



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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Date	Action Requested
October 3, 2014	Please review for October 14 meeting
To	Deadline
Members of the Joint Appellate Technology Subcommittee	October 14, 2014
From	Contact
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Subject	
Consideration of development of rules regarding public access to electronic appellate court records	

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#### Introduction

As you may recall, one of the items on the list of projects for the Joint Appellate Technology Subcommittee is considering whether to recommend adoption of new rules to address public access to electronic appellate court records. As more documents are electronically filed in the appellate courts and stored in electronic form, it is anticipated that questions will arise about public access to these electronic records. Currently, there is a set of rules regarding public access to electronic trial court records, but no equivalent set of appellate rules.

As a starting point for discussion of this project, staff has prepared the attached draft of possible rules regarding access to electronic appellate court records. This discussion draft uses the existing trial court rules as a base. To assist the subcommittee in its review and discussion of this topic and the attached draft of possible rules, this memo and accompanying material:

- Provide background information about the trial court rules and the policy choices reflected in those rules;

- Identify factors that may impact the subcommittee’s consideration of possible rules on public access to electronic appellate court records, including differences between the trial and appellate courts and their records; and
- Identify policy questions that the subcommittee may want to discuss as part of its consideration of this topic and the draft rules.

### Trial court rules

On the recommendation of the Court Technology Advisory Committee (CTAC), effective July 1, 2002, the Judicial Council adopted rules regarding public access to electronic trial court records, California Rules of Court, rules 2.500 – 2.507. While these trial court rules were adopted in compliance with a statutory mandate,<sup>1</sup> CTAC had actually been working on rules to address this topic for six years. Over that period, several different versions of possible rules were considered and circulated for comment by CTAC and the Judicial Council discussed this topic at two council meetings. The rules that were ultimately adopted by the council thus represent a great deal of thought, public input, and struggle with difficult policy issues. The two reports from CTAC to the Judicial Council contain detailed information about the rule development process and the rationale supporting the rules that were ultimately recommended for adoption. These reports are included in your materials as background information.

The October 2001 report to the Judicial Council regarding the trial court rules on access to electronic court records explains that these rules “attempt to balance the right of public access to trial court records against the right of privacy afforded by article I, section 1 of the California Constitution.” As that report further discusses, there is a general right of public access to court records. This right is based in both the United States’ and California constitutions (see, for example, *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178; *Burkle v. Burkle* (2006) 135 Cal.App.4th 1045, and *Copley Press, Inc. v. Superior Court* (1998) 63 Cal.App.4th 367). In 2004, after the adoption of the trial court rules on access to electronic court records, article I, section 3 of the California Constitution was also amended to expressly provide for the broad construction of statutes, court rules, or other authority to further the people’s right of access to government records.

This right of public access to court records is not absolute, however. The 2004 amendment to article I, section 3 recognized this, specifically providing, in relevant part, that: [n]othing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the

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<sup>1</sup> These rules were part of a larger set of rules relating to electronic filing and service in the trial courts that Code of Civil Procedure section 1010.6 required be adopted by the council. Code of Civil Procedure section 1010.6(e) provides, in relevant part: “The Judicial Council shall adopt uniform rules for the electronic filing and service of documents in the trial courts of the state, which shall include statewide policies on vendor contracts, privacy, and access to public records, and rules relating to the integrity of electronic service.”

construction of any statute, court rule, or other authority to the extent that it protects that right to privacy.” (California Constitution, Article I, section 3(b)(3)).<sup>2</sup> As the cases cited above discuss, courts may restrict public access to (seal) court records in an individual case if this is necessary to protect another overriding interest (see also California Rules of Court, rule 2.550(d), which codifies the holding in the *NBC Subsidiary* case regarding the findings required for sealing). There are also statutes and rules that restrict public access to certain court records based on privacy and/or other overriding concerns (see, for example, Welf. & Inst. Code, § 827 and California Rules of Court, rule 8.401 [records in juvenile proceedings] and Gov. Code, § 68633(f) [fee waiver applications]). These cases, statutes, and rules reflect a balancing between the right of public access to court records and other rights, such as the right to privacy, and a conclusion that public access can be completely prohibited in certain circumstances to protect those other rights.

The question faced by CTAC in developing the trial court rules on public access to electronic records (and which this subcommittee faces in considering appellate rules on this topic) is not the stark one of whether to prohibit public access to court records, but a subtler question of what mode of access should be provided to those records that are public. In the past, public court records could only be accessed on a case-by-case basis, in paper format, at the courthouse. The advent of electronic court records provides additional options for how court records can be accessed. Records stored electronically can potentially be accessed electronically and remotely, not just at the courthouse, and searched based on a wide variety of criteria. They can also be more easily be aggregated, copied, and disseminated than paper records. These technological advancements present potential benefits for both the public and the courts in terms of increasing the ease and reducing the cost of accessing court records and in terms of providing greater transparency and public understanding of court actions.

However, CTAC also concluded that electronic access to court records presents potential risks. Because accessing paper records is difficult and time-consuming, even though most court records are public, information from those records kept in paper format is not generally extracted, disseminated, or used by those not involved in the case except in high-profile cases. The United States Supreme Court referred to the difficulty in gathering information from paper

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<sup>2</sup> The legislative history of this amendment also indicates that it was not intended to require internet access to public records. The Senate Daily Journal for the 2003-2004 Regular Session, page 3405, contains a letter dated April 20, 2004, from Senator John Burton, President pro Tempore of the Senate and author of the amendment, stating the following regarding the intent:

The Legislature recently approved SCA 1 (Burton), which places a measure on the statewide ballot on the subject of public access to public documents and meetings. There is lingering concern expressed by certain privacy advocates that passage of SCA 1 would create an affirmative duty on the part of state and local government bodies to post all information in their possession on the Internet, including personal information of citizens contained in government files. In response to this concern, the author wishes to clarify that passage of SCA 1 does not in and of itself create an obligation to publish or publicize such information held by government bodies by means of the Internet.

files as “practical obscurity” (*United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (109 S.Ct. 1468, 103 L.Ed.2d 774)).<sup>3</sup> The practical obscurity of paper court records creates a de facto protection for the privacy of information contained in these records and means that concerns about the privacy of these paper records have arisen infrequently. The advent of electronic court records has the potential for eliminating this practical obscurity and thus brings to the fore privacy concerns about information in these records. As articulated in CTAC’s October and December 2001 reports to the Judicial Council, these concerns include:<sup>4</sup>

- Broadening access to/dissemination of, and thus the potential for exploitation of, sensitive personal and financial information contained in court files. For example, many court files, particularly in family and probate cases, contain personal identifying or financial information, such as Social Security numbers, drivers’ license numbers, financial account numbers and balances, pay stubs, tax returns, dates of birth, and home addresses and phone numbers.<sup>5</sup> This, in turn, may increase concerns about:
  - Identify theft and other financial abuses of those whose information is contained in court records;
  - Risk of physical harm to victims and witnesses whose contact information is contained in court records;
  - Damage to the reputations, relationships, and business opportunities of individuals whose personal information is in court records, particularly those such as witnesses and jurors, who are compelled to provide information in court proceedings;
  - Undermining public confidence in and discouraging the use of the public courts by increasing the privacy “price” associated with using the courts.
- Facilitating the private compilation/dissemination of criminal history information that is not subject to the legislative, judicial, and administrative safeguards established to insure only the appropriate release of accurate information (see, for example, Penal Code section 11105 and *Westbrook v. City of Los Angeles* (1994) 27 Cal.App4th 157); and

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<sup>3</sup> In this case, the court recognized a privacy interest in information that is publicly available through other means, such as in paper court files, but is “practically obscure.”

