

## **LOCAL RULES OF THE COURT OF APPEAL FOURTH APPELLATE DISTRICT**

### **Rule 1. Writ Proceedings**

(a) [**Request for immediate stay**] A request that an immediate stay be issued or other immediate relief be granted is to be served on the respondent and each real party in interest by (1) personal delivery or (2) an expeditious method consented to in advance by the party served. If the respondent or any real party in interest is not served personally or by an expeditious method consented to in advance by the party served, the court will not act on the request for five days, except to deny it summarily, absent a showing of good cause. The document cover must state conspicuously "STAY REQUESTED" or "IMMEDIATE RELIEF REQUESTED" or words of similar effect.

The court may issue a stay or other order necessary to preserve the status quo or the court's jurisdiction without opposition. However, a request for immediate relief, other than a stay or other order necessary to preserve the status quo or the court's jurisdiction, will not be granted unless the court has received an unsolicited opposition or, alternatively, has requested opposition.

(b) [**Preliminary opposition**] In an extraordinary proceeding involving a petition for writ of mandate, certiorari or prohibition pursuant to California Rules of Court, rules 8.485-8.493, the real party in interest need not file a preliminary opposition as provided in rule 8.487(a) unless requested to do so by the court. Except as provided in subdivision (a) of this rule, the court will not take any action on a writ petition, other than to summarily deny it, without first giving the real party in interest an opportunity to respond.

*(Amended, eff. Aug. 13, 2010; adopted, eff. Oct. 29, 2004.)*

### **Rule 2. Covers on Documents Filed With The Court**

The court will not accept for filing any document that has a plastic or acetate cover or does not conform strictly to rules 8.144 and 8.204 of the California Rules of Court.

*(Adopted, eff. Oct. 2, 1983. As amended, eff. Oct. 29, 2004; Jan. 1, 2007.)*

### **Rule 3. Stipulation for Use of Original Superior Court File**

Rule 8.128 of the California Rules of Court provides for the use of the original superior court file in lieu of the clerk's transcript on appeal in those civil cases where the parties so stipulate. In accordance with rule 8.128 of the California Rules of Court, the procedure therein is approved for use by the superior courts within this district unless the Court of Appeal orders otherwise in a particular case.

*(Formerly Rule 10, adopted, eff. April 26, 1992. Renumbered Rule 3, eff. Oct. 29, 2004. As amended, eff. Jan. 1, 2007.)*

### **Rule 4. Civil Settlement Conference Procedures (Division Two Only)**

(a) **[Application of rule]** This rule is adopted pursuant to rule 8.248, California Rules of Court, and shall apply to all civil cases except appeals from proceedings under sections 300, 601, and 602 of the Welfare and Institutions Code, appeals from proceedings under sections 221 and 232 of the Civil Code, and appeals from original proceedings ancillary to a criminal prosecution.

(b) **[Notice of availability of conference]** Upon receipt of notice of the filing of a notice of appeal, the clerk of this court shall mail a copy of this rule to counsel for all parties.

#### **(c) [General settlement conference procedure]**

(1) The presiding justice may schedule a settlement conference and order the parties' attendance at any time during the pendency of an appeal.

(2) Written notice of the date and time of the settlement conference will be given by the court.

(3) Immediately upon accepting a case for the settlement conference procedure, all further proceedings, including the filing of briefs, shall be suspended until further order of the court. However, this rule shall not suspend preparation of the appellate record unless a specific order is issued directing suspension of record preparation.

#### **(d) [Prebriefing settlement conference procedure and sanctions]**

(1) A request for a settlement conference to be held prior to completion of briefing shall be served and filed within 30 days from the date of mailing of the notice specified in subdivision (b). Opposition to a

request for a settlement conference must be served and filed within 15 days after the request's filing date.

(2) If the court orders a settlement conference prior to the completion of briefing, the parties shall each serve and file an original and one copy of a settlement conference statement at least 15 days before the settlement conference. The parties may file by the same date a joint settlement conference statement in lieu of separate statements. Failure to timely serve and file a settlement conference statement complying with this rule may result in the imposition of sanctions including dismissal of the appeal. Every settlement conference statement shall contain the following:

(A) The trial court name and case title and number;

(B) The name of the judge who rendered the judgment or order appealed and the date of its entry;

(C) The date the notice of appeal was filed;

(D) The names, address, and telephone numbers of counsel for all parties to the appeal;

(E) A brief description of the judgment or order appealed;

(F) A concise statement of the case, including a brief procedural history and all facts material to consideration of the issues presented; and,

(G) The issues expected to be raised in the briefs.

(e) **[Postbriefing settlement conference procedure and sanctions]** After briefing is completed, the court may request the parties to provide information helpful to the court in deciding whether to order the parties to participate in a settlement conference. The parties shall complete all post-briefing settlement conference questionnaires and respond to all confidential settlement conference inquiries within 15 days of mailing by the clerk of the court. Failure to timely respond to a settlement conference inquiry or questionnaire may result in the imposition of sanctions including dismissal of the appeal.

