

SUMMARY OF REQUIREMENTS FOR DOCUMENTS FILED IN PAPER FORM

(Rev. 09/2017)

APPLICATIONS, MOTIONS, AND MISCELLANEOUS DOCUMENTS IN PAPER FORM

GENERAL INFORMATION

Court of Appeal: As of September 2017, TrueFiling is mandatory for filings by an attorney in every Court of Appeal (except Second District, which starts Oct. 30, 2017). Special exemptions include a self-represented party or an excuse granted by court order under rule 8.71(d).

Supreme Court: As of September 1, 2017, TrueFiling is mandatory for attorney-filed motions or applications related to petitions for review in the California Supreme Court, but is not yet available in review-granted or non-capital original proceedings. Electronically filed documents in the Supreme Court must be accompanied by one unbound paper copy. Special exemptions are may be granted by the court.

Rule references are to Supreme Court Rules Regarding Electronic Filing (SCRREF) and the California Rules of Court.

Note: *No cover/binding required & no length limit for the following documents*

Samples: *A number of sample motions and other documents are on ADI's Forms and Samples page, http://www.adi-sandiego.com/practice/forms_samples.asp*

APPLICATIONS IN REVIEWING COURT: PAPER FORM

REQUEST FOR EXTENSION OF TIME: PAPER

General: Electronic filing of extension requests is available and mandatory in Courts of Appeal with TrueFiling and in Supreme Court for extensions to file answers or replies related to petitions for review (but not non-capital briefs on merits or non-capital writs). Paper filing is required if TrueFiling is not available; the rules below apply.

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| <p>Use of JUDICIAL COUNCIL FORMS for extensions is highly encouraged</p> | <ul style="list-style-type: none"> <input type="checkbox"/> <u>Criminal</u>: CR-126 at http://www.courts.ca.gov/documents/cr126.pdf <input type="checkbox"/> <u>Delinquency</u>: JV-816 at http://www.courts.ca.gov/documents/jv816.pdf <input type="checkbox"/> <u>Dependency</u>: JV-817 at http://www.courts.ca.gov/documents/jv817.pdf |
| <p>Content of request for extension of time</p> <p>SCRREF, rule 3; Cal. Rules of Court, rules 8.50(b), 8.60(b), (c)</p> | <ul style="list-style-type: none"> <input type="checkbox"/> state facts, not mere conclusions, showing good cause or making exceptional showing of good cause when required by rule (e.g., rule 8.416(f); see Code Civ. Proc. § 45) <input type="checkbox"/> current due date <input type="checkbox"/> length of extension being requested <input type="checkbox"/> identify any previous applications filed by any party (e.g., number and length of prior extensions requested, any time granted under rule 8.360(c)(5), 8.412(d), or 8.416(g)) |
| <p>Service and filing, envelopes</p> <p>SCRREF, rule 5; Cal. Rules of Court, rules 8.25, 8.44(a)(6), (b)(7), 8.50(c)</p> | <ul style="list-style-type: none"> <input type="checkbox"/> if paper filing in Supreme Court: original and 1, with proof of service; plus 1 for self (if counsel wants conformed copy) <input type="checkbox"/> if paper filing in Court of Appeal: original and 1, with proof of service; plus 1 for each party and 1 for self (if counsel wants conformed copy), for mailing order when issued <input type="checkbox"/> if paper filing in Court of Appeal: enclose one self-addressed, stamped envelope for each party, plus 1 for self, for mailing order when issued <input type="checkbox"/> service in criminal and delinquency cases: Attorney General, ADI, appellate counsel for each co-appellant <input type="checkbox"/> service in dependency cases: respondent (County Counsel, district attorney, or private counsel), minor's appellate attorney, ADI, appellate counsel for each co-appellant and respondent |
| <p>Policies and factors governing extensions of time</p> <p>SCRREF, rule 3; Cal. Rules of Court, rules 8.50(b), 8.500(e)</p> | <ul style="list-style-type: none"> <input type="checkbox"/> policies – e.g., balancing efficient administration of system with adequate time for effective work (rule 8.63(a)) <input type="checkbox"/> factors – e.g., prejudice to parties, length of record, number and complexity of issues, any entitlement to priority, other obligations of counsel, etc. (rule 8.63(b)) |
| <p>Petitions for review, answers, replies</p> <p>SCRREF, rule 3; Cal. Rules of Court, rules 8.50(b), 8.500(e)</p> | <ul style="list-style-type: none"> <input type="checkbox"/> extension not available for petition for review (may ask CJ for relief from default), but available for answers and replies |

APPLICATION OTHER THAN REQUEST FOR EXTENSION OF TIME: PAPER

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| <p>Content</p> <p>Cal. Rules of Court, rule 8.50(b)</p> | <ul style="list-style-type: none"> <input type="checkbox"/> state facts, not mere conclusions, giving reasons and applicable law |
| <p>Service and filing, envelopes</p> <p>Cal. Rules of Court, rules 8.25, 8.44(a)(6), (b)(6), 8.50(c)</p> | <ul style="list-style-type: none"> <input type="checkbox"/> same as request for extension of time, except: in Court of Appeal, no need to provide court with copies for each party for mailing of order when issued |

**MOTIONS AND OPPOSITIONS TO MOTIONS IN REVIEWING COURT: PAPER FORM
INCLUDING MOTIONS TO AUGMENT RECORD**

Motions in Courts of Appeal with TrueFiling must be electronically filed, as must those in Supreme Court related to petitions for review. But motions in Supreme Court related to non-capital briefs on the merits and non-capital writs must be in paper form.