<sup>4</sup> In identifying and assessing these risks, CTAC and the council considered, among other things, the public comments received on various versions of the proposed rules, information from reports regarding access to electronic records in the federal and other state court systems, and the scope of electronic access provided in those other court systems.

<sup>5</sup> Rule 1.20(b) provides that “[t]o protect personal privacy and other legitimate interests, parties and their attorneys must not include, or must redact where inclusion is necessary, the following identifiers from all pleadings and other papers filed in the court’s public file, whether filed in paper or electronic form, unless otherwise provided by law or ordered by the court:” social security numbers and financial account numbers. Despite this requirement, such information may still appear in case files.

- Loss of control/ability to correct information. Once information has been made available on the internet, it is very difficult, if not impossible, to withdraw that information. This makes procedures to modify or correct information, such as expungment or sealing of juvenile criminal records under specified circumstances, ineffectual.

CTAC also expressed concern about the technological ability of court case management systems to segregate records required by law to be kept confidential and ensure that these were not improperly accessed in electronic form.

CTAC's view in 2001 was that, based on these potential risks, there should not be remote electronic access to all public trial court records.<sup>6</sup> CTAC's October 2001 report to the Judicial Council states that "[i]t is the conclusion of the Court Technology Advisory Committee that unrestricted Internet access to case files would compromise privacy and, in some cases, could increase the risk of personal harm to litigants and others whose private information appears in case files." The trial court rules ultimately recommended by CTAC and adopted by the Judicial Council permitted the following access to electronic trial court records:

- Access, including bulk access, both remote and at the courthouse, to electronic registers of action, indexes, and calendars (rules 2.503(b)(1) and (g));
- Access on a case-by-case basis, both remote and at the courthouse, to other electronic records in most civil cases (rules 2.503(b)(2) and (f)). For case-by-case access, cases are only permitted to be identified based on the following information: the number of the case, the caption of the case, or the name of a party (rule 2.503(f));
- Access only on a case-by-case basis at the courthouse to electronic records in the following cases (rules 2.503(c) and (g)):
  - Proceedings under the Family Code, including proceedings for dissolution, legal separation, and nullity of marriage; child and spousal support proceedings; and child custody proceedings;;
  - Juvenile court proceeding;
  - Guardianship or conservatorship proceedings;
  - Mental health proceedings;
  - Criminal proceedings; and
  - Civil harassment proceedings under Code of Civil Procedure section 527.6.

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<sup>6</sup> Note that the first proposed rule on access to electronic trial court records circulated for public comment by CTAC in 1997 would have provided for electronic access to all such records. This first proposal was withdrawn based on public comments expressing concerns about privacy interests and legal restrictions on dissemination of information in criminal case files.

Since 2002, the following additional case types have been added to the list of those for which electronic records may be accessed only on a case-by-case basis at the courthouse:

- Domestic violence prevention proceedings;
- Workplace violence prevention proceedings under Code of Civil Procedure section 527.8;
- Private postsecondary school violence prevention proceedings under Code of Civil Procedure section 527.85;
- Elder or dependent adult abuse prevention proceedings under Welfare and Institutions Code section 15657.03; and
- Proceedings to compromise the claims of a minor or a person with a disability.

These rules reflect CTAC's and the Judicial Council's conclusion at that time that the risk/benefit balance associated with public access to electronic trial court records varies depending on the type of record and the type of case. For registers of actions and calendars, it was concluded that the potential privacy risks are low, so greater access is permitted to these records.<sup>7</sup> For criminal, family, juvenile, and the other proceedings listed in rule 2.503(c), it was concluded that the potential privacy risks are high, so access to these records in electronic format is available only at the courthouse, maintaining the de facto protections provided by practical obscurity. The risk in general civil cases was treated as somewhere in the middle, so remote access is permitted, but not bulk access.

#### Factors that May Impact Consideration of Appellate Rules

There are a number of factors that the subcommittee may want to consider in discussing the possible development of rules relating to public access to electronic appellate court records. These include the potential benefits and risks of electronic access considered by CTAC and the Judicial Council in the development and adoption of the trial court rules, which are outlined above and in the October and December 2001 reports to the Judicial Council. They also include the following:

- **Existence of trial court rules** – The trial court rules on public access to electronic records, which have now been in place for 12 years, create a certain framework and expectations about access/privacy of court records. The subcommittee may want to consider the degree to which it is important for any rules regarding access to electronic appellate court records to incorporate a consistent approach to electronic access in terms of:

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<sup>7</sup> To ensure that the privacy risk associated with remote, bulk access to these records is low, rule 2.507(c) identifies information that may not be included in the register of actions, index, or calendar, including social security numbers; any financial information; arrest warrant information; search warrant information; victim information; witness information; ethnicity; age; gender; government-issued identification card numbers (i.e., military); driver's license number; and date of birth.

- The topics that are addressed in the Rules of Court;
  - The general framework of the rules;
  - The mode of access permitted for particular records.
- **Current court practices/technology** – There may have been changes in electronic access practices in other courts or in technology that could impact how the subcommittee assesses the risk/benefit balance associated with electronic access to court records. For example:
    - The October 2001 report to the Judicial Council notes that, at that time, the federal courts did not provide remote access to electronic records in criminal cases. Access to these records is now available through PACER;<sup>8</sup>
    - The most recent compilations staff was able to find of information on electronic access to state court records indicate that appellate court opinions and dockets are available online in most states, but that, unlike in the PACER system, other appellate records are not typically available;<sup>9</sup> and
    - There may have been advances in technology that impact how or the degree to which the privacy of information in electronic court records can be protected.<sup>10</sup>
  - **Greater historic access to certain appellate court records** –Because of the appellate courts’ role in establishing case law, historically, there has been greater public access to certain records in appellate court proceedings than to trial court records. In addition to access to paper files at individual courthouses:
    - All opinions issued by the California Supreme Court and published opinions of the Courts of Appeal are published in the Official Reports, which are available in law libraries in every county and in other libraries as well. These reports are also now available online; and
    - Copies of briefs in civil cases have historically been available in the four depository libraries in the state. Online databases of these briefs are also now available.

This greater historic access may shape expectations both of the courts and the public about what is the appropriate level of public access to electronic appellate court records.

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<sup>8</sup> See “Online Access to Court Records--from Documents to Data, Particulars to Patterns” (53 Villanova Law Review 855, 2008) for a description of records available through the PACER system.

<sup>9</sup> The article “Online Access to Court Records--from Documents to Data, Particulars to Patterns,” *supra* footnote 8, also discusses access to state court records. See also the report “Electronic Access to Court Records” (available at: <http://www.rcfp.org/rcfp/orders/docs/EACR.pdf>) prepared by the Reporters Committee for Freedom of the Press, which includes state by state information about what court records, including appellate court records, are available electronically.

