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COUNTY OF LOS ANGELES

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SUPERIOR COURT OF CALIFORNIA
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CHAPTER NINE

APPELLATE DIVISION RULES

9.1 GENERAL PROVISION

(a) Assignment of Judges.

(1) Appellate Division. Four judges are assigned to the Appellate Division by the Chairperson of the Judicial Council. The Appellate Division is in Room 607 in the Stanley Mosk Courthouse.

(2) Department 70. Each judge assigned to the Appellate Division is also assigned individually on a rotating basis to Department 70 of the Central District, Room 607 of the Stanley Mosk Courthouse. The judge in Department 70 hears and decides petitions for writ of habeas corpus filed in conjunction with an appeal pending in the Appellate Division. This assigned judge's decision is not subject to review by the Appellate Division.

(b) Appellate Jurisdiction.

(1) Appeals. The Appellate Division has jurisdiction over all appeals arising from all misdemeanor, infraction and limited civil cases in the County (except small claims appeals and parking citation appeals) and over all motions and petitions for stay orders in connection with such appeals. (Code Civ. Proc., § 77(e).)

(2) Decisions. A panel of three judges participates in each matter before the court. The concurrence of at least two judges is required for a decision in any case. (Code Civ. Proc., § 77(a), (b) and (d).)

(c) Writ Jurisdiction.

(1) Writs. The Appellate Division has jurisdiction over all petitions for writs of mandate, prohibition, and review (certiorari) in any misdemeanor, infraction, or limited civil case. (Code Civ. Proc., §§ 1068(b), 1085(b) and 1103(b).)

(2) Decision. A panel of three judges participates in each petition for writs of mandate, prohibition, and review (certiorari) in any misdemeanor, infraction, or limited civil case. The concurrence of at least two judges is required for a decision in any petition for a writ. (Code Civ. Proc., § 77(a), (b) and (d).)

(Rule 9.1 [7/1/2011] re-titled & new and effective July 1, 2014)

9.2 APPEALS

(a) Notice of Appeal.

(1) Jurisdiction. The Appellate Division has appellate jurisdiction only over cases in which a notice of appeal was filed. (Cal. Rules of Court, rules 8.821 (civil appeals), 8.852 (misdemeanor appeals) and 8.901 (infraction appeals).)

(2) Where Filed. The notice of appeal must be filed in the trial court from which the appeal is being taken or in room 111A at the Stanley Mosk Courthouse for limited civil appeals or room M3 at the Foltz Courthouse for infraction or misdemeanor appeals.

(3) Late Filing/Motion to Dismiss.

(A) An application for relief from a late filing of notice of appeal or a motion to dismiss on grounds of late filing of notice of appeal must be filed in the Appellate Division and must comply with Local Rule 9.9.

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(B) On a party's request or on the court's own motion, the court may place the motion on calendar for a hearing.

(4) Filing Fees.

(A) Filing fees must be paid in the trial court, or in room 111A at the Stanley Mosk Courthouse.

(B) For litigants who qualify, filing fees shall be waived by the court. Applications for fee waivers must be filed in the trial court at the time of filing the notice of appeal. (Cal. Rules of Court, rule 8.821(b)(1).)

(5) Notice of Official Electronic Recording as Record of Oral Proceedings. When a notice of appeal is filed, the trial court clerk must promptly send a notification to the attorney of record for each party and to any unrepresented party that when any party elects to use the official electronic recording as the record of the oral proceedings, the court will provide a written transcript of the electronic recording prepared under the provisions of California Rules of Court, rule 2.952 as the record of oral proceedings to all parties without fee (Cal. Rules of Court, rules 8.835, 8.867, 8.868, 8.917, 8.920).

Any written objection must be filed with the trial court appeals clerk within ten days of the mailing of Notification provided above.

(Rule 9.2 [7/1/2011, 7/1/2019, 7/1/2021] amended and effective January 1, 2022)

9.3 STAY ORDERS IN PENDING APPEALS

(a) Notice. Applications for stay orders must comply with Local Rule 9.9.

(b) Civil Appeals.

(1) Before Filing Notice of Appeal. Applications for stay orders before notice of appeal has been filed must be filed in the trial court. (Code Civ. Proc., § 918.)

