

**FIRST APPELLATE DISTRICT
INTERNAL OPERATING PRACTICES AND PROCEDURES**

[Adopted effective April 2, 2007]

I. INTRODUCTION

A. Purpose and Scope

The purpose of this document is to inform members of the bar and other interested persons about the organization of the court and its procedures for processing cases. It is not intended to duplicate the California Rules of Court, the Local Rules of the First Appellate District, or the statutes and constitutional provisions governing the processing of cases.

B. General Information

The court's address is:

California Court of Appeal
First Appellate District
350 McAllister Street
San Francisco, CA 94102

The clerk's office is located on the first floor in Room 1185 and is open to the public from 9 a.m. to 5 p.m., Monday through Friday, exclusive of state holidays. Its internet e-mail address is: first.district@jud.ca.gov

The court's telephone numbers are:

(415) 865-7200 (Clerk's Office)
(415) 865-7209 (Clerk's Office Fax)
(415) 865-7300 (Chambers' Receptionist)
(415) 865-7309 (Reception Fax)

The court's website is:

<http://www.courtinfo.ca.gov/courts/courtssofar/1stDistrict/>

II. ORGANIZATION OF THE COURT

A. Justices and Staff

The First Appellate District is comprised of five divisions, each consisting of a presiding justice and three associate justices. Each division operates as a separate unit for the purpose of hearing and deciding cases.

The presiding justice of each division convenes conferences and presides at hearings (oral arguments) in the division and has overall responsibility for calendaring cases, managing the caseload of the division, and all other divisional administrative matters. If the presiding justice is absent or disqualified or not a member of the three-justice panel assigned to decide a matter, the presiding justice usually designates the senior associate justice of the division to serve as acting presiding justice. The Chief Justice of

California has designated one of the court's presiding justices to serve as its administrative presiding justice, as prescribed in the California Rules of Court.

Each of the court's justices employs a judicial assistant and two chambers attorneys. Some of the court's justices also utilize law student externs to assist in their individual chambers. In addition, each division employs a writ attorney and a divisional attorney, who are selected by the justices of the division and supervised by its presiding justice.

B. Clerk/Administrator, Clerk's Office Staff, and Administrative Support Staff

The court's clerk/administrator is selected by the justices of the court and works under the general direction and supervision of the administrative presiding justice. The clerk/administrator is responsible for planning, organizing, coordinating, and directing the management of the clerk's office and its personnel. The clerk/administrator also supervises the court's administrative support staff. The clerk/administrator is responsible for all nonjudicial support activities, including personnel, budget, technology, and facilities.

C. Managing Attorney and Central Staff

The court's managing attorney is selected by the justices of the court and works under the general direction and supervision of the administrative presiding justice. The managing attorney serves as legal advisor to the court, its justices, and the clerk's office on a variety of issues, including personnel and matters of appellate procedure. The managing attorney also supervises the court's central staff attorneys and judicial assistants.

D. Mediation Program Administrator and Support Staff

The court's mediation program administrator is selected by the administrative presiding justice and works under the general direction and supervision of the administrative presiding justice or a designated supervising justice. The mediation program administrator is responsible for the day-to-day administration of the court's mediation program and supervises its support staff.

III. PROCEDURES FOR PROCESSING CASES

A. Assignment of Cases to Divisions

1. *In General.* Appeals are assigned to a division when the clerk's office receives the notices of appeal from the superior court where they were filed. Writ petitions are assigned to a division when they are filed with the clerk's office. Assignments are made in rotation, without regard to subject matter or complexity. Exceptions to the random assignment procedures are made if multiple appeals or writ petitions arise from the same trial court action or proceeding, in which case later appeals or writ petitions are assigned to the same division to which the first appeal or writ petition was assigned.