<sup>10</sup> Note that questions were raised in the December 2001 report to the Judicial Council about whether advances in technology would reduce the protection provided by permitting only case-by-case access to certain electronic trial court records (see appendix 1 to this report).

- **Current access to appellate court records on the California courts website**– Attached is a summary of the information about California Supreme Court and Court of Appeal cases that is currently available electronically via the California courts website. As you can see, there is already remote, and sometimes bulk, electronic access to many appellate court records. Access to some appellate court records exceeds that permitted for trial court records under rules 2.500 – 2.507, such as bulk access to opinions, bulk access to briefs in Supreme Court cases, and the ability to search for cases by attorney name and, in the Court of Appeal, by calendar date. This may impact the subcommittee’s consideration of rules addressing access to electronic appellate records in several ways:
  - Access to these electronic appellate court records has, to date, been provided without California Rules of Court addressing this topic – the policy choices about the extent of access are not articulated in a rule, but are instead imbedded in the implementation of the technology (ACCMS and website). This historic approach may impact thinking about what aspects of this topic should be left implicit or addressed locally and what should be addressed in Rules of Court to provide guidance/assurance to the public regarding access to records and/or consistency with the trial court rule framework;
  - To the extent that these matters are addressed in any proposed rules developed by the subcommittee, the subcommittee will need to consider whether the rules should codify or modify the current level of public access provided to electronic appellate court records.
  - Access to these electronic appellate court records is currently being provided on a centralized basis through the California courts website, rather than individually by each appellate court. In contrast, in the trial courts each individual court is responsible for providing access and the rules are structured to reflect this fact. To the extent that these matters are addressed in any proposed rules developed by the subcommittee, the subcommittee will need to consider what aspects of providing access should be handled centrally and what should be the responsibility of each individual court, particularly since these may have different cost implications. The subcommittee will also need to consider how the rules should address those aspects of access provided centrally through the California courts website.
  
- **Alternate methods of protecting the privacy of some information** – The appellate courts have implemented alternate ways of protecting the privacy of some information in appellate court records. For example, rule 8.401 requires that the use of initials to identify children in both filings and opinions in juvenile proceedings. These alternate protections may impact the level of risk associated with electronic access to these records.
  
- **Appellate case management system** – Unlike the trial courts, the appellate courts utilize a single case management system. This may allow the implementation of public access to appellate court records to be more uniform across courts than is possible across trial courts

and may alter the balance of concerns related to the technological capability to prevent the release of confidential records. The existence of this system may also impact the cost implications of providing access centrally as opposed to having each court provide access, as is done in the trial courts. In addition, the capabilities of this system may impact what electronic access to appellate court records can currently be implemented.

All of these factors may impact how the subcommittee assesses both the overall policy questions relating to public access to electronic appellate court records identified below and how it recommends addressing particular provisions within any proposed set of rules on this topic.

### Policy Questions the Subcommittee May Want to Discuss

As indicated at the beginning of this memo, staff has prepared a draft of possible rules regarding access to electronic appellate court records as a starting point for the subcommittee's discussion of whether to propose rules on this topic. This discussion draft uses the existing trial court rules as a base. Following some sections of the draft rules are notes describing particular issues or proposed deviations from the trial court rules as well as questions that the subcommittee may want to consider in connection with particular rule provisions. This section of the memo identifies some overarching or additional policy questions that the subcommittee may want to discuss, most likely before reviewing the draft rules in detail. All of the factors identified in the previous sections of this memo, including the potential benefits and risks of electronic access to court records, may impact how the subcommittee assesses each of these overarching policy questions.

#### **Scope of access to electronic appellate court records**

One of the initial policy questions that the subcommittee may want to discuss is what should be the scope of public access to electronic appellate court records. Note that the questions below reflect the framework used in the trial court rules for considering this issue: distinctions are made in terms of bulk vs. case-by-case access, remote vs. courthouse access, court record type, and case type. This is just a starting point for discussion; the subcommittee may decide to use an alternate or modified framework for considering this question.

- To what electronic appellate court records should the public have **remote** electronic access on a **bulk** basis?
  - Should access vary by record type, as it does for trial court records?
    - Opinions? – published? unpublished?
    - Dockets?
    - Calendars?
    - Other?
  - Should access vary by case type?

- Civil?
- Criminal?
- Other?
- Should access vary by court
  - Supreme Court vs. Courts of Appeal?
  - Among Courts of Appeal?
- To what electronic appellate court records should the public have **remote** electronic access, but only on a **case-by-case** basis?
  - Should access vary by record type?
    - Briefs?
    - Clerks transcripts/appendixes?
    - Reporter's transcripts? – concerns/implications re: reporter compensation
    - Petitions?
    - Orders?
    - Other?
  - Should access vary by case type, as it does for trial court records?
    - Civil?
    - Criminal?
    - Other?
  - Should access vary by court
    - Supreme Court vs. Courts of Appeal?
    - Among Courts of Appeal?
- To what electronic appellate court records should the public have electronic **access only from a court site**, i.e. should the public not be able to access remotely?

### **Access mechanism**

Another initial policy question that the subcommittee may want to discuss is how to provide public access to electronic appellate court records:

- How should remote bulk access to records be provided?
  - Should this be provided at a statewide level, though something like the opinions pages or the case information search function on the California courts website?
  - Should providing this access be the responsibility of individual courts?
- How should remote case-by-case access be provided?
  - Should this be provided at a statewide level?
  - Should providing this access be the responsibility of individual courts?

- How should access at court sites be provided?
  - Should this be done through a link to the statewide case-by-case information system?
  - Should providing this access be the responsibility of individual courts?

**Overall scope of rules**

The subcommittee may want to discuss what aspects of access to electronic appellate court records should be addressed in:

- California Rules of Court?
- Local rules of each court?
- On the California courts website/individual court pages?
- Implicitly addressed through implementation/technology?

## **E-Access Rules Draft**

**NOTE: This is an initial discussion draft of possible rules on public access to electronic appellate court records. This draft uses as its base the trial court rules on public access to electronic trial court records (California Rules of Court, rules 2.500-2.507). In this draft, underlining shows additions to those trial court rules and strikeouts show deletions. Following some sections are notes describing particular issues or proposed modifications to the trial court rules. Also following some sections are questions that JATS may want to consider. Additional questions for JATS are outlined in the accompanying staff memo.**

**An earlier draft of possible rules on public access to electronic court records was distributed to the Appellate E-Filing Working Group several years ago. That group did not discuss the draft, but Joseph Lane provided some comments on that earlier draft. Those comments are noted below.**

### **Article 6. Public Access to Electronic Appellate Court Records**

Rule 8.80. Statement of purpose

Rule 8.81. Application and scope

Rule 8.82. Definitions

Rule 8.83. Public access

Rule 8.84. Limitations and conditions

Rule 8.85. Contracts with vendors

Rule 8.86. Fees for electronic access

#### **Rule ~~2.500.~~ 8.80. Statement of purpose**

(a) *Intent*

The rules in this ~~chapter~~ article are intended to provide the public with reasonable access to ~~trial~~ appellate court records that are maintained in electronic form, while protecting privacy interests.

