

NOTICE REGARDING ELECTRONIC FILING FOR SELF-REPRESENTED LITIGANTS

California Rules of Court, rule [8.71](#) requires that for parties with attorneys, *all* filings in civil cases be made through the Court's electronic filing system (TrueFiling).

Self-represented litigants, however, are exempt from the requirement to file documents electronically. (CRC, rule 8.71(b). However, if a self-represented litigant chooses to file documents electronically, he or she is bound by the rules of electronic filing laid out in California Rules of Court, Article 5. Represented parties are *required* to file electronically.

When electronically filing, you must comply with the requirements of TrueFiling and California Rules of Court, rule [8.74](#). By electronically filing any document with the court, you agree to file *all* documents electronically. You also agree to receive service of documents electronically unless you notify the court and all parties that you do not accept electronic service and choose to be served paper copies at an address you provide. (CRC, rules 8.71(b)(2) and [8.78\(a\)\(2\)](#).)

For electronic filing support, registration and training, please review the following resources at courts.ca.gov/2dca:

- Register for TrueFiling
- TrueFiling Quick Start Guide
- TrueFiling Support and Training
- Guide to Creating Electronic Appellate Documents
- How to Prepare Electronic Filings
- Frequently asked questions regarding electronic filing

Please note: any references contained within this self-help manual regarding document formatting (for example, color covers), apply only to paper filings.

DISCLAIMER

The materials included here are not legal advice and may not be used as legal authority. The primary legal authority for the practices described in this manual is the California Rules of Court.¹ This manual does not replace or supersede the California Rules of Court. It is merely a general summary of the applicable rules. The rules themselves are subject to change, and you should consult them directly.

In the event the information here differs from the California Rules of Court, you must follow the California Rules of Court. The California Rules of Court are referred to throughout this manual as "CRC" (for example, "CRC, rule 8.108").

The California Rules of Court are available at any law library, on the Internet at www.courts.ca.gov/rules, or can be ordered for a fee by calling (800) 328-9352.

¹ See CRC, rules 8.100-8.278 if you are appealing from the unlimited jurisdiction of the superior court to the Court of Appeal. Appeals from the limited jurisdiction of the superior court to the appellate division of the superior court are covered by CRC, rules 8.800-8.891; transfer from the Appellate Division of Superior Court to the Court of Appeal is covered by CRC rules 8.1000-8.1018. This manual discusses only appeals to the Second Appellate District Court of Appeal, not to the Appellate Division.

CHAPTER 7

WHAT YOU CAN DO AFTER THE COURT FILES ITS OPINION

After an opinion has been issued, there are a number of steps you can take asking the Court of Appeal and/or the Supreme Court to reexamine the case. This chapter discusses some of those options, including, how to file a *Petition for Rehearing* at the Court of Appeal and a *Petition for Review* in the Supreme Court of California. In addition, this chapter explains how the issuance of a remittitur marks the end of an appeal.

Petition for Rehearing

After the opinion in the appeal is filed, a party may file a *Petition for Rehearing* in the Court of Appeal. (CRC, rule [8.268](#).) The petition for rehearing provides the party that has “lost” at the Court of Appeal with an opportunity to point out any factual errors, misstatements, or omissions that the Court of Appeal may have made in their opinion. There is an automatic right to rehearing if the Court of Appeal makes a decision based on an issue that was not proposed or briefed by any party. (California Government Code section [68081](#).) One does not need to petition for rehearing in the Court of Appeal before seeking review in the Supreme Court. However, as a policy, the Supreme Court accepts the statement of facts and issues as set out in the Court of Appeal opinion unless any alleged omission or misstatement of fact was brought to the Court of Appeal’s attention by a petition for rehearing. (CRC, rule [8.500\(c\)\(2\)](#).)

The *Petition for Rehearing* must be served and filed within **15 days** of the filing of the opinion, the order for publication or the modification of the opinion if it changes the judgment. No opposition to the petition may be filed unless requested by the court. If the Court does not rule on a petition for rehearing it will be deemed denied “by operation of law” (that is, automatically without any order of any kind from the court). (CRC, rule [8.268\(b\)](#) and [\(c\)](#).)

The petition should not merely repeat information and argument that was covered by the appeal. Instead, it should focus on specific errors or contradictions in the opinion.

Normally the court does not consider points or issues being raised for the first time on rehearing, with two exceptions: when you are arguing the superior court or the Court of Appeal did not have the power (jurisdiction) to handle the case, or when the Court of Appeal, in an exercise of its discretion, agrees to consider new materials (such as a new case) that were not included earlier.

Generally, the petition for rehearing should be directed at errors in the opinion: a major misstatement of fact, an error of law, major law or facts that were left out, and/or an important argument that was not included.

