

AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council on October 29, 2010,

effective on January 1, 2011.

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1 **Rule 1.51. California Law Enforcement Telecommunications System (CLETS)**
2 **information form**

3
4 **(a) Confidential CLETS Information form to be submitted to the court**

5
6 A person requesting protective orders under Code of Civil Procedure section 527.6, 527.8,
7 or 527.85; Family Code section 6320; or Welfare and Institutions Code section 213.5 or
8 15657.03 must submit to the court with the request a completed Confidential CLETS
9 Information form.

10
11 **(b) Confidentiality of the form**

12
13 The Confidential CLETS Information form is confidential, and access to the information on
14 the form is limited to the persons listed in (c).

15
16 **(c) Access to information on the form**

17
18 The Confidential CLETS Information form must not be included in the court file. After the
19 form is submitted to the court, only the following persons may have access to the
20 information on the form:

- 21
22 (1) Authorized court personnel; and
23
24 (2) Law enforcement and other personnel authorized by the California Department of
25 Justice to transmit or receive CLETS information.

26
27 **(d) Amendment of the form**

28
29 A person requesting protective orders or the person's attorney may submit an amended
30 Confidential CLETS Information form as a matter of right to provide updated or more
31 complete and accurate information.

32
33 **(e) Retention and destruction of the form**

- 34
35 (1) When a Confidential CLETS Information form is submitted to the court, the court, if
36 a temporary restraining order or order after hearing is entered, may:
37
38 (A) Transmit the form to a law enforcement agency for entry into CLETS and not
39 retain any copy; or
40
41 (B) Enter the information on the form into CLETS itself and promptly destroy the
42 form or delete it from its records.

1 (2) If no temporary restraining order or order after hearing is entered, the court may
2 promptly destroy the form or delete it from its records.

3
4 (3) Until the court has completed (1) or (2), the form must be retained in a secure
5 manner that prevents access to the information on the form except to those persons
6 identified in (c).

7
8 *Rule 1.51 adopted effective January 1, 2011.*

9
10 **Rule 2.250. Construction and definitions**

11
12 **(a) Construction of rules**

13
14 The rules in this chapter must be construed to authorize and permit filing and service by
15 electronic means to the extent feasible.

16
17 *(Subd (a) adopted effective January 1, 2011.)*

18
19 **(b) Definitions**

20
21 As used in this chapter, unless the context otherwise requires:

22
23 ~~(2)~~(1) * * *

24
25 ~~(6)~~(2) “Electronic service” is service of a document on a party or other person by either
26 electronic transmission or electronic notification. Electronic service may be
27 performed directly by a party, by an agent of a party including the party’s attorney,
28 through an electronic filing service provider, or by a court.

29
30 (3) “Electronic transmission” means the electronic transmission of a document by
31 electronic means to a party’s electronic notification address, either directly or
32 through an electronic filing service provider, for the purpose of effecting service to
33 the electronic service address at or through which a party or other person has
34 authorized electronic service.

35
36 (4) “Electronic notification” means the notification of a party or other person that a
37 document is served by sending an electronic message to the electronic service
38 address at or through which the party or other person has authorized electronic
39 service, specifying the exact name of the document served and providing a hyperlink
40 at which the served document can be viewed and downloaded.

41
42 ~~(8)~~(5) “Electronic notification service address” of a party means the electronic address at or
43 through which the party has authorized electronic service.

1 **Rule ~~2.260~~ 2.251. Electronic service**

2
3 **(a) Consent to electronic service**

4
5 (1) When a ~~notice~~ document may be served by mail, express mail, overnight delivery, or
6 fax transmission, electronic service of the ~~notice~~ document is permitted when
7 authorized by these rules.

8
9 (2) A party indicates that the party agrees to accept electronic service by:

10
11 (A) ~~Filing and~~ Serving a notice on all parties that the party accepts electronic
12 service and filing the notice with the court. The notice must include the
13 electronic ~~notification~~ service address at which the party agrees to accept
14 service; or

15
16 (B) Electronically filing any document with the court. The act of electronic filing is
17 evidence that the party agrees to accept service at the electronic ~~notification~~
18 service address the party has furnished to the court under rule 2.256(a)(4).

19
20 (3) A party that has consented to electronic service under (2) and has used an electronic
21 filing service provider to ~~file and~~ serve and file documents in a case consents to
22 service on that electronic filing service provider as the designated agent for service
23 for the party in the case, until such time as the party designates a different agent for
24 service.

25
26 *(Subd (a) amended effective January 1, 2011; previously amended effective January 1, 2007, and*
27 *January 1, 2008.)*

28
29 **(b) Maintenance of electronic service lists**

30
31 A court that orders or permits electronic filing in a case must maintain and make available
32 electronically to the parties an electronic service list that contains the parties' current
33 electronic ~~notification~~ service addresses, as provided by the parties that have filed
34 electronically in the case.

35
36 *(Subd (b) amended effective January 1, 2011; adopted effective January 1, 2008, previously*
37 *amended effective January 1, 2010.)*

38
39 **(c) Service by the parties**

40
41 (1) Notwithstanding (b), parties are responsible for electronic service on all other parties
42 in the case. A party may serve documents electronically directly, by an agent, or
43 through a designated electronic filing service provider.

1
2 (2) A document may not be electronically served on a nonparty unless the nonparty
3 consents to electronic service or electronic service is otherwise provided for by law
4 or court order.

5
6 *(Subd (c) amended effective January 1, 2011; adopted effective January 1, 2008.)*

7
8 **(d) Change of electronic notification service address**

9
10 (1) A party whose electronic ~~notification~~ service address changes while the action or
11 proceeding is pending must promptly file a notice of change of address electronically
12 with the court and must serve this notice electronically on all other parties.

13
14 (2) * * *

15
16 (3) An electronic ~~notification~~ service address is presumed valid for a party if the party
17 files electronic documents with the court from that address and has not filed and
18 served notice that the address is no longer valid.

19
20 *(Subd (d) amended effective January 1, 2011; adopted effective January 1, 2008.)*

21
22 **(e) Reliability and integrity of documents served by electronic notification**

23
24 A party that serves a document by means of electronic notification must:

25
26 (1) Ensure that the documents served can be viewed and downloaded using the
27 hyperlink provided;

28
29 (2) Preserve the document served without any change, alteration, or modification from
30 the time the document is posted until the time the hyperlink is terminated; and

31
32 (3) Maintain the hyperlink until either:

33
34 (A) All parties in the case have settled or the case has ended and the time for
35 appeals has expired; or

36
37 (B) If the party is no longer in the case, the party has provided notice to all other
38 parties that it is no longer in the case and that they have 60 days to download
39 any documents, and 60 days have passed after the notice was given.

40
41 *(Subd (e) adopted effective January 1, 2011.)*

1 **(e)(f) When service is complete**

2
3 (1) Electronic service of a document is complete at the time of the electronic
4 transmission of the document or at the time that the electronic notification of service
5 of the document is sent.

6
7 (2) If a document is served electronically, any period of notice, or any right or duty to
8 act or respond within a specified period or on a date certain after service of the
9 document, is extended by two court days, unless otherwise provided by a statute or a
10 rule.

11
12 (3)–(4) * * *

13
14 *(Subd (f) amended and relettered effective January 1, 2011; adopted as subd (b); previously*
15 *amended effective January 1, 2007; previously relettered as subd (e) effective January 1, 2008.)*
16

17 **(f)(g) Proof of service**

18
19 (1) Proof of electronic service may be by any of the methods provided in Code of Civil
20 Procedure section 1013a, except that the proof of service must state:

21
22 (A) The electronic ~~notification~~ service address of the person making the service, in
23 addition to that person’s residence or business address;

24
25 (B) * * *

26
27 (C) The name and electronic ~~notification~~ service address of the person served, in
28 place of that person’s name and address as shown on the envelope; and

29
30 (D) * * *

31
32 (2) * * *

33
34 (3) Under rule 3.1300(c), proof of service of the moving papers must be filed at least
35 five ~~calendar~~ court days before the hearing.

36
37 (4) * * *

38
39 *(Subd (g) amended and relettered effective January 1, 2011; adopted as subd (c); previously*
40 *relettered as subd (f) effective January 1, 2008; previously amended effective January 1, 2007,*
41 *January 1, 2009, July 1, 2009, and January 1, 2010.)*
42

1 ~~(g)~~**(h)** * * *

2
3 *(Subd (h) relettered effective January 1, 2011; adopted as subd (e); previously amended effective*
4 *January 1, 2007; previously relettered as subd (g) effective January 1, 2008.)*

5
6 *Rule 2.251 amended and renumbered effective January 1, 2011; adopted as rule 2060 effective January 1,*
7 *2003; previously amended and renumbered as rule 2.260 effective January 1, 2007; previously amended*
8 *effective January 1, 2008, January 1, 2009, July 1, 2009, and January 1, 2010.*

9
10 **Rule 2.252. Documents that may be filed electronically**

11
12 **(a)** * * *

13
14 **(b) Original documents**

15
16 In a proceeding that requires the filing of an original document, an electronic filer may file
17 ~~a scanned~~ an electronic copy of a document if the original document is then filed with the
18 court within 10 calendar days.

19
20 *(Subd (b) amended effective January 1, 2011.)*

21
22 **(c)–(d)** * * *

23
24 **(e) Proposed orders**

25
26 Proposed orders may be filed and submitted electronically as provided in rule 3.1312.

27
28 *(Subd (e) adopted effective January 1, 2011.)*

29
30 ~~(e)~~**(f)** * * *

31
32 *(Subd (f) relettered effective January 1, 2011; adopted as subd (e); previously amended effective*
33 *January 1, 2007.)*

34
35 *Rule 2.252 amended effective January 1, 2011; adopted as rule 2052 effective January 1, 2003;*
36 *previously amended and renumbered effective January 1, 2007.*

37
38 **Rule 2.253. Court order requiring electronic service or filing**

39
40 **(a) Court order**

41
42 **(1)** The court may, on the motion of any party or on its own motion, ~~after finding~~
43 provided that such an the order would not cause undue hardship or significant

1 prejudice to any party, order all parties in any class action, a consolidated action, a
2 group of actions, a coordinated action, or an action that is complex under rule 3.403
3 to:

4
5 ~~(1)(A)~~ * * *

6
7 ~~(2)(B)~~ * * *

8
9 ~~(3)(C)~~ * * *

10
11 (2) If the court proposes to make any order under (1) on its own motion, the court must
12 mail notice to the parties. Any party may serve and file an opposition within 10 days
13 after notice is mailed or such later time as the court may specify.

14
15 (3) If the court has previously ordered parties in a case to electronically serve or file
16 documents and a new party is added that the court determines should also be ordered
17 to do so under (1), the court may follow the notice procedures under (2) or may order
18 the party to electronically serve or file documents and in its order state that the new
19 party may object within 10 days after service of the order or by such later time as the
20 court may specify.

21
22 *(Subd (a) amended effective January 1, 2011; previously amended effective January 1, 2007, and*
23 *January 1, 2008.)*

24
25 ~~(b)–(c)~~ * * *

26
27 *Rule 2.253 amended effective January 1, 2011; adopted as rule 2053 effective January 1, 2003;*
28 *previously amended and renumbered effective January 1, 2007; previously amended effective January 1,*
29 *2008.*

30
31 **Rule 2.254. Responsibilities of court**

32
33 **~~(a) Internet-accessible system~~**

34
35 ~~(1) Except as provided in (2), a court that orders electronic filing must permit filing over~~
36 ~~the Internet by means designed to ensure the security and integrity of an Internet~~
37 ~~transmission.~~

38
39 ~~(2) The court may decide not to permit service and filing over the Internet if the court~~
40 ~~determines that doing so would facilitate the management of a particular action or~~
41 ~~proceeding and would not cause undue prejudice to any party.~~
42

1 ~~(b)~~(a) * * *

2
3 *(Subd (a) relettered effective January 1, 2011; adopted as subd (b); previously amended effective*
4 *January 1, 2007.)*

5
6 ~~(e)~~(b) * * *

7
8 *(Subd (b) relettered effective January 1, 2011; adopted as subd (c); previously amended effective*
9 *January 1, 2007.)*

10
11 ~~(d)~~(c) **Public access to electronically filed documents**

12
13 Except as provided in rules 2.250–~~2.260~~2.259 and 2.500–2.506, an electronically filed
14 document is a public document at the time it is filed unless it is sealed under rule 2.551(b)
15 or made confidential by law.

16
17 *(Subd (c) amended and relettered effective January 1, 2011; adopted as subd (d); previously*
18 *amended effective January 1, 2007.)*

19
20 *Rule 2.254 amended effective January 1, 2011; adopted as rule 2054 effective January 1, 2003;*
21 *previously amended and renumbered effective January 1, 2007.*

22
23 **Rule 2.255. Contracts with electronic filing service providers**

24
25 **(a) Right to contract**

26
27 (1)–(2) * * *

28
29 (3) If ~~there is the court~~ contracts with a single an electronic service provider or the court
30 has an in-house system, it the provider or system must accept filing from other
31 electronic filing service providers to the extent ~~it the provider or system~~ is
32 compatible with them.

33
34 *(Subd (a) amended effective January 1, 2011; previously amended effective January 1, 2007.)*

35
36 **(b)** * * *

37
38 **(c) Transmission of filing to court**

39
40 An electronic filing service provider must promptly transmit any electronic filing, ~~with the~~
41 and any applicable filing fee, to the court.

42
43 *(Subd (c) amended effective January 1, 2011.)*

1
2 **(d) Confirmation of receipt and filing of document**
3

- 4 (1) An electronic filing service provider must promptly send to an electronic filer its
5 confirmation of the receipt of any document that the filer has transmitted to the
6 provider for filing with the court.
7
8 (2) The electronic filing service provider must send its confirmation to the filer's
9 electronic ~~notification~~ service address and must indicate the date and time of receipt,
10 in accordance with rule 2.259(a).
11
12 (3) * * *

13
14 *(Subd (d) amended effective January 1, 2011; previously amended effective January 1, 2007.)*
15

16 **(e) * * ***
17

18 *Rule 2.255 amended effective January 1, 2011; adopted as rule 2055 effective January 1, 2003;*
19 *previously amended and renumbered effective January 1, 2007.*
20

21 **~~Advisory Committee Comment~~**
22

23 ~~The Court Technology Advisory Committee recommends that electronic filing service providers comply~~
24 ~~with the technical standards specified on the California Courts Web site at~~
25 ~~www.courtinfo.ca.gov/programs/efiling/. The committee anticipates that these rules may be amended to~~
26 ~~require compliance with the California Electronic Filing Technical Standards once the standards are~~
27 ~~sufficiently developed.~~
28

29 **Rule 2.256. Responsibilities of electronic filer**
30

31 **(a) Conditions of filing**
32

33 Each electronic filer ~~agrees to, and~~ must:
34

- 35 (1)–(3) * * *
36
37 (4) Furnish one or more electronic ~~notification~~ service addresses, in the manner
38 specified by the court, at which the electronic filer agrees to accept service; and
39
40 (5) Immediately provide the court and all parties with any change to the electronic filer's
41 electronic ~~notification~~ service address.
42

43 *(Subd (a) amended effective January 1, 2011; previously amended effective January 1, 2007.)*

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43

(b) * * *

Rule 2.256 amended effective January 1, 2011; adopted as rule 2056 effective January 1, 2003; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2006, January 1, 2008, and January 1, 2010.

Rule 2.259. Actions by court on receipt of electronic filing

(a) Confirmation of receipt and filing of document

(1)–(2) * * *

(3) *Transmission of confirmations*

The court must send receipt and filing confirmation to the electronic filer at the electronic ~~notification~~ service address the filer furnished to the court under rule 2.256(a)(4). The court must maintain a record of all receipt and filing confirmations.

(4) * * *

(Subd (a) amended effective January 1, 2011; previously amended effective January 1, 2007, and January 1, 2008.)

(b) * * *

(c) Document ~~filed~~ received after close of business

A document that is ~~filed~~ received electronically ~~with~~ by the court after the close of business is deemed to have been ~~filed~~ received on the next court day.

(Subd (c) amended effective January 1, 2011; previously amended effective January 1, 2007.)

(d)–(f) * * *

Rule 2.259 amended effective January 1, 2011; adopted as rule 2059 effective January 1, 2003; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2008.

Rule 2.550. Sealed records

* * *

1 *Rule 2.550 amended and renumbered effective January 1, 2007; adopted as rule 243.1 effective January*
2 *1, 2001; previously amended effective January 1, 2004.*

3
4 **Advisory Committee Comment**
5

6 This rule and rule 2.551 provide a standard and procedures for courts to use when a request is made to
7 seal a record. The standard is based on *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20
8 Cal.4th 1178. These rules apply to civil and criminal cases. They recognize the First Amendment right of
9 access to documents used at trial or as a basis of adjudication. The rules do not apply to records that
10 courts must keep confidential by law. Examples of confidential records to which public access is
11 restricted by law are records of the family conciliation court (Family Code, § 1818(b)), in forma pauperis
12 applications (Cal. Rules of Court, rules ~~985(h)~~ 3.54 and 8.26), and search warrant affidavits sealed under
13 *People v. Hobbs* (1994) 7 Cal.4th 948. The sealed records rules also do not apply to discovery
14 proceedings, motions, and materials that are not used at trial or submitted to the court as a basis for
15 adjudication. (See *NBC Subsidiary, supra*, 20 Cal.4th at pp. 1208–1209, fn. 25.)
16

17 * * *

18
19 **Rule 3.540. Order assigning coordination trial judge**
20

21 **(a)–(b)** * * *

22
23 **(c) Filing and service of copies of assignment order**
24

25 The petitioner must file the assignment order in each coordinated action and serve it on
26 each party appearing in each action, and, if the assignment was made by the presiding
27 judge, submit it to the Chair of the Judicial Council. Every paper filed in a coordinated
28 action must be accompanied by proof of submission of a copy of the paper to the
29 coordination trial judge at the designated address. A copy of the assignment order must be
30 included in any subsequent service of process on any defendant in the action.
31

32 *(Subd (c) amended effective January 1, 2011; adopted as part of unlettered subd; previously*
33 *amended and lettered effective January 1, 2005.)*
34

35 *Rule 3.540 amended effective January 1, 2011; adopted as rule 1540 effective January 1, 1974;*
36 *previously amended effective January 1, 2005; previously amended and renumbered effective January 1,*
37 *2007.*
38

39 **Rule 3.860. Attendance sheet and agreement to disclosure**
40

41 **(a)** * * *
42

1 **(b) Agreement to disclosure**

2
3 The mediator must agree, in each mediation to which these rules apply under rule 3.851(a),
4 that if an inquiry or a ~~complaint~~ complaint is made about the conduct of the mediator,
5 mediation communications may be disclosed solely for purposes of a complaint procedure
6 conducted pursuant to rule 3.865 to address that complaint or inquiry.

