JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS
455 Golden Gate Avenue
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Report

TO: Members of the Judicial Council

FROM: Appellate Advisory Committee
Hon. Kathryn Doi Todd, Chair
Heather Anderson, Senior Attorney, 415-865-7691
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DATE: August 9, 2006

SUBJECT: Appellate Procedure: General Appellate Procedures (amend Cal. Rules of Court, rules 8.18, 8.25, 8.32, 8.40, 8.44, 8.50, 8.60, 8.63, 8.66, 8.240, 8.252, and 8.300) (Action Required)[1]

Issue Statement
Initial reviewers of the proposed overall reorganization and renumbering of the California Rules of Court identified a number of rules relating to appellate procedure that were unclear and might be confusing for rule users.

Recommendation
The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2007:

1. Amend rule 8.18 and the accompanying advisory committee comment to clarify that the sanctions specified in this rule do not apply to situations in which a party files a nonconforming brief or fails to file a brief;

2. Amend rule 8.25 to clarify the requirements for proof of service;

3. Amend rule 8.32 to clarify what a court will consider as the address and telephone number of record for an attorney or unrepresented party;

[1] At the June 30, 2006, meeting, the Judicial Council approved the reorganization and renumbering of the California Rules of Court and Standards of Judicial Administration, effective January 1, 2007. Under the reorganization, the appellate rules that were numbered 1 et seq. have been renumbered as rules 8.1 et seq., and new format conventions have been adopted. Hence, the rule amendments are shown throughout this proposal using the new rule numbers that will become effective January 1, 2007. The rules in this proposal were renumbered as follows: rule 8.18 is former rule 46; rule 8.25 is former rule 40.1; rule 8.32 is former rule 40.5; rule 8.40 is former rule 44(a) and (c)–(d); rule 8.44 is former rule 44(b); 8.50 is former rule 43; rule 8.60 is former rule 45; rule 8.63 is former rule 45.5; rule 8.66 is former rule 45.1; rule 8.240 is former rule 19; rule 8.252 is former rule 22; and rule 8.300 is former rule 76.5.

4. Amend rule 8.40 to clarify the cross-reference to rule 8.20 by adding a reference to the specific relevant subdivision;

5. Add a new advisory committee comment to rule 8.44 to clarify that its requirements concerning the number of copies of documents that must be filed do not apply to filing of the record;

6. Amend rules 8.50, 8.60, and 8.63 to replace references to demonstrating "exceptional good cause" with references to an "exceptional showing of good cause" and add or amend Advisory Committee comments to these rules to clarify that this special showing applies in certain juvenile proceedings;

7. Further amend rule 8.60 to clarify that an attorney is only required to serve a copy of an application to extend time on his or her own client or clients;

8. Add a new advisory committee comment to rule 8.66 to clarify that the Chief Justice of the Supreme Court is the Chair of the Judicial Council;

9. Amend rule 8.240 to add a definition of "calendar preference;"

10. Add a new advisory committee comment to rule 8.252 to clarify that the authority for the Court of Appeal to take evidence and make findings should be used sparingly; and

11. Amend rule 8.300 to simplify the rule language and amend the advisory committee comment to indicate where the appointment criteria adopted by the Appellate Indigent Defense Oversight Advisory Committee can be located.

The text of the proposed rule amendments is attached at pages 6–12.

Rationale for Recommendation

The Appellate Advisory Committee received a number of suggestions from initial reviewers of the proposed overall reorganization and renumbering of the California Rules of Court for making clarifying changes to the general appellate rules.

Nonconforming documents

Rule 8.18 requires that, except as the rules provide otherwise, clerks must not file documents that are not in compliance with the rules. This proposal amends both rule 8.18 and the accompanying advisory committee comment to clarify that one of the exceptions to this "do not file" rule is for briefs. The clerk's responsibilities when parties file nonconforming briefs or fail to timely file briefs are covered by rules 8.204 and 8.220.