(b) *Benefits of electronic access*

Improved technologies provide courts with many alternatives to the historical paper-based record receipt and retention process, including the creation and use of court records maintained in electronic form. Providing public access to ~~trial~~ appellate court records that are maintained in electronic form may save the courts and the public time, money, and effort and encourage courts to be more efficient in their operations. Improved access to ~~trial~~ appellate court records may also foster in the public a more comprehensive understanding of the ~~trial~~ appellate court system.

(c) *No creation of rights*

The rules in this ~~chapter~~ article are not intended to give the public a right of access to any record that they are not otherwise entitled to access. The rules do not create any right of access to ~~records that are sealed by court order~~ or confidential as a ~~matter of law~~ records.

**Advisory Committee Comment**

The rules in this ~~chapter~~ article acknowledge the benefits that electronic court records provide but attempt to limit the potential for unjustified intrusions into the privacy of individuals involved in litigation that can occur as a result of remote access to electronic court records. The proposed rules take into account the limited resources currently available in the ~~trial-appellate~~ courts. It is contemplated that the rules may be modified to provide greater electronic access as the courts' technical capabilities improve and with the knowledge gained from the experience of the courts in providing electronic access under these rules.

**NOTE:**

**Subdivision (c): This subdivision was modified to reflect the definitions of sealed and confidential records in rule 8.45.**

**Rule ~~2.501.~~ 8.81. Application and scope**

(a) *Application*

The rules in this ~~chapter~~ article apply only to ~~trial-court~~ records of the Supreme Court and Court of Appeal.

(b) *Access by parties and attorneys*

The rules in this ~~chapter~~ article apply only to access to court records by the public. They do not limit access to court records by a party to an action or proceeding, by

the attorney of a party, or by other persons or entities that are entitled to access by statute or rule.

## QUESTION

**Should these rules apply only to the Courts of Appeal or should they also apply to the Supreme Court as well (as drafted)?**

### **Rule ~~2.502~~. 8.82. Definitions**

As used in this ~~chapter~~ article, the following definitions apply:

- (1) “Court record” is any document, paper, or exhibit filed by the parties to an action or proceeding; any order or judgment of the court; and any item listed in Government Code section 68151(a), excluding any reporter’s transcript for which the reporter is entitled to receive a fee for any copy. The term does not include the personal notes or preliminary memoranda of justices, judges or other judicial branch personnel.
- (2) “Electronic record” is a computerized court record, regardless of the manner in which it has been computerized. The term includes both a document that has been filed electronically and an electronic copy or version of a record that was filed in paper form. The term does not include a court record that is maintained only on microfiche, paper, or any other medium that can be read without the use of an electronic device.
- (3) “The public” means an individual, a group, or an entity, including print or electronic media, or the representative of an individual, a group, or an entity.
- (4) “Electronic access” means computer access to court records available to the public through both public terminals at the courthouse and remotely, unless otherwise specified in the rules in this ~~chapter~~ article.
- (5) “Bulk distribution” means distribution of all, or a significant subset, of the court’s electronic records.

## NOTE:

**Subdivision (5): This definition is moved here from rule 2.503/8.83 below.**

## QUESTION

**How should “court record” be defined for purposes of this rule?**

- **The definition of “court records” in the trial court rule and this draft rule includes all “documents” filed in a case, but does not currently include any specific references to the types of documents that are typically filed in appellate proceedings, such as petition, briefs, and appellate records or supporting documents. Should references to such appellate documents be added? Note: Joseph Lane suggested not adding such specific references.**
- **The definition of “court records” in the trial court rule and this draft rule includes “any order or judgment of the court.” Should the definition also specifically reference opinions of the court?**
- **The definition of “court records” includes a cross-reference to Government Code section 68151(a), which, in turn, references section 68152(g). These sections only apply to trial court records; however, some types of records listed in section 68152(g), such as in forma pauperis applications, orders, minutes, and the court’s docket, are also maintained by appellate courts. Should this cross-reference to the Government Code section stay in the rule (as drafted) or should it be replaced with a list of only those records that might be maintained by an appellate court? Note: Joseph Lane suggested deleting the clause that includes this cross-reference.**
- **The definition of “court records” in the trial court rule and this draft rule specifically excludes “any reporter’s transcript for which the reporter is entitled to receive a fee for any copy.” Should this provision be in the appellate rules? Note: Joseph Lane suggested deleting the clause that includes this provision.**
- **Rule 8.45, part of the appellate rules on sealed and confidential records, contain the following definition of “record” that differs from the above definition of court record: “‘Record’ means all or part of a document, paper, exhibit, transcript, or other thing filed or lodged with the court.” Rule 2.550, part of the trial court rules on sealed records, contains a similar definition of “record.” Is there a policy reason to use different definitions for the rules on e-access?**

**Rule ~~2.503~~. 8.83. Public access**

- (a) *General right of access*

All electronic records must be made reasonably available to the public in some form, whether in electronic or in paper form, except ~~those that are sealed by court order or made confidential by law~~ records.

**NOTE:**

**This subdivision was modified to reflect the definitions of sealed and confidential records in rule 8.45.**

(b) *Electronic access required ~~to extent feasible~~*

(1) Electronic access, both remote and at the courthouse, will be provided to the following court records:

(A) Dockets or registers of actions, which must include the following information:

- i. Date case commenced;
- ii. Case number;
- iii. Case type;
- iv. Case title (unless confidential);
- v. Party names (unless confidential);
- vi. Party type;
- vii. Date of each activity; and
- viii. Description of each activity.

(B) Calendars, which must include the following information:: and

- i. Date of court calendar;
- ii. Time of calendared event;
- iii. Case number; and

iv. Case title (unless confidential).

(C) Opinions.

(2) A court that maintains ~~the following~~ records in civil cases in addition to those listed in (1) in electronic form must provide electronic access to ~~them~~ these records, except those listed in (c), both remotely and at the courthouse, to the extent it is feasible to do so:

~~(1) Registers of actions (as defined in Gov. Code, § 69845), calendars, and indexes in all cases; and~~

~~(2) all records in civil cases, except those listed in (c)(1)–(9).~~

(c) *Courthouse electronic access only*

A court that maintains ~~the following~~ records in addition to those listed in (b) in electronic form in the following proceedings must provide electronic access to ~~them~~ these records at the courthouse, to the extent it is feasible to do so, but may not provide remote electronic access ~~only to these~~ records ~~governed by (b)~~:

(1) ~~Records in a~~ Proceedings under the Family Code, including proceedings for dissolution, legal separation, and nullity of marriage; child and spousal support proceedings; child custody proceedings; and domestic violence prevention proceedings;

(2) ~~Records in~~ Juvenile court proceedings;

(3) ~~Records in~~ Guardianship or conservatorship proceedings;

(4) ~~Records in~~ Mental health proceedings;

(5) ~~Records in~~ Criminal proceedings;

(6) ~~Records in~~ Civil harassment proceedings under Code of Civil Procedure section 527.6;

(7) ~~Records in~~ Workplace violence prevention proceedings under Code of Civil Procedure section 527.8;

- (8) ~~Records in~~ Private postsecondary school violence prevention proceedings under Code of Civil Procedure section 527.85;
- (9) ~~Records in~~ Elder or dependent adult abuse prevention proceedings under Welfare and Institutions Code section 15657.03; and
- (10) ~~Records in a~~ Proceedings to compromise the claims of a minor or a person with a disability.

