Judicial Council of California, Center for Family, Children & the Courts, November 18, 2022 Webinar

I. Petitions for Writ of Mandate and/or Prohibition

A. The Petition

If there is a desire to challenge a juvenile court order and time is of the essence such that an appeal would be inadequate, a petition for writ of mandate and/or prohibition can be filed. This can be useful for challenging, for example, the failure to hold a timely hearing as required by statute due to emergency orders issued during the pandemic, or to challenge orders concerning visitation, services, or placement in light of problems that have arisen from the pandemic.

There is no form for a petition for a writ of mandate and/or prohibition. The practitioner must draft the entire document. The petition begins with a cover page. The cover consists of the caption, the title of the document ("Petition for Writ of Mandate and/or Prohibition"), and the attorney's identifying information below. The caption includes the Superior Court case number. The Court of Appeal will supply its case number when it is filed. If a stay is requested, this must be mentioned prominently on the cover. (Cal. Rules of Court, rule 8.486(a)(7).) The table of contents, table of exhibits, and table of authorities follow.

A petition is broken into three sections. First, there are pleadings. Second, there is a memorandum of points and authorities, Third, there are exhibits.

1. The Pleadings

The pleading must (1) identify the parties and assert the petitioner's has a beneficial interest in obtaining the relief sought; (2) provide the reasons for a stay if one is being requested (3) explain how the respondent court acted without or in excess of its jurisdiction or how it has failed to act as prescribed by law; (4) assert there is no plain, speedy, or adequate remedy at law; (5) explain why the petition is timely; (6) explain the petition is being filed in the Court of Appeal to correct the problem in the Superior Court; (7) detail how petitioner objected to the court action or threatened action; and (8) make the claims for relief while also providing the underlying facts of the claim. The

petition must include a prayer for relief and a verification. Then, there must be a supporting memorandum of points and authorities, exhibits, certificate of word count, and a proof of service. The superior court needs to be served.

(1) A beneficial interest exists if the petitioner has standing. (*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 165.)

(2) When a stay is requested, a statement to that effect ("STAY REQUESTED") must be placed on the front cover of the petition. (Rules of Court, rule 8.486(a)(7)(B).) The petition must explain the urgency of the matter and why a stay is necessary. The trial court and department involved and the name and telephone number of the trial judge, whose order the request seeks to stay must appear either on the cover or at the beginning of the petition. (Rule 8.486(a)(7).)

(3) A writ of mandate can be issued when an inferior court or agency has failed to act as prescribed by law. (Code Civ. Proc, §§ 1084, 1085; *People v. Superior Court (Mitchell)* (2010) 184 Cal.App.4th 451, 456.) A writ of prohibition can be issued when an inferior court or agency has acted without or in excess of its jurisdiction. (Code Civ. Proc, § 1102.) Because the distinction between the two is not always clear, many people file a petition for writ of mandate and/or prohibition. Some cases suggest that a writ is not available to compel a court or agency to perform a "discretionary" act. Other cases, however, state that writ review can be used to correct an abuse of discretion when there is not an adequate remedy by appeal or the court acts with a misunderstanding of the law. (*Shorts v. Superior Court* (2018) 24 Cal.App.5th 709, 719.)

(4) An extraordinary writ will not be issued if an appeal provides an adequate remedy. (Code Civ. Proc, § 1086.) Even when a remedy by appeal exists, however, it might be inadequate. For example, the petitioner might suffer irreparable harm if relief is not granted in an expedited manner. (See, e.g.. *Bridget A. v. Superior Court* (2007) 148 Cal.App.4th 285, 299, fn. 4 [appeal inadequate because of delay].)

(5) Some statutes specify a time period within which to file a writ petition. (See, e.g, Code Civ. Proc, § 170.3, subd. (d) [the only means of challenging the denial of a motion to recuse a judge is by a petition for writ of mandate within ten days of the order].) These statutory time limits are jurisdictional. (*People v. Superior Court (Brent)* (1992) 2 Cal.App.4th 675,

683.) When there is no statutory deadline, the petition should be filed within the same time period designated for filing a notice of appeal; that is, 60 calendar days. (*St. Mary v. Superior Court* (2014) 223 Cal.App.4th 762, 771, fn. 14.) Because time is of the essence in juvenile matters, the sooner the petition is filed, the better.

