

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue . San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT SPR19-__

Title

Appellate Procedure: Service Copy of a Petition for Review

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 8.500

Proposed by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

Information Technology Advisory Committee

Hon. Sheila F. Hanson, Chair

Hon. Louis R. Mauro, Vice-Chair

Action Requested

Review and submit comments by June 7, 2019

Proposed Effective Date

January 1, 2020

Contact

Kristi Morioka
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Executive Summary

To update court procedures and provide clarity, the Appellate Advisory Committee and the Information Technology Advisory Committee propose amending the rule regarding petitions for review in the California Supreme Court to remove the requirement to send to the Court of Appeal a separate service copy of an electronically filed petition for review. Under current practice, when a petition for review is accepted for electronic filing by the Supreme Court, the Court of Appeal automatically receives a filed/endorsed copy of the petition through the electronic filing service provider (EFSP). Thus, in actual practice, the electronic filing of a petition satisfies the requirement to serve the Court of Appeal, and there is no need for a petitioner to serve the Court of Appeal with another copy as required by the rules. This proposal does not change the requirement to serve the Court of Appeal with a separate copy if a petition for review is filed in paper form. This project originated from a suggestion submitted by an appellate court administrator.

Background

Rule 8.500 governs petitions for review in the Supreme Court. Subdivision (f)(1) of this rule provides that “[t]he petition must also be served on the superior court clerk and the

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. It is circulated for comment purposes only.

clerk/executive officer of the Court of Appeal.”¹ This requirement has existed in the rule since it was adopted as rule 28 on January 1, 2003.²

However, pursuant to rule 8.71 and rules 3 and 4 of the Supreme Court Rules Regarding Electronic Filing, electronic filing in the Supreme Court is now mandatory for parties represented by counsel and voluntary for self-represented litigants and trial courts. As a result, a large majority of petitions for rehearing are now filed electronically.

Notably, the Supreme Court has recognized the redundancy of requiring separate service on the Court of Appeal of an electronically filed petition. On its web page, the Supreme Court provides this advisement:

Notwithstanding the requirements set forth in California Rules of Court, Rule 8.500(f)(1), submission of a petition for review through TrueFiling that is accepted for filing by the Supreme Court constitutes service of the petition on the Court of Appeal.

The Proposal

This proposal would clarify that when a petition for review is filed electronically, the filer does not need to serve a separate copy on the Court of Appeal. When a petition for review is filed in paper, however, the clerk/executive officer of the Court of Appeal must still be served.

This proposal is intended to eliminate duplicative and unnecessary effort by counsel, self-represented litigants, and appellate court staff. The current EFSP automatically sends a copy of the petition for review to the clerk/executive officer of the Court of Appeal when it is filed electronically. But the rules require the filer to serve the clerk/executive officer of the Court of Appeal. This causes additional effort and expense for the filer and additional workload for the clerk/executive officer of the Court of Appeal.

The committee proposes amending rule 8.500(f)(1) as follows:

The petition must also be served on the superior court clerk and, if filed in paper format, the clerk/executive officer of the Court of Appeal. Electronic filing of a petition constitutes service of the petition on the clerk/executive officer of the Court of Appeal.

Alternatives Considered

The committee considered maintaining the current requirements that parties serve the Courts of Appeal separately. The committee concluded that these rule changes are appropriate because they eliminate unnecessary and duplicative effort and expense.

¹ An advisory committee comment clarifies that the service requirement applies only to the petition, not to an answer or a reply.

² Rule 28 was renumbered as rule 8.500 in 2007.

Fiscal and Operational Impacts

This proposal should not have appreciable implementation costs and should save court resources by eliminating duplicate electronic filings.

Request for Specific Comments

In addition to comments on the proposal as a whole, the committees are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Cal. Rules of Court, rule 8.550, at p. 4

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Title 8. Appellate Rules

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

Chapter 9. Proceedings in the Supreme Court

Rule 8.500. Petition for review

(a) – (e) * * *

(f) Additional requirements

(1) The petition must also be served on the superior court clerk and, if filed in paper format, the clerk/executive officer of the Court of Appeal. Electronic filing of a petition constitutes service of the petition on the clerk/executive officer of the Court of Appeal.

(2)-(3) * * *

(g) * * *



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date

February 15, 2019

Action Requested

Please review before committee meeting on
 February 21, 2019

To

Members of the Appellate Advisory
 Committee

Deadline

February 21, 2019

From

Kristi Morioka,
 Attorney, Legal Services

Contact

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 916-643-7056 phone
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Subjects

Rules modernization: Uniform formatting
 rules for electronic documents

Introduction

This proposal to circulate for public comment combines items 6 and part of item 15 from the Appellate Advisory Committee's annual agenda, Rules modernization: Uniform formatting rules for electronic documents. This is a priority 1 project with a completion date of January 1, 2020, when the proposed rule amendments would take effect. Attached for the committee's review is the draft Invitation to Comment and proposed amendments to California Rules of Court, rules 8.40, 8.44, 8.71, 8.72, 8.74, 8.204, and 8.252. JATS recommends that the committee move forward with circulating this proposal for public comment.

