



2022 California Rules of Court

Rule 8.500. Petition for review

(a) Right to file a petition, answer, or reply

- (1) A party may file a petition in the Supreme Court for review of any decision of the Court of Appeal, including any interlocutory order, except the denial of a transfer of a case within the appellate jurisdiction of the superior court.
- (2) A party may file an answer responding to the issues raised in the petition. In the answer, the party may ask the court to address additional issues if it grants review.
- (3) The petitioner may file a reply to the answer.

(Subd (a) amended effective January 1, 2004.)

(b) Grounds for review

The Supreme Court may order review of a Court of Appeal decision:

- (1) When necessary to secure uniformity of decision or to settle an important question of law;
- (2) When the Court of Appeal lacked jurisdiction;
- (3) When the Court of Appeal decision lacked the concurrence of sufficient qualified justices; or
- (4) For the purpose of transferring the matter to the Court of Appeal for such proceedings as the Supreme Court may order.

(Subd (b) amended effective January 1, 2007.)

(c) Limits of review

- (1) As a policy matter, on petition for review the Supreme Court normally will not consider an issue that the petitioner failed to timely raise in the Court of Appeal.
- (2) A party may petition for review without petitioning for rehearing in the Court of Appeal, but as a policy matter the Supreme Court normally will accept the Court of Appeal opinion's statement of the issues and facts unless the party has called the Court of Appeal's attention to any alleged omission or misstatement of an issue or fact in a petition for rehearing.

(d) Petitions in nonconsolidated proceedings

If the Court of Appeal decides an appeal and denies a related petition for writ of habeas corpus without issuing an order to show cause and without formally consolidating the two proceedings, a party seeking review of both decisions must file a separate petition for review in each proceeding.

(e) Time to serve and file

- (1) A petition for review must be served and filed within 10 days after the Court of Appeal decision is final in that court. For purposes of this rule, the date of finality is not extended if it falls on a day on which the office of the clerk/executive officer is closed.
- (2) The time to file a petition for review may not be extended, but the Chief Justice may relieve a party from a failure to file a timely petition for review if the time for the court to order review on its own motion has not expired.
- (3) If a petition for review is presented for filing before the Court of Appeal decision is final in that court, the clerk/executive officer of the Supreme Court must accept it and file it on the day after finality.
- (4) Any answer to the petition must be served and filed within 20 days after the petition is filed.
- (5) Any reply to the answer must be served and filed within 10 days after the answer is filed.

(Subd (e) amended effective January 1, 2018; previously amended effective January 1, 2007, and January 1, 2009.)

(f) Additional requirements

- (1) The petition must also be served on the superior court clerk and, if filed in paper format, the clerk/executive officer of the Court of Appeal. Electronic filing of a petition constitutes service of the petition on the clerk/executive officer of the Court of Appeal.
- (2) A copy of each brief must be served on a public officer or agency when required by statute or by rule 8.29.
- (3) The clerk/executive officer of the Supreme Court must file the petition even if its proof of service is defective, but if the petitioner fails to file a corrected proof of service within 5 days after the clerk gives notice of the defect the court may strike the petition or impose a lesser sanction.

(Subd (f) amended effective January 1, 2020; previously amended effective January 1, 2004, January 1, 2007, and January 1, 2018.)

(g) Amicus curiae letters

- (1) Any person or entity wanting to support or oppose a petition for review or for an original writ must serve on all parties and send to the Supreme Court an amicus curiae letter rather than a brief.
- (2) The letter must describe the interest of the amicus curiae. Any matter attached to the letter or incorporated by reference must comply with rule 8.504(e).
- (3) Receipt of the letter does not constitute leave to file an amicus curiae brief on the merits under rule 8.520(f).

(Subd (g) amended effective January 1, 2007; previously amended effective July 1, 2004.)

Rule 8.500 amended effective January 1, 2020; repealed and adopted as rule 28 effective January 1, 2003; previously amended effective January 1, 2004, July 1, 2004, January 1, 2009, and January 1, 2018; previously amended and renumbered effective January 1, 2007.

Advisory Committee Comment

Subdivision (a). A party other than the petitioner who files an answer may be required to pay a filing fee under Government Code section 68927 if the answer is the first document filed in the proceeding in the Supreme Court by that party. See rule 8.25(c).

Subdivision (a)(1) makes it clear that any interlocutory order of the Court of Appeal-such as an order denying an application to appoint counsel, to augment the record, or to allow oral argument-is a "decision" that may be challenged by petition for review.

Subdivision (e). Subdivision (e)(1) provides that a petition for review must be served and filed within 10 days after the Court of Appeal decision is *final in that court*. Finality in the Court of Appeal is generally governed by rules 8.264(b) (civil appeals), 8.366(b) (criminal appeals), 8.387(b) (habeas corpus proceedings), and 8.490(b) (proceedings for writs of mandate, certiorari, and prohibition). These rules declare the general rule that a Court of Appeal decision is final in that court 30 days after filing. They then carve out specific exceptions-decisions that they declare to be final immediately on filing (see rules 8.264(b)(2), 8.366(b)(2), and 8.490(b)(1)). The plain implication is that all other Court of Appeal orders-specifically, interlocutory orders that may be the subject of a petition for review-are *not* final on filing. This implication is confirmed by current practice, in which parties may be allowed to apply for-and the Courts of Appeal may grant-reconsideration of such interlocutory orders; reconsideration, of course, would be impermissible if the orders were in fact final on filing.

Contrary to paragraph (2) of subdivision (e), paragraphs (4) and (5) do not prohibit extending the time to file an answer or reply; because the subdivision thus expressly forbids an extension of time only with respect to the petition for review, by clear negative implication it permits an application to extend the time to file an answer or reply under rule 8.50.

See rule 8.25(b)(5) for provisions concerning the timeliness of documents mailed by inmates or patients from custodial institutions.

Subdivision (f). The general requirements relating to service of documents in the appellate courts are established by rule 8.25. Subdivision (f)(1) requires that the petition (but not an answer or reply) be served on the clerk/executive officer of the Court of Appeal. To assist litigants, (f)(1) also states explicitly what is impliedly required by rule 8.212(c), i.e., that the petition must also be served on the superior court clerk (for delivery to the trial judge).

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