The prayer for relief normally requests the granting of an alternative writ, the issuance of the writ, and any other relief which may be appropriate in the interest of justice. If a stay is requested, this should be specifically mentioned in the prayer for relief. When the petitioner seeks a peremptory writ in the first instance, the petition must give notice to the opposing party and to the court. This is usually done by requesting a peremptory writ in the first instance in the prayer for relief. (See Code Civ. Proc, §§ 1088, 1107; *Palma v. U.S. Indus. Fasteners, Inc.* (1984) 36 Cal.3d 171.)

The attorney may verify the petition when the facts are within the attorney's knowledge. Also, the attorney may verify the petition when a party is unable to do so and the attorney explains why the verification is not made by the party. (Code Civ. Proc, § 446; *St. Mary, supra,* 223 Cal.App.4th at pp. 771-772, fn. 14.) A verification should not be based on information or belief. (*North Shuttle Service, Inc. v. Public Utilities Com.* (1998) 67 Cal.App.4th 386, 392, fn. 4.)

2. Memorandum of Points and Authorities

The petition must be accompanied by a memorandum of points and authorities which do not need to repeat facts contained in the petition. (Rule 8.486(a)(5).) There is a 14,000 word limit. (Code Civ. Proc, §§ 1084-1086, 1103, 1104; Cal. Rules of Court, rules 8.486.)@

Many appellate court practitioners start the memorandum of points and authorities with an introduction. This gives the reader a quick understanding of the important facts, the challenged order, and the claims of error.

Next comes the statement of the case and the statement of the facts. The statement of the case should provide sufficient background information for the reviewing court to understand the case, but it can focus on the issues being reviewed. At a minimum, it should be explained when the delinquency petition was filed, what the allegations were, which allegations were found

true and whether it was by an admission or a contested jurisdictional hearing, what the disposition order was, a description of the order being appealed from and when the order was made. For the statement of the facts, it is often beneficial to make the client look as good as one can, but it is important to keep an objective tone and not to omit the bad facts. Each factual assertion must be supported by a citation to the record. No factual and procedural assertion can be made unless it is in the record. (Cal. Rules of Court, @rules 8.452(b)(1) & (b)(3), 8.456(b)(1) & (b)(3))

Then, there is the actual legal argument, each claim of error should have a separate heading and often includes subheadings. (Cal. Rules of Court, rules 8.452(b)(2), 8.456(b)(2).) There is a conclusion at the end.

Elements of an Appellate Court Legal Argument

The most persuasive petitions have what appellate practitioners describe as a "complete" argument. The petitioner has the burden of proving entitlement to relief. This requires more than proving the juvenile court erred. Generally, one must: (1) show there was a proper objection in the juvenile court or the claim is otherwise cognizable; (2) set out the proper standard of review; (3) show how the juvenile court made a legal error, abused it discretion, or made findings that were not supported by substantial evidence; and (4) demonstrate this prejudiced the petitioner. The appellate court expects to see an argument outlined accordingly. There are exceptions. For example, an argument that there was insufficient evidence often does not require a showing of prejudice.

a. Cognizability

Appellate courts frequently find a claim of error forfeited or waived because it was not properly preserved in the juvenile court. Normally, a claim of error requires a proper objection or offer of proof in the juvenile court. It is important to show exactly what was said in litigating whether certain orders should be made. There are exceptions. By its nature, a claim of ineffective assistance of counsel is often based on the failure of counsel to make a proper objection or offer of proof. Some claims concerning insufficiency of the evidence do not require an objection. (See, e.g., *Mark N. v. Superior Court* (1998) 60 Cal.App.4th 996, 1014.)

b. Standard of review

The standard of review in the appellate court is analogous to the standard of proof in the superior court. It is the burden the petitioner must overcome in showing he or she is entitled to relief on the merits. Thus, "the standard of review is the compass that guides the appellate court to its decision. It defines and limits the course the court follows in arriving at its destination." (*People v. Jackson* (2005) 128 Cal.App.4th 1009, 1018.) In most situations, there are three possible standards of review.