Proof of service
Rule 8.25 establishes general requirements relating to serving and filing documents in reviewing courts, including requirements relating to proof of service. Currently, however, this rule does not specify on whom a proof of service must show a document was served. This proposal clarifies that a proof of service must show that a document was served on all those required to be served under rule 8.25.

Address of record
Rule 8.32 requires attorneys and unrepresented parties to notify the court when their address or telephone number changes. Currently, this rule refers to attorneys' and parties' "address of record," but does not define this term. This proposal specifies that the court will use the address and telephone number provided on the first document filed with the court as the address and telephone number of record in the proceeding unless the attorney or party notifies the court of a change. In addition, because it would be inconsistent with the approach established in this new provision, this proposal deletes from the rule current subdivision (c)(1), which specifies the consequences when an address used in a new matter is different from the address the court has on record.

Cover color
Rule 8.40 currently provides that if a party does not use the correct cover color on a document filed with the reviewing court, the must accept the document for filing, but, in the case of repeated violations, may proceed as provided in rule 8.204(e). Rule 8.204(e) contains two subdivisions, (1) and (2). Only the provisions in subdivision (2) would apply if an attorney failed to use the correct cover color. This proposal therefore amends the cross-reference in rule 8.44 so that is specifically refers to rule 8.204(e)(2).

Copies of documents filed
Rule 8.44 specifies the number of copies of documents that must be filed with the reviewing court. There is a separate rule—rule 8.150—however, that addresses the number of copies of the record that must be filed. This proposal adds a new advisory committee comment to clarify that there are exceptions to requirements of rule 8.44 regarding number of copies, including an exception for the number of copies of the record that must be filed.

Applications
Rules 8.50, 8.60, and 8.63 are general rules relating to applications in reviewing courts. All three rules currently include references to showing "exceptional good cause" when "required by these rules" to demonstrate to the court the need to grant the application. While several rules relating to appellate review of juvenile matters—rules 8.416, 8.450, 8.452, and 8.454—use a slightly different standard, requiring an "exceptional showing of good cause," there are currently no appellate rules that require that an application demonstrate "exceptional good cause." Consistent with the language in rules 8.416, 8.450, 8.452, and 8.454, this proposal therefore replaces the references to demonstrating "exceptional good cause" in 8.50, 8.60, and 8.63 with references to an "exceptional

showing of good cause." Advisory committee comments to these rules are also added or revised to clarify that this special showing applies in certain juvenile proceedings.

Rule 8.60 specifically addresses applications for extensions of time. Currently, this rule requires that an attorney filing an application or stipulation for an extension of time deliver a copy of the application or stipulation to "the client." This language could be interpreted as requiring an attorney to deliver a copy to the clients of all attorneys in the matter, not just to his or her own client. This proposal amends this language to clarify that the attorney is only required to deliver a copy of the application or stipulation to his or her own client or clients, not to the clients of other attorneys in the matter.

Chairperson of Judicial Council
Rule 8.66 establishes the authority of the Chair of the Judicial Council to extend appellate deadlines in the event of an emergency. Not all rule users may be aware that the Chief Justice of the California Supreme Court is the Chair of the Judicial Council. This proposal adds an advisory committee comment making this clear.

Calendar preference
Rule 8.240 of the California Rules of Court currently provides that a party claiming calendar preference must file a motion in the reviewing court. However, rule 8.240 does not currently define "calendar preference." This proposal defines calendar preference for purposes of rule 8.240 as an expedited appeal schedule, which may include expedited briefing and preference in setting the date of oral argument.

Findings of fact
Rule 8.252 authorizes appellate courts to take evidence and make findings on appeal. However, the Supreme Court in *In re Zeth S.* (2003) 31 Cal.4th 396 specifically indicated that this authority should be exercised sparingly. This proposal adds an advisory committee comment indicating that appellate courts should exercise this authority sparingly.

Appointment of appellate counsel
Rule 8.300 addresses appointment of appellate counsel by the Court of Appeal. This rule currently refers to the courts' distinguishing among attorneys on their appointment lists based on criteria established by the Judicial Council or its designated oversight committee. This proposal simplifies the rule language and amends the advisory committee comment to indicate that these criteria are available on the judicial branch's web site.

