

SUMMARY OF REQUIREMENTS FOR DOCUMENTS FILED IN ELECTRONIC FORM

(Rev. 09/2017)

APPLICATIONS, MOTIONS, AND MISCELLANEOUS DOCUMENTS IN ELECTRONIC FORM

GENERAL INFORMATION

Court of Appeal: TrueFiling is mandatory for attorney-filed documents as of September 2017 (except Second District, which starts mandatory TrueFiling on Oct. 30, 2017). Special exemptions include a self-represented party or an excuse granted by court order under rule 8.71(d).

California Supreme Court: As of September 1, 2017, TrueFiling is mandatory for attorney-filed motions or applications related to petitions for review, but is not yet available in review-granted or non-capital original proceedings in that court. Electronically filed documents must include one unbound paper copy.

Rule references are to Supreme Court Rules Regarding Electronic Filing (SCRREF) and the California Rules of Court.

Note: No cover/binding required & no length limit for the following documents

Samples: A number of sample motions and other documents are on ADI's Forms and Samples page, http://www.adi-sandiego.com/practice/forms_samples.asp

APPLICATIONS IN REVIEWING COURT: ELECTRONIC FORM

REQUEST FOR EXTENSION OF TIME: ELECTRONIC

Electronic filing of extension requests is available and mandatory in Courts of Appeal with TrueFiling. TrueFiling is available and mandatory in Supreme Court for extensions to file answers or replies related to petitions for review, but not for extensions related to non-capital briefs on merits or non-capital writs. Consult chart of paper filings if TrueFiling not available.

<p>Use of JUDICIAL COUNCIL FORMS for extensions is highly encouraged</p>	<ul style="list-style-type: none"> <input type="checkbox"/> <u>Criminal</u>: CR-126 at http://www.courts.ca.gov/documents/cr126.pdf <input type="checkbox"/> <u>Delinquency</u>: JV-816 at http://www.courts.ca.gov/documents/jv816.pdf <input type="checkbox"/> <u>Dependency</u>: JV-817 at http://www.courts.ca.gov/documents/jv817.pdf
<p>Content of request for extension of time</p> <p>SCRREF, rule 3; Cal. Rules of Court, rules 8.50(b), 8.60(b), (c)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> state facts, not mere conclusions, showing good cause or making exceptional showing of good cause when required by rule (e.g., rule 8.416(f); Code Civ. Proc. § 45) <input type="checkbox"/> current due date <input type="checkbox"/> length of extension being requested <input type="checkbox"/> identify any previous applications filed by any party (e.g., number and length of prior extensions requested, any time granted under rule 8.360(c)(5), 8.412(d), or 8.416(g))
<p>Service and filing</p> <p>SCRREF, rule 5; Cal. Rules of Court, rules 8.25, 8.44(a)(6), (b)(7), 8.50(c)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> if electronically filing in Supreme Court: TrueFiled request and 1 unbound paper copy, with proof of service <input type="checkbox"/> if electronically filing in Court of Appeal: TrueFiled request, with proof of service <input type="checkbox"/> service in criminal and delinquency cases: Attorney General, ADI, appellate counsel for each co-appellant <input type="checkbox"/> service in dependency cases: respondent (County Counsel, district attorney, or private counsel), minor's trial and any appellate attorney, ADI, appellate counsel for each co-appellant and respondent
<p>Policies and factors governing extensions of time</p> <p>Cal. Rules of Court, rule 8.63</p>	<ul style="list-style-type: none"> <input type="checkbox"/> policies – e.g., balancing efficient administration of system with adequate time for effective work (rule 8.63(a)) <input type="checkbox"/> factors – e.g., prejudice to parties, length of record, number and complexity of issues, any entitlement to priority, other obligations of counsel, etc. (rule 8.63(b))
<p>Petitions for review, answers, replies</p> <p>SCRREF, rule 3; Cal. Rules of Court, rules 8.50(b), 8.500(e)(2)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> extension not available for petition for review (may ask CJ for relief from default), but available for answers and replies

APPLICATION OTHER THAN REQUEST FOR EXTENSION OF TIME: ELECTRONIC

<p>Content</p> <p>Cal. Rules of Court, rule 8.50(b)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> state facts, not mere conclusions, giving reasons and applicable law
<p>Service and filing</p> <p>Cal. Rules of Court, rules 8.25, 8.44(a)(6), (b)(6), 8.50(c)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> same as request for extension of time, except: in Court of Appeal, no need to provide court with copies for each party for mailing of order when issued

**MOTIONS AND OPPOSITIONS TO MOTIONS IN REVIEWING COURT: ELECTRONIC
INCLUDING MOTIONS TO AUGMENT RECORD**

Motions in Courts of Appeal with TrueFiling must be electronically filed, as must those in Supreme Court related to petitions for review. But motions in Supreme Court related to non-capital briefs on the merits and non-capital writs must be in paper form.