Pure question of law are reviewed de novo. (*People v. Cromer* (2001) 24 Cal.4th 889, 894.) This means the appellate court does not defer to the juvenile court's ruling. It is the standard of review most favorable to the petitioner. For example, questions of statutory construction are reviewed de novo. (*Pineda v. Williams-Sonoma Stores, Inc.* (2011) 51 Cal.4th 524, 529.) Federal constitutional issue are usually reviewed de novo. (*Cromer,* at p. 894; *People v. Tran* (2013) 215 Cal.App.4th 1207, 1217-1218.)

Questions of fact are generally reviewed for substantial evidence. (*Cromer, supra,* 24 Cal.4th at pp. 893-894.) This is the most difficult burden for the petitioner. "In reviewing a challenge to the sufficiency of the evidence supporting the . . . findings . . . , we determine if substantial evidence, contradicted or uncontradicted, supports them. In making this determination, we draw all reasonable inferences from the evidence to support the findings and orders of the dependency court; we review the record in the light most favorable to the court's determinations; and we note that issues of fact and credibility are the province of the trial court. We do not reweigh the evidence or exercise independent judgment, but merely determine if there are sufficient facts to support the findings of the trial court. [T]he [appellate] court must review the whole record in the light most favorable to the judgment below to determine whether it discloses substantial evidence . . . such that a reasonable trier of fact could find [that the order is appropriate." (*In re I.J.* (2013) 56 Cal.4th 766, 773, internal quotation marks and citations omitted, brackets and ellipses in original.) While the good facts are important, an argument concerning the sufficiency of the evidence depends on addressing all of the bad facts and explaining how nonetheless there is not a rational inference to support the court's order.

In between is the abuse of discretion standard. Most of the juvenile court's decisions are reviewed for abuse of discretion. This means that the judge has wide authority in making its ruling. Two judges with the same evidence and the same law might legitimately arrive at different results. It is

often said an abuse of discretion occurs only if the judge acts arbitrarily or exceeded the bounds of reason. Nonetheless, the standard is not so abstract. "Action that transgresses the confines of the applicable principles of law is outside the scope of discretion and we shall call such action an 'abuse' of discretion. If the trial court is mistaken about the scope of its discretion, the mistaken position may be 'reasonable,' i.e., one as to which reasonable judges could differ. [Citation.] But if the trial court acts in accord with its mistaken view the action is nonetheless error; it is wrong on the law." (*City of Sacramento v. Drew* (1989) 207 Cal.App.3d 1287, 1297-1298.) Thus, the key in arguing abuse of discretion is to show the juvenile court applied the incorrect law, considered irrelevant facts or facts not supported by the evidence, or misunderstood the scope of its discretion.

One approach is to redefine the issue so that the de novo standard applies. For example, while evidentiary claims are usually reviewed for abuse of discretion, the court's understanding of the Evidence Code is reviewed de novo. (*People v. Grimes* (2016) 1 Cal.5th 698, 711-712.)

c. The merits of the claim of error

The petitioner must explain the relevant law and apply the facts to the law. It must be assumed the juvenile court believed all of the bad facts. One must provide citations to the record and to the appropriate legal authority. It is the petitioner's job to show from information in the record that the juvenile court's order should be reversed. Everything the justices need to know should be in the petition. In the superior court, a judge often does not have a strong grasp of the issues until the hearing, and the written motion or petition is not as critical. In the Court of Appeal, the case is often decided from reviewing the first brief.

d. Prejudice

Even when it is shown that the claim is cognizable and the juvenile court acted improperly under the appropriate standard of review, the petitioner usually must also show prejudice. That is, the error resulted in a "miscarriage of justice." (Cal. Const., art. VI, § 13.) This is based on the principle that a party is entitled to a fair hearing, not a perfect hearing, and reversal will occur only if the error mattered. A " 'miscarriage of justice' should be declared only when the court, 'after an examination of the entire cause, including the evidence,' is of the 'opinion' that it is reasonable probable

that a result more favorable to the appealing party would have been reached in the absence of the error." (*People v. Watson* (1956) 46 Cal.2d 818, 836.) The Supreme Court has "made clear that a 'probability' in this context does not mean more likely than not, but merely a *reasonable chance*, more than an *abstract possibility*." (*College Hospital, Inc. v. Superior Court* (1994) 8 Cal.4th 704, 715, emphasis in original.)