Background / Draft Revisions

On August 30, 2018, JATS met and considered potential topics for proposals to be developed during the 2019 rules cycle. In a prior cycle, certain projects had been suggested for rules regarding exhibits and bookmarking of electronic documents, but JATS members realized those projects identified a larger need. All appellate courts had implemented e-filing, but local rules

February 15, 2019

Page 2

for the format of electronic documents differed among the appellate courts, resulting in burdens for court users. JATS decided to develop uniform format rules for electronic documents filed in the appellate courts.

On February 4, 2019, JATS met to consider revisions regarding amendments to rules 8.40, 8.44, 8.71, 8.72, 8.74, 8.204, and 8.252 on uniform formatting for electronic documents and drafted proposed rule changes for these specific rules.

The Invitation for Comment lays out each individual rule and proposed changes considered by the subcommittee with specificity.

Committee action

The committee should review the attached draft invitation to comment and:

- Approve the proposals as presented and recommend to RUPRO that the invitation to comment, as proposed or as further revised by the committee, be approved for circulation;
- Reject the proposal; or
- Ask staff or committee members for further information/analysis.

Attachments

1. Proposed Invitation to Comment on Appellate Procedure: Rules Modernization, Uniform Formatting Rules for electronic Documents
2. Proposed amendments to California Rules of Court, rules 8.40, 8.44, 8.71, 8.72, 8.74, 8.204, and 8.252.

INVITATION TO COMMENT
SPR19-__

Title

Appellate Procedure: Rules Modernization,
Uniform Formatting Rules for Electronic
Documents

Proposed Rules, Forms, Standards, or Statutes

Amend California Rules of Court, rules 8.40,
8.44, 8.71, 8.72, 8.74, 8.204, and 8.252

Proposed by

Appellate Advisory Committee
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Action Requested

Review and submit comments by June 7, 2019

Proposed Effective Date

January 1, 2020

Contact

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Executive Summary

To provide consistency and clarity, the Appellate Advisory Committee and the Information Technology Advisory Committee propose revising California Rules of Court, rules 8.40, 8.44, 8.71, 8.72, 8.74, 8.204, and 8.252 to create uniform formatting rules for electronic documents filed in the appellate courts. The rules currently provide some formatting requirements for electronic documents, but they do not include various local rule requirements such as bookmarking. Moreover, local rules around the state differ in their requirements and scope. By establishing uniform, comprehensive rules for all appellate courts, this proposal will ease the burden on filers caused by differing format rules. This project initially focused on rules for exhibits and bookmarking, but was expanded in scope to include other format requirements. It originated from a suggestion by a member of the Joint Appellate Technology Subcommittee of the Appellate Advisory Committee and the Information Technology Advisory Committee.

Background

Various appellate districts of the Courts of Appeal implemented electronic filing at different times. As each court did so, it adopted its own set of local rules addressing the format requirements for electronic documents. While there are similarities among the local rules, they differ in various respects. Over the years, best practices have begun to emerge for the format of electronic documents. At the same time, court users have complained that the differing format rules among the appellate courts impose significant burdens on practice.

A more limited rules amendment project began in 2017, but was deferred; the current proposal is expanded in scope. The proposed amendments include both substantive and technical changes to the existing rules for the format of electronic documents in appellate courts. Uniform format rules would provide consistency, clarity, and efficiency.

The Proposal

Though this proposal recommends amendments to seven rules, most of the amendments are to rule 8.74. That rule currently sets forth responsibilities of electronic filers but also establishes certain minimum format requirements for electronic documents. This proposal would remove the filer responsibility provisions from 8.74 and add them to the court responsibility provisions in rule 8.72, and significantly expand the format provisions in rule 8.74. As expanded, rule 8.74 would establish the specific format requirements currently articulated in local rules, such as standards for cover pages, pagination, and bookmarks.

Rule 8.40. Form of filed documents

Rule 8.40 governs the form of filed documents. The current rule provides that filed documents may be produced on a computer or be typewritten.

The proposed amendments would create different subdivisions for electronic and paper documents, would reference the format rules applicable to those different types of documents, and would clarify that certain unchanged format requirements only apply to paper. The rule would be amended to provide that e-filing is mandatory unless an exemption applies.

Rule 8.44. Number of copies of filed documents

Rule 8.44 sets forth the rules for paper copies in the California Supreme Court and the Courts of Appeal, and in subdivision (c) addresses electronic copies. Among other things, it refers to a court that “permits” electronic filing, and it requires a local rule specifying the format of an electronic copy. Because e-filing is now mandatory, and the format of electronic documents is addressed in proposed rule 8.74, the proposal deletes those outdated references.

