

CHAPTER 9

APPELLATE DIVISION

9.01 JURISDICTION

The appellate division of the Superior Court of California, County of Monterey has jurisdiction over all appeals and writs (excluding habeas corpus) concerning infraction, misdemeanor and limited civil cases (excluding small claims) arising out of courts in Monterey County. The appellate division also has jurisdiction over writs of mandamus and prohibition in felony matters still pending before the magistrate

General rules applicable to appellate division proceedings are set forth in the California Rules of Court, rule 8.800 et seq.

(Adopted October 1, 1998; Amended July 1, 2003; Amended January 1, 2006; Amended January 1, 2010; Amended July 1, 2014)

9.02 JUDICIAL ASSIGNMENT AND SESSIONS

The presiding appellate judge shall supervise the business of the appellate division. All motions, including ex parte applications for orders, shall be presented to the presiding appellate judge. The presiding appellate judge may act on routine matters, or may schedule a motion or other matter for hearing at his or her discretion.

The panel is composed of three (3) judges, including the presiding appellate judge. The Chief Justice may appoint alternate panel members pursuant to section 77, subdivision (a), of the Code of Civil Procedure.

All appeals shall be set for hearing on the first Thursday of every month unless otherwise specified. The presiding appellate judge, or a designee from the appellate panel shall hear and decide the traffic appeals.

The appellate panel shall hear and decide the limited civil and misdemeanor appeals.

(Adopted October 1, 1998; Amended January 1, 2006; Amended January 1, 2010; Amended January 1, 2011; Amended July 1, 2013; Amended July 1, 2014)

9.03 RECORD ON APPEAL

- A. The court elects to use the original trial court file in lieu of a clerk's transcript. (Cal. Rules of Court, rules 8.833, 8.863, 8.914.)
- B. Limited civil, misdemeanor, and infraction matters.

The trial court judge shall not order that a transcript be prepared as the record of oral proceedings in lieu of correcting 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).)

- C. Misdemeanor and infraction matters.

Where appellant elects to use a reporter's transcript or a transcript of the official electronic recording of the proceedings as the oral record on appeal, and the appellant is the People or was represented by appointed counsel in the trial court, or the trial court has determined that the defendant is indigent and orders that the defendant receive the transcript without cost,

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prior to the preparation of such transcript, a determination shall be made by the trial court as to what portion of the oral record is required for proper determination of the appeal. Except in appeals covered by California Rules of Court, rules 8.867 or 8.920, the oral record shall include the following items unless the parties have filed a stipulation under rules 8.860(b) or 8.910(b) of the California Rules of Court, or the trial court has ordered that any of these items is not required for proper determination of the appeal:

1. The oral proceedings on the entry of any plea other than a not guilty plea;
2. The oral proceedings on any motion in limine;
3. The oral proceedings at trial, but excluding the voir dire examination of jurors and any opening statement;
4. Any jury instructions given orally (misdemeanors only);
5. Any oral communication between the court and the jury or any individual juror (misdemeanors only);
6. Any oral opinion of the court;
7. The oral proceedings on any motion for new trial;
8. The oral proceedings at sentencing, granting or denying probation, or other dispositional hearing;
 - a. If the appellant is the defendant, the reporter's transcript must also contain:
 - b. The oral proceedings on any defense motion denied in whole or in part except motions for disqualification of a judge;
 - c. Any closing arguments; and
 - d. Any comment on the evidence by the court to the jury (misdemeanors only). (Cal. Rules of Court, rules 8.865, 8.866, 8.918, & 8.919.)

(Adopted October 1, 1998; Amended January 1, 2006; Amended January 1, 2007; Amended January 1, 2010; Amended July 1, 2010; Amended January 1, 2011)

9.04 BRIEFS

The original brief submitted for filing must be accompanied by three (3) copies.

(Amended January 1, 2007; Amended January 1, 2009; Amended January 1, 2010)

9.05 ORAL ARGUMENT

A party who is not present at calendar call is deemed to have waived oral argument unless the party has advised the clerk in advance of a delay.

(Adopted October 1, 1998; Amended January 1, 2007; Amended January 1, 2010)