In addition to the changes identified above, this proposal makes several other nonsubstantive changes intended to clarify the language of these rules.

<u>Alternative Actions Considered</u>
The committee considered not addressing these suggestions at this time, but, instead, waiting until the general rules reorganization and renumbering was completed. The

committee concluded, however, that it would be preferable if these clarifying changes were incorporated into the newly reorganized rules when they take effect. As indicated below, the committee also made several modifications to its proposal to address the public comments received. In addition, the committee ultimately decided to defer recommending any amendments to rule 8.276 (formerly rule 27) at this time pending a more comprehensive review of this rule.

Comments From Interested Parties

These proposed amendments were circulated for public comment as part of the Spring 2006 comment cycle. Twelve individuals or organizations submitted comments on this proposal. Seven commentators agreed with the proposal, and five either agreed with the proposal only if modified or agreed with parts of the proposal but opposed other parts. The committee has modified its proposal to address all but one of these comments. The full text of the comments received and the committee's responses is attached on pages 13–18.

As circulated for public comment, the committee's proposal would have deleted the references in rules 8.50, 8.60, and 8.63 to showing "exceptional good cause." As reflected in the attached comment chart, the San Diego County Bar Association's Appellate Court Committee opposed deleting these references because they believed it is helpful to alert counsel that there are circumstances in which a different showing must be made. Based on this comment, the committee modified its proposal as reflected above to amend, rather than delete, these references.

As circulated for public comment, the committee's proposal would also have deleted a reference to rule 8.490(d) in the Advisory Committee Comment to rule 8.18. Mr. Dennis Fischer suggested that this reference should not be deleted because it might create the impression that rule 8.18 applies to writ petitions and supporting documents. Based on this comment, the committee revised its proposed amendments to clarify that nonconforming supporting documents accompanying a writ petition under rule 8.490 are not governed by rule 8.18.

Implementation Requirements and Costs

The clarification of these rules should eliminate uncertainty and thereby reduce costs.

Attachments

Rules 8.18, 8.25, 8.32, 8.40, 8.44, 8.50, 8.60, 8.63, 8.66, 8.240, 8.252, and 8.300 of the California Rules of Court are amended, effective January 1, 2007, to read:[2]

Rule 8.18. Documents violating rules not to be filed

Except as these rules provide otherwise, the reviewing court clerk must not file any record~~, brief,~~ or other document that does not conform to these rules.

Advisory Committee Comment

~~The proviso~~ The exception in this rule acknowledges that ~~there are exceptions to this rule~~ there are different rules that apply to certain non-conforming documents. For example, this rule does not apply to nonconforming or late briefs, which are addressed by ~~(e.g.,~~ rules 8.204 (e) and 8.220(a), respectively, ~~and~~ or to nonconforming supporting documents accompanying a writ petition under rule 8.490, which are addressed by rule 8.490(d)(2)~~)~~.

Rule 8.25. Service and filing

(a) Service

(1) Before filing any document ~~in a court~~, a party must serve, by any method permitted by the Code of Civil Procedure, one copy of the document on the attorney for each party separately represented, on each unrepresented party, and on any other person or entity when required by statute or rule.

(2) The party must attach ~~a proof of service~~ to the document presented for filing a proof of service showing service on each person or entity required to be served under (1). The proof must name each party represented by each attorney served.

(b) ***

2 These recommended amendments have been made to the version of this rule adopted by the Judicial Council at its June 30, 2006, business meeting and reflect the text that will be in effect on January 1, 2007. Any amendments adopted as part of this proposal will be incorporated into the text of the rule that goes into effect on January 1, 2007.

Rule 8.32. Address and telephone number of record; notice of change ~~of address or telephone number~~

(a) Address and telephone number of record

In any case pending before the court, the court will use the address and telephone number that an attorney or unrepresented party provides on the first document filed in that case as the address and telephone number of record unless the attorney or unrepresented party files a notice under (b).

