  
19 *previously amended and renumbered as rule 3.876 effective January 1, 2007.*  
20

21  
22 **Rule 3.897-3.877. Statistical information**

23  
24 \*\*\*

25  
26 *Rule 3.897 renumbered effective July 1, 2009; adopted as rule 1638 effective March 1, 1994;*  
27 *previously amended effective February 9, 1999; previously amended and renumbered as rule*  
28 *3.877 effective January 1, 2007.*  
29

30  
31 **Rule 3.898-3.878. Educational material**

32  
33 \* \* \*

34  
35 *Rule 3.898 renumbered effective July 1, 2009; adopted as rule 1639 effective March 1, 1994;*  
36 *previously amended and renumbered as rule 3.878 effective January 1, 2007.*  
37

38  
39 **Rule 10.781. Court-related ADR neutrals**

40  
41 (a)–(b) \*\*\*

42  
43 **(c) Privilege to serve as a court-program neutral**  
44

1 Inclusion on a court list of ADR neutrals and eligibility to be recommended,  
2 appointed, or compensated by the court to serve as a neutral are privileges  
3 that are revocable and confer no vested right on the neutral.

4  
5 *(Subd (c) adopted effective July 1, 2009.)*

6  
7 *Rule 10.781 amended effective July 1, 2009; adopted as rule 1580.1 effective January 1, 2001;*  
8 *previously amended and renumbered effective January 1, 2007.*

9  
10 **Advisory Committee Comment**

11  
12 **Subdivision (c).** A court has absolute discretion to determine who may be included on a court list  
13 of ADR neutrals or is eligible to be recommended, selected, appointed, or compensated by the  
14 court to serve as a neutral (except as otherwise expressly provided by statute or rule of court).