

AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council on February 28, 2012,
effective on July 1, 2012

Rule 8.25. Service, filing and filing fees	2
Rule 8.104. Time to appeal	2
Rule 8.108. Extending the time to appeal	4
<u>Rule 8.254. New Authorities</u>	5
Rule 8.822. Time to appeal	5
Rule 8.823. Extending the time to appeal	6
Rule 10.741. Duties and authority of the presiding judge	7
Rule 10.743. Administrator of temporary judges program.....	9

1 **Rule 8.25. Service, filing and filing fees**

2
3 (a) ***

4
5 (b) **Filing**

6
7 (1)–(2) ***

8
9 (3) A brief, an application to file an amicus curiae brief, an answer to an amicus
10 curiae brief, a petition for rehearing, an answer to a petition for rehearing, a
11 petition for transfer of an appellate division case to the Court of Appeal, an
12 answer to such a petition for transfer, a petition for review, an answer to a
13 petition for review, or a reply to an answer to a petition for review is timely if
14 the time to file it has not expired on the date of:

15
16 (A)–(B) ***

17
18 (4)–(5) ***

19
20 *(Subd (b) amended effective July 1, 2012; previously amended effective January 1, 2007,*
21 *January 1, 2009, July 1, 2010, and January 1, 2011.)*

22
23 (c) ***

24
25 *Rule 8.25 amended effective July 1, 2012; adopted as rule 40.1 effective January 1, 2005;*
26 *previously amended and renumbered effective January 1, 2007; previously amended effective*
27 *January 1, 2009, July 1, 2010, January 1, 2011, and October 28, 2011.*

28
29 **Advisory Committee Comment**

30
31 **Subdivision (a)** ***

32
33 **Subdivision (b)** ***

34
35 **Subdivision (b)(3).** This rule includes applications to file amicus curiae briefs because, under
36 rules 8.200(c)(4) and 8.520(f)(5), a proposed amicus curiae brief must accompany the application
37 to file the brief.

38
39 **Subdivision (c)** ***

40
41 **Rule 8.104. Time to appeal**

42

1 (a) Normal time

2
3 (1) Unless a statute or rule 8.108 provides otherwise, a notice of appeal must be
4 filed on or before the earliest of:

5
6 ~~(1)~~(A) 60 days after the superior court clerk serves on the party filing the
7 notice of appeal a document entitled “Notice of Entry” of judgment or a
8 file-stamped copy of the judgment, showing the date either was served;

9
10 ~~(2)~~(B) 60 days after the party filing the notice of appeal serves or is served by
11 a party with a document entitled “Notice of Entry” of judgment or a
12 file-stamped copy of the judgment, accompanied by proof of service; or

13
14 ~~(3)~~(C) 180 days after entry of judgment.

15
16 ~~(4)~~(2) Service under (1)(A) and ~~(2)~~(B) may be by any method permitted by the
17 Code of Civil Procedure, including electronic service when permitted under
18 Code of Civil Procedure section 1010.6 and rules 2.250–2.261.

19
20 (3) If the parties stipulated in the trial court under Code of Civil Procedure
21 section 1019.5 to waive notice of the court order being appealed, the time to
22 appeal under (1)(C) applies unless the court or a party serves notice of entry
23 of judgment or a file-stamped copy of the judgment to start the time period
24 under (1)(A) or (B).

25
26 *(Subd (a) amended effective July 1, 2012; previously amended effective January 1, 2007,*
27 *and January 1, 2010.)*

28
29 (b)–(e) ***

30
31 *Rule 8.104 amended effective July 1, 2012; repealed and adopted as rule 2 effective January 1,*
32 *2002; previously amended and renumbered effective January 1, 2007; previously amended*
33 *effective January 1, 2005, January 1, 2010, January 1, 2011, and July 1, 2011.*

34
35 **Advisory Committee Comment**

36
37 **Subdivision (a).** Under subdivision (a)(1)(A), a notice of entry of judgment (or a copy of the
38 judgment) must show the date on which the clerk served the document. The proof of service
39 establishes the date that the 60-day period under subdivision (a)(1)(A) begins to run.

40
41 Subdivision (a)~~(2)~~(1)(B) requires that a notice of entry of judgment (or a copy of the judgment)
42 served by or on a party be accompanied by proof of service. The proof of service establishes the
43 date that the 60-day period under subdivision (a)~~(2)~~(1)(B) begins to run. Although the general

1 rule on service (rule 8.25(a)) requires proof of service for all documents served by parties, the
2 requirement is reiterated here because of the serious consequence of a failure to file a timely
3 notice of appeal (see subd. (e)).
4

5 **Subdivision (b).** * * *

6
7 **Rule 8.108. Extending the time to appeal**
8

9 **(a)** * * *

10
11 **(b) Motion for new trial**
12

13 If any party serves and files a valid notice of intention to move for a new trial, ~~the~~
14 ~~time to appeal from the judgment is extended for all parties as follows~~ the
15 following extensions of time apply:
16

17 (1) If the motion for a new trial is denied, the time to appeal from the judgment is
18 extended for all parties until the earliest of:
19

