

NOTICE REGARDING ELECTRONIC FILING FOR SELF-REPRESENTED LITIGANTS

California Rules of Court, rule [8.71](#) requires that for parties with attorneys, *all* filings in civil cases be made through the Court's electronic filing system (TrueFiling).

Self-represented litigants, however, are exempt from the requirement to file documents electronically. (CRC, rule 8.71(b). However, if a self-represented litigant chooses to file documents electronically, he or she is bound by the rules of electronic filing laid out in California Rules of Court, Article 5. Represented parties are *required* to file electronically.

When electronically filing, you must comply with the requirements of TrueFiling and California Rules of Court, rule [8.74](#). By electronically filing any document with the court, you agree to file *all* documents electronically. You also agree to receive service of documents electronically unless you notify the court and all parties that you do not accept electronic service and choose to be served paper copies at an address you provide. (CRC, rules 8.71(b)(2) and [8.78\(a\)\(2\)](#).)

For electronic filing support, registration and training, please review the following resources at courts.ca.gov/2dca:

- Register for TrueFiling
- TrueFiling Quick Start Guide
- TrueFiling Support and Training
- Guide to Creating Electronic Appellate Documents
- How to Prepare Electronic Filings
- Frequently asked questions regarding electronic filing

Please note: any references contained within this self-help manual regarding document formatting (for example, color covers), apply only to paper filings.

DISCLAIMER

The materials included here are not legal advice and may not be used as legal authority. The primary legal authority for the practices described in this manual is the California Rules of Court.¹ This manual does not replace or supersede the California Rules of Court. It is merely a general summary of the applicable rules. The rules themselves are subject to change, and you should consult them directly.

In the event the information here differs from the California Rules of Court, you must follow the California Rules of Court. The California Rules of Court are referred to throughout this manual as "CRC" (for example, "CRC, rule 8.108").

The California Rules of Court are available at any law library, on the Internet at www.courts.ca.gov/rules, or can be ordered for a fee by calling (800) 328-9352.

¹ See CRC, rules 8.100-8.278 if you are appealing from the unlimited jurisdiction of the superior court to the Court of Appeal. Appeals from the limited jurisdiction of the superior court to the appellate division of the superior court are covered by CRC, rules 8.800-8.891; transfer from the Appellate Division of Superior Court to the Court of Appeal is covered by CRC rules 8.1000-8.1018. This manual discusses only appeals to the Second Appellate District Court of Appeal, not to the Appellate Division.

CHAPTER 5

MOTIONS, APPLICATIONS, STIPULATIONS, ABANDONMENT, AND ONLINE CASE INFORMATION

There are a few other types of actions that might take place during the course of an appeal. At some point during your case, you may need to request something from the Court. Typically, these requests take one of three forms:

1. a motion
2. an application
3. a stipulation

This chapter introduces you to motions, applications and stipulations and guides you through when and how to use them. Additionally, this chapter describes how to properly abandon, settle or dismiss an appeal, as well as how to receive the most current information about the status of your appeal.

Motions

In all instances, except those outlined in CRC, rule [8.50](#), requests to the Court of Appeal are made by motion.⁶ CRC, rule [8.54](#) covers “motions in the reviewing court.” Motions are the formal means for asking the court to cure a problem or take some sort of action in a case.

If there are problems with the record, a desire for preference or priority in getting the court to handle the case or any problem, you can file a motion or application asking the court to take care of the problem. (See CRC, rules [8.240](#), [8.50](#) and [8.54](#).) A motion can also be used to vacate a dismissal that has been entered against you, to consolidate two cases, and so forth.

A motion should be typewritten, with *Proof of Service* on all counsel and self-represented parties, and an original and one copy must be filed with the Court of Appeal. (CRC, rules [8.44\(b\)\(4\)](#) and [8.54\(a\)](#).)

⁶ CRC, rule 8.50 discusses applications to the Court for routine matters, namely extensions of time to file briefs.

You need to tell the Court of Appeal why you are making the request (show “good cause”), provide additional information that might be relevant, and let the Court of Appeal know what it is you want it to do (such as grant preference in the processing of your case based on a terminal illness, add to the record, take judicial notice of some fact, etc.).