## NOTES

Subdivision (b)(1) of the trial court rule requires trial courts to provide electronic access, both remote and at the courthouse, to the following records in all cases if they are in electronic format:

- Registers of actions (as defined in Gov. Code, § 69845);
- Calendars; and
- Indexes. . .

Rule 2.507 specifies what information must be included in these records and what information must not be included.

A substantial amount of information about Supreme Court and Court of Appeal cases is already currently available on the California courts website – see separate handout. The drafts of subdivisions (b) and (c) above are intended to be consistent with the current practice, although not all records currently available on the website are identified in the draft. The draft of (b)(1) also incorporates from rule 2.507 the specifics of what must be included in the electronically accessible registers of actions and calendars.

## QUESTIONS

1. Should these e-access rules include a provision, such as (b)(1), addressing electronic access to appellate court records that are now available remotely via the California courts website or should this be left implicit/embedded in what is provided on the website? Things to consider:
  - a. Is it important that a provision addressing this topic be in the rules to provide the public with assurance that there will be electronic access to these records?
  - b. Is it important that a provision addressing this topic be in the rules to provide parallelism to the trial court rules and

**2. If this topic is addressed in the rules:**

- a. Should the provision be in the rule text or can/should it be addressed in an advisory committee comment?**
- b. Are the docket, calendar and opinions the appropriate records for the rule to specify will be made available?**
- c. Should the provision specify, as does rule 2.507 in the trial court rules, what information must be included in the docket and calendar?**
- d. Should the provision specify, as does rule 2.507 in the trial court rules, what information must NOT be included in records to which bulk access is permitted? If so:**
  - i. Should this provision apply just to the calendars and docket or to opinions as well?**
  - ii. What information should the rule specify should not be included in these records? Rule 2.507 prohibits the inclusion of the following information in the trial court calendars, indexes, and registers of action that are subject to bulk distribution:**
    - Social security numbers;
    - Any financial information;
    - Arrest warrant information;
    - Search warrant information;
    - Victim information;
    - Witness information;
    - Ethnicity;
    - Age;
    - Gender;
    - Government-issued identification card numbers (i.e., military);
    - Driver's license number; and
    - Date of birth
- e. Should the provision specify by whom/how the records will be made available? In the trial court rule, these records must be provided by the court, but access to these records for all the appellate courts is currently being provided on a centralized basis on the California courts website, not by the individual courts.**

**3. Subdivisions (b)(2) and (c) in the trial court rules provide for remote access to all electronic court records in civil cases, with certain exceptions, to the extent**

**feasible but only access at the courthouse to electronic records in other cases. Is this the appropriate level of remote access for appellate court records?**

- a. **Note that there is currently access to additional records in Supreme Court cases than is specified in the trial court rules or this draft rule – see separate handout. For example, there is remote access to briefs in all argued cases and to minutes. Should the draft rules include separate provisions addressing records in the Supreme Court and Courts of Appeal?**
  - b. **Should the rule be more narrowly drafted to provide remote access only to briefs in civil cases? Briefs in Court of Appeal cases are the appellate court documents not currently available on the courts website that are most likely to be of interest to the public (note that many briefs are available through other sources, such as the depository libraries [see <http://www.courts.ca.gov/appellatebriefs.htm>] and Lexis/Westlaw). Note that Joseph Lane responded that the rule should not focus just on access to briefs.**
  - c. **Should the rule focus on briefs but also be more broadly drafted to provide remote access to briefs in other/all case types, rather than just in civil cases (except briefs that are sealed or confidential)? Are there policy reasons not to provide remote access to briefs in all cases? Note that Joseph Lane responded that the rule should permit remote access to briefs in all cases.**
  - d. **Should the rule be even more broadly drafted to provide remote access to other/all appellate court records in other/all case types (other than records that are sealed or confidential)? Note that Joseph Lane responded that the rule should permit remote access to records in criminal cases.**
- 4. Subdivisions (b)(2) and (c) in the trial court rules and the draft rule above provide that access to records in civil cases, with certain exceptions, must be provided by the court.**
- a. **Will this access be provided by individual courts or, like the docket and opinions, will it be provided on a centralized basis on the California courts website?**
  - b. **Should the rule specify by whom/how the records will be made available?**

(d) *“Feasible” defined*

As used in this rule, the requirement that a court provide electronic access to its electronic records “to the extent it is feasible to do so” means that a court is required to provide electronic access to the extent it determines it has the resources and technical capacity to do so.

(e) *Remote electronic access allowed in extraordinary criminal cases*

Notwithstanding (c)(5), the presiding ~~judge~~justice of the court, or a ~~judge~~justice assigned by the presiding ~~judge~~justice, may exercise discretion, subject to (e)(1), to permit electronic access by the public to all or a portion of the public court records in an individual criminal case if (1) the number of requests for access to documents in the case is extraordinarily high and (2) responding to those requests would significantly burden the operations of the court. An individualized determination must be made in each case in which such remote electronic access is provided.

(1) In exercising discretion under (e), the ~~judge~~justice should consider the relevant factors, such as:

- (A) The privacy interests of parties, victims, witnesses, and court personnel, and the ability of the court to redact sensitive personal information;
- (B) The benefits to and burdens on the parties in allowing remote electronic access, ~~including possible impacts on jury selection;~~ and
- (C) The burdens on the court in responding to an extraordinarily high number of requests for access to documents.

(2) The court should, to the extent feasible, redact the following information from records to which it allows remote access under (e): driver license numbers; dates of birth; social security numbers; Criminal Identification and Information and National Crime Information numbers; addresses and phone numbers of parties, victims, witnesses, and court personnel; medical or psychiatric information; financial information; account numbers; and other personal identifying information. The court may order any party who files a document containing such information to provide the court with both an original unredacted version of the document for filing in the court file and a redacted version of the document for remote electronic access. No juror names or other juror identifying information may be provided by remote electronic

access. This subdivision does not apply to any document in the original court file; it applies only to documents that are available by remote electronic access.

- (3) Five days' notice must be provided to the parties and the public before the court makes a determination to provide remote electronic access under this rule. Notice to the public may be accomplished by posting notice on the court's Web site. Any person may file comments with the court for consideration, but no hearing is required.
- (5) The court's order permitting remote electronic access must specify which court records will be available by remote electronic access and what categories of information are to be redacted. The court is not required to make findings of fact. The court's order must be posted on the court's Web site and a copy sent to the Judicial Council.

## QUESTION

**Is a provision like (e) needed in the appellate rules? Note that this may depend on decisions regarding the general scope of access to records in criminal cases.**

(f) *Access only on a case-by-case basis*

The court may only grant electronic access to an electronic record when the record is identified by the number of the case, the caption of the case, ~~or~~ the name of a party, the name of the attorney, or the date of oral argument, and only on a case-by-case basis. This case-by-case limitation does not apply to the court's electronic records of a calendar, register of actions, or ~~index~~ opinions.