~~(a)~~ (b) ~~Serving and filing~~ Notice of change

(1) An attorney or unrepresented party whose address or telephone number changes while a case is pending ~~in a reviewing court~~ must promptly serve and file ~~in that court~~ a written notice of the change in the court in which the case is pending.

(2) The notice must specify the title and number of the case or cases to which it applies. If an attorney gives the notice, the notice must include the attorney's California State Bar number.

~~(b)~~ (c) Matters affected by notice

~~Unless the person giving~~ If the notice ~~advises the reviewing court clerk otherwise in writing~~ under (b) does not identify the case or cases in which the new address or telephone number applies, the clerk may use the new address or telephone number as the person's address and telephone number of record in all pending and concluded cases.

~~(c)~~ (d) ~~Appearance not conforming to address of record;~~ Multiple offices

~~(1) The clerk must enter a proposed appearance in a new matter even if it shows an attorney's address different from the address of record; but the appearance is subject to being struck if, after inquiry by the court, the attorney does not promptly confirm the address or serve and file a change of address.~~

~~(2)~~ If an attorney has ~~Attorneys with two or~~ more than one offices ~~may have a corresponding number of addresses of record~~, ~~but~~ only one office address may be ~~associated with~~ used in a given case.

Rule 8.40. Form of filed documents

(a) ***

(b) Cover color

(1)–(2) ***

(3) A brief or petition not conforming to (1) or (2) must be accepted for filing, but in case of repeated violations by an attorney or party the court may proceed as provided in rule 8.204(e)(2).

(c) ***

Rule 8.44. Number of copies of filed documents

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

(a)–(b) ***

Advisory Committee Comment

The initial sentence of this rule acknowledges that there are exceptions to this rule's requirements concerning the number of copies; see, for example, rule 8.150, which specifies the number of copies of the record that must be filed.

Rule 8.50. Applications

(a) ***

(b) Contents

The application must state facts showing good cause–or making an exceptional showing of good cause, when required by these rules–for granting the application and must identify any previous application filed by any party.

(c)–(d) ***

Advisory Committee Comment

Rule 8.50 addresses applications generally. Rules 8.60, 8.63, and 8.68 address applications to extend or shorten time.

Subdivision (b): An exceptional showing of good cause is required in applications in certain juvenile proceedings under rules 8.416, 8.450, 8.452, and 8.454.

Rule 8.60. Extending time

(a) ***

(b) Extending time

~~For good cause or exceptional good cause, when required by these rules and~~ Except as these rules provide otherwise, for good cause–or on an exceptional showing of good cause, when required by these rules–the Chief Justice or presiding justice may extend the time to do any act required or permitted under these rules.

(c) Application for extension

(1) ***

(2) The application must state:

(A)–(C) ***

(D) Good cause–or an exceptional showing of good cause, when required by these rules–for granting the extension, consistent with the factors in rule 8.63(b).

(d)–(e) ***

(f) Notice to party

(1) In a civil case, counsel must deliver to ~~the~~ his or her client or clients a copy of any stipulation or application to extend time that counsel files. Counsel must attach evidence of such delivery to the stipulation or application, or certify in the stipulation or application that the copy has been delivered.

(2)–(3) ***

Advisory Committee Comment

Subdivisions(b and (c): An exceptional showing of good cause is required in applications in certain juvenile proceedings under rules 8.416, 8.450, 8.452, and 8.454.

Rule 8.63. Policies and factors governing extensions of time

(a) Policies

(1)–(2) ***

(3) For a variety of legitimate reasons, counsel may not always be able to prepare briefs or other documents within the time specified in the rules of court. To balance the competing policies stated in (1) and (2), applications to extend time in the reviewing courts must demonstrate good cause–or an exceptional showing of good cause, when required by these rules–under (b). If good cause is shown, ~~time~~ the court must ~~be extended~~ extend the time.

(b) Factors considered

In determining good cause–or an exceptional showing of good cause, when required by these rules–the court must consider the following factors when applicable:

(1)–(11) ***

Advisory Committee Comment

An exceptional showing of good cause is required in applications in certain juvenile proceedings under rules 8.416, 8.450, 8.452, and 8.454.

