Court of Appeal

FOURTH APPELLATE DISTRICT
Division One
750 B Street, Suite 300
San Diego, CA 92101

INTERNAL OPERATING PRACTICES AND PROCEDURES FOR THE

FOURTH APPELLATE DISTRICT, DIVISION ONE

(Revised August 11, 2025)

I. INTRODUCTION

A. 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 Fourth Appellate District, Division One and its procedures for processing cases. It is not intended to duplicate the California Rules of Court, the Local Rules of the Fourth Appellate District, or the statutes and constitutional provisions governing the processing of cases. This document describes the internal operating practices and procedures of Division One for review of appeals and original proceedings. This publication supersedes previous statements of the court's Internal Operating Practices and Procedures.

B. Organization of the District

The Court of Appeal for the Fourth Appellate District consists of three divisions. Division One, which generally hears appeals in cases from San Diego and Imperial Counties, is located in San Diego. Division Two, which generally hears appeals in cases from Riverside, San Bernardino and Inyo Counties, is located in Riverside. Division Three, which generally hears appeals in cases from Orange County, is located in Santa Ana. Cases filed in one division may be transferred to another division to equalize the workload of the three courts.

The courtroom and Office of the Clerk are located at 750 B Street, Suite 300, San Diego, California 92101.

C. Justices and Judicial Staff

Each division consists of 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, rule 10.1004. Division One has 10 justices. Each

justice maintains a chambers which consists of the justice, judicial attorneys, and a judicial assistant. The court also has a central staff consisting of judicial attorneys, including writs attorneys, and other judicial assistants who work for each of the justices on a rotating basis.

D. Clerk/Executive Officer, Clerk's Office Staff and Administrative Support Staff

A clerk/executive officer is selected by the presiding 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 all nonjudicial support activities as prescribed in the California Rules of Court, rule 10.1020. The clerk/executive officer is responsible for all district support activities, including personnel, budget, technology, and facilities.

E. Managing Attorney and Central Staff

The court's managing attorney is selected by the justices of the court and works under the general direction and supervision of the administrative presiding justice. The managing attorney serves as legal advisor to the court, its justices, and the clerk's office on a variety of issues, including matters of appellate procedure. The managing attorney also supervises the court's central staff attorneys and judicial assistants who are not assigned to a particular chambers.

F. The Clerk's Office

Each appeal or writ petition filed in Division One is assigned a six-digit identification number that is preceded by a "D" (e.g., D000000). A digit deputy is assigned two of the numbers from zero to nine and is responsible for processing all filings in cases that end in either of those numbers. (For example, the digit deputy that is assigned the numbers "1" and "2" is responsible for processing all filings in cases that have a number ending in a "1" or a "2.") Thus, parties or practitioners seeking information or assistance in their cases should ask to speak with the appropriate digit deputy, unless the case has been placed on a court calendar, in which case they should speak to the calendaring staff.

II. THE WORK OF THE COURT

A. Original Proceedings (Writs)

Writs are reviewed and decided by a panel of three justices, the composition of which rotates on a monthly basis. The clerk's office forwards all writ petitions to the writ department, which is staffed by central staff attorneys. The supervising writ attorney reviews each petition to determine its urgency. If an immediate stay or other form of urgent action appears to be necessary, a writ attorney may orally present the petition to the writ panel; otherwise, petitions are generally processed in order of their filing, subject to adjustments for impending hearing or trial dates. Normally, a writ attorney reviews the petition without waiting for a response, although one may be solicited; the attorney thereafter prepares a written memorandum evaluating the petition and circulates it to the writ panel.

After a writ petition is presented (whether orally or in writing), the justices on the writ panel may:

(1) request a response;

(2) deny the petition (regardless of whether a response has been requested or filed);

(3) issue a peremptory writ in the first instance without oral argument, but only after a response has been requested or filed and the parties have been notified in writing of its possible issuance; or

(4) issue an alternative writ or order to show cause.