(2) After Filing Notice of Appeal.

a) Applications for stay orders pending appeal after notice of appeal has been filed must be filed in the Appellate Division. Applications and response to applications must be filed and served pursuant to Local Rule 9.9. (*See* Cal. Rules of Court, rule 8.705(a).)

b) Applications for stay orders are ruled upon, without hearing, by the court, which may request opposition papers be filed before ruling.

c) In unlawful detainer actions, the applicant must seek a stay from the trial court before seeking relief in the Appellate Division. (Code Civ. Proc., § 1176.)

(3) Supersedeas.

a) Filing. Petitions for writ of supersedeas must be filed in the Appellate Division and must comply with California Rules of Court, rule 8.824.

b) Service. Petitions for writ of supersedeas must be served in accordance with California Rules of Court, rule 8.824, and must be accompanied by proof of service at the time of filing. Petitions and opposition to petitions must be filed and served pursuant to Local Rule 9.9.

c) Decision. Petitions for writ of supersedeas are ruled upon without hearing by the court, which may request that opposition papers be filed before ruling on the petition. In appropriate cases, the court may set the matter for oral argument.

d) Showing required.

1) Civil cases. A petition may be granted only on a showing of exceptional circumstances.

2) Unlawful detainer. Petitions must meet the requirements of Code of Civil Procedure section 1176.

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e) Ex parte proceedings.

1) Pending the court's ruling on a *supersedeas* petition, an application for temporary stay may be granted *ex parte* upon a showing of good cause and upon the giving of notice to the opposing party in accordance with California Rules of Court, rule 3.1200 *et seq.*

2) The *ex parte* application must be filed in the Appellate Division, Room 607, Stanley Mosk Courthouse, at 8:30 a.m., Monday through Friday. Applications are ruled upon without a hearing by the court.

(c) Criminal Appeals.

(1) Stay of Execution.

a) An application for stay of execution must first be made in the trial court, and, if denied, may then be made in the Appellate Division. (See Pen. Code, § 1467; Cal. Rules of Court, rule 8.854(b).)

b) Applications for stay orders must be filed in the Appellate Division and served on opposing counsel in accord with Local Rule 9.9.

c) The court rules upon application for stays without a hearing.

(2) Request for Bail Reduction on Appeal.

a) An application for bail reduction must first be made in the trial court, and if denied, may then be made in the Appellate Division. (Pen. Code, § 1272.)

b) The court rules upon applications for bail reduction without hearing.

(d) Bonds on Appeal.

All proceedings concerning bonds on appeal must be brought in the trial court.

(Rule 9.3 new and effective July 1, 2011)

9.4 APPOINTED COUNSEL IN MISDEMEANOR APPEALS

(a) Right to Counsel. A defendant appealing a misdemeanor conviction, who had appointed counsel at trial or who has otherwise met the standards for appointed counsel, is entitled to appointed counsel on appeal. (Cal. Rules of Court, rule 8.851(a).)

(b) Applications for Appointed Counsel.

(1) Filing. A party meeting the standards may apply for appointment of counsel in the Appellate Division. The application must comply with California Rules of Court, rule 8.851(b).

(2) Indigency. If a defendant was not represented by appointed counsel in the trial court, the application for appointed counsel must include a declaration of indigency. (Cal. Judicial Council Form MC-210.) All applications for appointment of counsel are decided without a hearing. (Cal. Rules of Court, rule 8.851(b)(2); Local Rule 9.9(e).)

(3) List of Attorneys. Appointments are made by the Appellate Division from the list of attorneys maintained by the Appellate Division.

(Rule 9.4 [7/1/2011] re-titled & amended and effective July 1, 2014)

9.5 RECORD ON APPEAL

(a) Civil Appeals.

(1) Contents. The record on appeal includes those items specified by California Rules of Court, rule 8.830.

(2) Designation of the Record. The parties must comply with the California Rules of Court governing the method and time limits for designating the record on appeal and are responsible

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for assuring that the required record is paid for, prepared, and transmitted to the Appellate Division. (Cal. Rules of Court, rules 8.831, 8.832(b),(c), 8.834, 8.835, 8.836, and 8.837.)

(3) Appendixes. If a party elects to proceed by way of an appendix, the contents of the appendix must comply with the provisions outlined in California Rules of Court, rule 8.845.

(4) Form of Appendix. All appendixes for a civil appeal must comply with California Rules of Court, rule 8.838. Appendixes must be two-hole punched at the top and secured with an Acco-type fastener.

