

SELECTED CHANGES TO APPELLATE RULES EFFECTIVE JANUARY 1, 2009

Court of Appeal: General	Amended Rule	Former Rule	Nature of Change
Amicus briefs	8.200	New subd. (c)(3)	New requirement: disclosure of party's authoring or funding, and any source of monetary contributions toward, an amicus curiae brief.
Cross-appeals	8.216(b)(2)	Amended	A combined brief must address the points raised in each appeal separately but may include a single summary of the significant facts.
Judicial notice	8.252	New subd. (a)(2)	New requirements: The motion must state: (A) why matter is relevant; (B) whether matter was presented to trial court and whether it took judicial notice; (C) whether matter relates to proceedings occurring after order or judgment that is subject of appeal.
Finality	8.366, 8.387, 8.490	8.264	Finality rules for criminal and writ proceedings moved out of, or copied from, rule 8.264 and into applicable chapters - 8.366 (criminal), 8.387 (habeas corpus), 8.490 (mandate, etc.). Juvenile rule 8.470 still cross-references 8.264.
Criminal Appeals	Amended Rule	Former Rule	Nature of Change
Certificate of interested parties	8.361	New rule	New: Rule 8.208 on certificate of interested parties applies to criminal appeal when defendant is an entity.
Finality	8.366(b)	8.264	Moved or copied from civil appeals rule 8.264.
Finality of interlocutory orders	8.366 comment	8.264 comment	Rule 8.366(b) applies to interlocutory orders in Court of Appeal.
Habeas Corpus	Amended Rule	Former Rule	Nature of Change
Pro per petitions	8.380	Same number	Topics other than pro per petitions moved to later rules. No substantive changes.
Petitions filed by attorney	8.384	Same number	
Form and content	8.384(a)	8.384(b)(1), (2), (6)	(a)(1) Adds specific references to cover requirements, tables, and form. (a)(2) Length limit for civil briefs (8.204(c)) applies to memorandum of points and authorities, except in capital cases.
Supporting documents	8.384(b)	8.384(b)(3), (4), (5)	No substantive changes, except that references to previous petitions filed in same court must include name and number.
Number of copies	8.384(c)	8.384(b)(7)	Includes reference to rule 8.44 for number of copies of supporting documents.
Nonconforming petitions	8.384(d)	8.384(b)(8)	No substantive changes.
Proceedings after petition filed	8.385	8.380, plus new provisions	
Record	8.385(a)	8.380(b)	No substantive changes
Informal response and reply.	8.385(b)	8.380(c)	No substantive changes.
Petition filed in wrong court	8.385(c)	8.380(d)	No substantive changes.
Order to show cause	8.385(d)	New provision	Must be issued when petitioner has made prima facie showing of entitlement to relief. Standard law.
Return ordered to be filed in superior court	8.385(e)	New provision	Court may order return filed in lower court. Standard law.
Return in reviewing court: counsel	8.385(f)	New provision	If return to be in reviewing court, must appoint counsel for indigent. Standard practice.