20 (A)–(C) * * *

21
22 (2) If the trial court makes a finding of excessive or inadequate damages and
23 grants the motion for a new trial subject to the condition that the motion is
24 denied if a party consents to the additur or remittitur of damages, the time to
25 appeal is extended as follows:
26

27 (A) If any party serves an acceptance of a ~~the conditionally ordered~~ additur
28 or remittitur of damages pursuant to a trial court finding of excessive or
29 inadequate damages within the time for accepting the additur or
30 remittitur, the time to appeal from the judgment is extended for all
31 parties until 30 days after the date the party serves the acceptance.
32

33 (B) If a party serves a rejection of the additur or remittitur within the time
34 for accepting the additur or remittitur or if the time for accepting the
35 additur or remittitur expires, the time to appeal from the new trial order
36 is extended for all parties until the earliest of 30 days after the date the
37 party serves the rejection or 30 days after the date on which the time for
38 accepting the additur or remittitur expired.
39

40 *(Subd (b) amended effective July 1, 2012; adopted as subd (a); previously amended and*
41 *relettered effective January 1, 2008; previously amended effective January 1, 2011.)*
42

1 (c)–(h) ***

2
3 *Rule 8.108 amended effective July 1, 2012; repealed and adopted as rule 3 effective January 1,*
4 *2002; previously amended and renumbered effective January 1, 2007; previously amended*
5 *effective January 1, 2008, and January 1, 2011.*

6
7 **Rule 8.254. New Authorities**

8
9 **(a) Letter to court**

10
11 If a party learns of significant new authority, including new legislation, that was not
12 available in time to be included in the last brief that the party filed or could have
13 filed, the party may inform the Court of Appeal of this authority by letter.

14
15 **(b) Form and content**

16
17 The letter may provide only a citation to the new authority and identify, by citation
18 to a page or pages in a brief on file, the issue on appeal to which the new authority
19 is relevant. No argument or other discussion of the authority is permitted in the
20 letter.

21
22 **(c) Service and filing**

23
24 The letter must be served and filed before the court files its opinion and as soon as
25 possible after the party learns of the new authority. If the letter is served and filed
26 after oral argument is heard, it may address only new authority that was not
27 available in time to be addressed at oral argument.

28
29 *Rule 8.254 adopted effective July 1, 2012.*

30
31
32 **Advisory Committee Comment**

33
34 This rule does not preclude a party from asking the presiding justice for permission to file
35 supplemental briefing under rule 8.200(a)(4). A letter filed under this rule does not change the
36 date of submission under rule 8.256.

37
38 **Rule 8.822. Time to appeal**

39
40 **(a) Normal time**

41
42 **(1)** Unless a statute or rule 8.823 provides otherwise, a notice of appeal must be
43 filed on or before the earliest of:

1
2 (1)(A) 30 days after the trial court clerk mails the party filing the notice of
3 appeal a document entitled “Notice of Entry” of judgment or a file-
4 stamped copy of the judgment, showing the date either was mailed;

5
6 (2)(B) 30 days after the party filing the notice of appeal serves or is served by
7 a party with a document entitled “Notice of Entry” of judgment or a
8 file-stamped copy of the judgment, accompanied by proof of service; or

9
10 (3)(C) 90 days after the entry of judgment.

11
12 (4)(2) Service under (1)(A) and (2)(B) may be by any method permitted by the
13 Code of Civil Procedure, including electronic service when permitted under
14 Code of Civil Procedure section 1010.6 and rules 2.250-2.261.

15
16 (3) If the parties stipulated in the trial court under Code of Civil Procedure
17 section 1019.5 to waive notice of the court order being appealed, the time to
18 appeal under (1)(C) applies unless the court or a party serves notice of entry
19 of judgment or a file-stamped copy of the judgment to start the time period
20 under (1)(A) or (B).

21
22 *(Subd (a) amended effective July 1, 2012; previously amended effective January 1, 2011.)*

23
24 **(b)–(d) *****

25
26 *Rule 8.822 amended effective July 1, 2012; adopted effective January 1, 2009; previously*
27 *amended effective January 1, 2011.*

28
29 **Rule 8.823. Extending the time to appeal**

30
31 **(a) *****

32
33 **(b) Motion for a new trial**

34
35 If any party serves and files a valid notice of intention to move for a new trial, ~~the~~
36 ~~time to appeal from the judgment is extended for all parties as follows~~ the
37 following extensions of time apply:

38
39 (1) If the motion is denied, the time to appeal from the judgment is extended for
40 all parties until the earliest of:

41
42 (A)–(C) ***

43

1 (2) If the trial court makes a finding of excessive or inadequate damages and
2 grants the motion for a new trial subject to the condition that the motion is
3 denied if a party consents to the additur or remittitur of damages:

4
5 (A) If any party serves an acceptance of a the conditionally ordered additur
6 or remittitur of damages under a trial court finding of excessive or
7 inadequate damages within the time for accepting the additur or
8 remittitur, the time to appeal from the judgment is extended for all
9 parties until 15 days after the date the party serves the acceptance.

