

Parts in blue print are instructions to user, not to be included in filed document unless so noted.

Practice Tip: List all related case numbers in the caption. Counsel should file enough copies of the motion for each case being consolidated.

*[Attorney's name, bar number
Address and telephone number
Email address and fax number if available]*

Attorney for Appellant *[Name]*

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION *[NUMBER]*

In re *[CHILD'S INITIALS]*,) COURT OF APPEAL
) Nos. *[Number]*
 [A] Person[s] Coming Under)
 The Juvenile Court Law) SUPERIOR COURT
) Nos. *[Number]*
)
 *[SPECIFIC COUNTY & AGENCY)
 TITLE],)
)
 Plaintiff and Respondent,) **APPELLANT'S MOTION TO
) CONSOLIDATE CASE NOS.
) *[CASE #]* AND *[CASE #]*
) **[AND EXTEND TIME TO
) FILE APPELLANT'S
) **OPENING BRIEF]**
 [PARENT'S INITIALS] [Mother/Father],)
)
 Defendant and Appellant.)
)*****

TO THE HONORABLE *[NAME]*, PRESIDING JUSTICE, AND
HONORABLE ASSOCIATE JUSTICES OF THE FOURTH DISTRICT
COURT OF APPEAL, DIVISION *[NUMBER]*:

Appellant [mother/father], *[parent's name & last initial]*, requests an order consolidating case numbers *[case #]* and *[case #]*, now pending before this court. The basis for this motion is more particularly set forth in the attached memorandum of points and authorities and declaration of appointed counsel, *[attorney name]*.

**MEMORANDUM OF POINTS & AUTHORITIES
IN SUPPORT OF MOTION TO CONSOLIDATE**

I.

**The Reviewing Court Has Inherent Power and
Broad Discretion to Consolidate Appeals
Involving Common Issues of Fact or Law.**

There is no express rule of court governing applications to consolidate appeals. However, California Rules of Court, rule 8.147(b), refers to use of records from prior appeals on subsequent appeals in the same case, and has been interpreted in a manner which promotes consolidation of appeals, unless it can be shown that a party would be prejudiced by consolidation. (*General Elec. Co. v. Fed. Etc., Distribution Co.* (1954) 122 Cal.App.2d 509, 511.) Witkin is in agreement:

Where separate actions, related in subject matter and issues, are consolidated for trial (see 4 Cal. Proc. (5th) Pleading, §341), or where actions separately tried are nevertheless so related, they may often profitably be considered together on appeal. So far as the reviewing court is concerned, it may

without order place them on the calendar together, make use of briefs and arguments interchangeably, and write only one detailed opinion, deciding the other cases on the authority of the first. (See *infra*, §788.) An order of consolidation, however, goes further: It allows the parties to all the appeals to prepare a single record and set of briefs.

(9 Witkin, Cal. Proc. (5th Ed., 2008), Appeals, § 765, Consolidation of Cases on Appeal, pp. 838-839.)

Rule 8.50(d), California Rules of Court, authorizes the presiding justice to rule on such an application. The public economy (including costs incurred by all parties and the court when there must be multiple briefs and opinions), compels the conclusion that all interests would be best served by an order consolidating the appeals in this action.

II.

The Facts and Law of These Appeals Are Likely to Be Interrelated

[Set out relevant facts and issues connecting the appeals sought to consolidated, making reference to counsel's declaration, below.]

CONCLUSION

For these reasons and those included in the attached declaration by *[attorney name]*, appellant requests the pending appeals, case numbers *[case #]* and *[case #]*, be consolidated for briefing and decision.

Dated: *[date]*

Respectfully submitted,
[Attorney's name]
State Bar No. *[number]*

Attorney for Appellant *[mother/father]*

DECLARATION OF *[ATTORNEY NAME]*

I, *[attorney name]*, declare:

1. On *[date]*, I was appointed to represent appellant, *[parent's name & last initial]*, in case number *[case #]*. On *[date]*, I was appointed to represent the same appellant in case number *[case #]*. I am the attorney appointed in both cases.
2. The record in case number *[case #]* was filed prior to my appointment and this court extended the due date to file appellant's opening brief to *[date]*.
3. The record in case number *[case #]* was likewise filed prior to my appointment and this court extended the due date to file appellant's opening brief to *[date]*.
4. Both appeals derive from the same dependency proceeding in the superior court, case number *[case #]*, involving appellant's [daughter/son]. Appellant filed the first notice of appeal on *[date]*, appealing the rulings made at the *[type of hearing]* that concluded on *[date]*. (C.T. p. *[number]*; *[case #]*.) Appellant filed the second notice of appeal on *[date]*, with the notice specifically stating appellant was appealing from the rulings made at appellant's [daughter's/son's] *[type of hearing]* held *[date]*. (C.T. p. *[number]*; *[case #]*.)

[If applicable: 5. A jurisdictional finding, while not appealable, may be reviewed in an appeal from the dispositional order. (*In re James J.* (1986) 187 Cal.App.3d 1339, 1342; *In re Megan B.* (1991) 235 Cal.App.3d 942; *In re Rebekah R.* (1994) 27 Cal.App.4th 1638.)]

6. In the interests of judicial economy, it would serve the interests of all parties, including the court, if briefing were consolidated.

7. Appellant therefore requests the court consolidate the two cases and grant an extension of time to file the combined opening brief to 30 days after the order consolidating the appeals is made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

[ATTORNEY NAME]
COUNSEL FOR APPELLANT

PROOF OF SERVICE