Rule 8.71. Electronic filing

Rule 8.71 imposes mandatory e-filing, but it allows for various exemptions, including those established by local rule. The proposal would delete the reference to exemption by local rule, and add the Supreme Court Rules Regarding Electronic Filing in subdivision (a), as follows: “Except as otherwise provided by these rules, the Supreme Court Rules Regarding Electronic

Filing, the local rules of the reviewing court, or by court order, all parties are required to file all documents electronically in the reviewing court.”

Rule 8.72. Responsibilities of the court

Rule 8.72 sets forth the e-filing responsibilities of a court. The proposal takes the provisions for the responsibilities of electronic filers from current rule 8.74 and moves them to rule 8.72 in a new subdivision (b), thereby combining the responsibilities of court and filer into a single rule, and leaving rule 8.74 to address format. The proposal also deletes current rule subdivisions 8.72(b)(1) and (b)(2) as no longer needed.

Rule 8.74. Responsibilities of electronic filer

The proposal amends rule 8.74 to establish uniform formatting rules for electronic documents filed with the appellate courts and proposes to change the title of the section accordingly. Rule 8.74(a) currently establishes the responsibilities of an electronic filer. As previously discussed, this proposal moves the content of subdivision (a) to rule 8.72. Current rule 8.74(b) authorizes appellate courts to establish requirements for electronic documents, but it sets forth certain minimum format standards such as text-searchability. The proposal retains some of the existing language, moves it to a new proposed subdivision (a), and significantly expands the format requirements by drawing from the best practices developed among the appellate courts through their local rules. The expanded format rules address topics such as bookmarking, protection of sensitive information, file size, manual filing, font, spacing, margins, hyperlinks and color. The proposal adds a new subdivision (b) to address specific format requirements for briefs, requests for judicial notice, appendices, agreed statements and settled statements, reporter’s transcripts, clerk’s transcripts, exhibits and sealed and confidential records. Subdivision (c) provides that a court will reject an electronic filing if the formatting rules are not followed and provides that an electronic filer can file a motion for an exemption. Newly proposed subdivision (d) of rule 8.74 provides that this rule prevails over other formatting provisions if they are in conflict.

Proposed rule 8.74(a)(1) references portable document format (PDF), a file format used to present and exchange documents reliably, independent of software, hardware or operating system. Existing California Supreme Court and Courts of Appeal local rules require documents to be in “text-searchable PDF.” To ensure text searchability, the proposal requires a filer to “convert” a paper document to electronic form, rather than scanning or printing the document.

The rules for pagination in proposed subdivision (a)(2) are consistent with the local rule pagination requirements around the state.

Proposed subdivision (a)(3) defines an electronic bookmark and includes requirements for bookmarking specified parts of a document. A new advisory committee comment provides examples of what is intended by the requirement that the bookmark contain a brief description of the item to which it is linked.

Proposed subdivision (a)(4) requires protection of sensitive information found in other rules, namely, rules 1.201, 8.45, 8.46, 8.47 and 8.401.

Proposed subdivision (a)(5) sets a file-size limit of 25 megabytes. The 25-megabyte limit is the current capacity of the Appellate Court Case Management System (ACCMS).

Proposed subdivision (a)(6) describes manual filing of oversized documents or documents that otherwise cannot be electronically filed. The proposal permits the filer to file a flash drive, DVD or compact disc (CD) with the court and then give notice of the filing. The term DVD is considered sufficiently descriptive that it is not spelled out, but the term CD is spelled out for clarity. The file types for video, audio and photographs are based on local rules and the current capacity at the courts.

Proposed subdivision (a)(7) specifies that the page size for all electronic documents must be 8-1/2 by 11 inches.

Proposed subdivision (a)(8) describes the font type and font size for electronic documents. It specifies a serif font such as Century School Book. The suggestion comes from the Court of Appeal, Second Appellate District's local rule, which seeks to promote readability.

Proposed subdivision (a)(14) specifies that a document with any color component must be manually filed rather than electronically filed. This is because color causes problems in ACCMS. The subdivision prohibits color components in electronically filed documents.

Proposed rule 8.74(b) addresses specific format requirements for certain documents. Proposed rule 8.74(b) does not repeat the general format rules when discussing the specific documents.

Rule 8.204. Contents and form of briefs

Rule 8.204 explains the requirements for briefs filed in the Courts of Appeal. There is only one amendment in this rule. The proposed amendment explains that briefs filed in electronic form must comply with the formatting provisions in rule 8.74(a) and (b)(1), which prevail over inconsistent provisions in rule 8.204(b).

Rule 8.252. Judicial notice; filings and evidence on appeal

Rule 8.252 establishes the procedure for seeking judicial notice of a matter. The proposed amendment would require the moving party to attach to the motion a copy of the matter to be noticed or an explanation why it is not practicable to do so. In addition, the proposed amendment would specify that the motion with attachments must comply with rule 8.74 if filed in electronic form.

