

**DIVISION VII
APPELLATE**

**CHAPTER 1
APPEALS TO THE APPELLATE DIVISION**

Rule 7.1.1

Application of San Diego Superior Court Rules

Appeals in misdemeanor, infraction and limited civil cases directed to the Appellate Division of the San Diego Superior Court will be processed in conformity with the applicable provisions of Article VI, sections 4, 10 and 11 of the California Constitution, Titles 8 and 10 of the California Rules of Court, and applicable statutes and case law unless these San Diego Superior Court rules provide more specific direction.

(Adopted 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2009; Rev. 1/1/2017)

Rule 7.1.2

Filing Requirements

A. Documents directed to the Appellate Division for filing in an appeal may be submitted as follows:

1. Delivery: Documents may be delivered to the Appeals Office located on the second floor of the Central courthouse located at 1100 Union Street, San Diego, California 92101;

2. Mailing: Documents may be mailed by U.S. mail addressed to the San Diego Superior Court Appeals Office, 1100 Union Street, Second Floor, San Diego, CA 92101, Attention: Appellate Division; or

3. E-filing: Documents may be e-filed through one of the court's approved electronic filing service providers ("EFSPs"). A list of EFSPs may be found on the court's website at www.sdcourt.ca.gov. Additional fees may be imposed by the EFSP. Prior to e-filing a document, parties should review and are subject to the "Requirements for all E-Filers" listed in **Electronic Filing Requirements (Civil)** (SDSC Form 409).

B. Briefs filed by personal delivery or U.S. mail must not be bound on the left margin.

C. In addition to fully complying with the contents, form, filing and service requirements for briefs as stated in the California Rules of Court, rules 8.882, 8.883, 8.927, and 8.928, all original briefs submitted for filing by personal delivery or U.S. mail must be accompanied by four copies, and all original briefs submitted for filing in traffic infraction appeals must be accompanied by only one copy.

D. Failure of an appellant to file a timely opening brief or to otherwise fully comply with the applicable California Rules of Court or local rules may result in dismissal of the appeal.

E. Any brief filed pursuant to *People v. Wende* (1979) 25 Cal.3d 436 must be accompanied by a declaration from appellant's attorney that appellant has been informed of the right to file a supplemental brief. If appellant's attorney is not able to contact appellant, the declaration must include what reasonable efforts have been made to contact appellant and the results of those efforts.

(Adopted 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2021; Rev. 1/1/2023)

Rule 7.1.3

Record Election Options

A. Record of Written Documents from Trial Court Proceedings

This court does not permit the use of the original trial court file as the record of the written documents from the trial court proceedings. A clerk's transcript is required. Parties also have the option of proceeding by agreed statement in limited civil appeals. (Cal. Rules of Court, rules 8.830(a)(1), 8.860(a)(1), 8.910(a)(1).)

B. Record of Oral Trial Court Proceedings

This court does not permit the use of electronic recordings as the record of oral trial court proceedings. Transcripts of such recordings are required. (Cal. Rules of Court, rules 8.830(a)(2), 8.860(a)(2), 8.910(a)(2).)

C. Appellate Division's Use of Electronic Recordings

The Appellate Division may review the electronic recording of trial court proceedings when the Presiding Judge of the Appellate Division determines that this procedure would save court time and resources or in the event a transcript of all or a portion of the trial court proceedings is unavailable during appellate review of the appeal. The Appellate Division may order those proceedings or a portion of those proceedings transcribed or may order the use of the electronic recording as the record of such oral proceedings in lieu of a transcript and provide the parties with a copy of the transcript or an electronic copy of the recording.

(Adopted 1/1/2010; Rev. 1/1/2014; Rev. 1/1/2016)

Rule 7.1.4

Imaged Appellate Case Files

All filings in limited civil appeals and traffic infraction appeals will be imaged and stored in an electronic court file. The electronic court file is certified as the official record of the court, pursuant to Government Code section 68150 and California Rules of Court, rule 2.504. The electronic court file can be accessed via the court's webpage at <http://www.sdcourt.ca.gov> or at one of the public kiosks. Paper filings that are imaged and stored electronically will be physically stored by the court for 30 days after filing, after which time they will be destroyed, with the exception of those original documents the court is statutorily required to maintain, in which case the court will physically retain the original for the period of time required by law. Parties submitting original documents the court is statutorily required to maintain shall place the words "EXEMPT FROM DESTRUCTION" in all caps immediately under the title of the pleading to which the original document is attached.
(Adopted 1/1/2010; Del. 1/1/2015; Adopted 1/1/2023)

Rule 7.1.5

Trial Court May Order Transcript

The trial court judicial officer may order that a transcript be prepared as the record of the oral proceedings in lieu of reviewing a proposed statement on appeal. (Cal. Rules of Court, rules 8.837(d)(6)(B), 8.869(d)(6)(B), 8.916(d)(6)(B).)
(Adopted 1/1/2015; Rev. 1/1/2016)

Rule 7.1.6

Sufficient Completeness of the Record / Time for Preparation of Transcript

A. On a case-by-case basis, the Appellate Division on its own motion may determine what portions of the normal contents of the reporter's transcript are required for proper determination of the appeal and/or whether a form of the record other than a reporter's transcript constitutes a record of sufficient completeness for proper determination of the appeal. (Cal. Rules of Court, rules 8.865(b), 8.918(b).)

