



## Welcome to the California Courts of Appeal

*The California Courts of Appeal were established by constitutional amendment in 1904 and are California's intermediate courts of review. The primary function of the Courts of Appeal is to ensure that the law is interpreted and applied correctly.*

*California has 6 appellate districts composed of 9 court sites, 19 divisions, and 101 justices. More than 22,000 appeals and original proceedings were filed in the Courts of Appeal during the 2001–2002 fiscal year, representing a nearly 30 percent increase in Court of Appeal filings over the last decade.*

### ❖ WHAT IS AN APPEAL?

An appeal is a request to a higher court to review a decision made in a completed trial or proceeding. Most legal disputes are initially decided by superior courts or certain administrative agencies. After the trial or proceeding is completed, if the losing party is dissatisfied with the outcome and believes that the superior court or administrative agency made an error that adversely affected the result, it may ask the trial court judge to overturn the decision or to order a new trial. If the judge denies the request, the losing party may file an appeal in the Court of Appeal.

### ❖ ROLE OF THE COURTS OF APPEAL

The California Courts of Appeal review the vast majority of appealable orders or judgments from a superior court. The primary exception arises following a judgment of death, which is automatically appealed directly to the California Supreme Court. Courts of Appeal also do not ordinarily review decisions that are within the jurisdiction of the appellate division of the superior court, such as misdemeanor convictions and limited civil cases.

The Courts of Appeal decide questions of law, such as whether the superior court judge applied the law correctly in a case. The Courts of Appeal do not hear testimony or retry cases. An appeal from a superior court judgment is decided based on the record from the original trial or proceeding.

Issues brought to a Court of Appeal for review commonly include claims such as an incorrect ruling on admissibility of evidence, incorrect application of a law or regulation, unconstitutionality of a law or regulation, improper jury instructions, and insufficient evidence to support the verdict.

### ❖ JURISDICTION

The Courts of Appeal have appellate jurisdiction in appeals from cases heard in a superior court and in other matters prescribed by statute. In addition, petitions for writs of habeas corpus (challenging confinement), mandamus (compelling an official duty), certiorari (review of judicial action), and prohibition (restraint of action) may be filed initially in the Courts of Appeal, which, like the Supreme Court and superior courts, may have original jurisdiction in such matters.

The Courts of Appeal also consider challenges to decisions of the Workers' Compensation Appeals Board, the

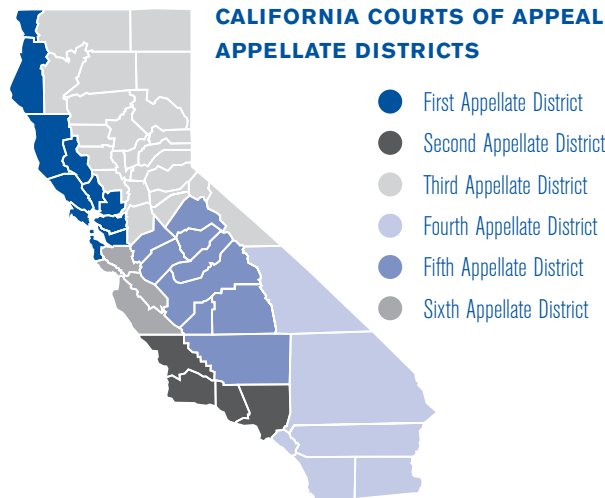
Agricultural Labor Relations Board, the Public Employment Relations Board, and the Department of Alcoholic Beverage Control, as well as some decisions of the Public Utilities Commission.

Courts of Appeal review such diverse matters as criminal convictions, civil cases involving personal injury, regulatory disputes, business transactions, family law disputes, employment claims, contracts, and other matters that litigants may bring to the courts.

### ❖ APPELLATE COURT STRUCTURE AND MEMBERSHIP

The state is divided into six appellate districts, with courthouses in the following cities: First District—San Francisco; Second District—Los Angeles and Ventura; Third District—Sacramento; Fourth District—San Diego, Riverside, and Santa Ana; Fifth District—Fresno; and Sixth District—San Jose. The First, Second, and Fourth Appellate Districts are subdivided into divisions.

A presiding justice and two or more associate justices sit in each appellate district or division. An individual must have 10 years of experience as a lawyer or a judge in California to qualify to serve as an appellate justice. Justices are appointed by the Governor and must be confirmed by the Commission on Judicial Appointments, which consists of the Chief Justice, the Attorney General, and the presiding justice of the district. Following confirmation, each justice must be approved by the voters in the next gubernatorial election and at the end of his or her term.



*Exterior view of the court facility for the Court of Appeal, Fourth Appellate District, Division Two, in Riverside, California.*

### ❖ HOW THE APPEAL PROCESS WORKS

#### FILING A NOTICE OF APPEAL

An appeal generally is heard in the appellate district in which the superior court is located. To begin the process, the appealing party files a written notice of appeal with the clerk of the superior court in which the proceeding took place. In civil cases, both the appellant and the respondent (the opposing party) must file notices with the clerk of the appellate court within prescribed periods of time, designating which transcripts or papers filed in the superior court are to become part of the appellate record. In criminal and juvenile cases, transcripts are prepared automatically. All parties are notified once the record on appeal has been filed with the Court of Appeal.