(g) *Bulk distribution*

The court may provide bulk distribution of only its electronic records of a calendar, register of actions, and index opinions. ~~“Bulk distribution” means distribution of all, or a significant subset, of the court's electronic records.~~

## NOTES

**Subdivisions (f) and (g) in the trial court rules require that trial courts provide electronic access to records other than their calendars, registers of actions, and indexes only on a case-by-case basis. Subdivision (f) also limits the criteria that can be used in a search for a specific case. The current electronic access to appellate records provided on the California courts website exceeds that**

**authorized under the trial court rules in several ways (see separate handout on information available on California courts website):**

- **Opinions in both Supreme Court and Court of Appeal cases are accessible from the website in bulk;**
- **Additional information about Supreme Court cases, such as briefs and minutes, is available from the website in bulk; and**
- **The website permits searches for cases based not only on the criteria permitted in the trial courts (case number, party name, and case caption), but also on attorney name for both Supreme Court and Court of Appeal cases and calendar dates for Court of Appeal cases.**

**Note that draft subdivisions (f) and (b) above have been drafted to try to reflect current practice. Note also that, in this draft, the definition of “bulk distribution” has been moved up into the rule containing other definitions, rule 8.82.**

## **QUESTIONS**

1. **To what electronic appellate court records should the public have remote electronic access in bulk? To reflect current practice, draft subdivisions (f) and (g) above would authorize bulk access to electronic calendars, register of actions, and opinions.**
  - a. **Are these the appropriate appellate records to be accessible in bulk? Given that additional information about Supreme Court cases is currently available in bulk from the California courts website, should the draft rules include separate provisions addressing bulk access to records of the Supreme Court and Courts of Appeal?**
  - b. **Since access to all of these records is currently provided on the California courts website, should these rules address the courts’ provision of these records in bulk or should this be left implicit/embedded in what is provided on the website? Things to consider:**
    - i. **Is it important that a provision addressing this topic be in the rules to provide the public with assurance that there will be bulk electronic access to these records?**
    - ii. **Is it important that a provision addressing this topic be in the rules to provide parallelism to the trial court rules?**

- 2. To what electronic appellate court records should the public have remote electronic access only on a case-by-case basis?**
  
- 3. Based on what criteria should the public be able to search for/access appellate cases? As noted above, the trial court rules permit searches for /access to cases based only on the case number, party name, and case caption while all appellate cases can also currently be searched on the California courts website based on the attorney name and Court of Appeal cases can be searched based on calendar dates. To reflect current practice, draft subdivision (f) above would permit searches for/access to records based on the name of the attorney or the date of oral argument.**
  - a. The trial court rule refers to granting access to court records only when the case is identified by specified criteria. Is this access function the same thing as the ability to search for/identify cases based on these criteria or are/should these functions be separate?**
  
  - b. Should the rule distinguish between Supreme Court and Court of Appeal cases with respect to searches based on the date of oral argument?**
  
- 4. Subdivisions (f) and (g) in the trial court rules above provided that access to electronic records, whether in bulk or on a case-by-case basis must be provided by the court.**
  - a. Will this access be provided by individual courts or, like the docket and opinions, will it be provided on a centralized basis on the California courts website?**
  
  - b. Should the rule specify by whom/how these records will be made available?**

*(h) Records that become inaccessible*

If an electronic record to which the court has provided electronic access is made inaccessible to the public by court order or by operation of law, the court is not required to take action with respect to any copy of the record that was made by the public before the record became inaccessible.

*(i) Off-site access*

Courts should encourage availability of electronic access to court records at public off-site locations.

#### **Advisory Committee Comment**

The rule allows a level of access by the public to all electronic records that is at least equivalent to the access that is available for paper records and, for some types of records, is much greater. At the same time, it seeks to protect legitimate privacy concerns.

**Subdivision (c).** This subdivision excludes certain records (those other than the register, calendar, and ~~indexes~~ opinions) in specified types of cases (notably criminal, juvenile, and family court matters) from remote electronic access. The committee recognized that while these case records are public records and should remain available at the courthouse, either in paper or electronic form, they often contain sensitive personal information. The court should not publish that information over the Internet. However, the committee also recognized that the use of the Internet may be appropriate in certain criminal cases of extraordinary public interest where information regarding a case will be widely disseminated through the media. In such cases, posting of selected nonconfidential court records, redacted where necessary to protect the privacy of the participants, may provide more timely and accurate information regarding the court proceedings, and may relieve substantial burdens on court staff in responding to individual requests for documents and information. Thus, under subdivision (e), if the presiding ~~judge~~ justice makes individualized determinations in a specific case, certain records in criminal cases may be made available over the Internet.

**Subdivisions (f) (g).** These subdivisions limit electronic access to records (other than the register, calendars, or ~~indexes~~ opinions) to a case-by-case basis and prohibit bulk distribution of those records. These limitations are based on the qualitative difference between obtaining information from a specific case file and obtaining bulk information that may be manipulated to compile personal information culled from any document, paper, or exhibit filed in a lawsuit. This type of aggregate information may be exploited for commercial or other purposes unrelated to the operations of the courts, at the expense of privacy rights of individuals.

Courts must send a copy of the order permitting remote electronic access in extraordinary criminal cases to: Secretariat, Executive Office Programs Division, ~~Administrative Office of the Courts~~ Judicial Council, 455 Golden Gate Avenue, San Francisco, CA 94102-3688 or [secretariat@jud.ca.gov](mailto:secretariat@jud.ca.gov).

#### **Rule ~~2.504~~ 8.84. Limitations and conditions**

##### *(a) Means of access*

A court that maintains records in electronic form must provide electronic access to those records by means of a network or software that is based on industry standards or is in the public domain.

(b) *Official record*

Unless electronically certified by the court, a trial court record available by electronic access is not the official record of the court.

(c) *Conditions of use by persons accessing records*

A court may condition electronic access to its records on:

- (1) The user's consent to access the records only as instructed by the court; and
- (2) The user's consent to the court's monitoring of access to its records.

The court must give notice of these conditions, in any manner it deems appropriate. The court may deny access to a member of the public for failure to comply with either of these conditions of use.

(d) *Notices to persons accessing records*

The court must give notice of the following information to members of the public accessing its records electronically, in any manner it deems appropriate:

- (1) The identity of the court staff member to be contacted about the requirements for accessing the court's records electronically.
- (2) That copyright and other proprietary rights may apply to information in a case file, absent an express grant of additional rights by the holder of the copyright or other proprietary right. This notice must advise the public that:
  - (A) Use of such information in a case file is permissible only to the extent permitted by law or court order; and
  - (B) Any use inconsistent with proprietary rights is prohibited.
- (3) Whether electronic records are the official records of the court. The notice must describe the procedure and any fee required for obtaining a certified copy of an official record of the court.

- (4) That any person who willfully destroys or alters any court record maintained in electronic form is subject to the penalties imposed by Government Code section 6201.

**(e) Access policy**

The court must post a privacy policy on its public-access Web site to inform members of the public accessing its electronic records of the information it collects regarding access transactions and the uses that the court may make of the collected information.