Proposed rule 8.252(c)(3) is reorganized to reflect the presumption of electronic filing unless an exemption applies.

Alternatives Considered

The committee considered deferring action, but determined that the experience of the Supreme Court and the Courts of Appeal thus far warranted action. The revised rules will provide uniform guidance to litigants and practitioners and will give the appellate courts time to amend their local rules accordingly.

Rule 8.124 [appendixes], 8.144 [form of the record], and 8.212 [service and filing of briefs] were reviewed, and it was determined that amendments to those rules are not needed at this time.

Fiscal and Operational Impacts

The proposed changes are intended to make electronic formatting rules consistent in the appellate courts. The committees anticipate efforts will be needed to amend local rules to make them consistent with these proposals.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Are there terms that need further reference or definition, such as the words “omission page” or file-type references like .mp3 or hyperlink?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 6 months from Judicial Council-approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Cal. Rules of Court, rules 8.40, 8.44, 8.71, 8.72, 8.74, 8.204, and 8.252, at pages X–XX.

1 Title 8. Appellate Rules

2

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

4

5 Chapter 1. General Provisions

6

7 Article 2. Service, Filing, Filing Fees, Form, and Privacy

8

9

10 Rule 8.40. Form of filed documents

11

12 (a) Form of electronic documents

13

14 ~~Except as these rules provide otherwise, documents filed in a reviewing court may be~~

15 ~~either produced on a computer or typewritten and must comply with the relevant~~

16 ~~provisions of rule 8.204(b).~~

17

18 Pursuant to rule 8.71(a), a document filed in a reviewing court must be in electronic

19 form unless these rules provide otherwise. An electronic document must comply

20 with the relevant format provisions of this rule and rules 8.74, 8.144 and 8.204.

21

22 ~~(b) Cover color~~

23 (b) Form and cover color of paper documents

24

25 (1) To the extent these rules authorize the filing of a paper document in a

26 reviewing court, the document must comply with the relevant format

27 provisions of this rule and rules 8.144 and 8.204.

28

29 (2) ~~(1)~~ As far as practicable, the covers of briefs and petitions filed in paper form

30 must be in the following colors:

31

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
Petition for transfer of appellate division case to Court of Appeal	White
Answer to petition for transfer of appellate division case to Court of Appeal	Blue
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

- 1
2 (23) In appeals under rule 8.216, the cover of a combined respondent's brief and
3 appellant's opening brief filed in paper form must be yellow, and the cover
4 of a combined reply brief and respondent's brief filed in paper form must be
5 tan.
6
7 (34) A paper brief or petition not conforming to ~~(1) or (2)~~ or (3) must be accepted
8 for filing, but in case of repeated violations by an attorney or party, the court
9 may proceed as provided in rule 8.204(e)(2).
10

11 (c) **Cover information for electronic and paper documents**
12

- 13 (1) Except as provided in (2), the cover—or first page if there is no cover—of
14 every document filed in a reviewing court must include the name, mailing
15 address, telephone number, fax number (if available), e-mail address (if
16 available), and California State Bar number of each attorney filing or joining
17 in the document, or of the party if he or she is unrepresented. The inclusion
18 of a fax number or e-mail address on any document does not constitute
19 consent to service by fax or e-mail unless otherwise provided by law.
20
21 (2) If more than one attorney from a law firm, corporation, or public law office
22 is representing one party and is joining in the document, the name and State
23 Bar number of each attorney joining in the document must be provided on
24 the cover. The law firm, corporation, or public law office representing each
25 party must designate one attorney to receive notices and other
26 communication in the case from the court by placing an asterisk before that
27 attorney's name on the cover and must provide the contact information
28 specified under (1) for that attorney. Contact information for the other
29 attorneys from the same law firm, corporation, or public law office is not
30 required but may be provided.
31
32 (3) The covers of electronic documents must also comply with the provisions of
33 rule 8.74.
34

35 **Rule 8.44. Number of copies of filed documents**
36

37 (a)–(b) * * *

38
39 (c) **Electronic copies of paper documents**
40

41 ~~A court that permits electronic filing will specify any requirements regarding~~
42 ~~electronically filed documents in the electronic filing requirements published under~~
43 ~~rule 8.74. In addition, Even when filing a paper document is permissible, a court~~

1 may provide by local rule for the submission of an electronic copy of a document
2 ~~that is not electronically filed~~ the paper document either in addition to the copies of
3 the document required to be filed under (a) or (b) or as a substitute for one or more
4 of these copies. The local rule must ~~specify the format of the electronic copy and~~
5 provide for an exception if it would cause undue hardship for a party to submit an
6 electronic copy.
7

1 Title 8. Appellate Rules

2

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

4

5 Chapter 1. General Provisions

6

7 Article 5. E-filing

8

9

10 Rule 8.71. Electronic filing

11

12 (a) Mandatory electronic filing

13

14 Except as otherwise provided by these rules, the Supreme Court Rules Regarding

15 Electronic Filing, ~~the local rules of the reviewing court~~, or by court order, all parties

16 are required to file all documents electronically in the reviewing court.