(f) **[Settlement conference and sanctions]**

(1) The court shall maintain a list of attorneys who have developed expertise in specified areas of law, are generally respected in the legal community, and are willing to mediate settlement conferences at this court.

These attorneys shall be designated as settlement conference mediators and preside over every settlement conference unless otherwise ordered. A justice or assigned justice may be designated as a settlement conference mediator and preside over a settlement conference if so ordered.

(2) The mediator presiding over a settlement conference may in his or her discretion continue it from time to time to allow for further negotiation.

(3) Counsel for every party to the appeal and their clients shall attend any settlement conference. Failure to attend a settlement conference may result in the imposition of sanctions against any party or counsel, including dismissal.

(4) The settlement conference mediator may invite parties to the action who are not parties to the appeal, or any person who has an interest in the action, to attend the settlement conference if it appears to the mediator that their presence may facilitate settlement of the case. Any party to the appeal may serve and file a written request for the attendance of such a party or person at least 15 days before the settlement conference.

(5) Counsel shall confer with their clients in advance and be thoroughly familiar with the case and prepared to present their contentions in detail.

(6) The presiding justice, a justice designated by the presiding justice, or the settlement conference mediator may excuse a client's personal attendance upon request and a showing that hardship or unusual circumstances make the client's attendance impossible or impractical. If personal attendance is excused, counsel either shall have obtained full authority to agree to a settlement that binds the client or the client shall be available for consultation by telephone.

(7) Where settlement cannot be reached, partial settlement will be sought. Any settlement shall be reduced to writing and signed by counsel. After a complete settlement has been agreed to in writing, the parties shall promptly file a stipulation to dismiss the appeal on the ground that the case has been settled. The stipulation shall specify the allocation of costs on appeal and state whether the remittitur is to issue immediately.

**(g) [Disqualification of settlement conference justice]**

(1) A justice or assigned justice who participates in a settlement conference that does not result in complete settlement shall not thereafter participate in any way in the consideration or disposition of the case on its merits.

(2) A justice or assigned justice of the court will not be disqualified to participate in the consideration or disposition of a case on its merits because he or she has ruled on a request for a settlement conference, ordered that a settlement conference be held, signed orders granting relief from default for an act required by a party under this rule, extended or shortened any time period specified in this rule, or otherwise signed an order concerning a procedural aspect of the settlement conference process. Only mediating a settlement conference shall disqualify a justice from consideration or disposition of the case on its merits.

*(Adopted, eff. Oct.13, 1992. As amended, eff. Oct. 29, 2004; Jan. 1, 2007.)*

**Local Rule 5. Electronic Filing (Division One Only)**

**[I] Application**

**(a) [Mandatory electronic filing]**

Pursuant to California Rules of Court, rules 8.70 through 8.79, the court requires all filings in writ proceedings (other than writs subject to California Rules of Court, rules 8.450 through 8.456) in the Fourth Appellate District, Division One, to be made through the court's electronic filing system (EFS), except as provided in subdivision (b) of this section or except as otherwise ordered by the court. For a writ proceeding to which mandatory electronic filing requirements apply (a Writ Proceeding), a filing in electronic format will be accepted in lieu of any paper copies otherwise required under California Rules of Court, rule 8.44 and will constitute the official record of the court.

**(b) [Exemption from mandatory electronic filing]**

(1) Exemption from the mandatory electronic filing requirements of this rule exists in the following circumstances:

(i) Undue Hardship. If complying with the electronic filing and/or service requirements of this rule would cause undue hardship or significant prejudice to any party, that party may file a notice of undue hardship and be exempted from such requirements. (See Cal. Rules of Court, rule 8.54(a)(1)&(2).)

(ii) Infeasibility. When it is not feasible for a party who is otherwise able to participate in mandatory electronic filing to convert a particular document to electronic form by scanning, imaging or other means, the party may file the document in paper form (see Cal. Rules of Court, rule 8.73(c)), together with a declaration setting forth the reasons that electronic filing was not feasible.

(iii) Self-Represented Litigants in Habeas Corpus Proceedings. Parties who are representing themselves in Writ Proceedings seeking habeas corpus relief are not required to comply with the mandatory electronic filing provisions of subdivision (a) above.

(iv) Sealed or Confidential Materials. A filer must not electronically file any sealed or confidential materials. Such materials must be submitted in accordance with California Rules of Court, rules 8.46 and 8.47.

(v) Administrative Records in Certain Writ Proceedings. Administrative records in Writ Proceedings under California Rules of Court, rules 8.495 through 8.498 or Business and Professions Code, section 23090 may be filed in paper form rather than electronically.

(2) Consequences of Exemption. A party that is permitted to file paper copies of documents in accordance with this rule must file one paper copy of any such document that complies with the requirements of the California Rules of Court and one paper copy that is unbound, without any tabs and with a white rather than a red cover.