It is the court's practice to request an initial response to a petition before issuing an alternative writ or an order to show cause. If the panel issues an alternative writ or an order to show cause, the real party in interest is given an opportunity to file a formal response, and the case will be placed on calendar. Generally, the writ attorney who presented the petition to the writ panel assists the lead justice in drafting the opinion when the court issues a peremptory writ in the first instance. When the panel has issued an alternative writ or an order to show cause, the matter is assigned to the lead justice's chambers for the drafting of the opinion.

B. Appeals

1. Case Screening

In civil cases, the California Rules of Court require an appellant to file a Civil Case Information Statement (Cal. Rules of Court, rule 8.100(g)), which is reviewed by a central staff attorney to determine if there is any issue regarding the timeliness of the appeal or the appealability of the challenged judgment or order, whether the case is entitled to calendar priority, whether there has been a previous writ or appeal in the same case or in a closely related case, and whether the appeal is affected by a pending bankruptcy. It is the court's practice to grant priority on its own motion to matters involving child custody or visitation.

In all appeals, after the respondent's brief is filed or the time for filing such a brief has run in a case, the managing attorney or a designated staff attorney screens the case and estimates the amount of time that the preparation of a draft opinion is likely to take.

Criminal appeals involving issues that can be resolved with little difficulty based upon well-established law and that do not present a likelihood of dispute as to how the law applies to the facts are designated as "by the court" ("BC") cases. In criminal appeals in which the appellant's counsel is unable to discern any reasonably arguable issues to raise, the court must independently review the record in accordance with *People v. Wende* (1979) 25 Cal.3d 436; those are accordingly designated as "*Wende*" appeals.

All other appeals are assigned a numerical value based on the likely amount of time to research the case. These assigned "weights" are used in assigning cases to chambers and central staff attorneys, to balance workload throughout the court.

2. Case Assignment/Processing

BCs, *Wende*s, juvenile dependency cases, and cases weighted 10 or higher are generally assigned by the managing attorney to central staff attorneys for processing. Priority is given to cases as required by law and, within the priority classification on a first-in, first-out basis. These cases are assigned randomly, in rotation, to a lead justice, who supervises the preparation of a draft opinion.

All other types of appeals are usually assigned by the managing attorney to a lead justice's chambers. Absent unusual circumstances, these assignments are made on a random basis to the justices. The internal procedures for assigning cases to chambers attorneys and for preparing draft opinions varies from one chambers to another.

3. Oral Argument

Once a draft opinion has been prepared in a case, its path is determined by whether a party or parties have requested oral argument. In cases where oral argument is waived, the draft opinion is circulated in order of seniority to the other justices assigned to the panel for that case, for their review.

In cases for which oral argument is requested, the draft opinion is placed in a calendar book. The calendar book contains the draft opinions for those cases on which the justice is participating. The justices hear oral argument and then confer immediately after argument takes place.

Oral argument is generally held during the second full week of the month, although occasionally cases are calendared for argument at other times, if necessitated by urgency or other good cause. Argument is limited to 15 minutes per side unless the court grants a party's advance written request for more time pursuant to Miscellaneous Order 061218 at https://www.courts.ca.gov/documents/4dca-div1-061218-Oral-Argument-Time-Limit-Order.pdf.

The court conducts in-person oral argument in all cases in which argument has been requested. A party may elect to appear remotely without a showing of good cause. Remote appearance requests are particularly disfavored if they are filed fewer than 15 days prior to the scheduled date of argument.

4. Submission of Cases

Cases that are orally argued are normally submitted at the conclusion of argument. Where oral argument is waived, the case is submitted at the conclusion of the argument calendar for the month to which it is assigned. Submission of the case triggers the 90-day rule for the filing of the opinion. (Cal. Const., art. VI, § 19.)