(5) Burden of Providing the Record. Appellant has the burden of ensuring that the Appellate Division has an adequate record for review. Any party who desires the court to review testimony must provide either a reporter's transcript, official electronic recording, an agreed statement, or a statement on appeal. (Cal. Rules of Court, rules 8.834, 8.835, 8.836 and 8.837.) Any party desiring the court to review exhibits must cause the exhibits to be transmitted to the Appellate Division. (Cal. Rules of Court, rule 8.843.)

(b) Misdemeanor and Infraction Appeals.

(1) Contents. The record on appeal includes those items specified by California Rules of Court, rule 8.860 and 8.910.

(2) Clerk's Transcript. The clerk's transcript, consisting of the items specified by California Rules of Court, rule 8.861 and rule 8.912, is prepared immediately after the notice of appeal is filed without request or payment by the appellant. (Cal. Rules of Court, rules 8.862(a) and 8.913.)

(3) Reporter's Transcript, Official Electronic Recording, or Statement. Appellant has the burden of ensuring that the Appellate Division has an adequate record for review of the issues being raised on appeal. If this includes a record of the oral trial proceedings, the appellant must timely file in the trial court a notice of election to proceed on appeal with either the reporter's transcript, official electronic recording, transcript of official recording, or a statement on appeal. (Cal. Rules of Court, rules 8.835, 8.864, 8.915 and 8.917.) Thereafter, appellant must comply with the California Rules of Court to insure the timely preparation and transmittal of record of the oral proceedings to the Appellate Division. (Cal. Rules of Court, rules 8.864(a), (d), 8.866(a), 8.869, 8.915, and 8.916.)

(4) Exhibits. Any party who wants the Appellate Division to consider exhibits that were admitted, refused, or lodged in the trial court, must comply with California Rules of Court, rule 8.870 or 8.921.

(c) Official Electronic Recording. When the trial court proceedings were officially recorded under Government Code section 69957(a) for a limited civil, misdemeanor or infraction case, and the electronic recording was prepared in compliance with applicable rules regarding electronic recording of court proceedings, the court will provide a written transcript of the electronic recording, pursuant to California Rules of Court, rules 2.952, 8.835, 8.867, 8.868, 8.917, and 8.920 as the official record of the oral proceedings to all parties without fee.

For a misdemeanor criminal case, the court will provide a written transcript of the recording of the trial court proceedings, pursuant to California Rules of Court rules 8.864(a) and 8.868(b) as the official record of the oral proceedings, to all parties, without fee.

(Rule 9.5 [7/1/2011, 7/1/2019, 7/1/2021] amended and effective January 1, 2022)

9.6 BRIEFS

(a) Time for Filing.

(1) Order for Filing. After the record on appeal has been filed, the Appellate Division will issue a notice setting the briefing schedule. (Cal. Rules of Court, rules 8.881, 8.925.)

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(2) Failure to Comply. The failure of the appellant in a civil, misdemeanor, or an infraction appeal to timely file an opening brief will result in a clerk's notice of default, and the failure to cure the default may result in dismissal of the appeal. The failure of the respondent in a civil case to file its brief may result in the appeal being decided on the appellant's brief and any oral argument by appellant. The failure of the defendant, who is the respondent in a misdemeanor or infraction appeal, to timely file its brief, will result in a clerk's notice of default, and the failure to cure the default will result in the appeal being decided on the appellant's brief and any oral argument by appellant. (Cal. Rules of Court, rules 882, subd. (c), & 8.927(b).)

(b) Content and Format. All briefs filed in a civil or misdemeanor appeal must comply with California Rules of Court, rule 8.883, and in an infraction appeal with rule 8.928. Briefs must be two-hole punched at the top and secured with an Acco-type fastener. No attachments, including exhibits, are permitted. In any case in which the official electronic recording is used as the official record on appeal, each brief must support any reference to a matter in the record by a citation to the time stamp where, in the electronic recording, the matter appears.

(c) Length. Unless permission is obtained from the Presiding Judge of the Appellate Division, briefs in a civil or misdemeanor appeal shall not exceed 6,800 words, including footnotes, if produced by a computer, or 20 pages if produced by a typewriter; and in an infraction appeal must not exceed 5,100 words, including footnotes, if produced by a computer, or 15 pages if produced by a typewriter. Noncompliant briefs are subject to sanctions. (Cal. Rules of Court, rules 8.883(b), (d), 8.928(b), (d).)

Permission must be obtained by application in accordance with Local Rule 9.9.