If not filed electronically, the petition for rehearing must be bound with orange covers. The original and four copies should be filed with the Court of Appeal (CRC, rule [8.44\(b\)](#)) along with [Proof of Service](#) on all parties (CRC, rule [8.25\(a\)](#)).

The Court of Appeal has jurisdiction (power to make rulings in the case) for 30 days from the date the opinion was filed or a request for publication was granted or an opinion was modified that changed the judgment. (CRC, rules [8.264\(b\)](#) and [8.268\(b\)](#).)

Review in the California Supreme Court

The Court of Appeal's decision becomes final 30 days after the filing of its opinion or the grant of publication or modification of the opinion with a change in judgment. A modification stating it does not change the judgment does not add time to the usual 30 days from filing of the opinion. (CRC, rule 8.264(c)(2).) A petition for review in the California Supreme Court must be filed within **10 days** after the decision becomes final. The first day starts with the 31st day. Thus, if the Court of Appeal's decision becomes final on a Friday, then Saturday and Sunday are days 1 and 2 of this 10-day period during which the petition for review must be filed. (CRC, rule [8.500\(e\)](#).)

At the beginning of the petition you should start with a brief statement of the issues to be presented, with an explanation why this case is one the Supreme Court should take for review. (CRC, rule [8.504\(b\)](#).) If produced on a computer, the petition may not exceed 8,400 words or 30 pages if typewritten and must contain a certificate of compliance. The maximum length does not include exhibits and the copy of the Court of Appeal opinion that must be included. (CRC, rule [8.504\(b\)-\(e\)](#).) If filed in paper form, Petitions for Review should have white covers, while Answer to Petitions for Review should have blue covers. An original and 13 paper copies or 8 paper copies and one electronic copy must be filed in the Supreme Court. (CRC, rules [8.40\(b\)\(1\)](#) and [8.44\(a\)](#).) A proof of service must be attached to the original and all copies showing service on the division of the Court of Appeal which decided the case, all parties, and the trial judge.

An answer is not required unless the party opposing review wants to add an issue. An answer should be filed within **20 days** after the petition is filed. (CRC, rules [8.500\(a\)\(2\)](#), [\(e\)\(4\)](#) and [\(f\)](#).)

If the Supreme Court grants review, it may put off action while awaiting disposition of another case, or specify issues that are to be briefed. (CRC, rules [8.512\(d\)\(2\)](#) and [8.516\(a\)](#).) Within **30 days** the petitioner must file an opening brief or the same brief it filed in the Court of Appeal. The opposing party then has **30 days** to file an answer or a copy of the brief filed in the Court of Appeal. A reply brief, if filed, is due within **20 days**. (CRC, rule [8.520](#).)

The Second District Court of Appeal does not accept Supreme Court filings. Filings must be made directly with the California Supreme Court at 350 McAllister St., San Francisco, CA, 94102. For further information concerning the California Supreme Court, call (415) 865-7000 or go to their website at www.courts.ca.gov/supremecourt.

Review by the California Supreme Court is extremely rare. Unlike the Court of Appeal, the Supreme Court is not required to hear all cases filed before it. The review process allows the Supreme Court to choose the cases it wants to hear. Generally, the granting of review is limited to cases that present issues that have never come before the courts before (issues of first impression), or that have an effect on large portion of the California population, or that have conflicting opinions in the various Courts of Appeal

throughout the state. While it is possible that the Supreme Court will choose to review your case if you apply for review, you should not expect that they will hear it. Only about 5% or fewer of petitions for review are granted each year.⁸

The Remittitur

The remittitur signals the end of the case. It is a document that says the review of the case is final and transfers the power of the reviewing courts (Court of Appeal and Supreme Court) back to the superior court so the superior court can follow up on what, if anything, still needs to be done to carry out the decision made by the reviewing courts. (CRC, rule [8.272](#).)

If no petition for review is filed in the Supreme Court, the remittitur is issued **61 days** after the filing of the opinion in the Court of Appeal (unless a request for publication was granted or there was a modification of the opinion resulting in a change in the judgment, in which cases the time is more than 61 days). At that time, the case becomes “final” in the reviewing courts. (CRC, rules [8.264\(b\)](#) and [8.272\(b\)](#).)

If the opinion said you were entitled to costs on appeal, you must file a memorandum of costs in the superior court within 40 days of the mailing of a copy of the remittitur. (CRC, rule [8.278\(c\)](#).) Among other things, this memorandum lists all the costs you are asking the court reimburse.

⁸ The Supreme Court of California, “Internal Operating Practices and Procedures of the California Supreme Court,” 2007.