

INFORMATION ON A PETITION FOR REVIEW IN THE CALIFORNIA SUPREME COURT

After careful thought, your attorney has decided not to file a petition asking the California Supreme Court to review the case. You may file one on your own. (If there is any federal issue raised in your appeal that you may want federal courts to consider, you *must* file a petition for review and include that federal issue in it.) Here is some information about a petition for review.

1. Usual reasons why the court grants review. With only rare exceptions, the Supreme Court will take a case for review only if it raises an important question of law or the Court of Appeal decision is in conflict with other decisions. Also, it normally will not review an issue unless it was raised in the Court of Appeal. (Rule 8.500(b) and (c) of the California Rules of Court covers some of this. It is quoted on page 3.)

2. When to file. *The filing deadline is very important.* For an appeal, a petition for review must be filed no sooner than 30 or later than 40 days after the filing date of the Court of Appeal opinion, which has already been sent to you. The filing date is stamped in the top right corner on page 1 of the opinion.

3. What the petition must contain. The requirements for a petition for review are in rules 8.500 and 8.504 of the California Rules of Court. (Some of these requirements are quoted on page 3.) The form is similar to the briefs you have received. It should not be more than 30 typed pages. A petition must contain:

Cover. Look at the appellant's opening brief for a guide. On the first line of the page, change the words "COURT OF APPEAL" to "SUPREME COURT." Change the title from "APPELLANT'S OPENING BRIEF" to "PETITION FOR REVIEW." Put in your name and address instead of the attorney's. The cover of a petition for review needs to be white.

Issues Presented. List the legal issues you would like the Supreme Court to review. Remember that the Supreme Court normally will review only issues raised in the Court of Appeal. If there is any federal issue raised in your appeal that you may want federal courts to consider, you *must* file a petition for review and include that federal issue in it.

Ground for Review. Give reasons why the court should grant review, mentioning one or more of the reasons listed in point 1 of this information sheet or in rule 8.500(b), which is quoted on page 3. Often the reason will be to settle an important question of law. Explain why your case is important.

Facts. Briefly summarize the proceedings and the facts as shown in the record on appeal. You can use the statement of the case and the statement of facts from the briefs or the opinion. You may not include facts outside the record on appeal. Say whether your attorney filed a petition for rehearing on your behalf in the Court of Appeal.

Argument. Give a short legal argument in support of each issue listed in "Issues Presented." Argue each issue separately, with headings, as in the briefs. You may use the arguments in your attorney's briefs as a guide. Your goal is to convince the Supreme Court to grant review by showing that your case is important to California law.

Copy of the Court of Appeal Opinion. Attach the opinion at the end of your arguments.

Proof of service. At the very end of the petition for review, after the opinion, attach a statement that all of the required copies have been sent, and include a list of all the names and addresses where those copies were sent. This is called a proof of service. *It must be signed under penalty of perjury.* The required copies are listed in the next section, point 4 (next page). Use the proof of service from the appellant's opening brief as an example.

Copies to mail. The list of copies to send is on the next page of this information sheet.

4. **What copies to mail.** Mail these copies of the petition for review (you may also deliver it in person):

Mail the original and 13 copies to: Clerk, California Supreme Court, 350 McAllister Street, San Francisco, CA 94102-4797.

Mail one copy to: Clerk, Court of Appeal (choose the applicable address listed below).

- If your case was from *San Diego* or *Imperial* County, send the petition to: Clerk, Court of Appeal, Fourth Appellate District, Division One, 750 "B" Street, Suite 300, San Diego, CA 92101, or
- If your case was from *Riverside*, *San Bernardino*, or *Inyo* County, send the petition to: Clerk, Court of Appeal, Fourth Appellate District, Division Two, 3389 Twelfth Street, Riverside, CA 92501, or
- If your case was from *Orange* County, send the petition to: Clerk, Court of Appeal, Fourth Appellate District, Division Three, 601 W. Santa Ana Blvd., Santa Ana, CA 92701.