**QUESTION**

**The draft of this rule maintains the structure of the trial court rule, which articulates responsibilities of individual courts in terms of access software, conditions, and notices. Is this the appropriate approach to these topics? Do all of these topics need to be addressed in the Rules of Court? If they are addressed here, should they set statewide conditions or provide notices, rather than directing individual courts to do so? Note that this may depend on decisions regarding what aspects of providing access should be done centrally and what locally.**

**Rule ~~2.505~~. 8.85. Contracts with vendors**

- (a) *Contract must provide access consistent with rules*

~~The court's~~ Any contract between the court and ~~with~~ a vendor to provide public access to its electronic records must be consistent with the rules in this ~~chapter~~ article and must require the vendor to provide public access to court records and to protect the confidentiality of court records as required by law or by court order.

(b) *Contract must provide that court owns the records*

Any contract between the court and a vendor to provide public access to the court's electronic records must provide that the court is the owner of these records and has the exclusive right to control their use.

## QUESTION

**Is a rule on this topic needed in the appellate rules?**

**Rule ~~2.506~~. 8.86. Fees for electronic access**

(a) *Court may impose fees*

The court may impose fees for the costs of providing ~~public access to~~ copies of its electronic records, under Government Code section ~~68150(l)~~ 68928. ~~On request, the court must provide the public with a statement of the costs on which these fees are based.~~

(b) *Fees of vendor must be reasonable*

To the extent that public access to a court's electronic records is provided exclusively through a vendor, the court must ensure that any fees the vendor imposes for the costs of providing access are reasonable.

### Note:

**Subdivision (a): Government code section 68150(l), which addresses trial court records in electronic format, provides "Reasonable provision shall be made for duplicating the records at cost. Cost shall consist of all costs associated with duplicating the records as determined by the court." In the draft above, the reference to this section has been replaced with a reference to Government code section 68928, which generally addresses fees for copies of Supreme Court and Court of Appeal records, as follows: "The fee for copies of any record or document in the office of the Clerk of the Supreme Court or the clerk of a court of appeal is the prevailing commercial rate as determined by the clerk. The Supreme Court and each court of appeal may waive the charge for copies of opinions furnished to parties to the litigation and other interested persons."**

**Two other changes are suggested in the trial court rule:**

- **Clarifying that the fees that can be charged under this provision are for making copies of electronic records. This seems consistent with the authority provided under Government code section 68928.**
- **Eliminating the requirement for providing a statement of costs on which the fee is based. This has not been required with respect to other copying fees charged by the appellate courts.**

**Subdivision (b): this provision will not be necessary if it is determined that the rules need not address contracts with vendors.**

**Rule 2.507. Electronic access to court calendars, indexes, and registers of actions**

*(a) — Intent*

~~This rule specifies information to be included in and excluded from the court calendars, indexes, and registers of actions to which public access is available by electronic means under rule 2.503. To the extent it is feasible to do so, the court must maintain court calendars, indexes, and registers of actions available to the public by electronic means in accordance with this rule.~~

*(b) — Minimum contents for electronically accessible court calendars, indexes, and registers of actions*

~~(1) — The electronic court calendar must include:~~

~~(A) — Date of court calendar;~~

~~(B) — Time of calendared event;~~

~~(C) — Court department number;~~

~~(D) — Case number; and~~

~~(E) — Case title (unless made confidential by law).~~

~~(2) — The electronic index must include:~~

~~(A) — Case title (unless made confidential by law);~~

~~(B) — Party names (unless made confidential by law);~~

~~(C) — Party type;~~

~~(D) — Date on which the case was filed; and~~

~~(E) — Case number.~~

~~(3) — The register of actions must be a summary of every proceeding in a case, in compliance with Government Code section 69845, and must include:~~

~~(A) — Date case commenced;~~

~~(B) — Case number;~~

~~(C) — Case type;~~

~~(D) — Case title (unless made confidential by law);~~

~~(E) — Party names (unless made confidential by law);~~

~~(F) — Party type;~~

~~(G) — Date of each activity; and~~

~~(H) — Description of each activity.~~

~~(e) — Information that must be excluded from court calendars, indexes, and registers of actions~~

~~The following information must be excluded from a court's electronic calendar, index, and register of actions:~~

~~(1) — Social security number;~~

~~(2) — Any financial information;~~

~~(3) — Arrest warrant information;~~

~~(4) — Search warrant information;~~

~~(5) — Victim information;~~

~~(6) — Witness information;~~

~~(7) — Ethnicity;~~

~~(8) — Age;~~

~~(9) — Gender;~~

~~(10) — Government issued identification card numbers (i.e., military);~~

~~(11) — Driver's license number; and~~

~~(12) — Date of birth.~~

**NOTE:**

**The provisions from this rule have either been incorporated above in draft rule 8.83 or are discussed in connection with that draft rule.**

## **INFORMATION ABOUT SUPREME COURT AND COURT OF APPEAL CASES CURRENTLY AVAILABLE ON THE CALIFORNIA COURTS WEBSITE**

### **SUPREME COURT CASES**

#### **Opinions (<http://www.courts.ca.gov/opinions-slip.htm>)**

The Published Opinions page, located under the opinions tab, provides the following remote, bulk access to opinions of the Supreme Court:

- A list of all opinions filed within the previous 120 days, searchable either based on how recently they were filed or on a court-by-court basis. For each opinion on this list, there are links to a PDF and Word version of the slip opinion and a link to the results of the case search function for the case
- A link to an archive of two years worth of slip opinions searchable on a court-by-court basis. For each opinion in this archive there are links to a PDF and Word version of the slip opinion and a link to the results of the case search function for the case

#### **Briefs of argued cases (<http://www.courts.ca.gov/2951.htm>)**

This page, located under the Courts/Supreme Court/Case Information tabs, provides remote, bulk access to briefs filed in cases argued in the Supreme Court since 2010. The page provides links to briefs (in PDF format) for each case on a calendar-by-calendar basis (i.e. links to all briefs filed in cases argued on a particular date are available on one page).

#### **Minutes (<http://www.courts.ca.gov/10758.htm>)**

This page, located under the Courts/Supreme Court/Case Information tabs, provides remote, bulk access to Supreme Court minutes from the previous 3 years. The page provides links to minutes (in PDF format) for each date.

