



NEWS ALERT

September 2023

TOPICS

Office Holidays & Court Closures

New Mailing Address for Clients Housed in San Diego Jail

Dependency Records in San Bernardino Superior Court

MCLE Programs

Extensions of Time & Default Notices

Consultation with ADI Before Raising IAC

DEAR PANEL MEMBERS,

Office Holidays & Court Closures

- Monday, September 4th – Labor Day
- Friday, September 22nd – Native American Day

New Mailing Address for Clients Housed in San Diego Jail

The San Diego County Jail has centralized their mail system. If you have a client housed in any of the San Diego Jails, use the following address:

Incarcerated Person's Name & Booking #
Name of Facility
451 Riverview Parkway, Building "C"
Santee, CA 92071

Dependency Records in San Bernardino Superior Court

The San Bernardino Superior Court will no longer be sending dependency records on CD. Instead, panel attorneys will receive an email containing a link to download the record. The link will require two factor authentication, so you may be asked to enter a phone number to verify the link. This change is scheduled for September 5th and applies only to dependency records.

MCLE Programs: Virtual Programs

Juvenile Law Issues Roundtable – September 20th from 12:00-1:00 p.m.

More information to be distributed before the event.

How to Prepare an Effective Petition for Review – October 5th from 12:00-1:00 p.m.

California Supreme Court Staff Attorney Taylor Fuentes will provide insight on how to prepare an effective petition for review. Ms. Fuentes currently works on the Criminal Central Staff and has served as an interim chambers attorney for then-Associate Justice Patricia Guerrero and Associate Justice Kelli Evans. Before joining the California Supreme Court, Ms. Fuentes worked as a law clerk for ADI. Please send any particular questions you may have for Ms. Fuentes to Savannah Montanez (srm@adi-sandiego.com) by Friday, September 15, 2023.

Extensions of Time & Notifying ADI When Default Notice Expiration Date is Approaching

With the increase in caseloads in both criminal and dependency cases, we understand that panel attorneys will need more extensions of time. When requesting an extension of time, please continue to include any progress you have made on the case and other case specific reasons for the request, as well as caseload reasons (e.g., other cases you have been appointed to and their status).

If the court issues the default notice under California Rules of Court, rule 8.360(c)(5)(A) and you're approaching the expiration period, please reach out to the assigned staff attorney. If an opening brief or an extension request has not been filed five business days before the expiration of default notice period, the staff attorney will reach out to appointed counsel to determine status. If we do not receive a response, or if there is doubt about whether an AOB will be filed or an extension request granted, we must prepare for a possible substitution. This requires ADI to locate a new attorney and provide a provisional substitution order to the Court of Appeal so the court can appoint new counsel if the brief is not filed (or an extension is not granted) before the expiration.

We would much rather keep current counsel on the case, so please stay in communication with the assigned staff attorney so we can avoid provisional substitutions.

Why Does ADI Require Consultation Before Filing a Brief or Petition Arguing Ineffective Assistance of Counsel?

It's been a few years since we've discussed our policy requiring consultation with ADI before appointed counsel raises ineffective assistance of counsel.

Ineffective assistance of counsel is one of the rare situations where we ask appointed counsel to consult with ADI before raising the issue. This issue is unusual for a few reasons. It requires input from trial counsel because the viability of such an issue will hinge on trial counsel's purpose in acting (or failing to act) and whether it was a reasonable tactical choice. If the issue is viable, it often requires a companion habeas proceeding. In addition, the manner in which we invite trial counsel's cooperation sets the groundwork for communication with the trial bar in future cases. (See [Working with Trial Counsel](#), July 2020 memo.) Finally, ineffective assistance of counsel issues can implicate Business and Professions Code section 6086.7 which requires a court to notify the State Bar whenever a modification or reversal of a judgment in a judicial proceeding is based on "incompetent representation," and section 6068, subdivision (o)(7) which requires an attorney to self-report when the modification or reversal is based on "grossly incompetent representation." Because of these many considerations, consultation with ADI is essential. Please continue to contact your assigned staff attorney before raising ineffective assistance of counsel in the brief or companion habeas. In criminal cases, consultation is not necessary when the ineffective assistance counsel issue is argued in the alternative.

As always, please reach out to me if you have any questions, concerns, or suggestions.

~ Lynelle