There can be a more favorable standard of prejudice for the petitioner if the error violated the United States Constitution. A finding of federal constitutional error generally requires reversal unless "the beneficiary of a constitutional error [can] prove beyond a reasonable doubt that the error complained of did not contribute to the verdict obtained." (*Chapman v. California* (1967) 386 U.S. 18, 24; see, e.g., *In re Vanessa M.* (2006) 138 Cal.App.4th 1121, 1132 [preventing parent from testifying]; *In re Joann E.* (2002) 104 Cal.App.4th 347, 359 [appointment of guardian-ad-litem without an adequate hearing]; but see *In re Meranda P.* (1997) 56 Cal.App.4th 1143, 1153.)

A claim of ineffective assistance of counsel has its own standard of prejudice. One "must show that there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceedings would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." (*Strickland v. Washington* (1984) 466 U.S. 668, 688.)

3. Exhibits

The court does not prepare a record for a traditional writ petition. It is the petitioner's responsibility to provide the necessary exhibits. If the client is indigent, counsel should move the juvenile court to order the preparation of reporter's transcripts of relevant hearings, which the petitioner will need to attach as exhibits. If preparation of the transcripts takes too long, the petitioner may prepare a declaration to be an exhibit to the petition providing a summary of the oral proceedings and explaining there has been a delay in producing the transcript. The reporter's transcripts should be filed in the Court of Appeal as a supplemental exhibit as soon as it is available.

The requirement to have each document consecutively paginated for electronically filed documents applies to exhibits attached to a petition. Since it is difficult to write a petition and refer to exhibits without knowing in

advance what page the exhibit will fall on, it is usually easier to file the exhibits in a separate document entitled, "Exhibits to the Petition for Writ of Mandate and/or Prohibition." Nonetheless, one should be aware that page 1 of the exhibits will be the cover page, page 2 will be table of exhibits, page 3 normally will be a page that only states "Exhibit A," and the first page of exhibit A will then fall on page 4.

B. Subsequent Procedure

A preliminary opposition can be filed within ten days of the petition to try to persuade the court not to issue an alternative writ. The court may request a preliminary opposition and give a deadline in its request. Otherwise, an opposition is optional. (Code Civ. Proc, § 1107; rule 8.487(a)(1).) The preliminary opposition must include a memorandum and a statement of any material fact that was missing from the petition. (Rule 8.487(a)(2).)

Upon receiving the petition, the court may: (1) deny the petition without an opinion or argument; (2) issue an alternative writ or order to show cause ordering the respondent or real party in interest either to act as the petitioner has requested, or show cause in the appellate court why it should not be ordered to do so; or (3) notify the parties that it is considering issuing a peremptory writ in the first instance. (See Cal. Rules of Court, rule 8.487(a).)

A peremptory writ in the first instance is the process of issuing the writ without first issuing an alternative writ first. (Code Civ. Proc, §§ 1088, 1107.) The California Supreme Court has cautioned that this may occur only when the petitioner's right to relief is obvious or unusual urgency justifies expediting the writ application. (*Brown, Winfield & Canzoner, Inc v. Superior Court* (2010) 47 Cal.4th 1223, 1241.) If the court notifies the parties that it is considering issuing a peremptory writ in the first instance (frequently called *Palma* notice after *Palma v U.S. Indus. Fasteners, Inc., supra*, 36 Cal.3d 171), the respondent or any real party in interest may file an opposition. This may be the only opportunity to oppose the petition. (See rule 8.487(a)(4).) Unless the court orders otherwise, the opposition must be filed within 30 days after the court issues its notification. (Rule 8.487(b)(2).)

A return is the formal response to the court's issuance of an alternative writ or an order to show cause; it is the vehicle the respondent or real party in interest uses to dispute the factual and legal allegations set out in the petition. (Rule 8.487(b)(1).) If the respondent or real party in interest fails to

deny material allegations, the court may deem them admitted. (*Rodriguez v. Municipal Court* (1972) 25 Cal.App.3d 521, 526.)