2. *Transfer of Cases.* If, subsequent to the initial assignment of an appeal or writ petition to a division, it is determined that it arises from the same trial court action or proceeding as a prior appeal or writ petition, the administrative presiding justice may transfer the later appeal or writ petition to the same division to which the first appeal or writ petition was assigned. If multiple appeals or writ petitions arise from different trial court actions or proceedings, but involve the same parties or co-parties and the same or related subject matter, transaction, or incident, the court may request that the Supreme Court transfer later appeals or writ petitions to the same division to which the first appeal or writ petition was assigned.

B. Processing of Appeals

1. Assignment of Appeals to Panels. When an appeal is fully briefed, it is ready for assignment to a panel of three justices for decision. The court maintains a computer-generated list of fully briefed civil appeals and a separate list of fully briefed criminal and juvenile appeals. The appeals are listed in the order in which they became fully briefed. Appeals entitled to priority on calendar are assigned first, followed by non-priority appeals in the order in which they became fully briefed. Appeals are assigned to panels in rotation, equalizing the number of cases in which each justice participates. One of the three justices on the panel is designated as the lead justice for each appeal. Appeals are assigned randomly, without regard to subject matter, except that an appeal may be assigned to the same panel to which a related appeal or writ petition was previously assigned.

2. Draft Opinions. After an appeal is assigned to a panel, the lead justice prepares a draft opinion. Although the format may vary somewhat from justice to justice or division to division, the draft opinion generally includes the following information: (1) a statement of the pertinent factual and procedural history of the case; (2) an analysis of each issue necessary to resolve the appeal; and (3) a proposed disposition. The primary purpose of the draft opinion is to provide the panel with all of the relevant information it needs to decide the appeal. Upon completion, the lead justice distributes the draft opinion to the other two justices on the panel for their review. The panel may also meet to discuss the case. Conferencing practices vary from division to division.

3. Oral Argument and Submission of the Cause. When an appeal is assigned to a panel of three justices for decision, the court initially notifies the parties that oral argument will be deemed waived unless one of the parties requests oral argument within the time designated in the notice. If the parties request oral argument, or if the court otherwise determines that oral argument would be helpful, the clerk's office then notifies the parties of the date, time, and place of the hearing. A continuance of oral argument will be granted only upon written application and a showing of good cause. Counsel may not stipulate to a continuance. At the conclusion of oral argument, the presiding justice or acting presiding justice will declare the matter submitted, unless submission is deferred pending further briefing.

4. Preparation and Filing of Opinions. After oral argument or the waiver of oral argument, the lead justice prepares a final draft of the opinion. If the other two justices on the panel concur in the opinion, they sign it and it is delivered to the clerk's office for filing. If an individual justice does not subscribe to all of the reasoning of an opinion, he or she may file a separate opinion. If the lead justice fails to obtain the concurrence of at least one of the other justices on the panel, the case may be reassigned to one of the other panel members for the preparation of an opinion. An opinion is published if a majority of the justices on the panel certifies it for publication.

5. Rehearings. When a petition for rehearing is filed, the clerk's office delivers the petition to the justice who authored the court's opinion. After reviewing the petition and conducting whatever research he or she deems necessary, the authoring justice circulates the petition to the other two justices on the panel with a recommended ruling. Two votes are necessary to grant or deny a petition for rehearing. A petition for rehearing normally will not be granted unless the court has requested an answer. An order granting rehearing vacates the court's original opinion and sets the case for full reconsideration. Generally, the parties have no right to reargue the case; however, the court, in its discretion, may invite either written briefing or oral argument, or both, before resubmitting the matter and filing its new opinion.

C. Processing of Original Proceedings

After a writ petition has been filed, the clerk's office delivers the petition to the writ attorney for the division to which the writ is assigned. Depending upon the nature of the petition and its urgency, the writ attorney may present the petition to a panel of justices shortly after its filing, or may perform extensive research. In appropriate cases, the court may request opposition from the real party or parties in interest. If an opinion is required, the matter is assigned to one of the justices on the writ panel and is thereafter handled much like the court handles an appeal. The specific procedures governing various types of writ petitions are enumerated in the California Rules of Court.

