

## When Petitions for Review Go Wrong: Common Problems and Solutions

### I. Pre-filing

#### A. Finality

Summary denial of habeas with related appeal not final until decision on appeal filed (CRC 8.387(b)(2)(B))

#### B. Factual errors in CA opinion? Make sure to petition for rehearing. (CRC 8.500(c)(2))

#### C. Original writs in the Supreme Court

1. Almost never right approach – *Hagan v. Superior Court* (1962) 57 Cal.2d 767

2. Limited exceptions, e.g. *Briggs et al. v. Brown et al.*, S238309 (see *Legislature v. Eu* (1991) 54 Cal.3d 492, 500)

#### D. E-filing

1. Mandatory beginning September 1, 2017

2. Does not include original writs

### II. Form errors

A. Stay request – must be on cover

B. Changing titles from CA title

C. Check your templates – George is no longer CJ

### III. Content issues

#### A. Why should we grant review?

1. CRC 8.504(b)(2) – petition must explain how case presents a ground for review

2. Issue of statewide importance? Split of authority?

3. Is the issue already pending?

a. <http://www.courts.ca.gov/supremecourt.htm> – click on “Pending Issues Summary”

b. Ask for grant and hold

c. Grant and hold practice

#### B. New issues raised for first time in petition for review (CRC 8.500(c)(1))

#### C. Why did the CA err?

1. Address CA opinion directly

2. Never reprint CA brief

#### D. Stylistic issues

1. Avoid hyperbolic language

2. Spelling, grammar, citation format

3. Rambling, unstructured, stream of consciousness writing

Reminder: YOU know the case inside and out. Your reader doesn't. Put yourself in the shoes of a reader who has never heard of your case before and read your petition again.

4. Emphasize one or two of the strongest issues

E. Any way to get facts before court when not part of record below?

#### IV. Miscellaneous Post-Grant Questions