Samples: A number of sample motions and other documents are on ADI's Forms and Samples page, http://www.adi-sandiego.com/practice/forms_samples.asp

Cal. Rules of Court, rules 8.54; 8.155, made applicable to criminal cases by rule 8.340(c), to non-fast-track juvenile cases by rule 8.410(b), modified for fast-track cases by rule 8.416(d)

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| <p>Due dates</p> <p>Cal. Rules of Court, rules 8.54, 8.155, 8.340(c), 8.410(b), 8.416(d)</p> | <ul style="list-style-type: none"> <input type="checkbox"/> all cases: at earliest possible time; usually before original due date of opening brief for augmentation request <input type="checkbox"/> fast-track dependency cases under rule 8.416: appellant must file request for augmentation within 15 days of receiving record and respondent within 15 days after opening brief filed <input type="checkbox"/> opposition to motion must be served and filed within 15 days after motion is filed |
| <p>Content of motion other than augment request</p> <p>Cal. Rules of Court, rule 8.54, 8.57</p> | <ul style="list-style-type: none"> <input type="checkbox"/> state grounds <input type="checkbox"/> state relief requested <input type="checkbox"/> identify any documents on which motion is based <input type="checkbox"/> must include memorandum and, if based on matters outside record, declarations or other supporting evidence <input type="checkbox"/> motion made before record is filed must include declarations or other evidence necessary to support motion; if motion is one to dismiss appeal, it must comply with rule 8.57(a) |
| <p>Content of motion to augment record</p> <p>Cal. Rules of Court, rules 8.155(a)</p> | <ul style="list-style-type: none"> <input type="checkbox"/> request for document filed or lodged in the superior court or transcript (or agreed or settled statement) of oral proceeding not part of the reporter's transcript <input type="checkbox"/> sample on ADI website at http://www.adi-sandiego.com/practice/forms_samples.asp <input type="checkbox"/> if available, attach copy of document/transcript to be added to the record <input type="checkbox"/> if copy of augment matter is not available, must identify document in manner prescribed by rules 8.122 and 8.130 |
| <p>Opposition to motion</p> <p>Cal. Rules of Court, rules 8.54(a)(3), (c)</p> | <ul style="list-style-type: none"> <input type="checkbox"/> must be filed within 15 days after motion is filed <input type="checkbox"/> failure to oppose may be deemed consent to granting motion |
| <p>Service and filing</p> <p>Cal. Rules of Court, rules 8.25, 8.44(a)(5), (b)(4), 8.54</p> | <ul style="list-style-type: none"> <input type="checkbox"/> if filing in Supreme Court: original plus 8, with proof of service <input type="checkbox"/> if filing in Court of Appeal: – original plus 1, with proof of service <input type="checkbox"/> service in criminal and delinquency cases: Attorney General, ADI (electronic copy), appellate counsel for each co-appellant <input type="checkbox"/> service in dependency cases: respondent (County Counsel, district attorney, or private counsel), minor's appellate attorney, ADI (electronic copy), appellate counsel for each co-appellant |

MISCELLANEOUS DOCUMENTS: PAPER FORM

INCLUDING ABANDONMENT OF APPEAL, RECORD CORRECTION NOTICE, CREDITS OR FINES/FEES LETTER

Documents in Courts of Appeal with TrueFiling must be electronically filed, as must those in Supreme Court related to petitions for review. But those in Supreme Court related to non-capital briefs on the merits and writs must be in paper form. Check with individual superior court if filing in that court.

Samples: A number of sample motions and other documents are on ADI's Forms and Samples page, http://www.adi-sandiego.com/practice/forms_samples.asp

Abandonment

Cal. Rules of Court, rule 8.25, 8.70, 8.316

- sample on ADI website at http://www.adi-sandiego.com/practice/forms_samples.asp
- before record is filed in appellate court: file abandonment in superior court
- after record is filed in appellate court: file motion to dismiss in Court of Appeal; court may dismiss appeal
- service: same as opening brief

Record correction letter

Cal. Rules of Court, rules 1.21, 8.25, 8.340(b), 8.410(a), 8.416(d)

- sample on ADI website at http://www.adi-sandiego.com/practice/forms_samples.asp
- check with superior court on electronic vs. paper filing, local rules
- copies to be filed with superior court judge: original (if paper: plus 1 if counsel wants conformed copy), with proof of service
- service in criminal and delinquency cases: Attorney General, ADI (electronic copy), Court of Appeal (courtesy), appellate counsel for each co-appellant
- service in non-fast-track dependency cases: respondent (County Counsel, district attorney, or private counsel), minor's appellate attorney, ADI (electronic copy), Court of Appeal (courtesy), appellate counsel for each co-appellant
- service in fast-track dependency cases: practice may vary from court to court; check with ADI: may be same as non-fast-track cases, above (letter to superior court clerk), or same as augmentation (motion in Court of Appeal)

Informal credits, fines/fees correction letter

Cal. Rules of Court, rule 1.21, Pen. Code, §§ 1237.1, 1237.2; People v. Fares (1993) 16 Cal.App.4th 954

- sample on ADI website at http://www.adi-sandiego.com/practice/forms_samples.asp
- copies to be filed with superior court judge: original plus 1 if counsel wants conformed copy, plus proof of service
- service: district attorney, ADI (electronic copy), plus courtesy copies to Attorney General and Court of Appeal
- informal letter is adequate to preserve credits or fines/fees issue for appeal under Pen. Code, § 1237.1 or 1237.2

Letter to superior court (misc.)

Cal. Rules of Court, rules 1.21, 3.1110 et seq.

- sample on ADI website at http://www.adi-sandiego.com/practice/forms_samples.asp
- copies: original plus 1 if counsel wants return of filed copy, with proof of service - superior court
- service: district attorney, ADI (electronic copy), plus courtesy copies to Attorney General and Court of Appeal
- format: see rule 3.1110 et seq. and check local rules of superior court