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Second Appellate District Internal Operating Practices and Procedures

PURPOSE

The purpose of this document is to provide members of the bar and other interested persons with general information concerning the organization of the Second Appellate District and its procedures for processing cases.

ORGANIZATION OF THE DISTRICT

The Second District covers four counties and consists of eight divisions. Each division is a separate court for the purpose of hearing and deciding cases assigned to it. Divisions One through Five, Seven and Eight are located at 300 South Spring Street, Los Angeles, California, 90013 and handle all matters arising from Los Angeles County. Division Six is located at 200 East Santa Clara Street, Ventura, California, 93001 and handles all matters arising from Ventura, Santa Barbara, and San Luis Obispo Counties.

Each division consists of three Associate Justices and a Presiding Justice. The Chief Justice appoints one of the Presiding Justices to serve as Administrative Presiding Justice to perform the duties prescribed in the California Rules of Court.

Each justice maintains a chambers which consists of the justice, judicial attorneys, and a judicial assistant. In addition, each division is assigned other judicial attorneys, including writs attorneys, and other judicial assistants, judicial secretaries, and deputy clerks. A Managing Attorney provides direct assistance to the Administrative Presiding Justice and supervises attorneys

and judicial assistants who are not assigned to a particular division. These include the staff responsible for Workers' Compensation matters.

A Clerk/Executive Officer is selected by the justices of the district and works under the general direction and supervision of the Administrative Presiding Justice. The Clerk/Executive Officer is responsible for planning, organizing, coordinating, and directing the management of the clerk's office and its personnel. The Clerk/Executive Officer also supervises the library, administrative, and computer services staffs. The Clerk/Executive Officer is responsible for all district support activities, including personnel, budget, technology, and facilities.

PROCESSING OF CASES

ASSIGNMENT OF CASES

Appeals and original proceedings (writ petitions) arising in Ventura, Santa Barbara, and San Luis Obispo Counties are assigned to Division Six. Appeals and writ petitions arising in Los Angeles County are assigned to the divisions in Los Angeles (One through Five, Seven and Eight) on a random, pro rata basis, unless an appeal or writ petition arises from a trial court action or proceeding from which an appeal or writ petition was previously filed in the district. In that case, the appeal or writ petition is generally assigned to the division to which the prior appeal or writ petition was assigned. On occasion and in order to equalize workload, Los Angeles cases may be assigned to Division Six and Division Six cases may be assigned to one of the Los Angeles divisions. Once a case has been assigned to a division it remains in that division for all further proceedings unless the clerk upon

direction of the Presiding Justice, requests the Supreme Court or the Administrative Presiding Justice to transfer the case to another division or district, under [rule 10.1000](#) of the California Rules of Court. If two or more justices in a division are recused from a case, the case is to be re-assigned to another division.

MOTIONS

The Presiding Justice of each division determines the manner in which motions are handled within that division. Motions filed before a case is assigned to a division are designated “Division P” motions and are ruled upon by the Administrative Presiding Justice.

APPEALS

Preparation of Bench Memoranda

After an appeal has been fully briefed, it is generally assigned on a random, pro rata basis to a three-justice panel. A change in the composition of the panel may be required when, for example, a conflict arises or to accommodate workload imbalances. The case is set for oral argument on an upcoming calendar. Oral argument may be waived by the parties. The court is not obligated to accept a waiver and may ask that the parties appear for oral argument.

The justices on the panel review the briefs and the record. Under the direction of the justices, judicial attorneys generally prepare bench memoranda in anticipation of oral argument. The memoranda discuss the procedural background, facts, and issues in the cases and may recommend various treatments and

dispositions. The panel members review the memoranda in preparation for oral argument and the filing of written opinions.

If an issue arises that was not raised by the parties, a letter pursuant to Government Code section 68081 will be sent to the parties requesting briefing. The court may order additional briefing on any issue.

Oral Argument

Each division generally schedules hearings for two days each month and entertains argument on those matters for which oral argument has not been waived by the parties. The manner in which calendars are called and the order in which cases are scheduled for argument differ among the divisions. The composition of the panel assigned to each case is announced at the hearing.

Determination

If the parties have waived oral argument or oral argument does not change the justices' understanding of the case, and all justices on the panel agree with the bench memorandum, it may form the basis of the written opinion to be filed. If oral argument raises additional issues to be considered, or consensus among the panel justices does not exist, the bench memorandum may be altered or discarded and a new memorandum may be circulated. Concurring and dissenting opinions may also be prepared. Unless further briefing is allowed, generally cases are submitted at the close of oral argument. If further briefing is allowed, the date of submission will be ordered by the court.

Rehearing

Timely petitions for rehearing are presented to the court for review. If the court desires opposition, the clerk will be directed to call counsel and request that an answer be filed. In some instances, a modification may be issued and rehearing otherwise denied. Grant of a petition for rehearing may or may not result in a request for further briefing or additional oral argument.

Publication

An opinion or part of an opinion may be published if a majority of the panel rendering the decision determines that it meets the standards for publication contained within the California Rules of Court.

WRIT PETITIONS

Writ petitions are reviewed by the justices of the division to which they are assigned, with the assistance of the division's writs attorneys. Writ petitions that do not seek immediate relief are discussed at periodic writ conferences, usually weekly. If the writ petition seeks immediate relief, a timely determination is made. In appropriate cases, the court may issue a stay or other order to preserve the status quo pending further action. The court may summarily deny a writ petition, either before or after receiving opposition. If a writ petition results in the issuance of an alternative writ or an order to show cause, a written opinion generally results unless the trial court complies with the alternative writ.

ASSIGNED JUSTICES

Upon request, the Chief Justice may assign a judge, retired judge, justice, or retired justice to sit as a justice pro tem in a particular division. Assigned justices assist with the court's workload in various situations, including judicial vacancies and disqualifications.

EXTERNSHIP PROGRAM

The Second District maintains a centralized unpaid externship program for law students who participate on a part-time or full-time basis and who may receive law school credit. Externs are recruited or may apply, and those selected are assigned to justices in the various divisions. Once assigned to a justice, externs work under the close supervision of the justice and the justice's staff. Individual justices may accept externship applications in addition to using the district's centralized recruitment and assignment program. Externs have come to the district from law schools throughout the United States.

SETTLEMENT/MEDIATION PROGRAM

The Second District participates in a district-wide voluntary settlement/mediation program. A volunteer attorney or mediator presides over the settlement/mediation process. If at any time the parties decide to explore the possibility of settlement/mediation, they should contact the clerk's office.

LOCAL RULES

The Second District has adopted a number of local rules. (See [Local Rules](#) of the Second District Court of Appeal.)