Mail one copy to each of these (required by the California Rules of Court):

- The office that handled the case for the opposing side in the Court of Appeal (such as the Attorney General or County Counsel), and
- The superior court where your case took place, and
- The attorney on appeal for each co-defendant or other person, if any, whose case was decided in the same opinion as your appeal. If this is a dependency appeal and the minor had an attorney on appeal, also mail a copy to that attorney.

You can get the names and addresses from the proof of service at the end of the appellant's opening brief, or ask your attorney. Please also send a copy of the petition to your attorney on appeal and to Appellate Defenders, Inc., 555 West Beech, Suite 300, San Diego, CA 92101.

If you need further assistance, you may ask your attorney or Appellate Defenders, Inc., for guidance and a sample petition for review. BUT: remember the deadline and do not delay filing your petition if waiting for guidance would make it late.

ADDITIONAL INFORMATION ON A PETITION FOR REVIEW

Petition for review is necessary if you plan to take issue raised on your appeal into federal court

The United States Supreme Court has said that a federal court will not consider an issue raised in a federal habeas corpus petition unless the issue has been presented to the state's highest court. (*O'Sullivan v. Boerckel* (1999) 526 U.S. 838.) That means that, if you plan to file a petition for habeas corpus in federal court based on an issue raised in your appeal, you *must* file a petition for review in the California Supreme Court specifically raising that issue. An issue taken to federal court issue must be based on *federal* constitutional law, not just state law.

Guidance on what to do if you cannot afford to comply with these provisions

If you cannot afford to comply with the requirements, such as the number of copies to be sent, you may ask the Supreme Court to excuse compliance. Please contact your attorney on appeal or Appellate Defenders, Inc., at 555 West Beech St., Suite 300, San Diego, CA 92101, or (619) 696-0282, for further guidance if you need it. **BUT: remember the deadline and do not delay filing your petition if waiting for guidance would make it late.**

SOME OF THE PROVISIONS ON PETITIONS FOR REVIEW IN THE CALIFORNIA RULES OF COURT

Rule 8.500, Petition for review

(b) Grounds for review

The Supreme Court may order review of a Court of Appeal decision:

- (1) When necessary to secure uniformity of decision or to settle an important question of law;
- (2) When the Court of Appeal lacked jurisdiction;
- (3) When the Court of Appeal decision lacked the concurrence of sufficient qualified justices; or
- (4) For the purpose of transferring the matter to the Court of Appeal for such proceedings as the Supreme Court may order.

(c) Limits of review

- (1) As a policy matter, on petition for review the Supreme Court normally will not consider an issue that the petitioner failed to timely raise in the Court of Appeal.
- (2) A party may petition for review without petitioning for rehearing in the Court of Appeal, but as a policy matter the Supreme Court normally will accept the Court of Appeal opinion's statement of the issues and facts unless the party has called the Court of Appeal's attention to any alleged omission or misstatement of an issue or fact in a petition for rehearing.

Rule 8.504. Form and contents of petition, answer, and reply

(b) Contents of a petition

- (1) The body of the petition must begin with a concise, nonargumentative statement of the issues presented for review, framing them in terms of the facts of the case but without unnecessary detail.
- (2) The petition must explain how the case presents a ground for review under rule 8.500(b).
- (3) If a petition for rehearing could have been filed in the Court of Appeal, the petition for review must state whether it was filed and, if so, how the court ruled.
- (4) If the petition seeks review of a Court of Appeal opinion, a copy of the opinion showing its filing date and a copy of any order modifying the opinion or directing its publication must be bound at the back of the original petition and each copy filed in the Supreme Court.

(d) Length

- (1) If produced on a computer, a petition or answer must not exceed 8,400 words, including footnotes, and a reply must not exceed 4,200 words, including footnotes. Each petition, answer, or reply must include a certificate by appellate counsel or an unrepresented party stating the number of words in the document. The person certifying may rely on the word count of the computer program used to prepare the document.
- (2) If typewritten, a petition or answer must not exceed 30 pages and a reply must not exceed 15 pages.
- (3) The tables, the Court of Appeal opinion, a certificate under (1), and any attachment under (e)(1) are excluded from the limits stated in (1) and (2).