

SUMMARY OF REQUIREMENTS FOR DOCUMENTS FILED IN ELECTRONIC FORM

(rev 9/2017)

NON-CAPITAL HABEAS CORPUS PROCEEDINGS IN APPELLATE COURT

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

The Sixth District requires an unbound paper copy in addition to TrueFiling.

Supreme Court: As of September 2017, TrueFiling is not yet available for non-capital original writ proceedings in the California Supreme Court.

All rule references are to the California Rules of Court

See *ADI Criminal Appellate Practice Manual*, § 884 et seq, for step-by-step guidance in preparing a petition for writ of habeas corpus in the Court of Appeal or California Supreme Court

If the appellate court issues an order to show cause returnable before the superior court, do not use this chart for proceedings after the OSC. **Rule 4.550 et seq.**, rather than the rules cited in this chart, will apply.

Due dates

- petition:** deadline not specified by statute or rule; time must be reasonable
- informal response (if ordered by court):** within 15 days of order, unless court specifies otherwise
- reply to informal response:** within 15 days after informal response filed, unless court specifies otherwise
- return (if in appellate court):** no more than 30 days after order to show cause issued, unless court orders otherwise
- traverse (if in appellate court):** no more than 30 days after return filed, unless court orders otherwise
- paper copy submitted in connection with TrueFiling (Sixth District only):** ordinarily, delivery to carrier or court within two days of TrueFiling; if immediate stay is sought, court must receive paper copy on day after TrueFiling

Rules 8.385(b), 8.386(b)(1), (d)(1); see Sixth District Local Rule 2, <http://www.courts.ca.gov/33825.htm>

Format (TrueFiling becomes mandatory in Second District, for attorneys, on Oct. 30, 2017)

- all:** must ensure against viruses, be text-searchable while maintaining original document formatting, and otherwise comply with rule 8.74
- petition:** unless court orders otherwise: if filed by attorney, must be through TrueFiling in Court of Appeal (except Second District, which starts TrueFiling Oct 30, 2017) and paper in Supreme Court; if by pro per petitioner, must be on Judicial Council MC-275 form
- return, traverse, accompanying memorandum:** if filed by attorney, same format as appellate brief
- pagination of electronic filing:** number pages consecutively beginning with cover page of the petition to the final page, using only the Arabic numbering system, as in 1, 2, 3. Ensure that page numbers listed in the Table of Contents or Indices match both the pages within the document and the Adobe page counter. Supporting documents (exhibits) may be separate volume.
- bookmarks in electronic filing:** Table of Contents must include an electronic bookmark for each heading corresponding to the heading in the text, including the heading "Table of Contents." Petitions that contain exhibits under the same cover should list the exhibits in the Table of Contents identifying the exhibits and include electronic bookmarks for each of the exhibits
- supporting documents (exhibits) with electronic filing:** if separate volume, paginate consecutively from first page (cover if applicable) of exhibits, using only Arabic numerals. Ensure that page numbers listed in the Table of Contents or Indices match both the pages within the exhibits and the Adobe page counter. May exceed page limits set by rules, but may not exceed 25 megabytes.

Rules 8.71, 8.74, 8.204(a) & (b), 8.384(a)(1) & (2), (b)(3), 8.386(c)(1) & (2), (d)(2), 8.486(c)(1). See court website for additional rules <http://www.courts.ca.gov/courts.htm>

<p>Cover</p> <p>Rules 8.40(b) & (c), 8.204(b)(10), 8.384(a)(1), 8.386(c)(1), (d)(2)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> required: cover required for petition filed by attorney, return, and traverse <input type="checkbox"/> content: same as brief cover in appellate court
<p>Contents and accompanying documents</p> <p>Rules 8.384(a) & (b), 8.386(c) & (d), 8.486; Pen. Code, § 1474</p>	<ul style="list-style-type: none"> <input type="checkbox"/> information in petition: must contain information required by Judicial Council form MC-275, even if not filed on that form; must state sufficient facts to create prima facie case for relief (<i>People v. Romero</i> (1994) 8 Cal.4th 728) <input type="checkbox"/> previous petitions: must be accompanied by copy of any other petition relating to the judgment (without exhibits) previously filed in any court, unless the petition was filed in the same Court of Appeal or in the Supreme Court and so states and identifies documents by name and number; must be accompanied by certified transcript of any previous evidentiary hearing <input type="checkbox"/> return: see requirements set out in <i>People v. Duvall</i> (1995) 9 Cal.4th 464; any material allegation of petition not controverted by return is deemed admitted. <input type="checkbox"/> traverse: any material allegation of return not denied in traverse is deemed admitted; traverse may reassert allegations of petition or ask petition be deemed a traverse (<i>People v. Duvall</i> (1995) 9 Cal.4th 464) <input type="checkbox"/> sealed or confidential supporting documents: must comply with rules 8.45-8.47 <input type="checkbox"/> citation to supporting documents: petition must support any reference to them by citation to page and comply with rule 8.486(c)(1)
<p>Length</p> <p>Rules 8.204(c), 8.384(a)(2), 8.386(c)(1), (d)(2). Court website: see applicable district web page http://www.courts.ca.gov/courts_of_appeal.htm</p>	<ul style="list-style-type: none"> <input type="checkbox"/> petition itself: no limit specified by rule or statute (but see limit on accompanying memorandum, below) <input type="checkbox"/> return, traverse, any memorandum accompanying petition: governed by rule 8.204(c) – no more than 14,000 words or 50 pages if typewritten. <input type="checkbox"/> exclusions from word count: cover information, tables, signature block, certificate of word count, and any permitted attachments are excluded from the word count limit <input type="checkbox"/> electronic filing: may not be larger than 25 megabytes; if larger, submit as multiple files, and comply with formatting requirements of SCRREF, rule 10(b)(2)
<p>Service</p> <p>Penal Code section 1475; rules 8.44, 8.380(c), 8.384(c), 8.386(b)(2), (d)(5)</p>	<ul style="list-style-type: none"> <input type="checkbox"/> petition: Pen. Code, § 1475 requires service on DA of county "wherein such person is held in custody or restraint"; those who reasonably may be affected or have an interest in petition – e.g., AG, DA in county of conviction, custodian of the petitioner, the superior court or Court of Appeal (unless filed there), trial and/or appellate counsel, ADI, etc. – as dictated by nature of filing and issues <input type="checkbox"/> return: counsel for petitioner, district appellate project if petitioner represented by appointed counsel in Court of Appeal <input type="checkbox"/> traverse: same as petition