C. Filing of the Court's Decision; Rehearing

1. Signed Opinions

Unless the two other participating justices disagree with the disposition proposed by the assigned author, the justice assigned will prepare the majority opinion. When a proposed majority opinion has been drafted, it is circulated to the other participating justices. They indicate approval, disapproval, or proposed changes. Differences of opinion as to the language of the opinion or the ultimate disposition of the case may be taken up in conference. The opinion may then be modified in a manner acceptable to the justices. If two justices agree, a written opinion is filed.

2. Concurring or Dissenting Opinions

Where a difference of opinion exists among the justices participating in a case, a justice who agrees with the result reached but not with the reasoning of the majority may write a separate concurring opinion or may merely indicate concurrence only in the judgment reached by the majority. Likewise, a justice who disagrees with the result reached by the majority may write a dissenting opinion. Each panel member has a full opportunity to consider the views of associates prior to the completion and filing of the opinion.

3. Publication of Opinions

A decision of the court is not published in the official reports unless it is certified for publication by a majority of the participating justices. The criteria for publication and publication requests are set forth in rules 8.1105 and 8.1120, respectively, of the California Rules of Court.

4. Rehearing

The procedure for filing a petition for rehearing is governed by rule 8.268 of the California Rules of Court. When a petition for rehearing is filed, the petition is routed to the justice who authored the opinion with copies to the participating justices. The authoring justice reviews the petition, and then indicates whether he or she votes to grant or deny the petition. The petition, along with any staff memorandum, is then circulated to the other two justices on the panel for their decisions. Two votes are necessary to grant or deny a petition for rehearing.

D. Posting of Opinions

For 60 days, the Reporter of Decisions posts published opinions of the Court of Appeal at: http://www.courts.ca.gov/opinions-slip.htm?Courts=C. Unpublished opinions of the court are posted for 60 days at http://www.courts.ca.gov/opinions-nonpub.htm?Courts=C.

E. Motions

Routine applications and motions are reviewed and ruled on by the Presiding or Acting Presiding Justice. Dispositive motions, such as motions to dismiss an appeal, are ruled on by a panel of three justices. Requests for extensions of time to file briefs or other papers are ruled on by the Presiding Justice. Motions in writ proceedings are not held for opposition absent a request by the parties.

III. CIVIL MEDIATION PROGRAM

The general information packet sent to parties at the commencement of a civil appeal includes guidelines for the court's Civil Mediation Program. Participation is voluntary, and the agreement of all parties is required. Mediation requests may be initiated by the parties prior to the filing of any briefs or at any time up to 30 days following the filing of the final brief by submitting the Confidential Mediation Request Form which is available at https://www.courts.ca.gov/2519.htm#panel7901. The court may reach out informally to parties to make them aware of the court's mediation option when the parties have indicated an interest in potential mediation but have not requested mediation through the court's program. The commencement of mediation procedures will ordinarily not permit the interruption or extension of the brief filing schedule.

Upon receipt of a stipulated mediation request, and with approval from the Administrative Presiding Justice, the court will request an appointment of a mediator from the Temporary Assigned Judges Program (TAJP). The parties stipulating to mediation procedures may request the appointment of a specific retired justice in the TAJP. However, selection of the mediation justice shall be at the discretion of the court and the TAJP. The court also reserves the right to decline to initiate mediation procedures in any specific case. If mediation proves unsuccessful, the parties are obligated to adhere to the California Rules of Court until final resolution of the matter.

IV. EXTERN PROGRAM

The court has an unpaid extern program for select law school students three times a year (fall, spring, and summer sessions). Each justice who participates in the program selects the extern who will work for them, usually for 20 to 40 hours per week during the session. A central staff attorney supervises the program, which includes a general orientation about the court and its work, a series of substantive and procedural law lectures, and monthly group meetings. Once assigned to a justice, externs work under the close supervision of the justice and the justice's staff. Students who participate in the extern program as part of their school's extern/clinic program may earn course credit for their work at the court.

V. LOCAL RULES

The Fourth District has adopted a number of local rules. (See Local Rules of the Fourth District Court of Appeal.)