B. On a case-by-case basis, the Appellate Division may on its own motion revise the timeline for the preparation of a reporter's transcript or a transcript of an electronic recording. (Cal. Rules of Court, rules 8.866(a)(1), 8.868(e)(1), 8.919(a)(1).)
(Adopted 1/1/2015)

Rule 7.1.7

Binding of Clerk's Transcript

Clerk's transcripts must not be bound on the left margin. (Cal. Rules of Court, rule 8.838(c)(1).)
(Adopted 1/1/2015)

Rule 7.1.8

Oral argument

A. Oral argument by videoconference. Unless otherwise ordered by the Presiding Judge of the Appellate Division or the Presiding Judge's designee, oral argument will be conducted by videoconference on the date and time set forth in the order or notice issued to the parties. (California Rules of Court, rules 8.885(b), 8.929(b).) Any requests to appear in person on that scheduled date and time must be in writing and must be filed and served at least seven (7) days prior to the scheduled argument.

B. Waiver of oral argument. Unless otherwise ordered, a party who filed a notice of waiver of oral argument is not required to appear at oral argument. Unless otherwise ordered, a party who fails to appear at oral argument as scheduled is deemed to have waived oral argument. If less than all parties to the appeal waive oral argument, or if the court rejects a waiver request, the matter will remain on calendar and any party who previously filed a notice of waiver may participate in the oral argument. Unless otherwise ordered, if one or both parties have waived oral argument by failing to appear or by filing a notice of waiver, the cause will be submitted after the time scheduled for oral argument. (California Rules of Court, rules 8.885(d), 8.886.)

C. Continuance requests. A written request for a continuance of oral argument should be filed and served at least seven (7) days prior to the scheduled oral argument. A stipulated request for a continuance of oral argument is subject to the approval of the Presiding Judge of the Appellate Division.

D. Time for argument. Unless otherwise ordered, each party will have ten (10) minutes for oral argument in limited civil and misdemeanor cases and five (5) minutes for oral argument in infraction cases (California Rules of Court, rules 8.885(e)(2); 8.929(e)(2)).
(Adopted 1/1/2022)

**CHAPTER 2
WRIT PETITIONS TO THE APPELLATE DIVISION**

Rule 7.2.1

Application of the San Diego Superior Court Rules

Writ petitions for extraordinary relief in limited civil, misdemeanor, and infraction cases which name San Diego Superior Court as respondent will be processed in conformity with the applicable provisions of Article VI, sections 4, 10 and 11 of the California Constitution, Titles 8 and 10 of the California Rules of Court, and applicable statutes and case law unless these San Diego Superior Court rules provide more specific direction.
(Adopted 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2009; Rev. 1/1/2017)

Rule 7.2.2

Filing Requirements

A. Writ petitions and subsequent documents submitted for filing in writ proceedings must be submitted either by in-person delivery or mail as follows:

1. Delivery: Documents may be delivered to the Appeals Office located on the second floor of the Central courthouse located at 1100 Union Street, San Diego, California 92101;

2. Mailing: Documents may be mailed by U.S. mail addressed to the San Diego Superior Court Appeals Office, 1100 Union Street, Second Floor, San Diego, CA 92101, Attention: Appellate Division

Note: E-filing is not permitted in writ proceedings in the Appellate Division.

B. All writ petitions and any associated filings must be stapled at the top left corner and not be bound on the left margin.

C. A filing fee or fee waiver will be required for all writ petitions except those arising from a criminal case.

D. The petitioner or counsel for the petitioner is required to submit one original and four copies of the petition. Each copy of the petition must include all supporting documents specified in California Rules of Court, rule 8.931(b). This court has not adopted a local rule permitting the use of electronic recordings of oral proceedings. Transcripts of such recordings are required if they are available.

E. A person who is not represented by an attorney should file the writ petition on Judicial Council form APP-151, Petition for Writ (Misdemeanor, Infraction or Limited Civil Case). (Cal. Rules of Court, rule 8.931(a); see also Judicial Council Form APP-150 INFO, Information on Writ Proceedings in Misdemeanor, Infraction and Limited Civil Cases available on the California Courts website at <https://www.courts.ca.gov>.)
(Adopted 1/1/2000; Rev. 1/1/2001; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2015; Rev. 1/1/2017; Rev. 1/1/2018; Rev. 1/1/2023)

Rule 7.2.3

Request for Stay

If a stay of the trial court proceeding is requested in the writ petition, the petition must so state prominently on the title page. The petition must set forth all time constraints which are relevant to the request for stay.

(Adopted 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2009)

Rule 7.2.4

Unlawful Detainer Writ Relief

In addition to complying with all applicable California Rules of Court, statutes, and case law, a petition for an extraordinary writ under California Code of Civil Procedure section 1176, subdivision (a) must indicate the date(s) the request(s) to stay the judgment pending the appeal was presented to the trial court and include a copy of the trial court's order or a record of the trial court's ruling on the stay request.

(Adopted 1/1/2015; Rev. 1/1/2016; Rev. 1/1/2017)

**CHAPTER 3
APPEALS TO THE FOURTH DISTRICT COURT OF APPEAL**

Rule 7.3.1

Application of the Fourth District Court of Appeal Rules

Appeals to the Fourth District Court of Appeal will be processed in conformity with the applicable provisions of Article VI, sections 3, 10 and 11 of the California Constitution, Titles 8 and 10 of the California Rules of Court, and applicable statutes and case law unless the Local Rules of the Fourth District Court of Appeal provide more specific direction.

(Adopted 1/1/2017)

Rule 7.3.2

Trial Court May Order Transcript

The trial court judicial officer may order that a transcript be prepared as the record of the oral proceedings in lieu of reviewing a proposed statement on appeal in accordance with California Rules of Court, rule 8.137(f)(2).
(Adopted 1/1/2020)