The petitioner may file a reply (also called a replication) to the return. Factual matters alleged in the return that are not controverted in the reply are deemed true. (*Miller v. Eisenhower Med. Ctr.* (1980) 27 Cal.3d 614, 625, fn. 10; *Epstein v. Superior Court* (2011) 193 Cal.App.4th 1405, 1408.) The petitioner may not raise a new claim in the reply. (*People v. Superior Court (Maury)* (2006) 145 Cal.App.4th 473, 485, disapproved on other grounds in *Barnett v. Superior Court* (2010) 50 Cal.4th 890.) Instead, a supplemental petition must be submitted with a motion for leave to file it. The court may then summarily deny the supplemental petition or issue an order to show cause on the new claim.

C. Oral Argument and decision

Oral argument may be available following issuance of an alternative writ or order to show cause. (*See Kowis v. Howard* (1992) 3 Cal.4th 888, 899.) However, there is no oral argument when the court summarily denies a writ petition (*ibid.*) or when the court issues a peremptory writ in the first instance (see *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1242).

The petitioner speaks first, followed by the opposition and then there is the petitioner's rebuttal. It is uncommon for a side to request more than 15 minutes for oral argument, and the petitioner will want to reserve some of the time for rebuttal. Three justices sit on a panel, and the oral argument is normally held in the Court of Appeal courthouse.

Some of the appellate courts have not yet opened up for in person oral argument. The justices, research attorneys, and most of the clerks have been working remotely. Parties have been appearing by video.

Oral argument in the appellate courts are more formal. It is often best to prepare a strong short beginning and hope for questions. Nonetheless, prepare a longer explanation of why the court should rule in your favor in case questions are not forthcoming. Be ready to answer questions concerning the weaknesses of the case. Have a short conclusion ready for the end. The court seldom announces its decision at oral argument.

D. Rehearing Petition

The Court of Appeal loses jurisdiction to modify a decision when the decision becomes "final," A decision denying the petition without issuing an order to show cause or dismissing the petition as moot is final immediately. (Cal. Rules of Court, rules 8.452(i), 8.456(h)(5), 8.490(a)(1).) Otherwise, the decision is final in 30 days unless the court orders a shorter period. (Rule 8.490(a)(2).) A party may file a petition for rehearing within 15 after the decision is issued if it is not final. (Rules 8.268, 8.490(c).)

Petitions for rehearing are not common. A rehearing petition should be filed if a petition for review will be based on facts or an issue that the Court of Appeal omitted or misstated in its opinion. (Rule 8.500(c)(2).) An answer to a petition for rehearing may not be filed unless requested by the court order. (Rule 8.268(b)(2).) Rehearing petitions are usually short and to the point.

A rehearing petition and the opposition begin with a cover. The cover consists of the caption, the title of the document ("Petition for Rehearing"), and the attorney's identifying information below. There must be a table of contents, a table of authorities, certificate of word count, and proof of service.

E. Review Petition

A petition for review can be filed in the California Supreme Court within 10 days after the decision is final. (Cal. Rules of Court, rule 8.500(e)(1).) If the decision becomes final on a weekend or holiday, this does *not* extend the deadline for filing the review petition. However, if the deadline for the review petition falls on a weekend or holiday, the petition can be filed on the following court date. A petition for rehearing does *not* change the finality of the Court of Appeal decision, even if the court modifies the opinion, unless the court formally grants rehearing or modifies the *judgment*. (See rule 8.366(b)(3).) The review petition shall not be more than 8400 words. (Rule 8.504(d).)

The petition for review begins with a cover. The cover consists of the caption, the title of the document ("Petition for Review"), and the attorney's identifying information below. The caption includes both the Court of Appeal case number and the Superior Court case number. The Supreme Court supplies its own case number after the petition is filed. The tables of contents and authorities follow the cover. The actual petition begins with a concise, nonargumentative statement of the issues presented. (Rule 8.504(b)(1).) The petitioner must then explain the reason for granting review. (Rules 8.500(b),

8.504(b).) The petition should specify when the Court of Appeal issued its decision, explain if a rehearing petition had been filed, and the result of any such petition. (Rule 8.504(b)(3).) The decision of the Court of Appeal must be attached as an exhibit. (Rule 8.504(b)(4) & (b)(5).) There must be a certificate of word count and proof of service. The Court of Appeal must be served with the review petition.

