

**DIVISION VII
APPELLATE**

**CHAPTER 1
APPEALS TO THE APPELLATE DIVISION**

Rule 7.1.1

Application of San Diego Superior Court Rules

Appeals in misdemeanor, infraction and limited civil cases directed to the Appellate Division of the San Diego Superior Court will be processed in conformity with the applicable provisions of Article VI, sections 4, 10 and 11 of the California Constitution, Titles 8 and 10 of the California Rules of Court, and applicable statutes and case law unless these San Diego Superior Court rules provide more specific direction.
(Adopted 1/1/2000; Renum. 7/1/2001; Renum. 1/1/2006; Rev. 1/1/2009; Rev. 1/1/2017)

Rule 7.1.2

Filing of Appellate Briefs

A. Briefs filed in the Appellate Division must not be bound on the left margin.

B. In addition to fully complying with the contents, form, filing and service requirements for briefs as stated in the California Rules of Court, rules 8.882, 8.883, 8.927, and 8.928, all original briefs submitted for filing in misdemeanor, non-traffic infraction, and limited civil appeals must be accompanied by four copies, and all original briefs submitted for filing in traffic infraction appeals must be accompanied by only one copy.

C. Failure of an appellant to file a timely opening brief or to otherwise fully comply with the applicable California Rules of Court may result in dismissal of the appeal.

D. Any brief filed pursuant to *People v. Wende* (1979) 25 Cal.3d 436 must be accompanied by a declaration from appellant's attorney that appellant has been informed of the right to file a supplemental brief. If appellant's attorney is not able to contact appellant, the declaration must include what reasonable efforts have been made to contact appellant and the results of those efforts.

(Adopted 1/1/2009; Rev. 1/1/2010; Rev. 1/1/2014; Rev. 1/1/2015; Rev. 1/1/2021)

Rule 7.1.3

Record Election Options

A. Record of Written Documents from Trial Court Proceedings

This court does not permit the use of the original trial court file as the record of the written documents from the trial court proceedings. A clerk's transcript is required. Parties also have the option of proceeding by agreed statement in limited civil appeals. (Cal. Rules of Court, rules 8.830(a)(1), 8.860(a)(1), 8.910(a)(1).)

B. Record of Oral Trial Court Proceedings

This court does not permit the use of electronic recordings as the record of oral trial court proceedings. Transcripts of such recordings are required. (Cal. Rules of Court, rules 8.830(a)(2), 8.860(a)(2), 8.910(a)(2).)

C. Appellate Division's Use of Electronic Recordings

The Appellate Division may review the electronic recording of trial court proceedings when the Presiding Judge of the Appellate Division determines that this procedure would save court time and resources or in the event a transcript of all or a portion of the trial court proceedings is unavailable during appellate review of the appeal. The Appellate Division may order those proceedings or a portion of those proceedings transcribed or may order the use of the electronic recording as the record of such oral proceedings in lieu of a transcript and provide the parties with a copy of the transcript or an electronic copy of the recording.

(Adopted 1/1/2010; Rev. 1/1/2014; Rev. 1/1/2016)

Rule 7.1.4

Reserved for future use.

(Adopted 1/1/2010; Del. 1/1/2015)

Rule 7.1.5

Trial Court May Order Transcript

The trial court judicial officer may order that a transcript be prepared as the record of the oral proceedings in lieu of reviewing 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).)

(Adopted 1/1/2015; Rev. 1/1/2016)

Rule 7.1.6

Sufficient Completeness of the Record / Time for Preparation of Transcript

A. On a case-by-case basis, the Appellate Division on its own motion may determine what portions of the normal contents of the reporter's transcript are required for proper determination of the appeal and/or whether a form of the

record other than a reporter's transcript constitutes a record of sufficient completeness for proper determination of the appeal. (Cal. Rules of Court, rules 8.865(b), 8.918(b).)

B. On a case-by-case basis, the Appellate Division may on its own motion revise the timeline for the preparation of a reporter's transcript or a transcript of an electronic recording. (Cal. Rules of Court, rules 8.866(a)(1), 8.868(e)(1), 8.919(a)(1).)

(Adopted 1/1/2015)

Rule 7.1.7

Binding of Clerk's Transcript

Clerk's transcripts must not be bound on the left margin. (Cal. Rules of Court, rule 8.838(c)(1).)

(Adopted 1/1/2015)