17

18 (b)-(g) * * *

19

20

21 Rule 8.72. Responsibilities of court and electronic filer

22

23 (a) ~~Publication of electronic filing requirements~~ Responsibilities of court

24

25 (1) Publication of electronic filing requirements

26

27 The court will publish, in both electronic and print formats, the court's electronic

28 filing requirements.

29

30 ~~(b)-(2)~~ Problems with electronic filing

31

32 If the court is aware of a problem that impedes or precludes electronic filing, it must

33 promptly take reasonable steps to provide notice of the problem.

34

35 (b) Responsibilities of electronic filer

36

37 Each electronic filer must:

38

39 ~~(1) Comply with any court requirements designed to ensure the integrity of~~

40 ~~electronic filing and to protect sensitive personal information;~~

41

42 ~~(2) Furnish information that the court requires for case processing;~~

43

1 ~~(3)~~(1) Take all reasonable steps to ensure that the filing does not contain computer
 2 code, including viruses, that might be harmful to the court's electronic filing
 3 system and to other users of that system;

4
 5 ~~(4)~~(2) Furnish one or more electronic service addresses, in the manner specified by
 6 the court, at which the electronic filer agrees to accept service; and

7
 8 ~~(5)~~(3) Immediately provide the court and all parties with any change to the
 9 electronic filer's electronic service address.

10
 11
 12 **Rule 8.74. Responsibilities of electronic filer Format of electronic documents**

13
 14 ~~(a) Conditions of filing~~

15
 16 ~~Each electronic filer must:~~

17
 18 ~~(1) Comply with any court requirements designed to ensure the integrity of electronic~~
 19 ~~filing and to protect sensitive personal information;~~

20
 21 ~~(2) Furnish information that the court requires for case processing;~~

22
 23 ~~(3) Take all reasonable steps to ensure that the filing does not contain computer code,~~
 24 ~~including viruses, that might be harmful to the court's electronic filing system and to~~
 25 ~~other users of that system;~~

26
 27 ~~(4) Furnish one or more electronic service addresses, in the manner specified by the~~
 28 ~~court, at which the electronic filer agrees to accept service; and~~

29
 30 ~~(5) Immediately provide the court and all parties with any change to the electronic filer's~~
 31 ~~electronic service address.~~

32
 33 ~~(b) Format of documents to be filed electronically~~

34
 35 ~~(1) A document that is filed electronically with the court must be in a format specified by~~
 36 ~~the court unless it cannot be created in that format.~~

37
 38 ~~(2) The format adopted by a court must meet the following minimum requirements:~~

39
 40 ~~(A) The format must be text-searchable while maintaining original document formatting.~~

41
 42 ~~(B) The software for creating and reading documents must be in the public domain or~~
 43 ~~generally available at a reasonable cost.~~

1
2 ~~(C) The printing of documents must not result in the loss of document text, format, or~~
3 ~~appearance.~~

4
5 ~~(3) The page numbering of a document filed electronically must begin with the first page~~
6 ~~or cover page as page 1 and use only Arabic numerals (e.g., 1, 2, 3). The page number~~
7 ~~may be suppressed and need not appear on the cover page.~~

8
9 ~~(4) If a document is filed electronically under the rules in this article and cannot be~~
10 ~~formatted to be consistent with a formatting rule elsewhere in the California Rules of~~
11 ~~Court, the rules in this article prevail.~~

12
13 **(a) Format requirements applicable to all electronic documents**

14
15 (1) Text-searchable portable document format. Electronic documents must be in
16 text-searchable portable document format (PDF) while maintaining the
17 original document formatting. An electronic filer is not required to use a
18 specific vendor, technology, or software for creation of a searchable format
19 document, unless the electronic filer agrees to such use. The software for
20 creating and reading electronic documents must be in the public domain or
21 generally available at a reasonable cost. If an electronic filer must file a
22 document that the electronic filer possesses only in paper format, the
23 electronic filer must convert the document to an electronic document by a
24 means that complies with this rule. The printing of an electronic document
25 must not result in the loss of document text, format, or appearance. It is the
26 electronic filer's responsibility to ensure that any document filed is complete
27 and readable.

28
29 (2) Pagination. The electronic page counter for the electronic document must
30 match the page number for each page of the document. The page numbering
31 of a document filed electronically must begin with the first page or cover page
32 as page 1 and use only Arabic numerals (e.g., 1, 2, 3). Documents may not
33 contain more than one numbering system; they may not contain Roman
34 numerals for the table of contents and Arabic numerals for the body of the
35 document. The page number for the cover page may be suppressed and need
36 not appear on the cover page. When a document is filed in both paper and
37 electronic formats, the pagination in both versions must comply with this
38 subparagraph.