Along with the motion you should provide points and authorities to justify the request and documentary evidence (declarations and exhibits) if it is needed to support your request. Points and authorities are just that: the points set out the argument you wish to make, and the authorities give the legal reasons that the motion should be granted or denied.

At least one declaration should, under penalty of perjury, give the facts surrounding the request, what you have done or attempted to do to take care of the problem, what you want the court to do, and why it is necessary. If your motion is incomplete, the court may deny the motion “without prejudice,” which means you may correct whatever problems there are and re-file the motion.

Any opposition to the motion should be filed within 15 days from the date of service. (CRC, rule 8.54(a)(3).) Most motions are not ruled on until the time to file the opposition has passed. If no opposition is filed, the motion is usually granted. Generally, there are no hearings on a motion, but on very rare occasions there may be. (CRC, rule [8.54\(b\)](#).)

Motion to Augment the Record

A motion to augment the record is used to add new items to the record on appeal (the clerk’s or reporter’s transcript). If a party wishes to have the Court of Appeal review anything that supports their position, but was not a part of the record, they can serve and file a request for judicial notice. The request should state why the material to be added is relevant; whether the material was presented to the superior court; and whether the new material is relevant to any proceedings after the judgment. (CRC, rule [8.155](#).)

If the superior court clerk or reporter failed to include something that was designated in your designation of record, you do not need to file a motion to augment. Instead, serve and file a notice to correct the record in the superior court. (See **Chapter 2**.) However, **if you already have a copy**

of the document that the superior court clerk omitted, it may be faster and cheaper to file a motion to augment to which you just attach the document instead of filing a notice to correct the record. (See [Motion to Augment Record on Appeal \(Documents Attached\)](#).)

If new documents need to be added to the record, a motion to augment must be filed with the Court of Appeal. Each item requested must be a part of the superior court file, such as a document that was filed in the superior court, received in evidence, or lodged with the court or is a transcript of oral proceedings. An item that was “lodged” with the court (rather than being filed) is returned to the parties and thus is not physically in the superior court file or in the custody of the court. Any document or transcript that you want to add to the record should be attached to the motion. If the court grants the motion, it then augments the record with the documents or transcripts included with the motion.

If you do not have copies of the documents to be added, the items must be identified as they are in a designation of record so that, if the motion is granted, the superior court can prepare a **“supplemental” clerk’s and/or reporter’s transcripts**. (CRC, rule 8.155, see [Motion to Augment Record on Appeal \(Documents Requested\)](#).) All motions to augment must be accompanied by a proposed order that identifies clearly each item that is to be added to the record. ([Local Rule 2\(g\)](#).)

If the motion for a supplemental clerk’s and/or reporter’s transcript is granted (see [Motion to Augment Record with Reporter’s Transcript](#)), the superior court will prepare an estimate of the cost of preparing the supplements. After the estimate is paid, the superior court is usually given 30 days to prepare the materials. If your brief is due within this time, your motion to augment should include a request to extend the deadline for filing the brief to 30 days after the supplemental transcript is filed (see applications for extension of time later in this chapter.) The title of your document should be “Motion to Augment the Record and Application to Extend Time to File [Appellant’s Opening, or Respondent’s or Appellant’s Reply] Brief.”

Applications and Stipulations

For more routine matters, mainly the extension of time to file briefs, the parties can request permission from the court using an application. An application is less formal than a motion. Generally, the Court of Appeal does not hold an application for opposition and rules on it immediately. The rules for applications are defined in CRC, rule [8.50](#).

In addition to motions and applications, the two parties in a case can stipulate that an action take place or a problem be remedied. Stipulations can be used in place of any action for which a single party might otherwise use a motion or an application.

Applications/Stipulations for Extension of Time to File Brief

The parties may stipulate to extend the briefing time up to **60 days** for each type of brief by filing one or more stipulations in the Court of Appeal before the brief is due. (CRC, rule [8.212\(b\)\(1\)](#).) The stipulation must be signed by and served on all parties. (See [Stipulation for Extension of Time to File Brief](#).)