A review petition must be electronically filed through TrueFiling. (Supreme Ct. Rules Regarding Electronic Filing, rule 3(a)(1)(A).) The pagination of the attached decision need not correspond to the electronic page number of the entire petition for review. (Rule 10(a)(2).) One can thus refer to page number of the opinion itself. Normally, one must also send a paper copy of the petition to the Supreme Court within 48 hours. (Rule 5(a).) The Court, however, issued an order during the pandemic that no paper copies should be submitted.

E. Remittitur

The remittitur ends the jurisdiction of the appellate courts. (See Code Civ. Proc, § 912.) It is issued when review is denied or the time for seeking review expires. If the petitioner prevails, the juvenile court must comply with the decision of the Court of Appeal once the remittitur is issued. (*Snukal v. Flightways Manufacturing, Inc.* (2000) 23 Cal.4th 754, 774, fn. 5.)

II. Formatting and Filing the Petitions and any Motions

A. Format

The Rules of Court are very particular as to how a brief or a motion in the appellate courts should appear. Documents must be on 8½ by 11 inch white paper. (Cal. Rules of Court, rule 8.74(a)(7).) Do *not* use paper with line numbers on the left. (See rule 8.204(b)(5).) The margins are 1½ inches on the sides and one inch on the top and bottom. (Rule 8.74(b)(3).) There does not need to be a footer.

The font size must be at least 13 points. The font style must be serif face, preferably in Century Schoolbook. (Rule 8.74(b)(1).) Times Roman is disfavored. ALL CAPITALS SHOULD *NOT* BE USED FOR EMPHASIS. (Rule 8.74(b)(1).) The text shall be flushed left. (Rule 8.74(b)(4).) The text shall be 1½ spaced, except for headers, footnotes, and block quotations. (Rule

8.74(b)(3).)

The first page must include the caption as well as the attorney's name, bar number, address, telephone number, and email address. (Rules 8.32(a), 8.40(b)(1).) There must be a proof of service.

A cover page is not required for an application to extend time or for a motion. Applications and motions also do not need to have tables or certificates of word count, but they do require a proof of service.

Some Courts of Appeal have special rules concerning requests for extensions of time and certain motions. The practitioner should check the individual Court of Appeal websites.

B. Citation Style

The research attorneys and justices in the appellate courts are required to follow the California Style Manual. They really like it when practitioners follow the Style Manual. Petitions that do not give an impression of being less persuasive.

References to codes, regulations, rules of court, and constitutions are spelled out when they are in a sentence. The word subdivision is used for subparts of state codes, statutes, and Constitution, but not for rules of court or federal law:

California Constitution, article I, section 28, subdivision (f)(1)
Welfare and Institutions Code section 300, subdivisions (b)(1) and (c)
California Code of Regulations, title 15, sections 1001 to 1003
California Rules of Court, rule 8.450(c)
United States Code, title 25, section 1903(8)

Citations are normally set apart in parentheses. When this is done, a standardized system of abbreviations is used. There is a comma after the word Code, a space is placed between § and the statute number, subdivision is abbreviated "subd.," and subdivisions is abbreviated "subds." The abbreviation "sec." can be used instead of the § symbol and "secs." for plural.

(U.S. Const., art. I, § 8, cl. 1.)
(U.S. Const., 14th Amend.)

(Cal. Const., art. I, § 28, subd. (f)(1).)
(Stats. 2003, ch. 813, § 7.)
(Bus. & Prof. Code, § 4022.)
(Code Civ. Proc, § 1987.1.)
(Evid. Code, §§ 350-352.)
(Fam. Code, § 7611, subd. (d).)
(Heath & Saf. Code, § 11350, subd. (a).)
(Pen. Code, § 288a, subds. (a)-(c).)
(Veh. Code, §§ 23152, subd. (a), 235153, subd. (a).)
(Welf. & Inst. Code, § 300, subds. (b)(1) & (b)(2).)
(Cal. Code Regs., tit. 15, § 3084.1, subd. (a).)
(Cal. Rules of Court, rule 8.450(c).)
(42 U.S.C. §§ 661-669b.)
(25 C.F.R. § 23.2 (2015).)
(82 Fed.Reg. 12986, 12988 (Mar. 8, 2017).)