39
40 (3) Bookmarking. An electronic bookmark is a descriptive text link that appears
41 in the bookmarks panel of an electronic document. Each electronic
42 document must include an electronic bookmark to each heading,
43 subheading, and to the first page of any component of the document,

1 including but not limited to any table of contents, table of authorities,
2 petition, verification, points and authorities, declaration, certificate of word
3 count, certificate of interested entities or persons, proof of service, tab,
4 exhibit, or attachment. Each electronic bookmark must briefly describe the
5 item to which it is linked. For example, an electronic bookmark to a heading
6 must provide the text of the heading, and an electronic bookmark to a tab,
7 exhibit, or attachment must include the letter or number of the tab, exhibit,
8 or attachment and a brief description of the tab, exhibit, or attachment. An
9 electronic appendix must have bookmarks to the indexes and to the first
10 page of each separate exhibit or attachment. Tabs, exhibits, or attachments
11 within a tab, exhibit, or attachment must be bookmarked. All bookmarks
12 must be set to "Inherit Zoom," or its functional equivalent, to retain the
13 reader's selected zoom setting.

14
15 (4) Protection of sensitive information. Electronic filers must comply with rules
16 1.201, 8.45, 8.46, 8.47, and 8.401; regarding the protection of sensitive
17 information, except for those requirements exclusively applicable to paper
18 format.

19
20 (5) Size and multiple files. An electronic filing may not be larger than 25
21 megabytes. This rule does not change the limitations on word count or
22 number of pages otherwise established by the California Rules of Court for
23 documents filed in the court. Unless a 300-page limit applies to the volumes
24 of an electronic document (see, e.g., rules 8.124(d)(1), 8.144(b)(6)), a file
25 may exceed 300 pages so long as it does not exceed 25 megabytes. If a
26 document exceeds the 25-megabyte file-size limitation, the electronic filer
27 must submit the document in more than one file, with each file 25
28 megabytes or less. The first file must include a master chronological and
29 alphabetical index stating the contents for all files. Each file must have a
30 cover page setting forth (a) the file number for that file, (b) the total number
31 of files for that document, and (c) the page numbers contained in that file.
32 (Example: File 1 of 4, pp. 1 to 400.) In addition, each file must be paginated
33 consecutively across all files in the document, including the cover pages for
34 each file. (For example, if the first file ends on page 400, the cover of the
35 second file must be page 401.) If a multiple-file document is submitted to
36 the court in both electronic and paper formats, the cover pages for each file
37 must be included in the paper documents.

38
39 (6) Manual Filing.

40
41 (A) When an electronic filer seeks to file an electronic document
42 consisting of more than five files, or when the document cannot or
43 should not be electronically filed in multiple files, or when

1 electronically filing the document would cause undue hardship, the
2 document must not be electronically filed but must be manually filed
3 with the court on electronic media such as a flash drive, DVD or
4 compact disc (CD). When an electronic filer files one or more
5 documents on electronic media such as a flash drive, DVD or CD
6 with the court, the electronic filer must electronically file, on the
7 same day, a “manual filing notification” notifying the court and the
8 parties that one or more documents have been filed on electronic
9 media, explaining the reason for the manual filing. The electronic
10 media must be served on the parties in accordance with the
11 requirements for service of paper documents. To the extent
12 practicable, each document or file on the electronic media must
13 comply with the format requirements of this rule.

14
15 (B) Electronic media files such as audio, video, or PowerPoint, and
16 documents containing photographs or any color component, must be
17 manually filed. Audio files must be filed in .wav or mp3 format.
18 Video files must be filed in .avi or mp4 format. Photographs must be
19 filed in .jpg, .png, .tif, or .pdf format.

20
21 (7) Page size. All documents must have a page size of 8-1/2 by 11 inches.

22
23 (8) Font. The font style must be a proportionally spaced serif face, such as
24 Century School Book. Do not use Times New Roman. Font size must be 13-
25 point, including in footnotes.

26
27 (9) Spacing. Lines of text must be one-and-a-half-spaced. Footnotes and
28 quotations may be single-spaced.

29
30 (10) Margins. The margins must be set at 1-1/2 inches on all sides.

31
32 (11) Alignment. Paragraphs must be left-aligned, not justified.

33
34 (12) Hyperlinks. Hyperlinks are encouraged but not required. However, if an
35 electronic filer elects to include hyperlinks in a document, the hyperlink
36 must be active as of the date of filing and should be formatted to standard
37 citation format as provided in the California Rules of Court.