## **[II] [Electronic filing procedures]**

### **(a) [Filing]**

Documents filed in any Writ Proceeding in this court are to be electronically filed at <http://www.courts.ca.gov/4dca-efile.htm>. All attorneys and

unrepresented parties in such proceedings are required to keep the court updated as to their e-mail addresses and other information specified in California Rules of Court, rules 8.32, 8.71(d) and 8.76(a)(5).

**(b) [Format]**

Documents filed electronically must (i) comply with the content and form requirements of the California Rules of Court, with the exception of those provisions dealing exclusively with requirements for paper filings, (ii) be in PDF, or readily capable of conversion to PDF while maintaining original document formatting, to permit text searches and facilitate transmission and retrieval and (iii) must use the naming conventions specified on the e-filing instructions set forth on the court's website at <http://www.courts.ca.gov/4dca-efile.htm>. Except as provided in section (I)(b)(1)(ii), if the filer possesses only a paper copy of a document, the filer must scan and convert it to a searchable PDF document. It is the filer's responsibility to ensure that any document filed is complete and readable.

No single PDF file may exceed a total file size of 25 MB. Each file must be paginated with consecutively numbered pages, beginning on the cover page of the document, using the Arabic numbering system (1, 2, 3 and so on) ONLY, must not contain any tabs and must have a white rather than a red cover.

Each volume of exhibits must be filed as a separate PDF file. A filer in Writ Proceedings that involve more than ten volumes of exhibits may deliver all of the volumes of exhibits to the court in machine-readable optical media rather than by electronic filing.

Filers in Writ Proceedings are encouraged, but not required, to include electronic bookmarks from the table of contents for each heading in the text, and to the first page of any exhibit(s), with a description of the exhibit included in the bookmark.

**(c) [Signatures]**

An electronic document must incorporate an electronic signature for the filing attorney or party by displaying the symbol “/s/” with the attorney's or party's printed name. For a document signed under penalty of perjury, the filer must comply with California Rules of Court, rule 8.77(a).



**(d) [Mandatory redaction of personal identifiers and financial account information]**

To protect personal privacy, filers must redact personal identifiers, such as social security numbers, driver's license numbers, and financial account numbers, from all pleadings and other papers filed in the court's public file, whether filed in paper or electronic form, unless otherwise provided by law or ordered by the court. (Cal. Rules of Court, rule 1.20(b)) If a social security number or financial account number is required to be included in a pleading or other paper filed in the public file, the filer must redact all except the last four digits of that number.

The responsibility for redacting identifiers from all documents electronically filed with the court rests solely with the parties and their attorneys. (Cal. Rules of Court, rule 1.20(b)(3).) The clerk of the court has no responsibility to review pleadings or other papers for compliance.

**(e) [Filing deadlines]**

Filing documents electronically does not alter any filing deadlines. (Cal. Rules of Court, rule 8.72(d)(2).) To be timely filed, all electronic transmissions of documents must be completed (i.e., received completely by the clerk of the court) prior to midnight, unless another specific time of day is set for filing by court order or stipulation, in which case the electronic filing shall be completed by that time.

**(f) [Technical failure/motions for late filing]**

If a filer fails to meet a filing deadline imposed by court order, rule, or statute because a technical problem with the EFS prevents the court from electronically receiving a document, the court will deem the document as timely filed if the filer transmits or files the document the next court day (or, for good cause shown, as soon thereafter as practicable), accompanied by a motion to accept the document as timely filed that demonstrates that the filer attempted to electronically file the document before the deadline expired. (Cal. Rules of Court, rule 8.79(d).)

The court shall not be responsible for malfunction or errors occurring in electronic transmission or receipt of electronically filed documents.



**(g) [Service]**

An attorney or party's participation in EFS constitutes consent to electronic service or delivery of all documents by any other party to the Writ Proceeding. (Cal. Rules of Court, rule 8.71.)

**(h) [Filing fees]**

The court will assess fees for any filing, and any associated credit card or bank charges or convenience fees (Cal. Rules of Court, rule 8.78; Gov. Code, § 6159). Electronic filing fees will be considered recoverable costs under California Rules of Court, rule 8.278(d)(1)(D).

**(i) [Sanctions for noncompliance]**

Failure of any attorney or party to comply with mandatory EFS filing requirements, unless exempted, may result in the court's imposition of sanctions against that attorney or party.

*(Adopted, eff. July 1, 2015. Previously repealed, eff. Apr. 3, 2013)*

**Rule 6. Repealed, eff. Sept. 9, 1996.**

**Rule 7. Repealed, eff. Dec. 1, 2003**

**Rule 8. Repealed, eff. Oct. 29, 2004**

**Rule 9. Repealed, eff. March 10, 2003**

**Rule 10. Renumbered Rule 3, eff. Oct. 29, 2004**