Proceedings if return to be filed in reviewing court	8.386	New rule	
Application	8.386(a)	New provision	Rule covers proceedings when return filed in reviewing court
Serving and filing return	8.386(b)	New provision	(1) Due 30 days after OSC. (2) Number of copies, per rule 8.44. Service on opposing counsel and project.
Form and content of return	8.386(c)	New provision	Format, length, citation rules. Includes standard law that any material allegation of petition not controverted by return is deemed admitted.
Traverse	8.386(d)	New provision	(1) Due 30 days after return. (2) Form and length. (3) Includes standard law that any material allegation of return not controverted by traverse is deemed admitted. (4) Number of copies.
Judicial notice	8.386(e)	New provision	Rule 8.252 governs.
Evidentiary hearing	8.386(f)	New provision	Required if entitlement to relief depends on issue of fact. May appoint referee.
Oral argument and submission	8.386(g)	New provision	Rules 8.256 and 8.524 govern.
Decision	8.387	8.264, 8.386, 8.532 plus new provisions	
Filing	8.387(a)	8.264(a), 8.532(a)	Rules 8.264(a) and 8.532(a) govern.
Finality in Court of Appeal	8.387(b)	8.264(2), (4)	(1) General 30-day rule. (2) Immediate finality if no order to show cause, except that if denial is filed on same day as decision in related appeal, it becomes final when appeal is final. (3) Exceptions for early finality and late publication order.
Finality in Supreme Court	8.387(c)	8.532	Rule 8.532(b) governs.
Modification of decision	8.387(d)	8.264(c), 8.532(c)	Copies provisions of rules 8.264(c) and 8.532(c), rather than cross-referencing them.
Rehearing	8.387(e)	8.268, 8.536	Rules 8.268 and 8.536 govern.
Remittitur	8.387(f)	8.386	Clarification: no remittitur required when Court of Appeal order to show cause is returnable before superior court, as well as when no order to show cause issued.
Mandate, Prohibition, Certiorari	Amended Rule	Former Rule	Nature of Change
Petitions	8.486	8.490	
Contents of petition	8.486(a)	8.116, 8.490(b)	No substantive changes. Subdivision (7) spells out requirements for temporary stay instead of cross-referencing rule 8.116.
Contents of supporting documents	8.486(b)	8.490(c)	No substantive changes, but clarifies that "counsel" also refers to a petitioner if unrepresented.
Form of supporting documents	8.486(c)	8.490(d)	No substantive changes.
Sealed records	8.486(d)	8.490(e)	No substantive changes.
Service	8.486(e)	8.490(f)	No substantive changes.
Opposition and Attorney General amicus briefs.	8.487	8.490(g)-(j)	
Preliminary opposition	8.487(a)	8.490(g)	No substantive changes.
Return or opposition, reply	8.487(b)	8.490(h)	No substantive changes.
Attorney General's amicus brief	8.487(c)	8.490(j)	No substantive changes.

Certificate of interested parties	8.488	8.490(i)	
Application	8.488(a)	8.490(i)(1)	Adds criminal cases where the defendant is an entity.
Compliance with rule 8.208.	8.488(b)	8.490(i)(2)	Adds criminal cases where the defendant is an entity.
Placement of certificate	8.488(c)	8.490(i)(3)	No substantive changes.
Failure to file	8.488(d)	8.490(i)(4), (5)	No substantive changes.
Notice to trial court	8.489	8.490(k)	
Notice if writ issues	8.489(a)	8.490(k)(1)	No substantive changes.
Notice by telephone	8.489(b)	8.490(k)(2), (3)	No substantive changes.
Filing, finality, and modification of decisions; remittitur	8.490	8.264	
Filing and modification	8.490(a)	8.264(a) and (c)	Rule 8.264(a) and (c) governs.
Finality	8.490(b)	8.264(b)	Repeats applicable provisions of rule 8.264(b).
Remittitur	8.490(c)	8.272	Court of Appeal must issue remittitur unless court denied petition without issuing alternative writ or order to show cause.
Sanctions	8.492	8.490(n)	
Grounds	8.492(a)	8.490(n)(1)	No substantive changes.
Notice	8.492(b)	8.490(n)(2)	No substantive changes.
Opposition	8.492(c)	8.490(n)(3)	No substantive changes.
Oral argument	8.492(d)	8.490(n)(4)	No substantive changes.
Costs	8.493	8.490(m)	
Award of costs	8.493(a)	8.490(m)(1), (2)	No substantive changes.
Procedures	8.493(b)	8.490(m)(3)	No substantive changes.
Supreme Court	Amended Rule	Former Rule	Nature of Change
Petition for review: copy of order to be reviewed	8.504(b)(5)	New provision	If the petition seeks review of Court of Appeal order, a copy of the order must be bound in the copies of the petition filed in Supreme Court.
Briefs	8.520	Same number	
Reply brief on merits	8.520(d)	Same number	Permissible length expanded from 4,200 to 8,400 words.
Amicus briefs	8.520(f)	New provision	New requirement: disclosure of party's authoring or funding of amicus curiae brief, and any other source of monetary contributions toward the brief.
Appellate Division	Amended Rule	Former Rule	Nature of Change
New rules, modeled after Court of Appeal rules	8.880 et seq.	8.700 et seq.	Extensive changes.