(d) Service. A copy of all briefs must be served on opposing counsel and the trial court. (See Cal. Rules of Court, rules 8.25, 8.883(e), and 8.927(c).)

(e) Extension of Time. An application for extension of time to file a brief must be filed in the Appellate Division in accordance with Local Rule 9.9 before the brief is due and must be supported by good cause. (Cal. Rules of Court, rules 8.810, 8.811, 8.882(b)(3).)

(f) Wende Briefs. *People v. Wende* shall be cited on the cover, or the first page if there is no cover, of any brief requesting the Appellate Division to review the record on appeal to determine if there are any arguable issues that may require briefing. (*People v. Wende* (1979) 25 Cal.3d 436.)

(Rule 9.6 [7/1/2011, 7/1/2015] amended and effective July 1, 2019)

9.7 ORAL ARGUMENT

(a) Date and Time.

(1) Date. The parties will receive at least 20 days' notice of the date for the oral argument. For good cause, the presiding judge of the Appellate Division may shorten the notice period. The clerk must notify the parties by telephone or other expeditious method of the shortened notice period. (Cal. Rules of Court, rules 8.885(c), 8.929(c).)

(2) Time. By order of the presiding judge or the panel of the division hearing the appeal, any appeal may be placed on the calendar for oral argument at any session. (Cal. Rules of Court, rules 8.885(a), 8.929(a).) As a general rule, appeals will be scheduled for oral argument as follows:

A) Criminal matters: 9:00 a.m.

B) Civil matters: 1:30 p.m.

(b) Failure to Appear. If a party fails to appear at oral argument when the case is called, the case will be deemed submitted. A motion to vacate an order taking a cause under submission must comply with Local Rule 9.9(b).

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(c) Continuances. Continuances will only be granted upon a showing of good cause. Continuances by stipulation are subject to the approval of the presiding judge. Written applications for continuance must comply with Local Rule 9.9, and shall be ruled upon, without hearing, by the court.

(d) Amount of Time to Argue. Each side is permitted ten minutes to argue in a civil or misdemeanor appeal and five minutes in an infraction appeal. (Cal. Rules of Court, rules 8.885(d)(2), 8.929(d)(2).)

(e) Tentative Rulings. Tentative rulings are issued in most cases, indicating the court's initial proposed views or questions concerning a case. The court is not bound by a tentative ruling, whether or not a party has submitted the case based on the stated tentative ruling. Tentative rulings will be available: (1) on the afternoon before calendar (a) on the court's website at www.lacourt.org, select Appellate Division, Tentative Rulings, or (b) by telephone; and (2) will be posted outside the courtroom on the day of the hearing.

(f) Supplemental Briefing. Supplemental briefing will be permitted when the court intends to decide a case upon the basis of an issue not briefed or proposed by any party. (Gov. Code, § 68081.)
(Rule 9.7 [7/1/2011, 7/1/2019] amended and effective January 1, 2020)

9.8 JUDGMENT

(a) Time for Decision. The court shall decide a case within 90 days after submission. (Cal. Const., art. 6, § 19.)

(b) Opinion. The court will generally file an opinion on each appeal but is not required to do so. (*See* Cal. Rules of Court, rule 8.887(a).)

(c) Publication. An opinion is published in whole or in part in the Official Reports when a majority of the judges in the Appellate Division who participated in the opinion certifies that the opinion meets one or more of the standards set forth in California Rules of Court, rule 8.1005(c), and the Court of Appeal does not order the case transferred to it for hearing and decision. (Cal. Rules of Court, rules 8.1005(c), 8.1002.)

(Rule 9.8 new and effective July 1, 2011)

9.9 APPLICATIONS AND MOTIONS

(a) Routine Applications. Applications, as defined by California Rules of Court, rule 8.806, shall be served on opposing counsel and filed in the Appellate Division. Applications must be supported by a declaration under penalty of perjury. (Cal. Rules of Court, rules 8.806(a), (b), 8.810.)

(b) Motions. Written motions must be served on all parties and must be filed in the Appellate Division in connection with all matters or where a party is in default. (Cal. Rules of Court, rules 8.808, 8.812.)

(c) Motions to Withdraw as Counsel. Motions to withdraw as counsel of record must comply with the requirements of Code of Civil Procedure sections 284 and 285, and California Rules of Court, rule 8.814.

(d) Motions Before Record Filed. Civil motions filed before the Appellate Division has received the record on appeal must be accompanied by documents sufficient to permit review.