10
11 (B) If a party serves a rejection of the additur or remittitur within the time
12 for accepting the additur or remittitur or if the time for accepting the
13 additur or remittitur expires, the time to appeal from the new trial order
14 is extended for all parties until the earliest of 30 days after the date the
15 party serves the rejection or 30 days after the date on which the time for
16 accepting the additur or remittitur expired.

17
18 *(Subd (b) amended effective July 1, 2012.)*

19
20 (c)–(h) ***

21
22 *Rule 8.823 amended effective July 1, 2012; adopted effective January 1, 2009; previously*
23 *amended effective January 1, 2011.*

24
25 **Rule 10.741. Duties and authority of the presiding judge**

26
27 (a) ***

28
29 **(b) Publicizing the opportunity to serve as a temporary judge**

30
31 (1) Except for those courts that have nine or fewer authorized judge positions or
32 use only research attorneys as temporary judges, each trial court that uses
33 court-appointed temporary judges must publicize the opportunity to serve as
34 a temporary judge whenever the court seeks to add attorneys to its pool of
35 temporary judges or within a reasonable time before conducting its
36 mandatory training for temporary judges but, in any case, no less than once
37 every three years.

38
39 (2) Courts must publicize this opportunity in a manner that maximizes the
40 potential for a diverse applicant pool, which includes publicizing the
41 opportunity to legal communities and organizations, including all local bar
42 associations, in their geographical area. This publicity should encourage and
43 must provide an equal opportunity for all eligible individuals to seek

1 positions as court-appointed temporary judges and not exclude individuals
2 based on their gender, race, ethnicity, disability, religion, sexual orientation,
3 age, or other protected class.

4
5 *(Subd (b) adopted effective July 1, 2012.)*

6
7 **(c) Nondiscrimination in application and selection procedure**

8
9 Each trial court that uses court-appointed temporary judges must conduct an
10 application and selection procedure for temporary judges that ensures the most
11 qualified applicants for appointment are selected and must not reject applicants
12 who otherwise meet the requirements for appointment based on their gender, race,
13 ethnicity, disability, religion, sexual orientation, age, or other protected class.
14 Among the qualifications to be considered in the selection procedure are the
15 applicant's exposure to and experience with diverse populations and issues related
16 to those populations.

17
18 *(Subd (c) amended effective July 1, 2012.)*

19
20 **(b)(d) *****

21
22 *(Subd (d) relettered effective July 1, 2012; adopted as subd. (b).)*

23
24 *Rule 10.741 amended effective July 1, 2012; adopted as rule 6.741 effective July 1, 2006;*
25 *previously amended and renumbered effective January 1, 2007.*

26
27 **Advisory Committee Comment**

28
29 **Subdivision (b).** This subdivision is intended to offer all attorneys who satisfy the requirements
30 for appointment under rule 2.812 the opportunity to serve as temporary judges and to expand the
31 size and diversity of the pool of eligible candidates. Pursuant to the rule, courts that do not use
32 temporary judges, that have nine or fewer authorized and funded judge positions, or that only use
33 their research attorneys as temporary judges are exempt from the requirement to publicize the
34 opportunity to serve as a temporary judge. Courts that use temporary judges may publicize the
35 opportunity in a manner they determine to be most effective, given their individual
36 circumstances. In attempting to broaden the diversity of the temporary judge applicant pool,
37 courts also have the flexibility to widen the geographical areas in which they publicize the
38 opportunity. Thus, courts are not limited to publicizing their temporary judge program through
39 the local or state bar associations. However, they must include all local bar associations when
40 they do so. Further, the method of publication is purposefully left to the court's discretion.
41 No-cost methods exist, such as email, use of the court's public website, and oral announcements
42 at local bar association or legal organization events. Publicizing this opportunity no less than once

1 every three years should increase the potential for greater diversity among the temporary judges
2 who serve the courts.

3
4 **Subdivision (c).** This subdivision emphasizes that the selection and appointment process must be
5 devoid of discrimination. These provisions are intended to discourage favoritism in the
6 appointment process and permit the courts to consider, as an additional qualification, an
7 attorney’s exposure to and experience with the diverse populations and issues unique to that
8 population in the county where they are seeking appointment. “Exposure to and experience with
9 diverse populations” includes work, social interaction, educational experiences, or community
10 involvement with individuals or groups from diverse communities that may appear in court.

11
12 **Rule 10.743. Administrator of temporary judges program**

13
14 (a) ***

15
16 (b) **Duties of administrator**

17
18 Under the supervision of the presiding judge, the Temporary Judge Administrator
19 is responsible for the management of the temporary judges program in the court.
20 The administrator’s duties include:

21
22 (1)–(2) ***

23
24 (3) Assisting the presiding judge in the recruitment and selection of attorneys to
25 serve as temporary judges, as provided in rule 10.741;

26
27 (4)–(11) ***

28
29 *(Subd (b) amended effective July 1, 2012; previously amended effective January 1, 2007.)*

30
31 *Rule 10.743 amended effective July 1, 2012; adopted as rule 6.743 effective July 1, 2006;*
32 *previously amended and renumbered effective January 1, 2007.*

33