38
39 (13) Tabs. Documents must include tabs to the extent required by the California
40 Rules of Court. A tab must be a separate page identifying the content
41 following the tab (such as a page stating “Exhibit A”).
42

1 (14) No color. Notwithstanding provisions to the contrary in the California Rules
2 of Court, an electronic document with any color component may not be
3 electronically filed. It must be manually filed on electronic media. An
4 electronically filed document must not have color covers, color signatures,
5 or other color components absent leave of court. This requirement does not
6 apply to the auto-color feature of hyperlinks.

7
8 **(b) Additional format requirements for certain electronic documents**

9
10 (1) Brief. An electronic brief must comply with the requirements set forth in
11 rule 8.204, except for the requirements exclusively applicable to paper
12 format including the provisions in rule 8.204(b)(2), (4), (5), and (6). This
13 rule sets forth the font, spacing, and margin requirements for electronic
14 documents.

15
16 (2) Request for judicial notice or request or motion supported by documents.
17 When seeking judicial notice of documents or when a request or motion is
18 supported by documents, the electronic filer must attach the documents to
19 the request or motion. The request or motion with attachments must comply
20 with this rule.

21
22 (3) Appendix. The format of an appendix must comply with this rule, rule
23 8.124(d) and rule 8.144 pertaining to clerk's transcripts.

24
25 (4) Agreed statement and settled statement. The format for an agreed statement
26 or a settled statement must comply with this rule and rules 8.144 and
27 8.124(d).

28
29 (5) Reporter's transcript and clerk's transcript. The format for an electronic
30 reporter's transcript must comply with Code of Civil Procedure section 271
31 and rule 8.144. The format for an electronic clerk's transcript must comply
32 with this rule and rule 8.144.

33
34 (6) Exhibits. Electronic exhibits must be submitted in volumes no larger than 25
35 megabytes, rather than as individual documents.

36
37 (7) Sealed and confidential records. Pursuant to rule 8.45(c)(1), electronic
38 records that are confidential or under seal must be filed separately. If one or
39 more pages are omitted from a source document and filed separately as a
40 sealed or confidential record, an omission page must be inserted in the
41 source document at the location of the omitted page or pages. The omission
42 page must identify the type of pages omitted. The omission page must be
43 paginated consecutively with the rest of the source document, it must be

Title 8. Appellate Rules

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

Chapter 1. General Provisions

Article 3. Briefs in Court of Appeal

Rule 8.204. Contents and form of briefs

(a) Contents

(1) Each brief must:

(A) Begin with a table of contents and a table of authorities separately listing cases, constitutions, statutes, court rules, and other authorities cited;

(B) State each point under a separate heading or subheading summarizing the point, and support each point by argument and, if possible, by citation of authority; and

(C) Support any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears. If any part of the record is submitted in an electronic format, citations to that part must identify, with the same specificity required for the printed record, the place in the record where the matter appears.

(2) An appellant's opening brief must:

(A) State the nature of the action, the relief sought in the trial court, and the judgment or order appealed from;

(B) State that the judgment appealed from is final, or explain why the order appealed from is appealable; and

(C) Provide a summary of the significant facts limited to matters in the record.

(b) Form

Briefs filed in electronic form must comply with the formatting provisions in rule 8.74(a) and (b)(1), which prevail over inconsistent provisions in this subdivision.

- 1 (1) A brief may be reproduced by any process that produces a clear, black
2 image of letter quality. All documents filed must have a page size of 8-1/2
3 by 11 inches. If filed in paper form, the paper must be white or unbleached
4 and of at least 20-pound weight.
5
- 6 (2) Any conventional font may be used. The font may be either proportionally
7 spaced or monospaced.
8
- 9 (3) The font style must be Roman; but for emphasis, italics or boldface may be
10 used or the text may be underscored. Case names must be italicized or
11 underscored. Headings may be in uppercase letters.
12
- 13 (4) Except as provided in (11), the font size, including footnotes, must not be
14 smaller than 13-point, and both sides of the paper may be used.
15
- 16 (5) The lines of text must be unnumbered and at least one-and-a-half-spaced.
17 Headings and footnotes may be single-spaced. Quotations may be block-
18 indented and single-spaced. Single-spaced means six lines to a vertical inch.
19
- 20 (6) The margins must be at least 1-1/2 inches on the left and right and 1 inch on
21 the top and bottom.
22
- 23 (7) The pages must be consecutively numbered. The page numbering must
24 begin with the cover page as page 1 and use only Arabic numerals (e.g., 1,
25 2, 3). The page number may be suppressed and need not appear on the cover
26 page.
27
- 28 (8) If filed in paper form, the brief must be filed unbound unless otherwise
29 provided by local rule or court order.
30
- 31 (9) The brief need not be signed.
32
- 33 (10) If filed in paper form, the cover must be in the color prescribed by rule
34 8.40(b). In addition to providing the cover information required by rule
35 8.40(c), the cover must state:
36
- 37 (A) The title of the brief;
38
- 39 (B) The title, trial court number, and Court of Appeal number of the
40 case;
41
- 42 (C) The names of the trial court and each participating trial judge;
43