(e) Ruling on Applications and Motions. The court will rule on applications and motions made pursuant to this rule after an opposition has been filed or the time to file an opposition has expired. Rulings are made without hearing. The court may, however, on the request of a party or on its own motion, place a matter on calendar for hearing. (Cal. Rules of Court, rule 8.808(a), (b).)

(f) Abandonment. A civil appeal may be abandoned by filing a written abandonment in the Appellate Division. (Cal. Rules of Court, rule 8.825(b).) In order to abandon a misdemeanor or

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infraction appeal, a written abandonment, signed by the appellant or his or her attorney, must be filed in the Appellate Division. (Cal. Rules of Court, rule 8.555(a), (b)(1) and rule 8.904(a), (b)(1).)
(Rule 9.9 new and effective July 1, 2011)

9.10 EXTENSIONS AND RELIEF FROM DEFAULT

(a) Where Application For Extension Filed. An application for extension of time filed prior to the expiration of the time to prepare the record on appeal must be filed in the trial court, while application for relief from default for any failure to comply with a rule must be filed in the Appellate Division. (Cal. Rules of Court, rules 8.810 (b), (c), and 8.812.)

(b) Denial or Failure To Grant By Trial Court. If an extension of time is denied by the trial court, application may be made to the Appellate Division in accordance with Local Rule 9.9, and will be ruled upon, without hearing, by the court.

(c) Reinstatement of Appeal. A motion to reinstate an appeal after dismissal must follow the procedure set forth in Local Rule 9.9(b).

(Rule 9.10 new and effective July 1, 2011)

9.11 WRITS

(a) Form and Notice. A writ petition must comply with all applicable statutes and the California Rules of Court. (*See* Code Civ. Proc., §§ 1067-1108; Cal. Rules of Court, rules 8.930-8.936.)

(b) Writs Involving Felony Matters Prior to the Defendant Being Held to Answer. In felony cases where the ruling, order or other matter arose prior to the completion of the preliminary hearing, petitions for writs of mandate, prohibition, review (certiorari), habeas corpus or any other petition for extraordinary relief, must be filed in Department 100 in the Central District. (*See* Local Rule 8.33(a)(2).) Subdivisions (c), (c)(2)(a), (c)(3), and (d) of this rule apply to petitions filed in Department 100.

(c) Filing and Service of Writs.

(1) Filing.

a) Where Filed. The original petition with proof of service must be filed in room 111A of the Stanley Mosk Courthouse.

b) When Filed. A writ petition generally must be filed within the statutory period for an appeal.

(2) Filing Fees.

a) Criminal Cases. No filing fees are required in a criminal case.

b) Civil Cases. The filing fee for a civil writ petition is the same as that in the schedule for the filing of civil cases.

(3) Service. The petition must be served on all parties and the trial court before filing.

(4) Lodging With the Clerk. Petitioner must lodge a file-stamped, conformed copy of the petition, and may include a proposed alternative writ, with the clerk in Room 607 of the Stanley Mosk Courthouse.

(d) Official Electronic Recording. The court permits the original of an official electronic recording, or a copy made by the court, to be transmitted for use as a supporting document to the Petition for Writ proceedings as specified in California Rules of Court 8.931(b)(1)(D), when the proceedings were officially recorded under Government Code section 69957(a) for a limited civil, misdemeanor or infraction case, and the electronic recording was prepared in compliance with applicable rules regarding electronic recording of court proceedings.

(e) Writ Proceedings and Decisions. The court may:

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opposition;

- (1) Continue the matter and request supplementary documents or preliminary

- (2) Summarily deny the petition without hearing;

- (3) Notify the parties of the court's intent to issue the peremptory writ in the first instance (*Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171.); or

- (4) Issue an alternative writ or order to show cause and set the matter for a hearing, after which, a decision will be made. If an alternative writ is issued, a certified copy of the writ or order shall be promptly sent to the parties. (Cal. Rules of Court, rule 8.934(a).)

(f) Habeas Corpus Filed in Conjunction with an Appeal Pending in the Appellate Division.

- (1) The petition must be verified.

- (2) The petition must be served on the trial judge and on the People before filing.

- (3) The petition must be filed in Department 70, Room 607, of the Stanley Mosk Courthouse.

- (4) No filing fee is required.

(Rule 9.11 [7/1/2011, 1/1/2016, 7/1/2021] amended and effective January 1, 2022)