Cases are cited with the year in the parentheses in the middle. Inside a parenthetical citation, the subsequent history of the case or a description of alterations to quotations are set aside by a comma. A description of the case is in brackets. They are usually in parentheses when the case is cited in a sentence. Parallel cites are usually not required, but when they are used, they are in brackets. Signals (such as "see, e.g.,") are not italicized. The abbreviation for footnote is "fn."

(*Hansen v. California Dept. of Social Services* (1987) 193 Cal.App.3d 283, 292, internal quotation marks omitted.)

(See *In re Jonathan M.* (1997) 53 Cal.App.4th 1234, 1237, disapproved on other grounds in *In re Zeth S.* (2003) 31 Cal.4th 396, 413-414 [concerning visitation].)

(*People v. Vela* (2017) 11 Cal.App.5th 68, 72, review granted July 12, 2017, S242298.)

(*Z.J. Gifts D-4, LLC, etc. v. Littleton, CO* (10th Cir. 2002) 311 F.3d 1320, cert. granted *sub nom. Littleton, CO v. Z.J. Gifts D-4, LLC, etc.* (2003) __ U.S. __ [123 S.Ct. 5112].)

(*Valdivia v. Brown* (E.D. Cal. Jan. 24, 2012 No. CIV S-94-671 LKK (GGH)) 2012 WL 219342 at pp. *4-*13.)

For subsequent citations to the same case, use the word *supra* in place of the year and leave out the first page of the case while referring to the jump cite as "at p. x" or "at pp. x-y."

(*In re Brittany S., supra,* 17 Cal.App.4th at p. 1407, fn. 7.)
(*Tracy J. v. Superior Court, supra,* 202 Cal.App.4th at pp. 1427-1428.)

If the same case is cited in the same paragraph with no intervening citations, one can use *id*. There is not a comma after *id*. Use *ibid*. if one is citing the same page of the same case.

(*Id.* at p. 152.)
(*Ibid.*)

Practitioners often cite to the record by using the abbreviation "CT" for the clerk's transcript and "RT" for the reporter's transcript. The volume number must be given and is usually placed before CT and RT. Many people give the page number without saying "at p." One normally does not need to put in the line number of the reporter's transcript. An augmented transcript might start with the letter A or Aug., and a supplemental transcript with the letter S or Supp.

(3CT 641.)
(4RT 1202-1203.)
(1ACT 15-18.) or (1 Aug. CT 15-18.)
(2SCT 21.) or (2 Supp. CT 21.)

The abbreviation for petition is "petn." One can view the California Style Manual at the website of the Sixth District Appellate Program: www.sdap.org.

Juvenile court proceedings are confidential. (Cal. Rules of Court, rule 8.401(b).) Nonetheless, one should not identify people, particularly children, who are "innocently involved in appellate court proceeding" as to whom potentially damaging or embarrassing disclosures are made. (Cal. Style Manual (4th ed. 2000) § 6:18, pp. 224-225.) Use of first name and the initial of the last name is appropriate when the name is common. (Rule 8.401(a); see *In re Edward S.* (2009) 173 Cal.App.4th 387, 392, fn. 1.) Otherwise, use their initials. The parents and other family members should also not be named if this would reveal their identities. This can create an alphabet soup in the brief, and it is more clear sometimes to refer to the participants by their roles: mother, father, child or minor, maternal grandmother, and so on. While age is often relevant, birth dates should not be given unless they are particularly important to the argument. If certain information is contained in the petition

that is confidential to other parties, an unredacted version must be filed under seal and a redacted version filed for all parties to see. (See rules 8.45-8.47, 8.74(c)(8).)

C. TrueFiling

Documents in the Courts of Appeal must be electronically filed. (Cal. Rules of Court, rule 8.71.) The document must be in a text-searchable portable document format (PDF). (Rule 8.74(a)(1).) The practitioner must add an electronic bookmark with a description for each heading, subheading, and the first page of a component of the document. (Rule 8.74(a)(3).)