7
8 *(Subd (b) amended effective January 1, 2011; previously amended effective January 1, 2007.)*

9
10 *Rule 3.860 amended effective January 1, 2011; adopted as rule 1621 effective January 1, 2006;*
11 *previously amended and renumbered effective January 1, 2007.*

12
13 **Rule 3.893. Selection of mediators**

14
15 The parties may stipulate to any mediator, whether or not the person selected is among those
16 identified under rule ~~3.872~~ 3.892, within 15 days of the date an action is submitted to mediation.
17 If the parties do not stipulate to a mediator, the court must promptly assign a mediator to the
18 action from those identified under rule ~~3.872~~ 3.892.

19
20 *Rule 3.893 amended effective January 1, 2011; adopted as rule 1633 effective March 1, 1994; previously*
21 *amended and renumbered as rule 3.873 effective January 1, 2007; previously renumbered effective July*
22 *1, 2009.*

23
24 **Rule 3.1103. Definitions and construction**

25
26 **(a) Law and motion defined**

27
28 “Law and motion” includes any proceedings:

29
30 (1) On application before trial for an order, except for causes arising under the Welfare
31 and Institutions Code, the Probate Code, the Family Code, or Code of Civil
32 Procedure sections 527.6, 527.7, ~~and 527.8,~~ and 527.85; or

33
34 (2) * * *

35
36 *(Subd (a) amended effective January 1, 2011; previously amended effective July 1, 1997.)*

37
38 **(b)–(c) * * ***

39
40 *Rule 3.1103 amended effective January 1, 2011; adopted as rule 303 effective January 1, 1984;*
41 *previously amended effective July 1, 1984; previously amended and renumbered effective January 1,*
42 *2007.*

1 **Rule 3.1114. Applications, motions, and petitions not requiring a memorandum**

2
3 **(a) Memorandum not required**

4
5 Civil motions, applications, and petitions filed on Judicial Council forms that do not
6 require a memorandum include the following:

7
8 (1)–(8) * * *

9
10 (9) Petition for order to prevent postsecondary school violence;

11
12 ~~(9)(10)~~ * * *

13
14 ~~(10)(11)~~ * * *

15
16 ~~(11)(12)~~ * * *

17
18 ~~(12)(13)~~ * * *

19
20 *(Subd (a) amended effective January 1, 2011; previously amended effective January 1, 2007.)*

21
22 **(b) * * ***

23
24 *Rule 3.1114 amended effective January 1, 2011; adopted as rule 314 effective January 1, 2004;*
25 *previously amended and renumbered effective January 1, 2007.*

26
27 **Rule 3.1312. Preparation and submission of proposed order**

28
29 **(a) Prevailing party to prepare**

30
31 Unless the parties waive notice or the court orders otherwise, the party prevailing on any
32 motion must, within five days of the ruling, ~~mail or deliver~~ serve by any means authorized
33 by law and reasonably calculated to ensure delivery to the other party or parties no later
34 than the close of the next business day a proposed order ~~to the other party~~ for approval as
35 conforming to the court's order. Within five days after ~~the mailing or delivery service~~, the
36 other party or parties must notify the prevailing party as to whether or not the proposed
37 order is so approved. The opposing party or parties must state any reasons for disapproval.
38 Failure to notify the prevailing party within the time required shall be deemed an approval.
39 The extensions of time based on a method of service provided under Code of Civil
40 Procedure section 1013, relating to service of papers by mail, any statute or rule does do
41 not apply to this rule.
42

1 (Subd (a) amended effective January 1, 2011; previously amended effective July 1, 2000, and
2 January 1, 2007.)

3
4 (b) * * *

5
6 **(c) Submission of proposed order by electronic means**

7
8 If a proposed order is submitted to the court electronically in a case in which the parties are
9 electronically filing documents under rules 2.250–2.261, two versions of the proposed
10 order must be submitted:

11
12 (1) A version of the proposed order must be attached to a completed *Proposed Order*
13 (*Cover Sheet*) (form EFS-020), and the combined document in Portable Document
14 Format (PDF) must be filed electronically; and

15
16 (2) A version of the proposed order in an editable word-processing format must also be
17 sent electronically to the court, with a copy of the e-mail and proposed order also
18 being sent to all parties in the action.

19
20 Each court that provides for electronic filing must provide an electronic address or
21 addresses to which the editable versions of proposed orders are to be sent and must specify
22 any particular requirements regarding the editable word-processing format for proposed
23 orders.

24
25 (Subd (c) adopted effective January 1, 2011.)

26
27 **(d) Failure of prevailing party to prepare form proposed order**

28
29 If the prevailing party fails to prepare and submit a proposed order as required by (a) and
30 (b) above, any other party may do so.

31
32 (Subd (d) amended and relettered effective January 1, 2011; adopted as subd (c); previously
33 amended effective July 1, 2000.)

34
35 **(e) * * ***

36
37 (Subd (e) relettered effective January 1, 2011; adopted as subd (d) effective July 1, 2000;
38 previously amended effective January 1, 2007.)

39
40 Rule 3.1312 amended effective January 1, 2011; adopted as rule 391 effective July 1, 1992; previously
41 amended effective July 1, 2000; previously amended and renumbered effective January 1, 2007.

1 **Rule 3.1320. Demurrers**

2
3 (a)–(i) * * *

4
5 (j) **Time for ~~motion to strike, demur, or otherwise plead~~ to respond after demurrer**

6
7 Unless otherwise ordered, defendant has 10 days to ~~move to strike, demur,~~ answer or
8 otherwise plead to the complaint or the remaining causes of action following:

9
10 (1) * * *

11
12 (2) ~~The amendment of the complaint or~~ The expiration of the time to amend if the
13 demurrer was sustained with leave to amend; or

14
15 (3) * * *

16
17 *(Subd (j) amended effective January 1, 2011; adopted as subd (g) effective July 1, 1984; previously*
18 *amended and relettered effective January 1, 2007.)*

19
20 *Rule 3.1320 amended effective January 1, 2011; adopted as rule 325 effective January 1, 1984;*
21 *previously amended and renumbered effective January 1, 2007; previously amended effective July 1,*
22 *1984, July 1, 1995, July 1, 2000, and January 1, 2009.*

23
24 **Chapter 4.5. Expedited Jury Trials**

25
26 *Division 15, Trial—Chapter 4.5, Expedited Jury Trials, adopted effective January 1, 2011.*

27
28 **Rule 3.1545. Expedited jury trials**

29
30 (a) **Application**

31
32 The rules in this chapter apply to civil actions in which the parties agree to an expedited
33 jury trial under chapter 4.5 (commencing with section 630.01) of title 8 of part 2 of the
34 Code of Civil Procedure.

35
36 (b) **Definitions**

37
38 As used in this chapter, unless the context or subject matter otherwise requires:

39
40 (1) “Consent order” means the consent order granting an expedited jury trial described
41 in Code of Civil Procedure section 630.03.

1 (2) “Expedited jury trial,” “high/low agreement,” and “posttrial motions” have the same
2 meanings as stated in Code of Civil Procedure section 630.01.

3
4 **(c) Other programs**

5
6 This chapter does not limit the adoption or use of other expedited trial or alternative
7 dispute resolution programs or procedures.

8
9 *Rule 3.1545 adopted effective January 1, 2011.*

10
11 **Rule 3.1546. Assignment of judicial officers**

12
13 The presiding judge is responsible for the assignment of a judicial officer to conduct an
14 expedited jury trial. The presiding judge may assign a temporary judge appointed by the court
15 under rules 2.810 – 2.819 to conduct an expedited jury trial. A temporary judge requested by the
16 parties under rules 2.830 – 2.835, whether or not privately compensated, may not be appointed to
17 conduct an expedited jury trial.

18
19 *Rule 3.1546 adopted effective January 1, 2011.*

20
21 **Rule 3.1547. Consent order**

22
23 **(a) Submitting proposed consent order to the court**

24
25 (1) Unless the court otherwise allows, to be eligible to participate in an expedited jury
26 trial, the parties must submit to the court, no later than 30 days before any assigned
27 trial date, a proposed consent order granting an expedited jury trial.

28
29 (2) The parties may enter into written stipulations regarding any high/low agreements or
30 other matters. Only in the following circumstances may a high/low agreement be
31 submitted to the court with the proposed consent order or disclosed later in the
32 action:

33
34 (A) Upon agreement of the parties;

35
36 (B) In any case involving either

37 (i) A self-represented litigant, or

38 (ii) A minor, an incompetent person, or a person for whom a conservator has
39 been appointed; or

40 (C) If necessary for entry or enforcement of the judgment.
41
42
43

1
2 **(b) Optional content of proposed consent order**
3

4 In addition to complying with the provisions of Code of Civil Procedure section 630.03(e),
5 the proposed consent order may include other agreements of the parties, including the
6 following:
7

- 8 (1) Modifications of the timelines for pretrial submissions required by rule 3.1548;
9
10 (2) Limitations on the number of witnesses per party, including expert witnesses;
11
12 (3) Modification of statutory or rule provisions regarding exchange of expert witness
13 information and presentation of testimony by such witnesses;
14
15 (4) Allocation of the time periods stated in rule 3.1550, including how arguments and
16 cross-examination may be used by each party in the three-hour time frame;
17
18 (5) Any evidentiary matters agreed to by the parties, including any stipulations or
19 admissions regarding factual matters;
20
21 (6) Any agreements about what constitutes necessary or relevant evidence for a
22 particular factual determination;
23
24 (7) Agreements about admissibility of particular exhibits or demonstrative evidence that
25 are presented without the legally required authentication or foundation;
26
27 (8) Agreements about admissibility of video or written depositions and declarations;
28
29 (9) Agreements about any other evidentiary issues or the application of any of the rules
30 of evidence;
31
32 (10) Agreements to use photographs, diagrams, slides, electronic presentations, overhead
33 projections, notebooks of exhibits, or other methods for presenting information to the
34 jury;
35
36 (11) Agreements concerning the time frame for filing and serving motions in limine; and
37
38 (12) Agreements concerning numbers of jurors required for jury verdicts in cases with
39 fewer than eight jurors.
40

41 *Rule 3.1547 adopted effective January 1, 2011.*
42

1 **Rule 3.1548. Pretrial submissions**

2
3 **(a) Service**

4
5 Service under this rule must be by a means consistent with Code of Civil Procedure
6 sections 1010.6, 1011, 1012, and 1013 or rule 2.251 and be reasonably calculated to assure
7 delivery to the other party or parties no later than the close of business on the last
8 allowable day for service as specified below.

9
10 **(b) Pretrial exchange**

11
12 No later than 25 days before trial, each party must serve on all other parties the following:

- 13
14 (1) Copies of any documentary evidence that the party intends to introduce at trial
15 (except for documentary evidence to be used solely for impeachment or rebuttal),
16 including, but not limited to, medical bills, medical records, and lost income records;
17
18 (2) A list of all witnesses whom the party intends to call at trial, except for witnesses to
19 be used solely for impeachment or rebuttal, and designation of whether the testimony
20 will be in person, by video, or by deposition transcript;
21
22 (3) A list of depositions that the party intends to use at trial, except for depositions to be
23 used solely for impeachment or rebuttal;
24
25 (4) A copy of any audiotapes, videotapes, digital video discs (DVDs), compact discs
26 (CDs), or other similar recorded materials that the party intends to use at trial for
27 evidentiary purposes, except recorded materials to be used solely for impeachment or
28 rebuttal and recorded material intended to be used solely in closing argument;
29
30 (5) A copy of any proposed jury questionnaires (parties are encouraged to agree in
31 advance on a questionnaire);
32
33 (6) A list of proposed approved introductory instructions, preinstructions, and
34 instructions to be read by the judge to the jury;
35
36 (7) A copy of any proposed special jury instructions in the form and format described in
37 rule 2.1055;
38
39 (8) Any proposed verdict forms;
40
41 (9) A special glossary, if the case involves technical or unusual vocabulary; and
42
43 (10) Motions in limine.

1
2 **(c) Supplemental exchange**

3
4 No later than 20 days before trial, a party may serve on any other party any additional
5 documentary evidence and a list of any additional witnesses whom the party intends to use
6 at trial in light of the exchange of information under subdivision (b).

7
8 **(d) Submissions to court**

9
10 No later than 20 days before trial, each party must file all motions in limine and must lodge
11 with the court any items served under (b)(2)–(9) and (c).

12
13 **(e) Preclusionary effect**

14
15 Unless good cause is shown for any omission, failure to serve documentary evidence as
16 required under this rule will be grounds for preclusion of the evidence at the time of trial.

17
18 **(f) Pretrial conference**

19
20 No later than 15 days before trial, unless that period is modified by the consent order, the
21 judicial officer assigned to the case must conduct a pretrial conference, at which time
22 objections to any documentary evidence previously submitted will be ruled on. If there are
23 no objections at that time, counsel must stipulate in writing to the admissibility of the
24 evidence. Matters to be addressed at the pretrial conference, in addition to the evidentiary
25 objections, include the following:

- 26
27 (1) Any evidentiary matters agreed to by the parties, including any stipulations or
28 admissions regarding factual matters;
29
30 (2) Any agreement of the parties regarding limitations on necessary or relevant
31 evidence, including any limitations on expert witness testimony;
32
33 (3) Any agreements of the parties to use photographs, diagrams, slides, electronic
34 presentations, overhead projections, notebooks of exhibits, or other methods of
35 presenting information to the jury;
36
37 (4) Admissibility of any exhibits or demonstrative evidence without legally required
38 authentication or foundation;
39
40 (5) Admissibility of video or written depositions and declarations and objections to any
41 portions of them;
42

1 (6) Objections to and admissibility of any recorded materials that a party has designated
2 for use at trial;

3
4 (7) Jury questionnaires;

5
6 (8) Jury instructions;

7
8 (9) Special verdict forms;

9
10 (10) Allocation of time for each party's case; and

11
12 (11) Motions in limine filed before the pretrial conference.

13
14 **(g) Expert witness documents**

15
16 Any documents produced at the deposition of an expert witness are deemed to have been
17 timely exchanged for the purpose of (c) above.

18
19 *Rule 3.1548 adopted effective January 1, 2011.*

20
21 **Rule 3.1549. Voir dire**

22
23 Approximately one hour will be devoted to voir dire, with 15 minutes allotted to the judicial
24 officer and 15 minutes to each side. Parties are encouraged to submit a joint form questionnaire
25 to be used with prospective jurors to help expedite the voir dire process.

26
27 *Rule 3.1549 adopted effective January 1, 2011.*

28
29 **Rule 3.1550. Time limits**

30
31 Excluding jury selection, each side will be allowed three hours to present its case, including
32 opening statements and closing arguments, unless the court, upon a finding of good cause, allows
33 additional time. The amount of time allotted for each side includes the time that the side spends
34 on cross-examination. The parties are encouraged to streamline the trial process by limiting the
35 number of live witnesses. The goal is to complete an expedited jury trial within one full trial day.

36
37 *Rule 3.1550 adopted effective January 1, 2011.*

38
39 **Rule 3.1551. Case presentation**

40
41 **(a) Methods of presentation**

1 Upon agreement of the parties and with the approval of the judicial officer, the parties may
2 present summaries and may use photographs, diagrams, slides, electronic presentations,
3 overhead projections, individual notebooks of exhibits for submission to the jurors, or
4 other innovative methods of presentation approved at the pretrial conference.

5
6 **(b) Exchange of items**

7
8 Anything to be submitted to the jury as part of the evidentiary presentation of the case in
9 chief must be exchanged 20 days in advance of the trial, unless that period is modified by
10 the consent order. This rule does not apply to items to be used solely for closing argument.

11
12 **(c) Stipulations regarding facts**

13
14 The parties should stipulate to factual and evidentiary matters to the greatest extent
15 possible.

16
17 *Rule 3.1551 adopted effective January 1, 2011.*

18
19 **Rule 3.1552. Presentation of evidence**

20
21 **(a) Stipulations regarding rules of evidence**

22
23 The parties may offer such evidence as is relevant and material to the dispute. An
24 agreement to modify the rules of evidence for the trial made pursuant to the expedited jury
25 trial statutes commencing with Code of Civil Procedure section 630.01 may be included in
26 the consent order. To the extent feasible, the parties should stipulate to modes and methods
27 of presentation that will expedite the process, either in the consent order or at the pretrial
28 conference.

29
30 **(b) Objections**

31
32 Objections to evidence and motions to exclude evidence must be submitted in a timely
33 manner. Except as provided in rule 3.1548(f), failure to raise an objection before trial does
34 not preclude making an objection or motion to exclude at trial.