If a party needs more than the 60 days already stipulated to, or if the opposing party refuses to stipulate to an extension, the party needing the extension must file an application for extension of time. (See [Application for Extension of Time](#).) The party seeking additional time must give reasons, also known as “**good cause**,” why that extension is needed. In addition, the party applying for an extension of time should explain either that (1) the applicant was unable to get the agreement of the other party to a stipulated extension or (2) the parties have already stipulated to the maximum **60 days** and the applicant now is seeking permission of the court for a further extension. (CRC, rule [8.212\(b\)\(3\)\(B\)](#).)

An Application for Extension of Time to File Brief should include the current deadline for the brief or item, the length of the requested extension, any previous applications that have been granted or denied, and any notices that have been issued under CRC, rule [8.220](#), in addition to a statement of good cause (the reason). (CRC rules [8.50](#), [8.60\(c\)](#), [8.63](#).)

You need to file with the court a proof of service of the application on all parties (see [Proof of Service](#)). A request for an extension of time must be served on the party represented by the attorney requesting the extension. Evidence of this need not include the client's address. (CRC, rule 8.60(f).)

Most often, applications for extension of time are ruled on without waiting for opposition. Thus, if you wish to oppose an application for extension of time, you must file the opposition (or call the clerk's office and let them know you will be filing an opposition) right away.

Abandonment, Settlement, and Dismissal

At some point in the appellate process, the appellant may decide to abandon the appeal. If this happens before the record has been filed, the appellant should file and serve a written abandonment or stipulation for abandonment at the appeals section of the superior court. The filing effects a dismissal of the appeal. (See [Abandonment of Appeal](#) and CRC, rule [8.244\(b\)](#).) If the clerk's transcript has not been completed, the portion of the deposit that has not been used should be refunded. (CRC, rule [8.122\(d\)\(2\)](#).) If the record has been filed, the appellant should file and serve a written request or stipulation to dismiss in the Court of Appeal. (See [Request for Dismissal of Appeal](#).) At this stage, the court has the discretion to accept or deny the request. (CRC, rule 8.244(c).)

If the parties are able to agree on a settlement of their differences, the appellant should immediately notify the court in writing that the matter has settled and file an abandonment of the appeal or request a dismissal of the appeal. (CRC, rule 8.244(a)-(c).)

If at any time the respondent believes the appeal should be dismissed, the respondent should serve and file a motion to dismiss. If the Notice of Appeal is late, or "untimely," the court has no power to hear the appeal, and the case will be dismissed. If the ruling is not appealable, the court may dismiss or it may elect to hear the case as a writ. The court will exercise its discretion in considering other dismissal motions and may deny such motions if the issues raised in the appeal involve the public interest and not just the parties to the appeal.

Online Case Information and E-mail Notification

You may view online information about your individual case at www.courts.ca.gov/2dca. On the website, click the “Search Case Information” button. Case information can be searched by one of the following:

- Court of Appeal case number
- trial court case number
- party name
- attorney name
- case caption

The best method is to use the Court of Appeal case number. Once you get to the case information summary screen for your case, you may get additional information by clicking on one of the choices in the table. You may view all of the:

- docket entries for your case
- a summary of future scheduled actions
- a briefing summary
- the disposition (if the opinion has been issued)
- party and attorney information (including attorney addresses)
- and trial court information (including name of trial judge and date of judgment)

You may also request automatic e-mail notifications about future actions taken in your case by clicking on “Click here” at the bottom of the page. If you provide your e-mail address, you can ask to be automatically notified of certain events that occur in the case. You may choose to be notified when the record on appeal is filed, when a brief is filed, when the court sends a calendar (oral argument) notice, when the court finally disposes of the appeal, and when the remittitur is issued.⁷ Whether or not you sign up for e-mail notification, you will still be notified of all of these events by mail from the court.

⁷ The remittitur is the final document the Court of Appeal files. It returns the case to the trial court and tells that court what to do as a result of what the Court of Appeal decided. (See Chapter 7, for a further discussion of remittiturs.)