

Invitation to Comment

Title	Appellate Procedure: Judicial Notice (adopt Cal. Rules of Court, rule 8.809).
Summary	This is a proposal for a new rule addressing how parties may request that the superior court appellate division take judicial notice of a matter.
Source	Appellate Advisory Committee Hon. Kathryn Doi Todd, Chair
Staff	Heather Anderson, Committee Counsel, 415-865-7691, heather.anderson@jud.ca.gov

Rule 8.252(a) of the California Rules of Court establishes the procedures for a party to request that the Court of Appeal take judicial notice of a matter. Under rule 8.520(g), this same procedure for requesting judicial notice applies in proceedings before the Supreme Court. Currently, however, there is no rule establishing a procedure for requesting judicial notice in the superior court appellate division. This may make it difficult for litigants, particularly self-represented litigants, to figure out how to request judicial notice in appellate division proceedings.

This proposal would establish the same procedure for requesting judicial notice in the superior court appellate division as is currently followed in the Supreme Court and Court of Appeal.

Rule 8.809 of the California Rules of Court would be adopted, effective January 1, 2011, to read:

1 **Title 8. Appellate Rules**

2
3 **Division 2. Rules Relating to the Superior Court Appellate Division**

4
5
6 **Chapter 1. General Rules Applicable to Appellate Division Proceedings**

7
8
9 **Rule 8.809. Judicial notice**

10
11 **(a) Motion required**

12
13 (1) To obtain judicial notice by a reviewing court under Evidence Code section
14 459, a party must serve and file a separate motion with a proposed order.

15
16 (2) The motion must state:

17
18 (A) Why the matter to be noticed is relevant to the appeal;

19
20 (B) Whether the matter to be noticed was presented to the trial court and, if
21 so, whether judicial notice was taken by that court; and

22
23 (C) Whether the matter to be noticed relates to proceedings occurring after
24 the order or judgment that is the subject of the appeal.

25
26 **(b) Copy of matter to be judicially noticed**

27
28 If the matter to be noticed is not in the record, the party must serve and file a copy
29 with the motion or explain why it is not practicable to do so.

Item SPR10-07 Response Form

Title: Appellate Procedure: Judicial Notice (adopt Cal. Rules of Court, rule 8.809)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 18, 2010