#### **Calendar (<http://www.courts.ca.gov/11126.htm>)**

This page, located under the Courts/Supreme Court/Case Information tabs, provides the following information about Supreme Court calendars:

- Links to PDF documents showing the dates for oral argument in the Supreme Court in 2013 and 2014
- A link to pending and recent calendars. This page provides a list of all the Supreme Court and Court of Appeal calendars for the previous 120 days searchable on a court-by-court basis. The list contains links to documents (in PDF format) showing the cases calendared for oral argument on each calendar date. (Note that there is not a function, like that for Court of Appeal cases, allowing the public to search for Supreme Court cases calendared for oral argument within a specified date range)

### **Other bulk information**

Other information accessible under the Courts/Supreme Court/Case Information tabs includes:

- Weekly conference results (<http://www.courts.ca.gov/12140.htm>) – This page provides links in PDF and word format to a document describing the actions taken at the most recent Supreme Court conference. The document contains a table with the following information:
  - The case name
  - The Supreme Court case number
  - The Court of Appeal case number (where applicable)
  - The action type (i.e. petition for review, habeas corpus petition, mandate/prohibition petition, publication request, etc.)
  - The result (action taken by the court)
- Pending issues summaries (<http://www.courts.ca.gov/documents/SEP1914civpend.pdf>) – This page provides links to documents in PDF format that summarize the issues in civil and criminal cases currently pending before the court. The documents include the case names, Supreme Court case numbers, the Court of Appeal and trial court case numbers (where applicable), any case citation, and a summary of the issue(s) in the case
- Weekly case summaries (<http://www.courts.ca.gov/3012.htm>) - This page provides links to documents in PDF format that summarize the issues in those cases accepted for review by the court in a particular week.
- High profile case information (<http://www.courts.ca.gov/2964.htm>) – This page provides information about select high-profile Supreme Court cases which may include links to:
  - The court's opinion
  - Supreme Court new releases regarding the case
  - Audio and video recordings of the arguments in the Supreme Court

- Briefs and other filings

**Case search function (<http://appellatecases.courtinfo.ca.gov/index.html>)**

The case search function provides remote, case-by-case access to information about appellate cases. This function allows users to search for individual cases in a particular court (Supreme Court or Court of Appeal District) using the following search criteria:

- Supreme Court, Court of Appeal, or Trial Court Case Number
- Party name
- Attorney and/or law firm name
- Case caption

The following information is available for each Supreme Court case located through the case search function:

- A case summary page that includes:
  - The basic case identification information:
    - The case caption
    - The Supreme Court case number
  - The Court of Appeal case number(s)
  - The case category (i.e. review, original proceeding)
  - Start date
  - Case status
  - Issues – a summary of the issues in the case
  - Disposition date (if any)
  - Case citation (if any)
- A docket (register of actions) page that includes:
  - The basic case identification information
  - A table with court event (filings, orders, etc) dates, descriptions, and a **notes** column
- A briefs page that includes:
  - The basic case identification information
  - A table that includes a list of the briefs filed, who filed them, the date that they were filed, and a **notes** column. (Note that this is not linked with the Briefs page outside of the case information search function)
- A disposition page that includes:
  - The basic case identification information
  - A table with the disposition date and description of the disposition
  - Case citation (if any)

- A parties and attorney page that includes:
  - The basic case identification information
  - A table containing the party names and their attorney names and addresses
  
- A lower court page that includes (where applicable):
  - The basic case identification information
  - Court of Appeal District/Division
  - The Court of Appeal case number(s) – these are hyperlinks to the information about the Court of Appeal case located through the case information search function
  - The disposition
  - The disposition date
  - The trial court
  - The trial court case number

## Court of Appeal Cases

### Opinions pages (<http://www.courts.ca.gov/opinions.htm>)

The opinions pages provide the following remote, bulk access to opinions of the Court of Appeals:

- The published opinions page provides:
  - A list of all opinions certified for publication or ordered published that have been filed within the previous 120 days searchable either based on how recently they were filed or on a court-by-court basis. For each opinion on this list, there are links to a PDF and Word version of the slip opinion and a link to the results of the case search function for the case
  - A link to an archive of two years worth of slip opinions searchable on a court-by-court basis. For each opinion in this archive there are links to a PDF and Word version of the slip opinion and a link to the results of the case search function for the case
- The unpublished opinions page provides a list of all Court of Appeal opinions not certified for publication or ordered published that have been filed within the previous 60 days. For each opinion on this list there are links to a PDF and Word version of the slip opinion and a link to the results of the case search function for the case.

### Calendars

The following information about Court of Appeal calendars is available remotely on a court-by-court basis (the user must select a particular Court of Appeal District and, within the Fourth District, division):

- Bulk information about cases calendared for oral argument within a specified date range. This information is accessible through the “Calendar” tab within the case information search function (<http://appellatecases.courtinfo.ca.gov/calendar.cfm?dist=1>) The user enters a date range and the search function retrieves a list of cases calendared for oral argument during that period that includes the following:
  - The date and time of argument
  - The Court of Appeal case number, which is a hyperlink to the to the information about the case located through the case information search function
  - The case name
  - The division to which the case is assigned (if applicable)

- For most districts and the individual divisions within District 4, a link to a document in PDF format showing the dates for oral argument in that court in 2014. These documents are all accessible at the “Calendars” link under the Courts/Courts of Appeal/District tabs (see, for example <http://www.courts.ca.gov/11668.htm>). For the First and Second Districts, these documents also appear at the “Calendar” tab within the case information search function. The format and content of these documents varies.
- Also at the “Calendars” link under the Courts/Courts of Appeal/District tabs are the following:
  - Links labeled as “full text calendars published in the last 120 days (calendars with presiding justice information).” For districts four, five and six, these links provide access to documents in PDF (and sometimes word) format that show the cases scheduled to be argued on particular calendar dates (see, for example <http://www.courts.ca.gov/12016.htm> and <http://www.courts.ca.gov/12020.htm>). The format and content of these documents varies. For the other districts, the following message appears: “There were no calendars filed in the last one hundred twenty days”
  - Links labeled as “Search for tentative calendars” This link brings the user to a page that provides a list of all “full text calendars published in the last 120 days” for the Supreme Court and Court of Appeal searchable on a court-by-court basis. However, since such calendars are posted only for districts four, five, and six, no information for districts one, two, or three appears in this search function.

### **Case search function (<http://appellatecases.courtinfo.ca.gov/index.html>)**

The case search function provides remote, case-by-case access to information about appellate cases. This function allows users to search for individual cases in a particular court (the user must know the court - Supreme Court or Court of Appeal District) using the following search criteria:

- Supreme Court, Court of Appeal, or Trial Court Case Number
- Party name
- Attorney and/or law firm name
- Case caption

The following information is available for each Court of Appeal case located through the case search function:

- A case summary page that includes:
  - The basic case identification information:

- The case caption
- The Court of Appeal case number
- Court of Appeal District
- The Court of Appeal division to which the case is/was assigned, if applicable
- The trial court case number (if applicable)
- The Supreme Court case number (if applicable)
- Any opinion issued
- The case type (i.e. civil, criminal, juvenile)
- Filing date
- Oral argument date/time (if applicable)
  
- A docket (register of actions) page that includes:
  - The basic case identification information
  - A table with court event (filings, orders, etc) dates, descriptions, and a **notes** column
  
- A briefs page that includes:
  - The basic case identification information
  - A table identifying any briefs filed, who filed them, the date that they were filed, and a **notes** column.
  
- A future events page that includes:
  - The basic case identification information
  - A table identifying future events scheduled in the case, which includes a **notes** column.
  
- A disposition page that includes (where applicable):
  - The basic case identification information
  - A description of the disposition
  - The date of disposition
  - The case status
  - The opinion publication status
  - The opinion author
  - The other justices participating in the opinion
  - The case citation (if any)
  
- A parties and attorney page that includes:
  - The basic case identification information
  - A table containing the party names and their attorney names and addresses
  
- A trial court page that includes (where applicable):
  - The basic case identification information
  - The trial court case name

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- The trial court county
- The trial court case number
- The trial court judge's name
- The trial court judgment date