35
36 *Rule 3.1552 adopted effective January 1, 2011.*

37
38 **Rule 3.1702. Claiming attorney's fees**

39
40 **(a) * * ***

41
42 **(b) Attorney's fees before trial court judgment**

1 (1) *Time for motion*

2
3 A notice of motion to claim attorney’s fees for services up to and including the
4 rendition of judgment in the trial court—including attorney’s fees on an appeal
5 before the rendition of judgment in the trial court—must be served and filed within
6 the time for filing a notice of appeal under rules 8.104 and 8.108 in an unlimited civil
7 case or under rules 8.822 and 8.823 in a limited civil case.
8

9 (2) *Stipulation for extension of time*

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

13
14 (A) Until 60 days after the expiration of the time for filing a notice of appeal in an
15 unlimited civil case or 30 days after the expiration of the time in a limited civil
16 case; or

17
18 (B) If a notice of appeal is filed, until the time within which a memorandum of
19 costs must be served and filed under rule 8.278(c) in an unlimited civil case or
20 under rule 8.891(b)(2) in a limited civil case.
21

22 *(Subd (b) amended effective January 1, 2011; previously amended effective January 1, 1999,*
23 *January 1, 2006, January 1, 2007, and January 1, 2009.)*
24

25 **(c) Attorney’s fees on appeal**

26
27 (1) *Time for motion*

28 A notice of motion to claim attorney’s fees on appeal—other than the attorney’s fees
29 on appeal claimed under (b)—under a statute or contract requiring the court to
30 determine entitlement to the fees, the amount of the fees, or both, must be served and
31 filed within the time for serving and filing the memorandum of costs under rule
32 8.278(c)(1) in an unlimited civil case or under rule 8.891(c)(1) in a limited civil case.
33

34 (2) *Stipulation for extension of time*

35 The parties may by stipulation filed before the expiration of the time allowed under
36 (c)(1) extend the time for filing the motion up to an additional 60 days in an
37 unlimited civil case or 30 days in a limited civil case.
38

39 *(Subd (c) amended effective January 1, 2010; previously amended effective January 1, 1999,*
40 *January 1, 2006, January 1, 2007, and July 1, 2008.)*
41

42 **(d)–(e) * * ***
43

1 *Rule 3.1702 amended effective January 1, 2011; adopted as rule 870.2 effective January 1, 1994;*
2 *previously amended and renumbered effective January 1, 2007; previously amended effective January 1,*
3 *1999, January 1, 2006, July 1, 2008, and January 1, 2009.*

4
5 **Rule 4.424. Consideration of applicability of section 654**

6
7 Before determining whether to impose either concurrent or consecutive sentences on all counts
8 on which the defendant was convicted, the court must determine whether the proscription in
9 section 654 against multiple punishments for the same act or omission requires a stay of
10 ~~imposition~~ execution of the sentence imposed on some of the counts.

11
12 *Rule 4.424 amended effective January 1, 2011; adopted as rule 424 effective January 1, 1991; previously*
13 *renumbered effective January 1, 2001; previously amended effective January 1, 2007.*

14
15 **Rule 4.428. Criteria affecting imposition of enhancements**

16
17 ~~No reason need be given for imposing a term for an enhancement that was charged and found~~
18 ~~true. If an enhancement is punishable by one of three terms, the court must, in its discretion,~~
19 ~~impose the term that best serves the interest of justice and state the reasons for its sentence~~
20 ~~choice on the record at the time of sentencing.~~

21
22 If the judge has statutory discretion to strike the additional term for an enhancement in the
23 furtherance of justice under section 1385(c) or based on circumstances in mitigation, the court
24 may consider and apply any of the circumstances in mitigation enumerated in these rules or,
25 under rule 4.408, any other reasonable circumstances in mitigation or in the furtherance of
26 justice.

27
28 The judge should not strike the allegation of the enhancement.

29
30 *Rule 4.428 amended effective January 1, 2011; adopted as rule 428 effective January 1, 1991; previously*
31 *renumbered effective January 1, 2001; previously amended effective January 1, 1998, July 1, 2003,*
32 *January 1, 2007, May 23, 2007, and January 1, 2008.*

33
34
35 **Rule 5.225. Appointment requirements for child custody evaluators**

36
37 **(a)–(f) * * ***

38
39 **(g) Experience requirements**

40 To satisfy the experience requirements of this rule, persons appointed as child custody
41 evaluators must have participated in the completion of at least four partial or full court-
42 appointed child custody evaluations within the preceding three years, as described below.
43 Each of the four child custody evaluations must have resulted in a written or an oral report.

1
2 (1) * * *

3
4 ~~(2) For purposes of appointment:~~

5
6 (A) ~~An evaluator is deemed to be in compliance with the experience requirements~~
7 ~~of this rule until December 31, 2009, if he or she:~~

8
9 (i) ~~Completed or supervised three court appointed partial or full child~~
10 ~~custody evaluations, including a written or an oral report between~~
11 ~~January 1, 2000, and July 1, 2003; or~~

12
13 (ii) ~~Conducted six child custody evaluations in consultation with another~~
14 ~~professional who met the experience requirements of the rule.~~

15
16 (B) ~~Effective January 1, 2010, an evaluator who is deemed to be in compliance~~
17 ~~with the experience requirements described in (A) must participate in the~~
18 ~~completion of at least four partial or full court appointed child custody~~
19 ~~evaluations in the preceding three years as described in (g)(1) to remain in~~
20 ~~compliance with the experience requirements of this rule.~~

21
22 ~~(3)(2) * * *~~

23
24 ~~(4)(3) Those who supervise court-connected evaluators: meet the requirements of this rule~~
25 ~~by conducting or materially assisting in the completion of at least four partial or full~~
26 ~~court-connected child custody evaluations in the preceding three years.~~

27
28 (A) ~~Meet the experience requirements of this rule by conducting or materially~~
29 ~~assisting in the completion of at least four partial or full court connected child~~
30 ~~custody evaluations in the preceding three years; or~~

31
32 (B) ~~If employed as of January 1, 2007, are deemed to comply with the experience~~
33 ~~requirements of this rule until December 31, 2009. Effective January 1, 2010,~~
34 ~~these persons meet the experience requirements by conducting or materially~~
35 ~~assisting in the completion of at least four partial or full court connected child~~
36 ~~custody evaluations in the preceding three years.~~

37
38 *(Subd (g) amended effective January 1, 2011; adopted as subd (f); previously amended and*
39 *relettered effective January 1, 2007.)*

40
41 (h) ~~Continuing education and training requirements~~ Appointment eligibility

42
43 After completing the licensing requirements in (c), the initial education and

1 training requirements described in (d) and (e), and the experience
2 requirements in (g), persons appointed as child custody evaluators must
3 annually complete the: a person is eligible for appointment as a child custody
4 evaluator.

5
6 ~~(1) Domestic violence update training described in rule 5.230; and~~

7
8 ~~(2) Eight hours of update training covering the subjects described in (d).~~

9
10 *(Subd (h) amended effective January 1, 2011; adopted as subd (g); previously amended and*
11 *relettered effective January 1, 2005; previously amended effective January 1, 2007.)*

12
13 **(i) Continuing education and training requirements**

14
15 (1) After a child custody evaluator completes the initial education and training
16 requirements described in (d) and (e), the evaluator must complete these continuing
17 education and training requirements to remain eligible for appointment:

18
19 (A) Domestic violence update training described in rule 5.230; and

20
21 (B) Eight hours of update training covering the subjects described in (d).

22
23 (2) The time frame for completing continuing education and training in (1) is as follows:

24
25 (A) A newly trained court-connected or private child custody evaluator who
26 recently completed the education and training in (d) and (e) must:

27
28 (i) Complete the continuing education and training requirements of this rule
29 within 18 months from the date he or she completed the initial education
30 and training; and

31
32 (ii) Specify on form FL-325 or FL-326 the date by which he or she must
33 complete the continuing education and training requirements of this rule.

34
35 (B) All other court-connected or private child custody evaluators must complete
36 the continuing education and training requirements in (1) as follows:

37
38 (i) Court-connected child custody evaluators must complete the continuing
39 education and training requirements within the 12-month period
40 immediately preceding the date he or she signs the *Declaration of Court-*
41 *Connected Child Custody Evaluator Regarding Qualifications* (form FL-
42 325), which must be submitted as provided by (l) of this rule.

1 (ii) Private child custody evaluators must complete the continuing education
2 and training requirements within the 12-month period immediately
3 preceding his or her appointment to a case.
4

5 (3) Compliance with the continuing education and training requirements of this rule is
6 determined at the time of appointment to a case.
7

8 *(Subd (i) adopted effective January 1, 2011.)*
9

10 ~~(i)~~(j) * * *

11
12 *(Subd (j) relettered effective January 1, 2011; adopted as subd (h); previously relettered as subd (i)*
13 *effective January 1, 2005; previously amended effective January 1, 2007.)*
14

15 ~~(j)~~(k) * * *

16
17 *(Subd (k) relettered effective January 1, 2011; adopted as subd (l); previously amended and*
18 *relettered as subd (k) effective January 1, 2005, and as subd (j) effective January 1, 2007.)*
19

20 ~~(k)~~(l) **Child custody evaluator**
21

22 A person appointed as a child custody evaluator must:
23

24 (1) Submit to the court a declaration indicating compliance with all applicable
25 education, training, and experience requirements:
26

27 (A) Court-connected child custody evaluators must submit a *Declaration of Court-*
28 *Connected Child Custody Evaluator Regarding Qualifications (form FL-325)*
29 to the court executive officer or his or her designee. Court-connected child
30 custody evaluators practicing as of January 1 of a given year must submit a
31 *Declaration of Court Connected Child Custody Evaluator Regarding*
32 *Qualifications (form FL-325) to the court executive officer or his or her*
33 designee the form by January 30 of that year. Court-connected evaluators
34 beginning practice after January 1 must ~~file~~ submit the form FL-325 before any
35 work on the first child custody evaluation has begun and by January 30 of
36 every year thereafter; and
37

38 (B) * * *

39
40 (2)-(6) * * *

41

1 (Subd (l) amended and relettered effective January 1, 2011; adopted as subd (m); previously
2 amended and relettered as subd (l) effective January 1, 2005, and as subd (k) effective January 1,
3 2007.)

4
5 ~~(h)~~(m) * * *

6
7 (Subd (m) relettered effective January 1, 2011; adopted as subd (l) effective January 1, 2007.)
8

9 ~~(m)~~(n) **Education and training providers**

10
11 “Eligible providers” includes the Administrative Office of the Courts and may include
12 educational institutions, professional associations, professional continuing education
13 groups, public or private for-profit or not-for-profit groups, and court-connected groups.
14 Eligible providers must:

15
16 (1)–(5) * * *

17
18 (6) Meet the approval requirements described in ~~(h)~~(o).
19

20 (Subd (n) amended and relettered effective January 1, 2011; adopted as subd (n); previously
21 amended and relettered as subd (m) effective January 1, 2005; previously amended effective
22 January 1, 2007.)
23

24 ~~(n)~~(o) * * *

25
26 (Subd (o) relettered effective January 1, 2011; adopted as subd (o); previously amended and
27 relettered as subd (n) effective January 1, 2005; previously amended effective January 1, 2007.)
28

29 *Rule 5.225 amended effective January 1, 2011; adopted as rule 1257.4 effective January 1, 2002;*
30 *renumbered effective January 1, 2003; previously amended effective January 1, 2005, and January 1,*
31 *2007.*
32

33 **Rule 5.502. Definitions and use of terms**

34
35 Definitions (§§ 202(e), 319, 361, 361.5(a)(3), ~~366(a)(1)(B)~~, 628.1, 636, 726, 727.3(c)(2),
36 727.4(d); 20 U.S.C. § 1415; 25 U.S.C. § 1903(2))
37

38 As used in these rules, unless the context or subject matter otherwise requires:
39

40 (1)–(27) * * *

41
42 (28) “Relative” means
43

1 (A) ~~a~~An adult who is related to the child by blood, adoption, or affinity within the fifth
2 degree of kinship. This term includes:

3
4 (i) A parent, sibling, grandparent, aunt, uncle, nephew, niece, great-grandparent,
5 great-aunt or -uncle (grandparents' sibling), first cousin, great-great-
6 grandparent, great-great-aunt or -uncle (great-grandparents' sibling), first
7 cousin once removed (parents' first cousin), and great-great-great-grandparent;

8
9 (ii) ~~including~~A stepparents, or stepsiblings; and

10
11 (iii) The spouse or domestic partner of any of these the persons described in
12 subparagraphs (A)(i) and (ii), even if the marriage or partnership was
13 terminated by death or dissolution; or

14
15 (B) An extended family member as defined by the law or custom of an Indian child's
16 tribe. (25 U.S.C. § 1903(2).)

17
18 (29)–(35) * * *

19
20 *Rule 5.502 amended effective January 1, 2011; adopted as rule 1401 effective January 1, 1990;*
21 *previously amended and renumbered effective January 1, 2007; previously amended effective July 1,*
22 *1992, July 1, 1997, January 1, 1998, January 1, 1999, January 1, 2001, July 1, 2002, January 1, 2003,*
23 *January 1, 2008, and July 1, 2010.*

24
25 **Rule 5.534. General provisions—all proceedings**

26
27 (a)–(e) ***

28
29 (f) **Relatives**

30
31 (1) On a sufficient showing, the court may permit relatives of the child to:

32
33 ~~(1)~~(A) Be present at the hearing; and

34
35 ~~(2)~~(B) Address the court.

36
37 (2) Relatives of the child have the right to submit information about the child to the
38 court at any time. Written information about the child may be submitted to the court
39 using *Relative Information* (form JV-285) or in a letter to the court.

40
41 (3) When a relative is located through the investigation required by rule 5.637, the social
42 worker must give that relative:

1 (A) The written notice required by section 309 and the “Important Information for
2 Relatives” document as distributed in California Department of Social Services
3 All County Letter No. 09-86;

4
5 (B) A copy of *Relative Information* (form JV-285), with the county and address of
6 the court, the child’s name and date of birth, and the case number already
7 entered in the appropriate caption boxes by the social worker; and

8
9 (C) A copy of *Confidential Information* (form JV-287).

10
11 (4) When form JV-285 or a relative’s letter is received by the court, the court clerk must
12 provide the social worker, all unrepresented parties, and all attorneys with a copy of
13 the completed form or letter.

14
15 (5) When form JV-287 is received by the court, the court clerk must place it in a
16 confidential portion of the case file.

17
18 *(Subd (f) amended effective January 1, 2011; previously amended effective January 1, 2007.)*

19
20 **(g)–(p) *****

21
22 *Rule 5.534 amended effective January 1, 2011; adopted as rule 1412 effective January 1, 1991;*
23 *previously amended and renumbered effective January 1, 2007; previously amended effective January 1,*
24 *1994, July 1, 1995, January 1, 1997, January 1, 2000, July 1, 2002, January 1, 2005, October 1, 2007,*
25 *January 1, 2008, and January 1, 2010.*

26
27 **Advisory Committee Comment**

28
29 Because the intent of subdivision (m) is to expand access to the courts for caregivers of children in out-
30 of-home care, the rule should be liberally construed. To promote caregiver participation and input,
31 judicial officers are encouraged to permit caregivers to ~~verbally~~orally address the court when caregivers
32 would like to share information about the child. In addition, court clerks should allow filings by
33 caregivers even if the caregiver has not strictly adhered to the requirements in the rule regarding number
34 of copies and filing deadlines.

35
36 **Rule 5.637. Family Finding (§§ 309(e), 628(d))**

1 **(a)** Within 30 days of a child’s removal from the home of his or her parent or guardian, if the
2 child is in or at risk of entering foster care, the social worker or probation officer must use
3 due diligence in conducting an investigation to identify, locate, and notify all the child’s
4 adult relatives.

5
6 **(b)** The social worker or probation officer is not required to notify a relative whose personal
7 history of family or domestic violence would make notification inappropriate.

8
9 *Rule 5.637 adopted effective January 1, 2011.*

10
11 **Advisory Committee Comment**

12
13 This rule restates the requirements of section 103 of the federal Fostering Connections to Success and
14 Increasing Adoptions Act (Pub. L. No. 110-351, § 103 (Oct. 7, 2008) 122 Stat. 3949, 3956, codified at 42
15 U.S.C. § 671(a)(29)) as implemented by California Assembly Bill 938 (Com. on Judiciary; Stats. 2009,
16 ch. 261, codified at Welf. & Inst. Code §§ 309(e) and 628(d)). These statutes enacted elements of the
17 child welfare practice known as Family Finding and Engagement, which has been recommended to
18 improve outcomes for children by the Judicial Council’s California Blue Ribbon Commission on Children
19 in Foster Care and the California Child Welfare Council. (See Cal. Blue Ribbon Com. on Children in
20 Foster Care, *Fostering a New Future for California’s Children*, pp. 30–31 (Admin. Off. of Cts., May
21 2009) (final report and action plan), www.courts.ca.gov; *Permanency Committee Recommendations to the*
22 *Child Welfare Council*, pp. 1–4 (Sept. 10, 2009), www.chhs.ca.gov.)

23
24 **Rule 5.690. General conduct of disposition hearing**

25
26 **(a) Social study (§§ 280, 358, 358.1, 360, 361.5)**

27
28 The petitioner must prepare a social study of the child, ~~including~~ The social study must
29 include a discussion of all matters relevant to disposition and a recommendation for
30 disposition.

31
32 (1) The petitioner must comply with the following when preparing the social study:

33
34 (A)–(B) * * *

35
36 (C) The social study should include a discussion of the social worker’s efforts to
37 comply with rule 5.637, including but not limited to:

38
39 (i) The number of relatives identified and the relationship of each to the
40 child;

41
42 (ii) The number and relationship of those relatives described by item (i) who
43 were located and notified;

1
2 (iii) The number and relationship of those relatives described by item (ii)
3 who are interested in ongoing contact with the child; and

4
5 (iv) The number and relationship of those relatives described by item (ii)
6 who are interested in providing placement for the child.