1 (D) The name of the party that each attorney on the brief represents.
2

3 (11) If the brief is produced on a typewriter:
4

5 (A) A typewritten original and carbon copies may be filed only with the
6 presiding justice's permission, which will ordinarily be given only to
7 unrepresented parties proceeding in forma pauperis. All other
8 typewritten briefs must be filed as photocopies.
9

10 (B) Both sides of the paper may be used if a photocopy is filed; only one
11 side may be used if a typewritten original and carbon copies are
12 filed.
13

14 (C) The type size, including footnotes, must not be smaller than standard
15 pica, 10 characters per inch. Unrepresented incarcerated litigants
16 may use elite type, 12 characters per inch, if they lack access to a
17 typewriter with larger characters.
18

19 **(c) Length**
20

21 (1) A brief produced on a computer must not exceed 14,000 words, including
22 footnotes. Such a brief must include a certificate by appellate counsel or an
23 unrepresented party stating the number of words in the brief. The person
24 certifying may rely on the word count of the computer program used to
25 prepare the brief.
26

27 (2) A brief produced on a typewriter must not exceed 50 pages.
28

29 (3) The tables required under (a)(1), the cover information required under
30 (b)(10), the Certificate of Interested Entities or Persons required under rule
31 8.208, a certificate under (1), any signature block, and any attachment under
32 (d) are excluded from the limits stated in (1) or (2).
33

34 (4) A combined brief in an appeal governed by rule 8.216 must not exceed
35 double the limits stated in (1) or (2).
36

37 (5) On application, the presiding justice may permit a longer brief for good
38 cause.
39

40 **(d) Attachments to briefs**
41

42 A party filing a brief may attach copies of exhibits or other materials in the
43 appellate record or copies of relevant local, state, or federal regulations or rules,

1 out-of-state statutes, or other similar citable materials that are not readily accessible.
2 These attachments must not exceed a combined total of 10 pages, but on application
3 the presiding justice may permit additional pages of attachments for good cause. A
4 copy of an opinion required to be attached to the brief under rule 8.1115(c) does not
5 count toward this 10-page limit.

6
7 **(e) Noncomplying briefs**

8
9 If a brief does not comply with this rule:

- 10
11 (1) The reviewing court clerk may decline to file it, but must mark it "received
12 but not filed" and return it to the party; or
13
14 (2) If the brief is filed, the reviewing court may, on its own or a party's motion,
15 with or without notice:
16
17 (A) Order the brief returned for corrections and refile within a
18 specified time;
19
20 (B) Strike the brief with leave to file a new brief within a specified time;
21 or
22
23 (C) Disregard the noncompliance.
24

1 Title 8. Appellate Rules

2
3 Division 1. Rules Relating to the Supreme Court and Courts of Appeal

4
5 Chapter 2. Civil Appeals

6
7 Article 4. Hearing and Decision in the Court of Appeal

8
9
10 Rule 8.252. Judicial notice; findings and evidence on appeal

11
12 (a) Judicial notice

- 13
14 (1) To obtain judicial notice by a reviewing court under Evidence Code section
15 459, a party must serve and file a separate motion with a proposed order.
16
17 (2) The motion must state:
18
19 (A) Why the matter to be noticed is relevant to the appeal;
20
21 (B) Whether the matter to be noticed was presented to the trial court and,
22 if so, whether judicial notice was taken by that court;
23
24 (C) If judicial notice of the matter was not taken by the trial court, why
25 the matter is subject to judicial notice under Evidence Code sections
26 451, 452, or 453; and
27
28 (D) Whether the matter to be noticed relates to proceedings occurring
29 after the order or judgment that is the subject of the appeal.
30
31 (3) If the matter to be noticed is not in the record, the party must attach to the
32 motion a copy with the motion or explain a copy of the matter to be noticed
33 or an explanation of why it is not practicable to do so. The pages of the copy
34 of the matter or matters to be judicially noticed must be consecutively
35 numbered, beginning with the number 1. The motion with attachments must
36 comply with rule 8.74 if filed in electronic form.
37

38 (b) Findings on appeal

39
40 A party may move that the reviewing court make findings under Code of Civil
41 Procedure section 909. The motion must include proposed findings.
42

1 (c) Evidence on appeal

2
3 (1) A party may move that the reviewing court take evidence.

4
5 (2) An order granting the motion must:

6
7 (A) State the issues on which evidence will be taken;

8
9 (B) Specify whether the court, a justice, or a special master or referee
10 will take the evidence; and

11
12 (C) Give notice of the time and place for taking the evidence.

13
14 (3) For documentary evidence, a party may offer ~~the original, a certified copy, a~~
15 ~~photocopy, or, in a case in which electronic filing is permitted, an electronic~~
16 ~~copy, or if filed in paper form, the original, a certified copy, or a photocopy.~~
17 The court may admit the document into evidence without a hearing.