Samples: A number of sample motions and other documents are on ADI's Forms and Samples page, http://www.adi-sandiego.com/practice/forms_samples.asp

Cal. Rules of Court, rules 8.54; 8.155, made applicable to criminal cases by rule 8.340(c), to non-fast-track juvenile cases by rule 8.410(b), modified for fast-track cases by rule 8.416(d)

<p>Due dates</p> <p>SCRREF, rule 3(a)(1)(C), (D); Cal. Rules of Court, rules 8.54, 8.155, 8.340(c), 8.410(b), 8.416(d)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> all cases: at earliest possible time; for augmentation request, generally, before original due date of opening brief (in Fourth District, after getting the record, file motion within <u>40</u> days in criminal case or within <u>15</u> days for dependency case under rule 8.416) <input type="checkbox"/> fast-track dependency cases under rule 8.416: appellant must file request for augmentation within 15 days of receiving record and respondent within 15 days after opening brief filed <input type="checkbox"/> opposition to motion must be served and filed within 15 days after motion is filed
<p>Format</p> <p>Cal. Rules of Court, rule 8.74(b)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> comply with requirements of Cal. Rules of Court, rule 8.74(b)
<p>Content of motion other than augment request See ADI sample</p> <p>Cal. Rules of Court, rules 8.54(a), 8.57</p>	<ul style="list-style-type: none"> <input type="checkbox"/> state grounds <input type="checkbox"/> state relief requested <input type="checkbox"/> identify any documents on which motion is based <input type="checkbox"/> must include memorandum and, if based on matters outside record, declarations or other supporting evidence <input type="checkbox"/> motion made before record is filed must include declarations or other evidence necessary to support motion; if motion is one to dismiss appeal, it must comply with rule 8.57(a)
<p>Content of motion to augment record</p> <p>Cal. Rules of Court, rule 8.155(a)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> request for document filed or lodged in the superior court or transcript (or agreed or settled statement) of oral proceeding not part of the reporter's transcript <input type="checkbox"/> sample on ADI website at http://www.adi-sandiego.com/practice/forms_samples.asp <input type="checkbox"/> courts vary on how they deal with motions that have attachments intended to be part of the record; so check with the court: <ul style="list-style-type: none"> • in Fourth and Fifth Districts, submit the attachments sought to be added to the record as an electronic file separate from the motion • some courts may want the attachments to be submitted with the motion as a single file <input type="checkbox"/> if copy of augment matter is not available, must identify document in manner prescribed by rules 8.122 and 8.130
<p>Opposition to motion</p> <p>Cal. Rules of Court, rule 8.54(a)(3), (c)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> must be filed within 15 days after motion is filed <input type="checkbox"/> failure to oppose may be deemed consent to granting motion
<p>Service and filing</p> <p>Cal. Rules of Court, rules 8.25, 8.44(a)(5), (b)(4), 8.54</p>	<ul style="list-style-type: none"> <input type="checkbox"/> service in criminal and delinquency cases: Attorney General, ADI (electronic copy), appellate counsel for each co-appellant <input type="checkbox"/> service in dependency cases: respondent (County Counsel, district attorney, or private counsel), minor's appellate attorney, ADI (electronic copy), appellate counsel for each co-appellant

MISCELLANEOUS DOCUMENTS: ELECTRONIC FORM

INCLUDING ABANDONMENT OF APPEAL, RECORD CORRECTION NOTICE, CREDITS OR FINES/FEES LETTER

Documents in Courts of Appeal with TrueFiling must be electronically filed, as must those in Supreme Court related to petitions for review. But those in Supreme Court related to non-capital briefs on the merits and non-capital writs must be in paper form. Check with individual superior court if filing in that court.

Samples: A number of sample motions and other documents are on ADI's Forms and Samples page, http://www.adi-sandiego.com/practice/forms_samples.asp

Abandonment

Cal. Rules of Court, rules 8.25, 8.70, 8.316

- sample on ADI website at http://www.adi-sandiego.com/practice/forms_samples.asp
- before record is filed in appellate court: file abandonment in superior court
- after record is filed in appellate court: file motion to dismiss in Court of Appeal; court may dismiss appeal
- service: same as opening brief, Court of Appeal will accept electronic filing

Record correction letter

Cal. Rules of Court, rules 1.21, 8.25, 8.340(b), 8.410(a), 8.416(d)

- sample on ADI website at http://www.adi-sandiego.com/practice/forms_samples.asp
- check with superior court on electronic vs. paper filing, local rules
- service in criminal and delinquency cases: Attorney General, ADI, Court of Appeal (courtesy), appellate counsel for each co-appellant
- service in non-fast-track dependency cases: respondent (county counsel, district attorney, or private counsel), minor's appellate attorney, ADI (electronic copy), Court of Appeal (courtesy), appellate counsel for each co-appellant
- service in fast-track dependency cases: practice may vary from court to court; check with ADI: may be same as non-fast-track cases, above (letter to superior court clerk), or same as augmentation (motion in Court of Appeal)

Informal credits, fines/fees, correction letter

Cal. Rules of Court, rule 1.21; Pen. Code, §§ 1237.1, 1237.2; *People v. Fares* (1993) 16 Cal.App.4th 954

- sample on ADI website at http://www.adi-sandiego.com/practice/forms_samples.asp
- check with superior court on electronic vs. paper filing, local rules
- copies to be filed with superior court judge: original (if paper: plus 1 if counsel wants conformed copy), with proof of service
- service: district attorney, ADI, plus courtesy copies to Attorney General and Court of Appeal
- informal letter is adequate to preserve credits or fines/fees issue for appeal under Pen. Code, § 1237.1 or 1237.2

Letter to superior court (misc.)

Cal. Rules of Court, rules 1.21, 3.1110 et seq.

- sample on ADI website at http://www.adi-sandiego.com/practice/forms_samples.asp
- copies: original plus 1 if counsel wants return of filed copy, with proof of service - superior court
- service: district attorney, ADI (electronic copy), plus courtesy copies to Attorney General and Court of Appeal
- format: see rule 3.1110 et seq. and check local rules of superior court