7
8 ~~(C)~~(D) * * *

9
10 ~~(D)~~(E) * * *

11
12 (2) * * *

13
14 *(Subd (a) amended effective January 1, 2011; previously amended effective July 1, 1995, January*
15 *1, 2000, and January 1, 2007.)*

16
17 **(b)–(c) * * ***

18
19 *Rule 5.690 amended effective January 1, 2011; adopted as rule 1455 effective January 1, 1991;*
20 *previously amended and renumbered effective January 1, 2007; previously amended effective July 1,*
21 *1995, January 1, 2000, January 1, 2009, and July 1, 2010.*

22
23 **Rule 5.695. Findings and orders of the court—disposition**

24
25 **(a)–(e) * * ***

26
27 **(f) Family-finding determination**

28
29 (1) The court must consider whether the social worker has used due diligence in
30 conducting the investigation to identify, locate, and notify the child’s relatives. The
31 court may consider as examples of due diligence the activities listed in subdivision
32 (g) of this rule.

33
34 If the disposition hearing is continued, the court may set a hearing at any time after
35 30 days from the date of removal to consider whether the social worker has used due
36 diligence in conducting the investigation to identify, locate, and contact the child’s
37 relatives.

38
39 (2) The court must make one of the following findings:

40
41 (A) The social worker has used due diligence in conducting its investigation to
42 identify, locate, and notify the child’s relatives; or

1 (B) The social worker has not used due diligence in conducting its investigation to
2 identify, locate, and notify the child’s relatives. If the court makes this finding,
3 the court may order the social worker to use due diligence in conducting an
4 investigation to identify, locate, and notify the child’s relatives—except for
5 any individual the social worker identifies who is inappropriate to notify under
6 rule 5.637(b)—and may require a written or oral report to the court at a later
7 time.

8
9 *(Subd (f) adopted effective January 1, 2011.)*

10
11 **(g)** When making the finding required under paragraph (f)(2) of this rule, the court may
12 consider, among other examples of due diligence to identify, locate, and notify the child’s
13 relatives, whether the social worker has done any of the following:

- 14
15 (1) Asked the child, in an age-appropriate manner and consistent with the child’s best
16 interest, about his or her relatives;
17
18 (2) Obtained information regarding the location of the child’s relatives;
19
20 (3) Reviewed the child’s case file for any information regarding relatives;
21
22 (4) Telephoned, e-mailed, or visited all identified relatives;
23
24 (5) Asked located relatives for the names and locations of other relatives;
25
26 (6) Used Internet search tools to locate relatives identified as supports; or
27
28 (7) Developed tools, including a genogram, family tree, family map, or other diagram of
29 family relationships, to help the child or parents to identify relatives.

30
31 *(Subd (g) adopted effective January 1, 2011.)*

32
33 **~~(f)~~(h)** * * *

34
35 *(Subd (h) relettered effective January 1, 2011; adopted as subd (e); previously relettered as subd*
36 *(f) effective July 1, 1995; previously amended effective January 1, 1993, July 1, 1993, January 1,*
37 *1994, January 1, 1995, January 1, 1996, July 1, 1997, January 1, 1999, July 1, 1999, January 1,*
38 *2001, July 1, 2001, July 1, 2002, January 1, 2007, and January 1, 2010.)*

39
40 **(g)(i)** * * *

41
42 *(Subd (i) relettered effective January 1, 2011; adopted as subd (f); previously relettered as subd (g)*
43 *effective July 1, 1995; previously amended effective January 1, 2001, and July 1, 2002.)*

1
2 ~~(h)~~(j) * * *

3
4 (Subd (j) relettered effective January 1, 2011; adopted as subd (g); previously relettered as subd
5 (h) effective July 1, 1995; previously amended effective January 1, 1995, January 1, 2001, July 1,
6 2002, and January 1, 2007.)

7
8 ~~(i)~~(k) * * *

9
10 (Subd (k) relettered effective January 1, 2011; adopted as subd (h); previously relettered as subd
11 (i) effective July 1, 1995; previously amended effective July 1, 2002, and January 1, 2007.)

12
13 ~~(j)~~(l) * * *

14
15 (Subd (l) relettered effective January 1, 2011; adopted as subd (j) effective July 1, 1997; previously
16 amended effective July 1, 2002.)

17
18 Rule 5.695 amended effective January 1, 2011; adopted as rule 1456 effective January 1, 1991;
19 previously amended and renumbered effective January 1, 2007; previously amended effective January 1,
20 1993, July 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, January 1, 1996, January 1, 1997,
21 July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2001, July 1, 2002, January 1, 2004,
22 January 1, 2006, January 1, 2008, and January 1, 2010.

23
24 **Rule 5.710. Six-month review hearing**

25
26 (a)–(b) * * *

27
28 (c) **Setting a section 366.26 hearing (§§ 366.21, 366.215)**

29
30 (1) The court may set a hearing under section 366.26 within 120 days if:

31
32 (A)–(C) * * *

33
34 (D) The child was under the age of three when initially removed, or a member of a
35 sibling group described in section 361.5(a)(1)(C), and the court finds by clear
36 and convincing evidence that the parent has failed to participate regularly and
37 make substantive progress in any court-ordered treatment plan, ~~unless~~. If,
38 however, the court finds a substantial probability that the child may be returned
39 within 6 months or within 12 months of the date the child entered foster care,
40 whichever is sooner, or that reasonable services have not been offered or
41 provided, ~~the court must continue the case to the 12-month permanency~~
42 hearing.

1 (i) In order to find a substantial probability that the child may be returned
2 within the applicable time period, the court should consider the
3 following factors along with any other relevant evidence:

4
5 ~~(i)a.~~ * * *

6
7 ~~(ii)b.~~ * * *

8
9 ~~(iii)c.~~ * * *

10
11 (ii) The court, in determining whether court-ordered services may be
12 extended to the 12-month point, must take into account any particular
13 barriers to a parent’s ability to maintain contact with his or her child due
14 to the parent’s incarceration or institutionalization. The court may also
15 consider, among other factors, whether the incarcerated or
16 institutionalized parent has made good faith efforts to maintain contact
17 with the child and whether there are any other barriers to the parent’s
18 access to services.

19
20 (2) * * *

21
22 *(Subd (c) amended effective January 1, 2011; repealed and adopted as subd (e); previously*
23 *amended and relettered as subd (f) effective January 1, 1992; previously amended effective*
24 *January 1, 1993, January 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2000,*
25 *January 1, 2001, July 1, 2002, January 1, 2004, January 1, 2005, January 1, 2006, January 1,*
26 *2007, and January 1, 2010.)*

27
28 (d) * * *

29
30 *Rule 5.710 amended effective January 1, 2011; adopted as rule 1460 effective January 1, 1990;*
31 *previously amended and renumbered effective January 1, 2007; previously amended effective January 1,*
32 *1992, January 1, 1993, January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999,*
33 *January 1, 2000, January 1, 2001, July 1, 2002, January 1, 2004, January 1, 2005, January 1, 2006, and*
34 *January 1, 2010.*

35
36 **Rule 5.727. Proposed removal (§ 366.26(n))**

37
38 (a)–(c) * * *

39
40 (d) **Service of notice**

41
42 DSS or the agency must serve notice of its intent to remove a child as follows:

1 (1)–(2) * * *

2
3 (3) Notice to the child’s identified Indian tribe and Indian custodian must be given under
4 rule ~~5.664~~ 5.481.

5
6 (4) * * *

7
8 *(Subd (d) amended effective January 1, 2011; previously amended effective January 1, 2007, and*
9 *January 1, 2008.)*

10
11 **(e)–(i) * * ***

12
13 *Rule 5.727 amended effective January 1, 2011; adopted as rule 1463.3 effective July 1, 2006; previously*
14 *amended and renumbered effective January 1, 2007; previously amended effective January 1, 2008, and*
15 *July 1, 2010.*

16
17 **Rule 7.1060. Investigations and reports by court investigators**

18
19 **(a) Order Appointing Court Investigator (form GC-330)**

20
21 Order Appointing Court Investigator (form GC-330) is an optional form within the
22 meaning of rule 1.35 of these rules, except as follows:

23
24 (1) A court may, by local rule, require that form GC-330 be used for orders appointing
25 court investigators and directing them to conduct all or any of the investigations
26 described in the form and to prepare, file, and serve copies of reports concerning
27 those investigations. The local rule may also prescribe the form’s preparation,
28 service, and delivery to the court for execution and filing.

29
30 (2) A court may, by local rule, require that a general order, a court-prepared order, or a
31 local form order instead of form GC-330 be used to appoint and direct the actions of
32 court investigators concerning all or any of the investigations and reports described
33 in form GC-330.

34
35 **(b) Order Appointing Court Investigator (Review and Successor Conservator Investigations)**
36 **(form GC-331)**

37
38 Order Appointing Court Investigator (Review and Successor Conservator Investigations)
39 (form GC-331) is an optional form within the meaning of rule 1.35 of these rules, except as
40 follows:

41
42 (1) A court may, by local rule, require that form GC-331 be used for orders appointing
43 court investigators and directing them to conduct all or any of the review

1 investigations under Probate Code sections 1850 and 1851 or investigations
2 concerning the appointment of successor conservators under Probate Code sections
3 2684 and 2686 described in the form and to prepare, file, and serve copies of reports
4 concerning those investigations. Form GC-331 is to be prepared by the court only.

5
6 (2) A court may, by local rule, require that a general order, a court-prepared order, or a
7 local form order instead of form GC-331 be used to appoint and direct the actions of
8 court investigators concerning all or any of the investigations and reports described
9 in form GC-331.

10
11 **(c) Order Setting Biennial Review Investigation and Directing Status Report Before Review**
12 **(form GC-332)**

13
14 Order Setting Biennial Review Investigation and Directing Status Report Before Review
15 (form GC-332) is an optional form within the meaning of rule 1.35 of these rules, except as
16 follows:

17
18 (1) A court may, by local rule, require that form GC-332 be used for orders setting
19 biennial review investigations and directing status reports under Probate Code
20 section 1850(a)(2). Form GC-332 is to be prepared by the court only.

21
22 (2) A court may, by local rule, require that a general order, a court-prepared order, or a
23 local form order instead of form GC-332 be used concerning the matters described in
24 form GC-332.

25
26 *Rule 7.1060 adopted effective January 1, 2011.*

27
28 **Rule 7.1101. Qualifications and continuing education required of counsel appointed by the**
29 **court in guardianships and conservatorships**

30
31 (a) * * *

32
33 (b) **Qualifications of appointed counsel in private practice**

34
35 Except as provided in this rule, each counsel in private practice appointed by the court on
36 or after January 1, 2008, must be an active member of the State Bar of California for at
37 least three years immediately before the date of appointment, with no discipline imposed
38 within the 12 months immediately preceding any date of availability for appointment after
39 January 1, 2008; and

40
41 (1) *Appointments to represent minors in guardianships*

42
43 For an appointment to represent a minor in a guardianship:

1
2 (A)–(B) * * *

3
4 (C) Except as provided in (f)(2), counsel qualified for appointments in
5 guardianships under (B) must satisfy the continuing education requirements of
6 this rule in addition to the education or training requirements of the rules
7 mentioned in (B).
8

9 (2)–(3) * * *

10
11 *(Subd (b) amended effective January 1, 2011; previously amended effective January 1, 2009.)*
12

13 (c)–(e) * * *

14
15 **(f) Continuing education of appointed counsel**
16

17 (1) Except as provided in (2), beginning on January 1, 2008, counsel appointed by the
18 court must complete three hours of education each calendar year that qualifies for
19 Minimum Continuing Legal Education credit for State Bar–certified specialists in
20 estate planning, trust, and probate law.
21

22 (2) Counsel qualified to represent minors in guardianships under (b)(1)(B) and who are
23 appointed to represent minors in guardianships of the person only may satisfy the
24 continuing education requirements of this rule by satisfying the annual education and
25 training required under rule 5.242(d) or the continuing education required under rule
26 5.660(d)(3).
27

28 *(Subd (f) amended effective January 1, 2011; previously amended effective January 1, 2009.)*
29

30 (g)–(i) * * *

31
32 *Rule 7.1101 amended effective January 1, 2011; adopted effective January 1, 2008; previously amended*
33 *effective January 1, 2009.*
34

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

37 (a) * * *

38
39 **(b) Filing**
40

41 (1)–(2) * * *

1 (3) A brief, a petition for rehearing, an answer to a petition for rehearing, a petition for
2 transfer of an appellate division case to the Court of Appeal, an answer to such a
3 petition for transfer, a petition for review, an answer to a petition for review, or a
4 reply to an answer to a petition for review is timely if the time to file it has not
5 expired on the date of:

6
7 (A)–(B) * * *

8
9 (4)–(5) * * *

10
11 *(Subd (b) amended effective January 1, 2011; previously amended effective January 1, 2007,*
12 *January 1, 2009, and July 1, 2010.)*

13
14 *Rule 8.25 amended effective January 1, 2011; adopted as rule 40.1 effective January 1, 2005; previously*
15 *amended and renumbered effective January 1, 2007; previously amended effective January 1, 2009, and*
16 *July 1, 2010.*

17
18 **Rule 8.40. Form of filed documents**

19
20 (a) * * *

21
22 (b) **Cover color**

23
24 (1) As far as practicable, the covers of briefs and petitions must be in the following
25 colors:

26

Appellant’s opening brief or appendix	green
Respondent’s brief or appendix	yellow
Appellant’s reply brief or appendix	tan
Joint appendix	white
Amicus curiae brief	gray
Answer to amicus curiae brief	blue
Petition for rehearing	orange
Answer to petition for rehearing	blue
Petition for original writ	red
Answer (or opposition) to petition for original writ	red
Reply to answer (or opposition) to petition for original writ	red
<u>Petition for transfer of appellate division case to Court of</u> <u>Appeal</u>	<u>white</u>
<u>Answer to petition for transfer of appellate division case to Court of</u> <u>Appeal</u>	<u>blue</u>
Petition for review	white
Answer to petition for review	blue

Reply to answer to petition for review	white
Opening brief on the merits	white
Answer brief on the merits	blue
Reply brief on the merits	white

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39

(2)–(3) * * *

(Subd (b) amended effective January 1, 2011; adopted as subd (c); previously amended and relettered effective January 1, 2007.)

(c) * * *

Rule 8.40 amended effective January 1, 2011; repealed and adopted as rule 44 effective January 1, 2005; previously amended effective January 1, 2006; previously amended and renumbered effective January 1, 2007.

Rule 8.44. Number of copies of filed documents

Except as these rules provide otherwise, the number of copies of every brief, petition, motion, application, or other document that must be filed in a reviewing court is as follows:

(a) * * *

(b) Documents filed in a Court of Appeal

(1)–(3) * * *

(4) Unless the court orders otherwise, an original and ~~3 copies~~ 1 copy of a motion or an opposition or other response to a motion;

(5) Unless the court ~~orders~~ provides otherwise by local rule or ~~in the specific case order~~, 1 set of any separately bound supporting documents accompanying a document filed under (3) or (4);

(6)–(7) * * *

(Subd (b) amended effective January 1, 2011.)

Rule 8.44 amended effective January 1, 2011; adopted effective January 1, 2007; previously amended effective January 1, 2007.

Rule 8.46. Sealed records

1 * * *

2 **Advisory Committee Comment**

3
4 This rule and rules 2.550–2.551 for the trial courts provide a standard and procedures for courts to use
5 when a request is made to seal a record. The standard is based on *NBC Subsidiary (KNBC-TV), Inc. v.*
6 *Superior Court* (1999) 20 Cal.4th 1178. The sealed records rules apply to civil and criminal cases. They
7 recognize the First Amendment right of access to documents used at trial or as a basis of adjudication.
8 The rules do not apply to records that courts must keep confidential by law. Examples of confidential
9 records to which public access is restricted by law are records of the family conciliation court (Fam.
10 Code, § 1818, subd. (b)) and in forma pauperis applications (Cal. Rules of Court, rule ~~3.60~~ 8.26). Except
11 as otherwise expressly provided in rule ~~8.160~~ 8.46, motions in a reviewing court relating to the sealing or
12 unsealing of a record must follow rule 8.54.

13
14 **Rule 8.70. Purpose, application, and construction, and definitions**

15
16 (a)–(c) * * *

17
18 **(d) Definitions**

19
20 As used in this article, unless the context otherwise requires:

21
22 (1) “The court” is the Court of Appeal, Second Appellate District.

23
24 (2) A document may be in paper or electronic form. A “document” is:

25
26 (A) Any filing submitted to the reviewing court, including a brief, a petition, an
27 appendix, or a motion;

28
29 (B) Any document transmitted by a trial court to the reviewing court, including a
30 notice or a clerk’s or reporter’s transcript; or

31
32 (C) Any writing prepared by the reviewing court, including an opinion, an order, or
33 a notice.

34
35 (3) “Electronic service” is service of a document on a party or other person by either
36 electronic transmission or electronic notification. Electronic service may be
37 performed directly by a party, by an agent of a party including the party’s attorney,
38 through an electronic filing service provider, or by a court.

39
40 (4) “Electronic transmission” means the transmission of a document by electronic means
41 to the electronic service address at or through which a party or other person has
42 authorized electronic service.

1
2 ~~(2) — A document may be in paper or electronic form. A "document" is:~~

3
4 ~~(A) — Any filing submitted to the reviewing court, including a brief, a petition, an~~
5 ~~appendix, or a motion;~~

6
7 ~~(B) — Any document transmitted by a trial court to the reviewing court, including a notice~~
8 ~~or a clerk's or reporter's transcript; or~~

9
10 ~~(C) — Any writing prepared by the reviewing court, including an opinion, an order, or a~~
11 ~~notice.~~

12
13 ~~(3) — An "electronic filer" is a party filing a document in electronic form directly with the court,~~
14 ~~by an agent, or through an electronic filing service provider.~~

15
16 ~~(4) — "Electronic filing" is the electronic transmission of a document in electronic form to a~~
17 ~~court.~~

18
19 ~~(5) — An "electronic filing service provider" is a person or entity that receives an electronic filing~~
20 ~~from a party for retransmission to the court. In submission of filings, the electronic filing~~
21 ~~service provider does so on behalf of the electronic filer and not as an agent of the court.~~

22
23 ~~(6) — "Electronic service" is the electronic transmission of a document to a party's electronic~~
24 ~~notification address, either directly or through an electronic filing service provider, for the~~
25 ~~purpose of effecting service.~~

26
27 ~~(7) — "Electronic notification address" of a party means the electronic address at or through~~
28 ~~which the party has authorized electronic service.~~

29
30 *Rule 8.71 repealed effective January 1, 2011; adopted effective July 1, 2010.*

31
32 **Rule ~~8.80-8.71~~. 8.71. Electronic service**

33
34 **(a) Consent to electronic service**

35
36 (1) When a ~~notice~~ document may be served by mail, express mail, overnight delivery, or
37 fax transmission, electronic service of the ~~notice~~ document is permitted when
38 authorized by these rules.