#### BRIEFS

From the date the record was filed, the appellant has a specified period of time within which to file an appellant's opening brief, depending on the type of case. A brief is a written argument that a party or an attorney prepares for the court. It details issues raised by the appellant, including challenges to superior court rulings or findings, and refers to applicable statutes and previous cases to support the appellant's position. The respondent is then given an opportunity to file a brief in response, and the appellant may then file a reply brief.

## APPEALS PANELS

Once all briefs have been submitted, the case is considered “fully briefed” and is ready for assignment to a panel consisting of three justices within a district or a division.

Cases are assigned to justices randomly, based on a rotation system that equalizes the numbers of cases in which the justices participate. On average, 10 to 15 appeals are assigned to each justice every month, in addition to a monthly caseload of roughly 7 to 10 original proceedings.

After the case is fully briefed, it is placed on the court calendar, and a justice on the panel typically is designated to write a memorandum discussing the issues and facts of the case. Each district or division schedules oral arguments on a limited number of days each month. The deputy clerk prepares the monthly calendars and notifies the parties of the date, time, and place of the hearing. Before hearing oral argument, the justices review the briefs and memorandum that have been prepared concerning the appeal.

## ORAL ARGUMENT

Oral argument, a tradition that dates back to the early days of the English court system, gives justices the opportunity to question counsel in person concerning the issues raised in their briefs. The court provides each side with a set amount of time for oral argument.

It is customary for justices to interrupt an argument at any time to ask the attorney to address a specific point. The justices ask such questions to clarify issues of concern as they consider how to decide a case.



*In September 2002 the Third Appellate District of the Court of Appeal held proceedings at a high school in Stockton, giving students a firsthand look at the appellate process.*



*View of the courtroom for the Court of Appeal, Sixth Appellate District, in San Jose, California.*

## OPINIONS

After the panel has heard oral argument or oral argument has been waived by the parties, a designated panel member prepares an opinion, which is a written statement of the panel's decision.

Writing an opinion is an integral part of the decision-making process. Draft opinions are circulated among all three justices until an agreement is reached on a majority opinion. A concurrence of two out of the three justices is necessary to form a majority.

The panel also decides whether to certify the opinion for publication. In general, an opinion is published if it establishes a new rule of law, involves a legal issue of continuing public interest, criticizes existing law, or makes a significant contribution to legal literature. During fiscal year 2001–2002, 7 percent of California Court of Appeal opinions were ordered published.

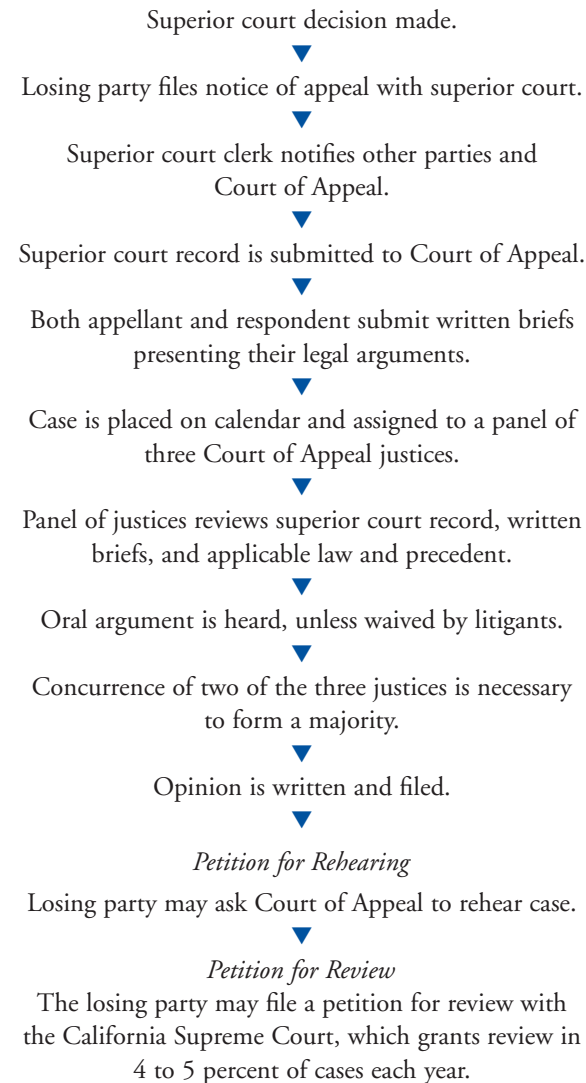
Under the California Constitution, the final majority opinion and any opinions expressing agreement (concurrence) or disagreement (dissent) must be filed within 90 days after the case has been submitted.

Published opinions establish precedent and must be followed by all California superior courts. Unpublished opinions do not establish precedent and may not be cited as authority to support an argument.

## REVIEW OF APPELLATE DECISIONS

Decisions of the Courts of Appeal are subject to discretionary review by the California Supreme Court as well as to review in the U.S. Supreme Court based on the U.S. Constitution and federal statutes.

## STEPS IN THE APPEAL PROCESS



For more information on the Courts of Appeal, visit the California Courts Web site at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov).

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# A VISITORS' GUIDE to the CALIFORNIA COURTS OF APPEAL



FIRST DISTRICT  
*San Francisco*

SECOND DISTRICT  
*Los Angeles • Ventura*

THIRD DISTRICT  
*Sacramento*

FOURTH DISTRICT  
*San Diego • Riverside • Santa Ana*

FIFTH DISTRICT  
*Fresno*

SIXTH DISTRICT  
*San Jose*