Rule 8.66. Extending time because of public emergency

(a)–(c) ***

Advisory Committee Comment

The Chief Justice of California is the Chair of the Judicial Council (see rule 10.2).

Rule 8.240. Calendar preference

A party ~~claiming~~ seeking calendar preference must promptly serve and file a motion for preference in the reviewing court. As used in this rule, "calendar preference" means an expedited appeal schedule, which may include expedited briefing and preference in setting the date of oral argument.

Rule 8.252. Judicial notice; findings and evidence on appeal

(a)–(b) ***

(c) Evidence on appeal

(1) ***

(2) An order granting the motion must:

(A)–(C) ***

(3) ***

Advisory Committee Comment

Subdivisions (b) and (c). Although appellate courts are authorized to take evidence and make findings of fact on appeal by Code of Civil Procedure section 909 and this rule, this authority should be exercised sparingly. (See *In re Zeth S.* (2003) 31 Cal.4th 396.)

Rule 8.300. Appointment of appellate counsel by the Court of Appeal

(a) ***

(b) List of qualified attorneys

(1) ***

(2) Each ~~The~~ court's ~~must divide its~~ appointments ~~list into at least two levels~~ must be based on ~~the attorneys' experience and qualifications, using~~ criteria approved by the Judicial Council or its designated oversight committee.

(c)-(e) ***

Advisory Committee Comment

Subdivision (b). The "designated oversight committee" referred to in subdivision (b)(2) is currently the Appellate Indigent Defense Oversight Advisory Committee. The criteria approved by this committee can be found on the judicial branch's public website at www.courtinfo.ca.gov.

SPR06-04
Appellate Procedure: General Appellate Procedures (amend Cal. Rules of Court, rules 8.240 [formerly rule 19], 8.252 [formerly rule 22], 8.25 [formerly rule 40.1], 8.32 [formerly rule 40.5], 8.50 [formerly rule 43], 8.40 [formerly rule 44(a) and (c)–(d)], 8.44 [formerly rule 44(b)], 8.60 [formerly rule 45], 8.66 [formerly rule 45.1], 8.63 [formerly rule 45.5], 8.18 [formerly rule 46], and 8.300 [formerly rule 76.5])

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Saul Bercovitch State Bar of California Committee on Appellate Courts 180 Howard Street San Francisco, CA 94105-1639	AM	Y	The Committee supports this proposal, with a few minor comments. Rule 8.32 (formerly rule 40.5) requires attorneys and unrepresented parties to notify the court of a change in address or telephone number. The proposed amendments would specify that the court will use the address and telephone number listed on the first document filed with the court as the address and telephone number of record unless the attorney or party notifies the court of a change. The Committee suggests a minor amendment to the proposed language, to specify that the court will use the address and telephone number that the attorney or party provides on the first document filed in a pending case. Subdivision (a) of rule 8.32 (formerly rule 40.5) would then read as follows: "In any case pending before the court, the court will use the address and telephone number that an attorney or unrepresented party provides on the first document filed in that case as the address and telephone number of record unless the attorney or unrepresented party files a notice under (b)."	Agree; suggested change has been incorporated into the proposal.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				Rule 8.300 (formerly rule 76.5) addresses appointment of appellate counsel by the Court of Appeal and refers to the criteria for such appointments. The Committee understands that the Administrative Office of the Courts is in the process of designing a webpage for Court Appointed Counsel, which will include these criteria. The Committee suggests that the Advisory Committee Comment to rule 8.300 (formerly rule 76.5) contain a direct link to the criteria. (In the event the Advisory Committee Comment in the final rule cites the website address of the home page of the California Courts, a minor typographical error would need to be corrected by inserting "ca" in the address.)	Agree with suggested correction in web address; this change has been made. A direct link to criteria will be substituted when it becomes available.
2.	Justice Roger W. Boren Administrative Presiding Justice Court of Appeal, Second Appellate District 300 South Spring Street Los Angeles, CA 90013	AM	N	Rule 8.300 (formerly rule 76.5), Advisory Committee Comment (typo) (sic) The Judicial Council's Appellate Indigent Defense Oversight Advisory Committee is the designated oversight committee. The criteria approved by this committee can be found on the Judicial Council's official website at www.courtininfo.ca.gov.	Agree with suggested correction in web address; this change has been incorporated into the proposal.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SPR06-04
Appellate Procedure: General Appellate Procedures (amend Cal. Rules of Court, rules 8.240 [formerly rule 19], 8.252 [formerly rule 22], 8.25 [formerly rule 40.1], 8.32 [formerly rule 40.5], 8.50 [formerly rule 43], 8.40 [formerly rule 44(a) and (c)–(d)], 8.44 [formerly rule 44(b)], 8.60 [formerly rule 45], 8.66 [formerly rule 45.1], 8.63 [formerly rule 45.5], 8.18 [formerly rule 46], and 8.300 [formerly rule 76.5])