39
40 (2) A party indicates that the party agrees to accept electronic service by:

41
42 (A) ~~Filing and~~ Serving a notice on all parties that the party accepts electronic
43 service and filing the notice with the court. The notice must include the

1 electronic ~~notification~~ service address at which the party agrees to accept
2 service; or

3
4 (B) Electronically filing any document with the court. The act of electronic filing is
5 evidence that the party agrees to accept service at the electronic ~~notification~~
6 service address that the party has furnished to the court under rule 8.76(a)(4).

7
8 (3) A party that has consented to electronic service under (2) and has used an electronic
9 filing service provider to ~~file and~~ serve and file documents in a case consents to
10 service on that electronic filing service provider as the designated agent for service
11 for the party in the case, until such time as the party designates a different agent for
12 service.

13
14 *(Subd (a) amended effective January 1, 2011.)*

15
16 **(b) Maintenance of electronic service lists**

17
18 When the court orders or permits electronic filing in a case, it must maintain and make
19 available electronically to the parties an electronic service list that contains the parties'
20 current electronic ~~notification~~ service addresses, as provided by the parties that have filed
21 electronically in the case.

22
23 *(Subd (b) amended effective January 1, 2011.)*

24
25 **(c) Service by the parties**

26
27 (1) * * *

28
29 (2) A document may not be electronically served on a nonparty unless ~~otherwise~~
30 provided by law or court order the nonparty consents to electronic service or
31 electronic service is otherwise provided for by law or court order.

32
33 *(Subd (c) amended effective January 1, 2011.)*

34
35 **(d) Change of electronic ~~notification~~ service address**

36
37 (1) A party whose electronic ~~notification~~ service address changes while the appeal or
38 original proceeding is pending must promptly file a notice of change of address
39 electronically with the court and must serve this notice electronically on all other
40 parties.

41
42 (2) * * *

- 1 (3) An electronic ~~notification~~ service address is presumed valid for a party if the party
2 files electronic documents with the court from that address and has not filed and
3 served notice that the address is no longer valid.
4

5 *(Subd (d) amended effective January 1, 2011.)*
6

7 **(e) Reliability and integrity of documents served by electronic notification**
8

9 A party that serves a document by means of electronic notification must:
10

- 11 (1) Ensure that the documents served can be viewed and downloaded using the
12 hyperlink provided;
13
14 (2) Preserve the document served without any change, alteration, or modification from
15 the time the document is posted until the time the hyperlink is terminated; and
16
17 (3) Maintain the hyperlink until the case is final.
18

19 *(Subd (e) adopted effective January 1, 2011.)*
20

21 ~~(e) When service is complete~~
22

- 23 ~~(1) Electronic service is complete at the time of transmission.~~
24
25 ~~(2) Service that occurs after 11:59 p.m. is deemed to have occurred on the next court~~
26 ~~day.~~
27

28 **(f) Proof of service**
29

- 30 (1) Proof of electronic service may be by any of the methods provided in Code of Civil
31 Procedure section 1013a, except that the proof of service must state:
32
33 (A) The electronic ~~notification~~ service address of the person making the service, in
34 addition to that person's residence or business address;
35
36 (B) * * *
37
38 (C) The name and electronic ~~notification~~ service address of the person served, in
39 place of that person's name and address as shown on the envelope; and
40
41 (D) * * *
42
43 (2)–(3) * * *

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(Subd (f) amended effective January 1, 2011.)

(g) * * *

Rule 8.71 amended and renumbered effective January 1, 2011; adopted as rule 8.80 effective July 1, 2010.

Rule 8.73. Court order requiring electronic service or filing

(a) Court order

(1) The court may, on the motion of any party or on its own motion, ~~after finding~~ provided that ~~such an~~ the order would not cause undue hardship or significant prejudice to any party, order all parties to:

(A)–(C) * * *

(2)–(3) * * *

(Subd (a) amended effective January 1, 2011.)

(b)–(c) * * *

Rule 8.73 amended effective January 1, 2011; adopted effective July 1, 2010.

Rule 8.75. Contracts with electronic filing service providers

(a) Right to contract

(1)–(2) * * *

(3) ~~If there is~~ the court contracts with a single an electronic service provider or the court ~~has~~ has an in-house system, the ~~court~~ provider or system must accept filing from other electronic filing service providers to the extent ~~it~~ the provider or system is compatible with them.

(Subd (a) amended effective January 1, 2011.)

(b) * * *

(c) Transmission of filing to court

1 An electronic filing service provider must promptly transmit any electronic filing and the
2 any applicable filing fee to the court.

3
4 *(Subd (c) amended effective January 1, 2011.)*
5

6 **(d) Confirmation of receipt and filing of document**

7
8 (1) * * *

9
10 (2) The electronic filing service provider must send its confirmation to the filer's
11 electronic ~~notification~~ service address and must indicate the date and time of receipt,
12 in accordance with rule 8.79(a).
13

14 (3) * * *

15
16 *(Subd (d) amended effective January 1, 2011.)*
17

18 **(e)** * * *

19
20 *Rule 8.75 amended effective January 1, 2011; adopted effective July 1, 2010.*
21

22 **Rule 8.76. Responsibilities of electronic filer**

23
24 **(a) Conditions of filing**

25
26 Each electronic filer ~~agrees to, and~~ must:

27
28 (1)-(3) * * *

29
30 (4) Furnish one or more electronic ~~notification~~ service addresses, in the manner
31 specified by the court, at which the electronic filer agrees to accept service; and
32

33 (5) Immediately provide the court and all parties with any change to the electronic filer's
34 electronic ~~notification~~ service address.
35

36 *(Subd (a) amended effective January 1, 2011.)*
37

38 **(b)** * * *

39
40 *Rule 8.76 amended effective January 1, 2011; adopted effective July 1, 2010.*
41

42 **Rule 8.79. Actions by court on receipt of electronic filing**

43

1 **(a) Confirmation of receipt and filing of document**

2
3 (1)–(2) * * *

4
5 (3) *Transmission of confirmations*

6
7 The court must send receipt and filing confirmation to the electronic filer at the
8 electronic ~~notification~~ service address that the filer furnished to the court under rule
9 8.76(a)(4). The court must maintain a record of all receipt and filing confirmations.

10
11 (4) * * *

12
13 *(Subd (a) amended effective January 1, 2011.)*

14
15 **(b) * * ***

16
17 **(c) Document ~~filed~~ received after close of business**

18
19 A document that is ~~filed~~ received electronically ~~with~~ by the court after 11:59 p.m. is
20 deemed to have been ~~filed~~ received on the next court day.

21
22 *(Subd (c) amended effective January 1, 2011.)*

23
24 **(d)–(e) * * ***

25
26 *Rule 8.79 amended effective January 1, 2011; adopted effective July 1, 2010.*

27
28 **Rule 8.104. Time to appeal**

29
30 **(a)–(b) * * ***

31
32 **(e) — ~~Periodic payment of judgments against public entities~~**

33
34 ~~If a public entity elects, under Government Code section 984 and rule 3.1804, to pay a~~
35 ~~judgment in periodic payments, subdivision (a) of this rule governs the time to appeal from~~
36 ~~that judgment but the periods prescribed in (a)(1) and (2) are each 90 days.~~

37
38 **~~(d)~~(c) * * ***

39
40 *(Subd (c) relettered effective January 1, 2011; adopted as subd (c); relettered as subd (d) effective*
41 *January 1, 2005; previously amended effective January 1, 2007.)*

1 ~~(e)~~(d) * * *

2
3 *(Subd (d) relettered effective January 1, 2011; adopted as subd (d); previously relettered as subd*
4 *(e) effective January 1, 2005.)*

5
6 ~~(f)~~(e) * * *

7
8 *(Subd (e) relettered effective January 1, 2011; adopted as subd (f); previously amended effective*
9 *January 1, 2005.)*

10
11 *Rule 8.104 amended effective January 1, 2011; repealed and adopted as rule 2 effective January 1, 2002;*
12 *previously amended and renumbered effective January 1, 2007; previously amended effective January 1,*
13 *2005, and January 1, 2010.*

14
15 **Rule 8.108. Extending the time to appeal**

16
17 (a) * * *

18
19 (b) **Motion for new trial**

20
21 If any party serves and files a valid notice of intention to move for a new trial, the time to
22 appeal from the judgment is extended for all parties as follows:

23
24 (1) If the motion is denied, until the earliest of:

25
26 (A) 30 days after the superior court clerk ~~mails~~, or a party serves, an order denying
27 the motion or a notice of entry of that order;

28
29 (B)–(C) * * *

30
31 (2) * * *

32
33 *(Subd (b) amended effective January 1, 2011; adopted as subd (a); previously amended and*
34 *relettered effective January 1, 2008.)*

35
36 (c) **Motion to vacate judgment**

37
38 If, within the time prescribed by rule 8.104 to appeal from the judgment, any party serves
39 and files a valid notice of intention to move—or a valid motion—to vacate the judgment,
40 the time to appeal from the judgment is extended for all parties until the earliest of:

41
42 (1) 30 days after the superior court clerk ~~mails~~, or a party serves, an order denying the
43 motion or a notice of entry of that order;

1
2 (2)–(3) * * *

3
4 *(Subd (c) amended effective January 1, 2011; adopted as subd (b); previously amended effective*
5 *January 1, 2007; previously relettered effective January 1, 2008.)*
6

7 **(d) Motion for judgment notwithstanding the verdict**
8

9 (1) If any party serves and files a valid motion for judgment notwithstanding the verdict
10 and the motion is denied, the time to appeal from the judgment is extended for all
11 parties until the earliest of:

12
13 (A) 30 days after the superior court clerk mails, or a party serves, an order denying
14 the motion or a notice of entry of that order;

15
16 (B)–(C) * * *

17
18 (2) * * *

19
20 *(Subd (d) amended effective January 1, 2011; adopted as subd (c); previously amended effective*
21 *January 1, 2007; previously relettered effective January 1, 2008.)*
22

23 **(e) Motion to reconsider appealable order**
24

25 If any party serves and files a valid motion to reconsider an appealable order under Code of
26 Civil Procedure section 1008, subdivision (a), the time to appeal from that order is
27 extended for all parties until the earliest of:

28
29 (1) 30 days after the superior court clerk mails, or a party serves, an order denying the
30 motion or a notice of entry of that order;

31
32 (2)–(3) * * *

33
34 *(Subd (e) amended effective January 1, 2011; adopted as subd (d); previously relettered effective*
35 *January 1, 2008.)*
36

37 **(f) Public entity actions under Government Code section 962, 984, or 985**
38

39 If a public entity defendant serves and files a valid request for a mandatory settlement
40 conference on methods of satisfying a judgment under Government Code section 962, an
41 election to pay a judgment in periodic payments under Government Code section 984 and
42 rule 3.1804, or a motion for a posttrial hearing on reducing a judgment under Government

1 Code section 985, the time to appeal from the judgment is extended for all parties until the
2 earliest of:

3
4 (1) 90 days after the superior court clerk serves the party filing the notice of appeal with
5 a document entitled “Notice of Entry” of judgment, or a file-stamped copy of the
6 judgment, showing the date either was served;

7
8 (2) 90 days after the party filing the notice of appeal serves or is served by a party with a
9 document entitled “Notice of Entry” of judgment or a file-stamped copy of the
10 judgment, accompanied by proof of service; or

11
12 (3) 180 days after entry of judgment.

13
14 *(Subd (f) adopted effective January 1, 2011.)*

15
16 **(f)(g) Cross-appeal**

17
18 (1) If an appellant timely appeals from a judgment or appealable order, the time for any
19 other party to appeal from the same judgment or order is extended until 20 days after
20 the superior court clerk ~~mails~~ serves notification of the first appeal.

21
22 (2) If an appellant timely appeals from an order granting a motion for new trial, an order
23 granting—within 150 days after entry of judgment—a motion to vacate the
24 judgment, or a judgment notwithstanding the verdict, the time for any other party to
25 appeal from the original judgment or from an order denying a motion for judgment
26 notwithstanding the verdict is extended until 20 days after the clerk ~~mails~~ serves
27 notification of the first appeal.

28
29 *(Subd (g) amended and relettered effective January 1, 2011; adopted as subd (e); previously*
30 *relettered as subd (f) effective January 1, 2008.)*

31
32 **(g)(h) ~~Showing date of order or notice~~ Service; proof of service**

33
34 ~~An order or notice mailed by the clerk under this rule must show the date it was mailed.~~
35 Service under this rule may be by any method permitted by the Code of Civil Procedure,
36 including electronic service when permitted under Code of Civil Procedure section 1010.6
37 and rules 2.250–2.261. An order or notice that is served by a party must be accompanied
38 by proof of service.

39
40 *(Subd (h) amended and relettered effective January 1, 2011; adopted as subd (f); previously*
41 *relettered as subd (g) effective January 1, 2008.)*

1 *Rule 8.108 amended effective January 1, 2011; repealed and adopted as rule 3 effective January 1, 2002;*
2 *previously amended and renumbered effective January 1, 2007; previously amended effective January 1,*
3 *2008.*

4 5 **Advisory Committee Comment** 6

7 Subdivisions (b)–~~(e)~~(f) operate only when a party serves and files a “valid” motion, election, request, or
8 notice of intent to move for the relief in question. As used in these provisions, the word “valid” means
9 only that the motion, election, request, or notice complies with all procedural requirements; it does not
10 mean that the motion, election, request, or notice must also be substantively meritorious. For example,
11 under the rule a timely new trial motion on the ground of excessive damages (Code Civ. Proc., § 657)
12 extends the time to appeal from the judgment even if the trial court ultimately determines the damages
13 were not excessive. Similarly, a timely motion to reconsider (*id.*, § 1008) extends the time to appeal from
14 an appealable order for which reconsideration was sought even if the trial court ultimately determines the
15 motion was not “based upon new or different facts, circumstances, or law,” as subdivision (a) of section
16 1008 requires.

17
18 **Subdivision (b).** Subdivision (b)(1) provides that the denial of a motion for new trial triggers a 30-day
19 extension of the time to appeal from the judgment beginning on the date that the superior court clerk
20 ~~mails,~~ or a party serves, either the order of denial or a notice of entry of that order. This provision is
21 intended to eliminate a trap for litigants and to make the rule consistent with the primary rule on the time
22 to appeal from the judgment (rule 8.104(a)).

23
24 **Subdivision (c).** The Code of Civil Procedure provides two distinct statutory motions to vacate a
25 judgment: (1) a motion to vacate a judgment and enter “another and different judgment” because of
26 judicial error (*id.*, § 663), which requires a notice of intention to move to vacate (*id.*, § 663a); and (2) a
27 motion to vacate a judgment because of mistake, inadvertence, surprise, or neglect, which requires a
28 motion to vacate but not a notice of intention to so move (*id.*, § 473, subd. (b)). The courts also recognize
29 certain nonstatutory motions to vacate a judgment, e.g., when the judgment is void on the face of the
30 record or was obtained by extrinsic fraud. (See 8 Witkin, Cal. Procedure (4th ed. 1997) Attack on
31 Judgment in Trial Court, §§ 222–236, pp. 726–750.) Subdivision (c) is intended to apply to all such
32 motions.

33
34 In subdivision (c) the phrase “within the time prescribed by rule 8.104 to appeal from the judgment” is
35 intended to incorporate in full the provisions of rule 8.104(a).

36
37 Under subdivision (c)(1), the 30-day extension of the time to appeal from the judgment begins when the
38 superior court clerk ~~mails,~~ or a party serves, the order denying the motion or notice of entry of that order.
39 This provision is discussed further under subdivision (b) of this comment.

40
41 **Subdivision (d).** Subdivision (d)(1) provides an extension of time after an order denying a motion for
42 judgment notwithstanding the verdict regardless of whether the moving party also moved unsuccessfully
43 for a new trial.

