

Invitation to Comment

Title	Appellate Procedure: Judicial Notice (amend Cal. Rules of Court, rule 8.252)
Summary	<p>This proposal would amend the rule relating to motions for judicial notice in the Court of Appeal to require that these motions explain why the material to be noticed is relevant to the appeal and state whether judicial notice of the material was sought in the trial court or whether the material relates to postjudgment proceedings.</p>
Source	<p>Appellate Advisory Committee Hon. Kathryn Doi Todd, Chair</p>
Staff	<p>Heather Anderson, Committee Counsel, 415-865-7691, heather.anderson@jud.ca.gov</p>
Discussion	<p>Rule 8.252 addresses motions asking the Court of Appeal to take judicial notice of materials. Currently, this rule does not address what must be included in a motion for judicial notice. Frequently, motions for judicial notice do not contain information that would help the court in ruling on the motion. Often, the court must search the record for this information, which can result in delaying action on such requests.</p> <p>This proposal would amend rule 8.252 to require that information necessary for the Court of Appeal to rule on a motion for judicial notice, such as why the material to be judicially noticed is relevant to the appeal and whether judicial notice was sought and obtained in the trial court, be included in that motion.</p>
	Attachment

Cal. Rules of Court, rule 8.252 would be amended, effective January 1, 2009, to read:

1 **Rule 8.252. Judicial notice; findings and evidence on appeal**

2
3 **(a) Judicial notice**

4
5 (1) To obtain judicial notice by a reviewing court under Evidence Code section
6 459, a party must serve and file a separate motion with a proposed order.

7
8 (2) The motion must state:

9
10 (A) Why the matter to be noticed is relevant to the appeal;

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

14
15 (C) Whether the matter to be noticed relates to postjudgment proceedings.

16
17 ~~(2)~~(3) If the matter to be noticed is not in the record, the party must serve and file a
18 copy with the motion or explain why it is not practicable to do so.

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20
21 **(b)–(c) * * ***

Item SPR08-08 Response Form

Title: Appellate Procedure: Judicial Notice (amend Cal. Rules of Court, rule 8.252)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

Internet: www.courtinfo.ca.gov/invitationstocomment

Email: invitations@jud.ca.gov

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Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee.
All comments will become part of the public record of the council's action.*