The pagination on the document must match the electronic pagination. (Rule 8.74(a)(2).) This means the cover of the petition will often be the first page of the JV-825 form and constitutes page 1. Page 2 will be the table of contents. Page 3 will be the table of authorities. If the table of authorities is only one page, pages 4 and 5 will be the remainder of the form. The first page of the memorandum of points of authorities might fall on page 6 or so. Once the tables are generated, the page numbers of the memorandum of points and authorities must be changed and the tables must be adjusted accordingly.

The file cannot be more than 25 megabytes or 300 pages. Refer to rule 8.74(a)(5) for formatting a document that is multiple volumes. An electronic signature is permitted. (Rule 8.75.) The filer must provide his or her address and email address and give notice of any changes. (Rules 8.72(a)(2) & (a)(3), 8.78(d).)

To file, the practitioner must register at TrueFiling by going on its website, https://tf3.truefiling.com. Once registered, one only needs to log in for future filings. Assistance on how to use TrueFiling can be found on its website and also at website of the courts at https://www.courts.ca.gov/37423.htm and https://www.courts.ca.gov/2dca.htm. Material is also available at the website of the Central California Appellate Program (CCAP) at https://www.capcentral.org/procedures/truefiling/step_tf_guides.asp.

A party needs to consent to be electronically served. Electronically filing a document in the appellate court constitutes consent to be electronically served in the case. There is a fee for filing and an additional small fee for electronically serving the parties through TrueFiling. Some people save money by electronically serving the parties through their own email system.

Alternatively, parties can be served the old fashioned way.

III. Resources Available

Resources are available. The California Rules of Court are available online at https://www.courts.ca.gov/rules.htm. The local rules of court of each Court of Appeal is available on their websites. Most procedural rules are detailed in the rules of court. There is also information about local rules, emergency rules and orders due to the pandemic on the websites of the appellate courts.

Staff attorneys at the local appellate project can provide guidance in framing legal arguments and answering questions about appellate procedures. The appellate projects also have material available on their websites. Much of it concern criminal law, but there is some material concerning dependency practice and appellate procedure.

The websites are:

California Supreme Court (San Francisco, Los Angeles, and Sacramento) https://www.courts.ca.gov/supremecourt.htm.

First District Court of Appeal (San Francisco), https://www.courts.ca.gov/1dca.htm.
First District Appellate Project (FDAP), 475 Fourteenth Street, Suite 650, Oakland CA 94612, 415-495-3119, www.fdap.org.

Second District Court of Appeal (Los Angeles), https://www.courts.ca.gov/2dca.htm.
California Appellate Project, Los Angeles (CAP-LA), 520 S. Grand Ave., 4th Floor, Los Angeles CA 90071, 213-243-0300, www.cap-la.org.

Third District Court of Appeal (Sacramento), https://www.courts.ca.gov/3dca.htm.
Central California Appellate Program (CCAP), 2150 River Plaza Dr., Ste. 300, Sacramento CA 95833, 916-441-3792, www.capcentral.org.

Fourth District Court of Appeal (San Diego, Riverside, and Santa Ana), https://www.courts.ca.gov/4dca.htm.
Appellate Defenders, Inc. (ADI), 555 West Beech Street, Ste. 300, San

Diego CA 92101, 619-696-0282, www.adi-sandiego.com.

Fifth District Court of Appeal (Fresno), https://www.courts.ca.gov/5dca.htm.
Central California Appellate Program (CCAP), 2150 River Plaza Dr., Ste. 300, Sacramento CA 95833, 916-441-3792, www.capcentral.org.

Sixth District Court of Appeal (San Jose), https://www.courts.ca.gov/6dca.htm.
Sixth District Appellate Program (SDAP), 95 South Market Street, Suite 570, San Jose CA 95113, 408-241-6171, www.sdap.org.

Sample dependency writ petitions and arguments are available at the FDAP website at http://www.fdap.org/r-dependency_materials.shtml.

There is also material available at the California Dependency Online Guide (CalDOG) at https://cadependencyonlineguide.info/index.jsp.