1
2 Subdivision (d) further specifies the times to appeal when, as often occurs, a motion for judgment
3 notwithstanding the verdict is joined with a motion for new trial and both motions are denied. Under
4 subdivision (b), the appellant has 30 days after notice of the denial of the new trial motion to appeal from
5 the judgment. Subdivision (d) allows the appellant the longer time provided by rule 8.104 to appeal from
6 the order denying the motion for judgment notwithstanding the verdict, subject to that time being further
7 extended in the circumstances covered by subdivision ~~(f)~~(g)(2).
8

9 Under subdivision (d)(1)(A), the 30-day extension of the time to appeal from the judgment begins when
10 the superior court clerk ~~mails~~, or a party serves, the order denying the motion or notice of entry of that
11 order. This provision is discussed further under subdivision (b) of this comment.
12

13 **Subdivision (e).** The scope of subdivision (e) is specific. It applies to any “appealable order,” whether
14 made before or after judgment (see Code Civ. Proc., § 904.1, subd. (a)(2)–(12)), but it extends only the
15 time to appeal “from that order.” The subdivision thus takes no position on whether a judgment is subject
16 to a motion to reconsider (see, e.g., *Ramon v. Aerospace Corp.* (1996) 50 Cal.App.4th 1233, 1236–1238
17 [postjudgment motion to reconsider order granting summary judgment did not extend time to appeal from
18 judgment because trial court had no power to rule on such motion after entry of judgment]), or whether an
19 order denying a motion to reconsider is itself appealable (compare *Santee v. Santa Clara County Office of*
20 *Education* (1990) 220 Cal.App.3d 702, 710–711 [order appealable if motion based on new facts] with
21 *Rojas v. Riverside General Hospital* (1988) 203 Cal.App.3d 1151, 1160–1161 [order not appealable under
22 any circumstances]). Both these issues are legislative matters.
23

24 Subdivision (e) applies only when a “party” makes a valid motion to “reconsider” an appealable order
25 under subdivision (a) of Code of Civil Procedure section 1008; it therefore does not apply when a court
26 reconsiders an order on its own motion (*id.*, subd. (d)) or when a party makes “a subsequent application
27 for the same order” (*id.*, subd. (c)). The statute provides no time limits within which either of the latter
28 events must occur.
29

30 Under subdivision (e)(1), the 30-day extension of the time to appeal from the order begins when the
31 superior court clerk ~~mails~~, or a party serves, the order denying the motion or notice of entry of that order.
32 The purpose of this provision is discussed further under subdivision (b) of this comment.
33

34 Among its alternative periods of extension of the time to appeal, subdivision (e) provides in paragraph (2)
35 for a 90-day period beginning on the filing of the motion to reconsider or, if there is more than one such
36 motion, the filing of the first such motion. The provision is consistent with subdivision (c)(2), governing
37 motions to vacate judgment; as in the case of those motions, there is no time limit for a ruling on a motion
38 to reconsider.
39

40 **Subdivision ~~(f)~~(g).** Consistent with case law, subdivision ~~(f)~~(g)(1) extends the time to appeal after
41 another party appeals only if the later appeal is taken “from the same order or judgment as the first
42 appeal.” (*Commercial & Farmers Nat. Bank v. Edwards* (1979) 91 Cal.App.3d 699, 704.)
43

1 The former rule (former rule 3(c), second sentence) provided an extension of time for filing a protective
2 cross-appeal from the judgment when the trial court granted a motion for new trial or a motion to vacate
3 the judgment, but did not provide the same extension when the trial court granted a motion for judgment
4 notwithstanding the verdict. One case declined to infer that the omission was unintentional, but suggested
5 that the Judicial Council might consider amending the rule to fill the gap. (*Lippert v. AVCO Community*
6 *Developers, Inc.* (1976) 60 Cal.App.3d 775, 778 & fn. 3.) Rule 8.108(e)(2) fills the gap thus identified.
7

8 **Subdivision (g)(h).** Under subdivision ~~(g)(h)~~, ~~an order or notice mailed by the clerk under this rule must~~
9 ~~show the date on which the clerk mailed the document, analogously to the clerk’s “certificate of mailing”~~
10 ~~currently in use in many superior courts. This provision is intended to establish the date when an~~
11 ~~extension of the time to appeal begins to run after the clerk mails such an order or notice.~~
12

13 ~~Subdivision (g) also requires that~~ an order or notice that is served by a party under this rule must be
14 accompanied by proof of service. The date of the proof of service establishes the date when an extension
15 of the time to appeal begins to run after ~~the party serves~~ service of such an order or notice.
16

17 **Rule 8.122. Clerk’s transcript**

18
19 **(a)** * * *

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

22
23 (1) The transcript must contain:

24
25 (A)–(C) * * *

26
27 (D) Any notice of intention to move for a new trial, or motion to vacate the
28 judgment, for judgment notwithstanding the verdict, or for reconsideration of
29 an appealed order, ~~with supporting and opposing memoranda and attachments,~~
30 and any order on such motion and any notice of its entry;
31

32 (E)–(F) * * *

33
34 (2)–(4) * * *

35
36 (*Subd (b) amended effective January 1, 2011; previously amended effective January 1, 2007, and*
37 *January 1, 2008.*)
38

39 **(c)–(d)** * * *

40
41 *Rule 8.122 amended effective January 1, 2011; repealed and adopted as rule 5 effective January 1, 2002;*
42 *previously amended and renumbered as rule 8.120 effective January 1, 2007, and as rule 8.122 effective*

1 *January 1, 2008; previously amended effective January 1, 2003, January 1, 2005, July 1, 2009; and*
2 *January 1, 2010.*

3
4 **Advisory Committee Comment**

5
6 **Subdivision (a).** * * *

7
8 **Subdivision (b).** The supporting and opposing memoranda and attachments to any motion to vacate the
9 judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order are not
10 required to be included in the clerk’s transcript under subdivision (b)(1)(D) but may be included by
11 designation of a party under (b)(3) or on motion of a party or the reviewing court under rule 8.155.

12
13 Subdivision (b)(1)(F) requires the clerk’s transcript to include the register of actions, if any. This
14 provision is intended to assist the reviewing court in determining the accuracy of the clerk’s transcript.

15
16 **Subdivision (c).** * * *

17
18 **Rule 8.204. Contents and form of briefs**

19
20 **(a)–(b)** * * *

21
22 **(c) Length**

23
24 (1)–(2) * * *

25
26 (3) The tables required under (a)(1), the cover information required under (b)(10), the
27 Certificate of Interested Entities or Persons required under rule 8.208, a certificate
28 under (1), any signature block, and any attachment under (d) are excluded from the
29 limits stated in (1) or (2).

30
31 (4)–(5) * * *

32
33 *(Subd (c) amended effective January 1, 2011; previously amended effective January 1, 2007.)*

34
35 **(d)–(e)** * * *

36
37 *Rule 8.204 amended effective January 1, 2011; repealed and adopted as rule 14 effective January 1,*
38 *2002; previously amended effective January 1, 2004, July 1, 2004, and January 1, 2006; previously*
39 *amended and renumbered effective January 1, 2007.*

40
41 **Advisory Committee Comment**

42
43 **Subdivision (b).** * * *

1
2 **Subdivision (c).** Subdivision (c) governs the maximum permissible length of a brief. It is derived from
3 the federal procedure of measuring the length of a brief produced on a computer by the number of words
4 in the brief. (FRAP 32(a)(7).) Subdivision (c)(1), like FRAP 32(a)(7)(B)(i), imposes a limit of 14,000
5 words if the brief is produced on a computer. Subdivision (c)(1) implements this provision by requiring
6 the writer of a brief produced on a computer to include a certificate stating the number of words in the
7 brief, but allows the writer to rely on the word count of the computer program used to prepare the brief.
8 This requirement, too, is adapted from the federal rule. (FRAP 32(a)(7)(C).) For purposes of this rule, a
9 “brief produced on a computer” includes a commercially printed brief.

10
11 Subdivision (c)(3) specifies certain items that are not counted toward the maximum brief length.
12 Signature blocks, as referenced in this provision, include not only the signatures, but also the printed
13 names, titles, and affiliations of any attorneys filing or joining in the brief, which may accompany the
14 signature.

15
16 Subdivision (c)(5) clarifies that a party seeking permission to exceed the page or word limits stated in
17 subdivision (c)(1) and (2) must proceed by application under rule 8.50, rather than by motion under rule
18 8.54, and must show good cause.

19
20 **Subdivision (d).** * * *

21
22 **Subdivision (e).** * * *

23
24 **Rule 8.212. Service and filing of briefs**

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

27
28 **(b) Extensions of time**

29
30 (1) The parties may extend each period under (a) by up to 60 days by filing one or more
31 stipulations in the reviewing court before the brief is due. Stipulations must be
32 signed by and served on all parties. The original signature of at least one party must
33 appear on the stipulation filed in the reviewing court; the signatures of the other
34 parties may be in the form of ~~fax~~ copies of the signed signature page of the
35 stipulation.

36
37 (2)–(4) * * *

38
39 *(Subd (b) amended effective January 1, 2011; previously amended effective January 1, 2003, July*
40 *1, 2005, January 1, 2007, and January 1, 2010.)*

41
42 **(c)** * * *

1 *Rule 8.212 amended effective January 1, 2011; repealed and adopted as rule 15 effective January 1,*
2 *2002; previously amended and renumbered effective January 1, 2007; previously amended effective*
3 *January 1, 2003, January 1, 2004, January 1, 2005, July 1, 2005, January 1, 2008, and January 1, 2010.*

4
5 **Rule 8.328. Confidential records**

6
7 **(a) Application**

8
9 This rule applies to records required to be kept confidential by law but does not apply to
10 records sealed under rules 2.550–2.551 or records proposed to be sealed under rule ~~8.160~~
11 8.46.

12
13 *(Subd (a) amended effective January 1, 2011; adopted effective January 1, 2007.)*

14
15 **(b)–(d) * * ***

16
17 *Rule 8.328 amended effective January 1, 2011; adopted as rule 31.2 effective January 1, 2004; previously*
18 *amended effective January 1, 2005; previously amended and renumbered effective January 1, 2007.*

19
20 **Rule 8.360. Briefs by parties and amici curiae**

21
22 **(a) * * ***

23
24 **(b) Length**

25
26 **(1)–(2) * * ***

27
28 **(3)** The tables required under rule 8.204(a)(1), the cover information required under rule
29 8.204(b)(10), any Certificate of Interested Entities or Persons required under rule
30 8.361, a certificate under (1), any signature block, and any attachment permitted
31 under rule 8.204(d) are excluded from the limits stated in (1) or (2).

32
33 **(4)–(5) * * ***

34
35 *(Subd (b) amended effective January 1, 2011; previously amended effective January 1, 2007.)*

36
37 **(c)–(f) * * ***

38
39 *Rule 8.360 amended effective January 1, 2011; repealed and adopted as rule 33 effective January 1,*
40 *2004; previously amended and renumbered effective January 1, 2007.*

41
42 **Advisory Committee Comment**

1 **Subdivision (b).** Subdivision (b)(1) states the maximum permissible length of a brief produced on a
2 computer in terms of word count rather than page count. This provision tracks a provision in rule 8.204(c)
3 governing Court of Appeal briefs and is explained in the comment to that provision. The word count
4 assumes a brief using one-and-one-half spaced lines of text, as permitted by rule 8.204(b)(5). Subdivision
5 (b)(3) specifies certain items that are not counted toward the maximum brief length. Signature blocks as
6 referenced in this provision, include not only the signatures, but also the printed names, titles, and
7 affiliations of any attorneys filing or joining in the brief, which may accompany the signature.
8

9 The maximum permissible length of briefs in death penalty appeals is prescribed in rule 8.630.
10

11 **Title 8. Appellate Rules**

12 **Division 1. Rules Relating to the Supreme Court and Courts of Appeal**

13 **Chapter 5. Juvenile Appeals and Writs**

14 **Article 34. Hearing and Decision**

15 *Division 1, Rules Relating to the Supreme Court and Courts of Appeal—Chapter 5, Juvenile Appeals and*
16 *Writs—Article 4, Hearing and Decision, renumbered effective January 1, 2011.*
17

18 **Rule 8.486. Petitions**

19 **(a) Contents of petition**

20 (1)–(5) * * *

21 (6) Rule 8.204(c) governs the length of the petition and memorandum, but, in addition to
22 the exclusions provided in that rule, the tables, the certificate, the verification, and
23 any supporting documents are excluded from the limits stated in rule 8.204(c)(1) and
24 (2).
25

26 (7) * * *

27 *(Subd (a) amended effective January 1, 2011; adopted as subd (b); previously amended effective*
28 *January 1, 2006, and January 1, 2007; previously amended and relettered effective January 1,*
29 *2009.)*
30

31 **(b)–(c) * * ***

32 **(d) Sealed records**

1 Rule ~~8.160~~ 8.46 applies if a party seeks to lodge or file a sealed record or to unseal a
2 record.

3
4 *(Subd (d) amended effective January 1, 2011; adopted as subd (e); previously amended effective*
5 *January 1, 2007; previously relettered effective January 1, 2009.)*

6
7 (e) * * *

8
9 *Rule 8.486 amended effective January 1, 2011; repealed and adopted as rule 56 effective January 1,*
10 *2005; previously amended and renumbered as rule 8.490 effective January 1, 2007, and as rule 8.486*
11 *effective January 1, 2009; previously amended effective July 1, 2005, January 1, 2006, July 1, 2006,*
12 *January 1, 2008, and July 1, 2009.*

13
14 **Rule 8.504. Form and contents of petition, answer, and reply**

15
16 (a)–(c) * * *

17
18 (d) **Length**

19
20 (1)–(2) * * *

21
22 (3) The tables, the cover information required under rule 8.204(b)(10), the Court of
23 Appeal opinion, a certificate under (1), any signature block, and any attachment
24 under (e)(1) are excluded from the limits stated in (1) and (2).

25
26 (4) * * *

27
28 *(Subd (d) amended effective January 1, 2011; adopted as subd (e); previously relettered effective*
29 *January 1, 2004; previously amended effective January 1, 2007.)*

30
31 (e) * * *

32
33 *Rule 8.504 amended effective January 1, 2011; adopted as rule 28.1 effective January 1, 2003; previously*
34 *amended and renumbered effective January 1, 2007; previously amended effective January 1, 2004, and*
35 *January 1, 2009.*

36
37 **Advisory Committee Comment**

38
39 **Subdivision (d).** Subdivision (d) states in terms of word counts rather than page counts the maximum
40 permissible lengths of a petition for review, answer, or reply produced on a computer. This provision
41 tracks a provision in rule 8.204(c) governing Court of Appeal briefs and is explained in the advisory
42 committee comment to that provision. Subdivision (d)(3) specifies certain items that are not counted
43 toward the maximum length of a petition, answer, or reply. Signature blocks, as referenced in this

1 provision include not only the signatures, but also the printed names, titles, and affiliations of any
2 attorneys filing or joining in the petition, answer, or reply, which may accompany the signature.

3
4 **Rule 8.520. Briefs by parties and amici curiae; judicial notice**

5
6 **(a)–(b) * * ***

7
8 **(c) Length**

9
10 (1)–(2) * * *

11
12 (3) The tables required under rule 8.204(a)(1), the cover information required under rule
13 8.204(b)(10), a certificate under (1), any signature block, any attachment under (h),
14 and any quotation of issues required by (b)(2) are excluded from the limits stated in
15 (1) and (2).

16
17 (4) * * *

18
19 *(Subd (c) amended effective January 1, 2011; previously amended effective January 1, 2007, and*
20 *January 1, 2009.)*

21
22 **(d)–(e) * * ***

23
24 **(f) Amicus curiae briefs**

25
26 (1)–(6) * * *

27
28 (7) If the court grants the application, any party may file either an answer to the
29 individual amicus curiae brief or a consolidated answer to multiple amicus curiae
30 briefs filed in the case. The answer must be filed within 20 30 days after either the
31 court rules on the last timely filed application to file an amicus curiae brief is filed or
32 the time for filing applications to file an amicus curiae brief expires, whichever is
33 later. ~~‡~~ The answer must be served on all parties and the amicus curiae.

34
35 (8) * * *

36
37 *(Subd (f) amended effective January 1, 2011; previously amended effective January 1, 2008, and*
38 *January 1, 2009.)*

39
40 **(g)–(h) * * ***

1 *Rule 8.520 amended effective January 1, 2011; adopted as rule 29.1 effective January 1, 2003; previously*
2 *amended and renumbered effective January 1, 2007; previously amended effective January 1, 2008, and*
3 *January 1, 2009.*

4
5
6 **Advisory Committee Comment**
7

8 **Subdivisions (c) and (d).** Subdivisions (c) and (d) state in terms of word count rather than page count the
9 maximum permissible lengths of Supreme Court briefs produced on a computer. This provision tracks an
10 identical provision in rule 8.204(c) governing Court of Appeal briefs and is explained in the advisory
11 committee comment to that provision. Subdivision (c)(3) specifies certain items that are not counted
12 toward the maximum brief length. The signature block referenced in this provision includes not only the
13 signatures, but also the printed names, titles, and affiliations of any attorneys filing or joining in the brief,
14 which may accompany the signature.
15

16 **Rule 8.630. Briefs by parties and amicus curiae**
17

18 **(a)** * * *

19
20 **(b) Length**

21
22 (1)–(3) * * *

23
24 (4) The tables required under rule 8.204(a)(1), the cover information required under rule
25 8.204(b)(10), a certificate under (2), any signature block, and any attachment
26 permitted under rule 8.204(d) are excluded from the limits stated in (1) and (3).
27

28 (5) * * *

29
30 *(Subd (b) amended effective January 1, 2011; previously amended effective January 1, 2007, and*
31 *January 1, 2008.)*
32

33 **(c)–(h)** * * *

34
35 *Rule 8.630 amended effective January 1, 2011; repealed and adopted as rule 36 effective January 1,*
36 *2004; previously amended and renumbered effective January 1, 2007; previously amended effective*
37 *January 1, 2008.*
38

39 **Advisory Committee Comment**
40

41 **Subdivision (b).** Subdivision (b)(1) states the maximum permissible lengths of briefs produced on a
42 computer in terms of word count rather than page count. This provision tracks a provision in rule 8.204(c)

1 governing Court of Appeal briefs and is explained in the comment to that provision. Each word count
2 assumes a brief using one-and-one-half spaced lines of text, as permitted by rule 8.204(b)(5).

3
4 Subdivision (b)(4) specifies certain items that are not counted toward the maximum brief length.
5 Signature blocks, as referenced in this provision includes not only the signatures, but also the printed
6 names, titles, and affiliations of any attorneys filing or joining in the brief, which may accompany the
7 signature.

8
9 **Subdivision (g).** * * *

10
11 **Rule 8.809. Judicial notice**

12
13 **(a) Motion required**

14
15 (1) To obtain judicial notice by a reviewing court under Evidence Code section 459, a
16 party must serve and file a separate motion with a proposed order.

17
18 (2) The motion must state:

19
20 (A) Why the matter to be noticed is relevant to the appeal;

21
22 (B) Whether the matter to be noticed was presented to the trial court and, if so,
23 whether judicial notice was taken by that court; and

24
25 (C) Whether the matter to be noticed relates to proceedings occurring after the
26 order or judgment that is the subject of the appeal.

27
28 **(b) Copy of matter to be judicially noticed**

29
30 If the matter to be noticed is not in the record, the party must serve and file a copy with the
31 motion or explain why it is not practicable to do so.