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
3.	Ms. Sue DuFour Stanislaus County Superior Court P.O. Box 3488 Modesto, CA 95353	A	N	No specific comment.	No response needed.
4.	Ms. Deena Fawcett President California Appellate Court Clerks Association Court of Appeal, Third Appellate District 900 N Street, Room 400 Sacramento, CA 95814-4869	AM	Y	Page 8–Rule 8.32 (formerly rule 40.5) Address and telephone number of record; notice of change (c) If counsel are required to file a change of address, we object to counsel *not* being required to identify the case or cases to which the new address or telephone number applies. If we apply a notice of change of address to *all* pending cases as this rule suggests, what assurance does the court have that opposing counsel ever received word of this change? We suggest that wording be added to this rule that counsel be required to identify all pending case numbers to which the new address applies and include an original proof of service for each of those case numbers. Without this requirement in the rule, opposing counsel could submit filings that would be rejected by the appellate court because counsel was never notified of the change of address.	Subdivision (b)(2) of rule 8.32 (formerly rule 40.5), as proposed by the committee, does provide that an attorney's notice of a change in address or telephone number must specify the title and number of the case or cases to which it applies and also provides that this notice must be served and filed.Like the current rule, subdivision (c) simply provides that, if the attorney fails to provide this required information, the court may, but is not required to, use the new address and telephone number in all matters. The committee is not proposing a substantive change in this requirement, which has been in rule 8.32 (formerly rule 40.5) since 1994.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SPR06-04
Appellate Procedure: General Appellate Procedures (amend Cal. Rules of Court, rules 8.240 [formerly rule 19], 8.252 [formerly rule 22], 8.25 [formerly rule 40.1], 8.32 [formerly rule 40.5], 8.50 [formerly rule 43], 8.40 [formerly rule 44(a) and (c)–(d)], 8.44 [formerly rule 44(b)], 8.60 [formerly rule 45], 8.66 [formerly rule 45.1], 8.63 [formerly rule 45.5], 8.18 [formerly rule 46], and 8.300 [formerly rule 76.5])

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
5.	Mr. Dennis A. Fischer Certified Appellate Specialist 1448 15th Street, #206 Santa Monica, CA 90404	AM	N	I agree with all proposals (several are very helpful), with one slight qualification; the deletion from the comment to rule 8.18 (formerly rule 46) of the phrase, "revised rule 8.18(d)(2) (formerly rule 46)." Writ petitions subject to rule 56 (new rule 8.490) are not "briefs" and clerks may view the new comment as authorizing the rejection of nonconforming petitions for reasons not within rules 14 and 17 (new rules 8.204 and 8.220, respectively).	Agree. The committee has revised its proposed amendments to this advisory committee comment to clarify that the treatment of nonconforming supporting documents accompanying a writ petition under rule 56 (new rule 8.490) are not governed by rule 8.18 (formerly rule 46).
6.	Ms. Janet Garcia, Manager Planning & Research Unit Los Angeles County Superior Court 111 North Hill Street Los Angeles, CA 90012	A	Y	No specific comment.	No response needed.
7.	Mr. Nelson Lu Deputy Public Defender San Joaquin County Public Defender's Office Stockton	A	N	No specific comment.	No response needed.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SPR06-04
Appellate Procedure: General Appellate Procedures (amend Cal. Rules of Court, rules 8.240 [formerly rule 19], 8.252 [formerly rule 22], 8.25 [formerly rule 40.1], 8.32 [formerly rule 40.5], 8.50 [formerly rule 43], 8.40 [formerly rule 44(a) and (c)–(d)], 8.44 [formerly rule 44(b)], 8.60 [formerly rule 45], 8.66 [formerly rule 45.1], 8.63 [formerly rule 45.5], 8.18 [formerly rule 46], and 8.300 [formerly rule 76.5])