32
33 *Rule 8.809 adopted effective January 1, 2011.*

34
35 **Rule 8.822. Time to appeal**

36
37 **(a) Normal time**

38
39 Unless a statute or rule 8.823 provides otherwise, a notice of appeal must be filed on or
40 before the earliest of:

41
42 (1)–(3) * * *

1 (4) Service under (1) and (2) may be by any method permitted by the Code of Civil
2 Procedure, including electronic service when permitted under Code of Civil
3 Procedure section 1010.6 and rules 2.250-2.261.
4

5 *(Subd (a) amended effective January 1, 2011.)*
6

7 **(b)–(d) * * ***
8

9 *Rule 8.822 amended effective January 1, 2011; adopted effective January 1, 2009.*
10

11 **Rule 8.823. Extending the time to appeal**
12

13 **(a)–(e) * * ***
14

15 **(f) Public entity actions under Government Code section 962, 984, or 985**
16

17 If a public entity defendant serves and files a valid request for a mandatory settlement
18 conference on methods of satisfying a judgment under Government Code section 962, an
19 election to pay a judgment in periodic payments under Government Code section 984 and
20 rule 3.1804, or a motion for a posttrial hearing on reducing a judgment under Government
21 Code section 985, the time to appeal from the judgment is extended for all parties until the
22 earliest of:
23

24 (1) 60 days after the superior court clerk serves the party filing the notice of appeal with
25 a document entitled “Notice of Entry” of judgment or a file-stamped copy of the
26 judgment, showing the date either was served;
27

28 (2) 60 days after the party filing the notice of appeal serves or is served by a party with a
29 document entitled “Notice of Entry” of judgment or a file-stamped copy of the
30 judgment, accompanied by proof of service; or
31

32 (3) 90 days after entry of judgment.
33

34 *(Subd (f) adopted effective January 1, 2011.)*
35

36 **(f)(g) * * ***
37

38 *(Subd (g) relettered effective January 1, 2011; adopted as subd (f).)*
39

40 **(g)(h) Showing date of order or notice; proof of service**
41

42 (1) An order or notice mailed by the clerk under this rule must show the date it was
43 mailed.

1
2 (2) Service under this rule may be by any method permitted by the Code of Civil
3 Procedure, including electronic service when permitted under Code of Civil
4 Procedure section 1010.6 and rules 2.250–2.261. An order or notice served by a
5 party must be accompanied by proof of service.
6

7 *(Subd (h) amended and relettered effective January 1, 2011; adopted as subd (g).)*
8

9 *Rule 8.823 amended effective January 1, 2011; adopted effective January 1, 2009.*
10

11 **Rule 8.832. Clerk’s transcript**
12

13 **(a) Contents of clerk’s transcript**
14

15 (1) The clerk’s transcript must contain:
16

17 (A)–(C) * * *

18
19 (D) Any notice of intention to move for a new trial, or motion to vacate the
20 judgment, for judgment notwithstanding the verdict, or for reconsideration of
21 an appealed order, ~~with supporting and opposing memoranda and attachments,~~
22 and any order on such motion and any notice of its entry;
23

24 (E)–(F) * * *

25
26 (2)–(3) * * *

27
28 *(Subd (a) amended effective January 1, 2011.)*
29

30 **(b)–(d) * * ***
31

32 *Rule 8.832 amended effective January 1, 2011; adopted effective January 1, 2009; previously amended*
33 *effective July 1, 2009, and January 1, 2010.*
34

35 **Advisory Committee Comment**
36

37 **Subdivision (a).** The supporting and opposing memoranda and attachments to any motion to vacate the
38 judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order are not
39 required to be included in the clerk’s transcript under subdivision (a)(1)(D) but may be included by
40 designation of a party under (a)(3) or on motion of a party or the reviewing court under rule 8.841.
41

42 **Rule 8.842. Failure to procure the record**
43

1 (a) * * *

2

3 (b) **Sanctions**

4

5 If the party fails to take the action specified in a notice given under (a), the trial court clerk
6 must promptly notify the appellate division of the default, and the appellate division may
7 impose one of the following sanctions:

8

9 (1) * * *

10

11 (2) If the defaulting party is the respondent, the reviewing court may order the appeal to
12 proceed on the record designated by the appellant, but the respondent may obtain
13 relief from default under rule ~~8.60(d)~~ 8.812.

14

15 *(Subd (b) amended effective January 1, 2011.)*

16

17 *Rule 8.842 amended effective January 1, 2011; adopted effective January 1, 2009.*

18

19 **Rule 8.883. Contents and form of briefs**

20

21 (a) * * *

22

23 (b) **Length**

24

25 (1)–(2) * * *

26

27 (3) The cover information listed in rule 8.204(b)(10), any table of contents or table of
28 authorities, the certificate under (1), and any attachment under (d) signature block
29 are excluded from the limits stated in (1) or (2).

30

31 (4) * * *

32

33 *(Subd (b) amended effective January 1, 2011.)*

34

35 (c) **Form**

36

37 (1)–(9) * * *

38

39 (10) If the brief is produced on a typewriter:

40

41 (A) A typewritten original and carbon copies may be filed only with the presiding
42 justice's judge's permission, which will ordinarily be given only to

1 unrepresented parties proceeding in forma pauperis. All other typewritten
2 briefs must be filed as photocopies.

3
4 (B)–(C) * * *

5
6 *(Subd (c) amended effective January 1, 2011.)*

7
8 (d) * * *

9
10 *Rule 8.883 amended effective January 1, 2011; adopted effective January 1, 2009.*

11
12 **Advisory Committee Comment**

13
14 **Subdivision (b).** Subdivision (b)(1) states the maximum permissible lengths of briefs produced on a
15 computer in terms of word count rather than page count. This provision tracks a provision in rule 8.204(c)
16 governing Court of Appeal briefs and is explained in the comment to that provision. Subdivision (b)(3)
17 specifies certain items that are not counted toward the maximum brief length. Signature blocks, as
18 referenced in this provision, include not only the signatures, but also the printed names, titles, and
19 affiliations of any attorneys filing or joining in the brief, which may accompany the signature.

20
21 **Rule 8.887. Decisions**

22
23 (a)–(b) * * *

24
25 (c) **Opinions certified for publication**

26
27 (1) * * *

28
29 (2) When the decision is final as to the appellate division in a case in which the opinion
30 is certified for publication, the clerk must immediately send:

31
32 (A) ~~To the Reporter of Decisions:~~ Two paper copies and one electronic copy to the
33 Reporter of Decisions in a format approved by the Reporter.

34
35 (B) One copy to the Courts of Appeal for the district. The one copy must bearing
36 the notation “~~To be published~~ This opinion has been certified for publication
37 in the Official Reports. It is being sent to assist the Court of Appeal in deciding
38 whether to order the case transferred to the court on the court’s own motion
39 under rules 8.1000–8.1018.” The Courts of Appeal clerk must promptly file
40 that copy or make a docket entry showing its receipt.

41
42 *(Subd (c) amended effective January 1, 2011.)*

1 *Rule 8.887 amended effective January 1, 2011; adopted effective January 1, 2009.*

2
3 **Rule 8.890. Remittitur**

4
5 (a) * * *

6
7 (b) **Clerk’s duties**

8
9 (1) If an appellate division case is not transferred to the Court of Appeal under rule
10 8.1000 et seq., the appellate division clerk must:

11
12 (A) Issue a remittitur immediately after the Court of Appeal denies transfer, or the
13 period for granting transfer under rule 8.1008~~(e)~~(a) expires if there will be no
14 further proceedings in the appellate division;

15
16 (B)–(C) * * *

17
18 (2) * * *

19
20 *(Subd (b) amended effective January 1, 2011.)*

21
22 (c)–(d) * * *

23
24 *Rule 8.890 amended effective January 1, 2011; adopted effective January 1, 2009.*

25
26 **Rule 8.891. Costs and sanctions in civil appeals**

27
28 (a)–(b) * * *

29
30 (c) **Procedure for claiming or opposing costs**

31
32 (1) Within 30 days after the clerk sends notice of issuance of the remittitur, a party
33 claiming costs awarded by the appellate division must serve and file in the trial court
34 a verified memorandum of costs under rule 3.170~~20~~(a)(1).

35
36 (2)–(3) * * *

37
38 *(Subd (c) amended effective January 1, 2011.)*

39
40 (d)–(e) * * *

41
42 *Rule 8.891 amended effective January 1, 2011; adopted effective January 1, 2009.*

1 **Rule 8.928. Contents and form of briefs**

2
3 (a) * * *

4
5 (b) **Length**

6
7 (1)–(2) * * *

8
9 (3) The cover information listed in rule 8.204(b)(10), any table of contents or table of
10 authorities, the certificate under (1), and any attachment under (d) signature block
11 are excluded from the limits stated in (1) or (2).

12
13 (4) * * *

14
15 *(Subd (b) amended effective January 1, 2011.)*

16
17 (c)–(d) * * *

18
19 *Rule 8.928 amended effective January 1, 2011; adopted effective January 1, 2009.*

20
21 **Advisory Committee Comment**

22
23 Subdivision (b). Subdivision (b)(1) states the maximum permissible lengths of briefs produced on a
24 computer in terms of word count rather than page count. This provision tracks a provision in rule 8.204(c)
25 governing Court of Appeal briefs and is explained in the comment to that provision. Subdivision (b)(3)
26 specifies certain items that are not counted toward the maximum brief length. Signature blocks, as
27 referenced in this provision include not only the signatures, but also the printed names, titles, and
28 affiliations of any attorneys filing or joining in the brief, which may accompany the signature.

29
30 **Rule 8.931. Petitions filed by persons not represented by an attorney**

31
32 (a)–(b) * * *

33
34 (c) **Form of supporting documents**

35
36 (1)–(2) * * *

37
38 (3) Unless the court ~~order~~ provides otherwise by local rule or ~~in the specific case order~~,
39 only one set of any separately bound supporting documents needs to be filed in
40 support of a petition, an answer, an opposition, or a reply.

41
42 *(Subd (c) amended effective January 1, 2011.)*

1 (d) * * *

2
3 *Rule 8.931 amended effective January 1, 2011; adopted effective January 1, 2009; previously amended*
4 *effective January 1, 2009.*

5
6 **Rule 8.1000. Application**

7
8 Rules 8.1000–8.1018 ~~apply to proceedings for transferring~~ govern the transfer of cases within the
9 appellate jurisdiction of the superior court—other than appeals in small claims cases—to the
10 Court of Appeal ~~for review~~. Unless the context requires otherwise, the term “case” as used in
11 these rules means cases within that jurisdiction.

12
13 *Rule 8.1000 amended effective January 1, 2011; repealed and adopted as rule 61 effective January 1,*
14 *2003; previously amended and renumbered effective January 1, 2007.*

15
16 **Advisory Committee Comment**

17
18 The rules in this division implement the authority of the Court of Appeal under Code of Civil Procedure
19 section 911 and Penal Code section 1471 to order any case on appeal to a superior court in its district
20 transferred to the Court of Appeal if it determines that transfer is necessary to secure uniformity of
21 decision or to settle important questions of law.

22
23
24 **Rule 8.1002. Transfer authority**

25
26 A Court of Appeal may order a case transferred to it for hearing and decision if ~~the appellate~~
27 ~~division certifies under rule 8.1005—~~ or the Court of Appeal it determines under rule 8.1008 that
28 transfer is necessary to secure uniformity of decision or to settle an important question of law.
29 Transfer may be ordered on:

30
31 (1) Certification of the case for transfer by the superior court appellate division under rule
32 8.1005;

33
34 (2) Petition for transfer under rule 8.1006; or

35
36 (3) The Court of Appeal’s own motion.

37
38 *Rule 8.1002 amended effective January 1, 2011; repealed and adopted as rule 62 effective January 1,*
39 *2003; previously amended and renumbered effective January 1, 2007.*

40
41 **Rule 8.1005. Certification for transfer by the appellate division**

1 (a) Authority to certify
2

- 3 (1) The appellate division may certify a case for transfer to the Court of Appeal on its
4 own motion or on a party's application if it determines that transfer is necessary to
5 secure uniformity of decision or to settle an important question of law.
6
7 (2) Except as provided in (3), a case may be certified for transfer by a majority of the
8 appellate division judges to whom the case has been assigned or who decided the
9 appeal or, if the case has not yet been assigned, by any two appellate division judges.
10
11 (3) If an appeal from a conviction of a traffic infraction is assigned to a single appellate
12 division judge under Code of Civil Procedure section 77, the case may be certified
13 for transfer by that judge.
14
15 (4) If an assigned or deciding judge is unable to act on the certification for transfer, a
16 judge designated or assigned to the appellate division by the chair of the Judicial
17 Council may act in that judge's place.
18

19 *(Subd (a) amended effective January 1, 2011; previously amended effective January 1, 2007.)*
20

21 (b) Application for certification
22

- 23 (1) A party may serve and file an application ~~for certification~~ asking the appellate
24 division to certify a case for transfer at any time after the record on appeal is filed in
25 the appellate division ~~and within~~ but no later than 15 days after: judgment is
26 ~~pronounced or a modification order changing the appellate judgment is filed.~~
27
28 (A) The decision is filed;
29
30 (B) A publication order restarting the finality period under rule 8.888(a)(2);
31
32 (C) A modification order changing the appellate judgment under rule 8.888(b); or
33
34 (D) The filing of a consent under rule 8.888(c).
35
36 (2) The party may include the application in a petition for rehearing.
37
38 ~~(2)(3)~~ * * *
39
40 ~~(3)(4)~~ Within five days after the application is filed, any other party may serve and file an
41 ~~opposition~~ answer.
42

1 (4)(5) No hearing will be held on the application. Failure to certify the case within the time
2 specified in (c) is deemed a denial of the application.

3
4 *(Subd (b) amended effective January 1, 2011.)*

5
6 **~~(e)~~—Finality of appellate division judgments**

7
8 ~~An appellate division judgment is final in that court as provided in rule 8.888.~~

9
10 **~~(d)~~(c) Time to certify**

11
12 The appellate division may certify a case may be certified for transfer at any time after the
13 record on appeal is filed in the appellate division and before the appellate division
14 judgment decision is final in that court.

15
16 *(Subd (c) amended and relettered effective January 1, 2011; adopted as subd (d).)*

17
18 **~~(e)~~(d) Contents of certification order certifying case for transfer**

19
20 An certification order certifying a case for transfer must:

21
22 (1) Clearly state that the appellate division is certifying the case for transfer to the Court
23 of Appeal;

24
25 ~~(1)(2) Briefly describe any conflict of decision—citing the decisions creating the conflict—~~
26 or why transfer is necessary to secure uniformity of decision or to settle an important
27 question of law to be settled; and

28
29 ~~(2)(3) State whether there was a judgment decision~~ on appeal and, if so, its date and
30 disposition.

31
32 *(Subd (d) amended and relettered effective January 1, 2011; adopted as subd (e); previously*
33 *amended effective January 1, 2007.)*

34
35 **~~(f)~~(e) Superior court clerk's duties**

36
37 (1) If the appellate division orders ~~certification~~ a case certified for transfer, the clerk
38 must promptly send a copy of the certification order to the Court of Appeal clerk, the
39 parties, and, in a criminal case, the Attorney General.

40
41 (2) If the appellate division denies ~~an~~ a certification application by order, the clerk must
42 promptly send a copy of the order to the parties.

1 (Subd (e) amended and relettered effective January 1, 2011; adopted as subd (f).)

2
3 Rule 8.1005 amended effective January 1, 2011; repealed and adopted as rule 63 effective January 1,
4 2003; previously amended and renumbered effective January 1, 2007; previously amended effective
5 January 1, 2010.

6
7 **Rule 8.1006. Petition for transfer**

8
9 **(a) Right to file petition**

10
11 A party may file a petition in the Court of Appeal asking for an appellate division case to
12 be transferred to that court only if an application for certification for transfer was first filed
13 in the appellate division and denied.

14
15 **(b) Time to file petition**

16
17 (1) The petition must be served and filed in the Court of Appeal after the appellate
18 division issues its decision in the case but no later than 15 days after the decision is
19 final in that court. A copy of the petition must also be served on the appellate
20 division.

21
22 (2) The time to file a petition for transfer may not be extended, but the presiding justice
23 may relieve a party from a failure to file a timely petition for transfer if the time for
24 the Court of Appeal to order transfer on its own motion has not expired.

25
26 **(c) Form and contents of petition**

27
28 (1) Except as provided in this rule, a petition must comply with the form and contents
29 requirements of rule 8.204(a)(1), (b), and (d).

30
31 (2) The body of the petition must begin with a concise, nonargumentative statement of
32 the issues presented for review, framing them in terms of the facts of the case but
33 without unnecessary detail.

34
35 (3) The petition must explain why transfer is necessary to secure uniformity of decision
36 or to settle an important question of law.

37
38 (4) The petition must not exceed 5,600 words, including footnotes, if produced on a
39 computer, and 20 pages if typewritten. A petition produced on a computer must
40 include a certificate by counsel or an unrepresented party stating the number of
41 words in the document. The person certifying may rely on the word count of the
42 computer program used to prepare the document. A certificate stating the number of
43 words, the tables required by rule 8.204(a)(1), the cover information required under

1 rule 8.204(b)(10), any signature block, and any attachment permitted under rule
2 8.204(d) are excluded from these length limits.

3
4 **(d) Answer to petition**

- 5
6 (1) Any answer must be served and filed within 10 days after the petition is filed unless
7 the court orders otherwise.
8
9 (2) Except as provided in this rule, any answer must comply with the form and contents
10 requirements of rule 8.204(a)(1), (b), and (d).
11
12 (3) An answer must comply with the length requirements of (c)(4).
13

14 *Rule 8.1006 adopted effective January 1, 2011.*

15
16 **Advisory Committee Comment**

17
18 See rule 8.40 for requirements regarding the covers of documents filed in the appellate courts and rule
19 8.44(b) for the number of copies of documents that must be provided to the Court of Appeal.
20

21 **Rule ~~8.1010~~ 8.1007. Transmitting record on transfer to Court of Appeal**

22
23 **(a) Clerks' duties**

- 24
25 (1) To assist the Court of Appeal in determining whether to order transfer, the superior
26 court clerk must promptly send the record on transfer specified in (b) to the Court of
27 Appeal and notify the parties that the record was sent when within five days after:
28
29 (A) The appellate division certifies a case for transfer under rule 8.1005;
30
31 (B) The superior court clerk sends a copy of an appellate division opinion certified
32 for publication to the Court of Appeal under rule ~~8.707~~ 8.887;
33
34 (C) The superior court clerk receives a copy of a petition ~~to~~ for transfer under rule
35 8.1006; or
36
37 (D) The superior court receives a request for the record from the Court of Appeal
38 ~~for the record on transfer.~~
39
40 (2) The Court of Appeal clerk must promptly notify the parties when the clerk files the
41 record on transfer is filed.
42

1 (Subd (a) amended and relettered effective January 1, 2011; adopted as subd (b); previously
2 amended effective January 1, 2007, and July 1, 2009.)

3
4 **(a)(b) Contents**

5
6 The record ~~on transfer~~ sent to the Court of Appeal under (a) must contain:

7
8 (1) * * *

9
10 (2) Any briefs filed in the appellate division; ~~and~~

11
12 (3) ~~Any order or opinion~~ The decision of the appellate division; ~~and~~

13
14 (4) Any application for certification for transfer, any answer to that application, and the
15 appellate division's order on the application.

16
17 (Subd (b) amended and relettered effective January 1, 2011; adopted as subd (a); previously
18 amended effective January 1, 2007, and July 1, 2009.)

19
20 *Rule 8.1007 amended and renumbered effective January 1, 2011; repealed and adopted as rule 65*
21 *effective January 1, 2003; previously amended and renumbered as rule 8.1010 effective January 1, 2007;*
22 *previously amended effective July 1, 2009.*

23
24 **Rule 8.1008. Order for transfer**

25
26 **~~(a) Authority to transfer on Court of Appeal's own motion or a party's petition~~**

27
28 ~~The Court of Appeal may order transfer of a case on the court's own motion or on a party's~~
29 ~~petition to transfer.~~

30
31 **~~(b) Petition to transfer~~**

32
33 (1) ~~If the appellate division denies an application for certification and does not certify its~~
34 ~~opinion for publication, a party may serve and file in the Court of Appeal a petition~~
35 ~~to transfer the case to that court.~~

36
37 (2) ~~The petition must be served and filed within 15 days after the appellate division~~
38 ~~judgment is final in that court and must show delivery of a copy to the appellate~~
39 ~~division.~~

40
41 (3) ~~The petition must explain why transfer is necessary to secure uniformity of opinion~~
42 ~~or to settle an important question of law.~~

1 (4) ~~A party must not file an answer to a petition for transfer unless the court requests an~~
2 ~~answer. The clerk must promptly send to the parties copies of any order requesting~~
3 ~~an answer and immediately notify the parties by telephone or another expeditious~~
4 ~~method. Any answer must be served and filed within 10 days after the order is filed~~
5 ~~unless the court orders otherwise. A petition for transfer normally will not be granted~~
6 ~~unless the court has requested an answer.~~

7
8 (5) ~~The petition and any answer must comply as nearly as possible with rule 8.504.~~

9
10 **(e)(a) Time to transfer**

11
12 (1) ~~The Court of Appeal may order transfer:~~

13
14 (A) ~~After certification~~ the appellate division certifies the case for transfer or on its
15 own motion on petition for transfer, within 20 days after the record ~~on transfer~~
16 sent under rule 8.1007 is filed in the Court of Appeal; or

17
18 (B) ~~On petition to transfer~~ its own motion, within ~~20~~ 30 days after the ~~petition is~~
19 filed appellate division decision is final in that court.

20
21 (2)–(3) * * *

22
23 *(Subd (a) amended and relettered effective January 1, 2011; adopted as subd (c); previously*
24 *amended effective January 1, 2007.)*

25
26 **(d) Letter supporting or opposing transfer**

27
28 (1) ~~Except when a party files a petition to transfer under (b), any party may send the~~
29 ~~Court of Appeal a letter supporting or opposing transfer within 10 days after a record~~
30 ~~on transfer is filed in that court. The letter must be served on all other parties.~~

31
32 (2) ~~The letter must be double spaced and must not exceed 1,400 words if produced on a~~
33 ~~computer or five pages if typewritten.~~

34
35 **(e) Limitation of issues**

36
37 (1) ~~On or after ordering transfer, the Court of Appeal may specify the issues to be~~
38 ~~briefed and argued. Unless the court orders otherwise, the parties must limit their~~
39 ~~briefs and arguments to those issues and any issues fairly included in those issues.~~

40
41 (2) ~~Notwithstanding an order specifying issues under (1), the court may, on reasonable~~
42 ~~notice, order oral argument on fewer or additional issues or on the entire case.~~

1 **(f)(b) Court of Appeal clerk’s duties**

2
3 (1) When a transfer order is filed, the clerk must promptly send a copy of the order to
4 the superior court clerk, the parties, and, in a criminal case, the Attorney General.

5
6 (2) * * *

7
8 (3) If the court denies transfer after ~~certification~~ the appellate division certifies a case for
9 transfer or after a party files a petition for transfer, the clerk must ~~return the record~~
10 ~~on transfer and any exhibits to the superior court clerk and~~ promptly send notice of
11 the denial to the parties, the appellate division, and, in a criminal case, the Attorney
12 General.

13
14 (4) * * *

15
16 *(Subd (b) amended and relettered effective January 1, 2011; adopted as subd (f); previously*
17 *amended effective January 1, 2007.)*

18
19 *Rule 8.1008 amended effective January 1, 2011; repealed and adopted as rule 64 effective January 1,*
20 *2003; previously amended and renumbered effective January 1, 2007; previously amended effective July*
21 *1, 2003, and January 1, 2008.*

22
23 **Rule 8.1012. Briefs and argument**

24
25 **(a) ~~Who may file~~ When briefs permitted**

26
27 (1) After the Court of Appeal orders transfer, the parties may file briefs in the Court of
28 Appeal only if ordered by the court. The court may order briefs either on a party’s
29 application or the court’s own motion. The court must prescribe the briefing
30 sequence in any briefing order.

31
32 (2) Instead of filing a brief, or as part of its brief, a party may join in or adopt by
33 reference all or part of a brief filed in the Court of Appeal in the same or a related
34 case.

35
36 *(Subd (a) amended effective January 1, 2011.)*

37
38 **(b) Time to file briefs**

39
40 Unless otherwise provided in the court’s order under (a):

41
42 (1)–(3) * * *

1 (Subd (b) amended effective January 1, 2011.)

2
3 **(c) Additional service requirements**

4
5 (1) * * *

6
7 (2) Every brief must ~~show delivery of a copy to~~ be served on the appellate division from
8 which the case was transferred.

9
10 (Subd (c) amended effective January 1, 2011.)

11
12 **(d) Form and contents of briefs**

13
14 (1) Except as provided in this rule, briefs must comply with the form and contents
15 requirements of rule 8.204(a)(1), (b), and (d).

16
17 (2) No brief may exceed 5,600 words if produced on a computer or 20 pages if
18 typewritten. ~~In all other respects briefs must comply with rule 8.204.~~ The person
19 certifying may rely on the word count of the computer program used to prepare the
20 document. A certificate stating the number of words, the tables required by rule
21 8.204(a)(1), the cover information required under rule 8.204(b)(10), any signature
22 block, and any attachment permitted under rule 8.204(d) are excluded from these
23 length limits.

24
25 (Subd (d) amended effective January 1, 2011; previously amended effective January 1, 2007.)

26
27 **(e) Limitation of issues**

28
29 (1) On or after ordering transfer, the Court of Appeal may specify the issues to be
30 briefed and argued. Unless the court orders otherwise, the parties must limit their
31 briefs and arguments to those issues and any issues fairly included in those issues.

32
33 (2) Notwithstanding an order specifying issues under (1), the court may, on reasonable
34 notice, order oral argument on fewer or additional issues or on the entire case.

35
36 (Subd (e) adopted effective January 1, 2011.)

37
38 *Rule 8.1012 amended effective January 1, 2011; repealed and adopted as rule 66 effective January 1,*
39 *2003; previously amended and renumbered effective January 1, 2007.*

40
41 **Rule 8.1014. Proceedings in the appellate division after certification or transfer**

1 When the appellate division certifies a case for transfer or the Court of Appeal orders transfer,
2 further action by the appellate division is limited to preparing and sending the record under rule
3 8.1007 until termination of the proceedings in the Court of Appeal.

4
5 *Rule 8.1014 amended effective January 1, 2011; repealed and adopted as rule 67 effective January 1,*
6 *2003; previously renumbered effective January 1, 2007.*

7
8 **Rule 8.1016. Disposition of transferred case**

9
10 (a) * * *

11
12 (b) **Retransfer without decision**

13
14 (1)—The Court of Appeal may vacate a transfer order without decision and retransfer the
15 case to the appellate division with or without directions to conduct further
16 proceedings.

17
18 (2)—~~If the appellate division pronounced judgment before transfer and the Court of~~
19 ~~Appeal directs no further proceedings, the judgment is final when the appellate~~
20 ~~division receives the order vacating transfer, and its clerk must promptly issue a~~
21 ~~remittitur.~~

22
23 *(Subd (b) amended effective January 1, 2011; previously amended effective January 1, 2007.)*

24
25 *Rule 8.1016 amended effective January 1, 2011; repealed and adopted as rule 68 effective January 1,*
26 *2003; previously amended and renumbered effective January 1, 2007.*

27
28 **Rule 8.1018. Finality and remittitur**

29
30 (a) **Finality When transfer is denied**

31
32 If the Court of Appeal denies ~~The denial of~~ a transfer of a case from the appellate division
33 of the superior court after the appellate division certifies the case for transfer or after a
34 party files a petition for transfer, the denial is final immediately. On receiving notice under
35 rule 8.1008(b) that the Court of Appeal has denied transfer or if the period for ordering
36 transfer under rule 8.1008(a) expires, the appellate division clerk must promptly issue a
37 remittitur if there will be no further proceedings in that court.

38
39 *(Subd (a) amended effective January 1, 2011; adopted effective January 1, 2009.)*

40
41 (b) **When transfer order is vacated**

1 If the appellate division issued a decision before transfer and the Court of Appeal vacates
2 its transfer order under rule 8.1016(b) and retransfers the case without directing further
3 proceedings, the appellate division's decision is final when the appellate division receives
4 the order vacating transfer. The appellate division clerk must promptly issue a remittitur.

5
6 *(Subd (b) adopted effective January 1, 2011.)*

7
8 **(b)(c) When the Court of Appeal remittitur issues a decision**

9
10 If the Court of Appeal clerk must promptly issue a remittitur when a decision of the court
11 is final, issues a decision on a case it has ordered transferred from the appellate division of
12 the superior court, filing, finality, and modification of that decision are governed by rule
13 8.264 and remittitur is governed by rule 8.272, except that the clerk must address the
14 remittitur to the appellate division and send that court two copies of the remittitur and two
15 file-stamped copies of the Court of Appeal opinion or order. On receipt of the Court of
16 Appeal remittitur, the appellate division clerk must promptly issue a remittitur if there will
17 be no further proceedings in that court.

18
19 *(Subd (c) amended and relettered effective January 1, 2011; adopted as subd (a); previously*
20 *relettered as subd (b) effective January 1, 2009.)*

21
22 **(e) Appellate division remittitur**

23
24 On receiving the Court of Appeal remittitur, the appellate division clerk must promptly
25 issue a remittitur if there will be no further proceedings in that court.

26
27 **(d) Documents to be returned**

28
29 Each reviewing court When the Court of Appeal denies or vacates transfer or issues a
30 remittitur under (c), the Court of Appeal clerk must return to the appellate division all
31 original records, documents, the record sent to the Court of Appeal under rule 8.1007 and
32 any exhibits with the remittitur but need not return any certification, transcripts on appeal,
33 briefs, or notice of appeal.

34
35 *(Subd (d) amended effective January 1, 2011; adopted as subd (c); previously relettered effective*
36 *January 1, 2009.)*

37
38 *Rule 8.1018 amended effective January 1, 2011; repealed and adopted as rule 69 effective January 1,*
39 *2003; previously renumbered effective January 1, 2007; previously amended effective January 1, 2009.*

40
41 **Rule 10.41. Civil and Small Claims Advisory Committee**

1 (a) ***

2

3 (b) **Membership**

4

5 The committee must include at least one member from each of the following categories:

6

7 (1)–(4) * * *

8

9 (5) Legal secretary; ~~and~~

10

11 (6) Person knowledgeable about small claims law and procedure; and

12

13 (7) Person knowledgeable about court-connected alternative dispute resolution programs
14 for civil and small claims cases.

15

16 *(Subd (b) amended effective January 1, 2011; previously amended effective January 1, 2007.)*

17

18 *Rule 10.41 amended effective January 1, 2011; adopted as rule 6.41 effective January 1, 1999; previously*
19 *amended and renumbered effective January 1, 2007.*

20

21 **Rule 10.473. Minimum education requirements for trial court executive officers**

22

23 (a)–(b) ***

24

25 (c) **Hours-based requirement**

26

27 (1) Each executive officer must complete 30 hours of continuing education, including at
28 least three hours of ethics education, every three years beginning on the following
29 date:

30

31 (A) * * *

32

33 (B) For all other executive officers, the first three-year period ~~begins~~ began on
34 January 1, 2007.

35

36 (2) ***

37

38 *(Subd (c) amended effective January 1, 2011; previously amended effective January 1, 2008.)*

39

40 (d)–(e) ***

41

42 *Rule 10.473 amended effective January 1, 2011; adopted as rule 10.463 effective January 1, 2007;*
43 *previously amended and renumbered effective January 1, 2008.*

1
2 **Rule 10.850. Trial court records**

3
4 Unless otherwise provided, “court records” as used in this chapter consist of the records as
5 defined in Government Code section 68151(a).

6
7 *Rule 10.850 adopted effective January 1, 2011.*

8
9 **Rule 10.854. Standards and guidelines for trial court records**

10
11 **(a) The standards and guidelines**

12
13 The Administrative Office of the Courts, in collaboration with trial court presiding judges
14 and court executives, must prepare, maintain, and distribute a manual providing standards
15 and guidelines for the creation, maintenance, and retention of trial court records (the *Trial*
16 *Court Records Manual*), consistent with the Government Code and the rules of court and
17 policies adopted by the Judicial Council. The manual should assist the courts and the
18 public to have complete, accurate, efficient, and accessible court records. Before the
19 manual is issued, it must be made available for comment from the trial courts.

20
21 **(b) Contents of the *Trial Court Records Manual***

22
23 The *Trial Court Records Manual* must provide standards and guidelines for the creation,
24 maintenance, and retention of trial court records. These standards and guidelines must
25 ensure that all court records subject to permanent retention are retained and made available
26 to the public in perpetuity as legally required.

27
28 **(c) Updating the manual**

29
30 The Administrative Office of the Courts, in collaboration with trial court presiding judges
31 and court executives, must periodically update the *Trial Court Records Manual* to reflect
32 changes in technology that affect the creation, maintenance, and retention of court records.
33 Except for technical changes, corrections, or minor substantive changes not likely to create
34 controversy, proposed changes in the manual must be made available for comment from
35 the courts before the manual is updated or changed. Courts must be notified of any changes
36 in the standards or guidelines, including all those relating to the permanent retention of
37 records.

38
39 **(d) Adherence to standards and guidelines**

40
41 Trial courts must adhere to the requirements contained in the *Trial Court Records Manual*,
42 except as otherwise provided in the manual.

1 *Rule 10.854 adopted effective January 1, 2011.*

2
3 **Rule 10.855. Superior court records sampling program**

4
5 **(a)–(g) *****

6
7 **(h) Preservation medium**

8
9 (1) * * *

10
11 (2) ~~If practicable, courts should preserve paper records filed after January 1, 1911,~~
12 ~~because they are preferred by historians and researchers. Courts may, however,~~
13 ~~reproduce such paper records on microfilm or other electronic or micrographic~~
14 ~~media, if the records are maintained and reproduced in accordance with archival~~
15 ~~standards recommended by the American National Standards Institute or the~~
16 ~~Association for Information and Image Management and the condition of the paper~~
17 ~~records permits reproduction without damage to the originals. [NOTE: As of the~~
18 ~~effective date of this rule, optical disk storage is not recognized as an archival~~
19 ~~medium, although it may become so with advances in technology.] Court records~~
20 ~~that are part of the comprehensive sample filed after 1910, the systematic sample,~~
21 ~~and the subjective sample must be retained permanently in accord with the~~
22 ~~requirements of the *Trial Court Records Manual*.~~

23
24 *(Subd (h) amended effective January 1, 2011; previously amended effective January 1, 2001, and*
25 *January 1, 2007.)*

26
27 **(i)–(l) *****

28
29 *Rule 10.855 amended effective January 1, 2011; adopted as rule 243.5 effective July 1, 1992; previously*
30 *amended effective January 1, 1994, and January 1, 1995; previously amended and renumbered as rule*
31 *6.755 effective January 1, 2001, and as rule 10.855 January 1, 2007.*

32
33 **Standard 10.80. Court records management standards**

34
35 ~~Each court should develop records management practices consistent with the standards approved~~
36 ~~by the Judicial Council. The approved standards are specified in Judicial Council Court Records~~
37 ~~Management Standards, published by the Administrative Office of the Courts.~~

38
39 ~~Implementation of these standards, which cover creation, use, maintenance, and destruction of~~
40 ~~records, should lead to more efficient court administration, better protection and preservation of~~
41 ~~records, and improved public access to records.~~

- 1 *Standard 10.80 repealed effective January 1, 2011; adopted as sec. 34 effective January 1, 1993;*
- 2 *previously amended and renumbered effective January 1, 2007.*
- 3