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
8.	Mr. Wayne Maire President California Defense Counsel 925 L Street, Suite 1250 Sacramento, CA 95814	A	Y	No specific comment.	No response needed.
9.	Ms. Julie M. McCoy President, Orange County Bar Association P.O. Box 17777 Irvine, CA 92623-7777	A	Y	No specific comment.	No response needed.
10.	Ms. Pam Moraida Civil/Small Claims Program Manager Solano County Superior Court 600 Union Avenue Fairfield, CA 94533-5000	A	N	No specific comment.	No response needed.
11.	Mr. Mike Roddy Executive Officer San Diego County Superior Court 220 West Broadway San Diego, CA 92101	A	Y	No specific comment.	No response needed.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SPR06-04
Appellate Procedure: General Appellate Procedures (amend Cal. Rules of Court, rules 8.240 [formerly rule 19], 8.252 [formerly rule 22], 8.25 [formerly rule 40.1], 8.32 [formerly rule 40.5], 8.50 [formerly rule 43], 8.40 [formerly rule 44(a) and (c)–(d)], 8.44 [formerly rule 44(b)], 8.60 [formerly rule 45], 8.66 [formerly rule 45.1], 8.63 [formerly rule 45.5], 8.18 [formerly rule 46], and 8.300 [formerly rule 76.5])

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
12.	Ms. Carmela F. Simoncini Chair, Appellate Court Committee of the San Diego County Bar Association Appellate Defenders, Inc. 555 West Beech Street, Suite 300 San Diego, CA 92101	A N	Y	This committee supports the proposed revisions to rules rule 8.240 (formerly rule 19), rule 8.252 (formerly rule 22), rule 8.25 (formerly rule 40.1), rule 8.32 (formerly rule 40.5), rules 8.40 and 8.44 (formerly rule 44), rule 8.66 (formerly rule 45.1), rule 8.18 (formerly rule 46), and rule 8.300 (formerly rule 76.5). APPLICATIONS We do not agree with the proposed revisions to rules 8.50, 8.60, and 8.63 (formerly rules 43, 45, and 45.5, respectively), which delete the language "exceptional good cause" when "required by these rules." We believe this language is helpful to alert counsel that there are circumstances, such as in rules 37.4, 38, 38.1, and 38.2 (new rules 8.416, 8.450, 8.452, and 8.454, respectively), where a standard of "exceptional good cause" is required.	Rules 37.4, 38, 38.1, and 38.2 (new rules 8.416, 8.450, 8.452, and 8.454, respectively) do not require a showing of "exceptional good cause." These rules apply a slightly different standard, requiring an "exceptional showing of good cause." There are currently no appellate rules that require that an application demonstrate "exceptional good cause." However, the committee has modified its proposal so that, instead of deleting the references in rules 8.50, 8.60, and 8.63 (formerly rules 43, 45, and 45.5, respectively) completely, consistent with the actual language of rules 37.4, 38, 38.1, and 38.2 (new rules 8.416, 8.450, 8.452, and 8.454, respectively), these references are amended to refer to an "exceptional showing of good cause" and advisory committee comments have been added to alert readers that this different showing applies in certain juvenile proceedings.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.