

Court Opinion

9. Court Opinion

The Court of Appeal makes a decision after reviewing all the briefs, the record on appeal, and the law.

Here's an overview of what to expect in this step of the appeal process and what can happen next.

Timeline of the Court's Decision

After all the briefs are filed and oral arguments are made or waived, the case is submitted to the Court of Appeal for a decision. The Court of Appeal has 90 days from the date a case is submitted to make a decision.

Note: The court may file an order dismissing the appeal at any time while the case is pending. If the court issues a dismissal order early in the appeal, the court is not required to allow the parties to file a brief or make an oral argument.

What the Court can Decide

The Court of Appeal's decision will either be an opinion or an order. The Court of Appeal may:

- affirm the trial court's judgment or order
- modify the trial court's judgment or order
- reverse all or part of the trial court's judgment or order
- send the case back to the trial court for a new trial or hearing
- dismiss the appeal if it was not filed on time, if there is not an appealable order, or if there is a procedural default (like failure to file a brief or pay a fee)

The court's opinion generally also includes information about who may be eligible to have their appeal fees paid by the other party.

How the Court Makes a Decision

There are three justices at every Court of Appeal. A majority of the justices – or two of the three justices – must agree on a decision.

What's in the Written Decision

Regardless of what the Court of Appeal justices decide, they issue an order or opinion in writing. Generally, the court justices must provide an opinion

with reasons why they made the decision. The court justices are not required to provide an opinion if they issue an order dismissing the appeal.

Most often there is one written statement signed by all of the justices. Sometimes a justice will file an additional opinion. This can either be a concurrence (written by a justice who agrees with the decision) or a dissent (written by a justice who does not agree with the decision).

How the Court Notifies the Parties

When the Court of Appeal makes a decision, the court clerk sends notice of the court's opinion or order to all parties in the case. If a party does not have a lawyer, the court sends notice to the party. If a party has a lawyer, the court sends notice to their lawyer.

Asking for Reimbursement of Court Costs

The Court of Appeal's opinion usually awards costs on appeal.

In most cases, a party who wins an appeal can ask the other party to pay for their court costs. In some cases, a party who wins may also be able to ask the other party to pay for their attorney fees.

After the court issues a remittitur (the final step in an appeal), the winning party can file a memorandum of costs in the trial court. The trial court will process the request and send notice to the parties about next steps. If the parties have questions about reimbursement of appeal costs, they can contact the trial court.

[Read the California rules of court about asking for reimbursement of costs and contesting a reimbursement request](#)

Challenging the Court's Opinion or Order

A party who lost the appeal can accept the Court of Appeal's opinion and do nothing in response. But if a party is unhappy with the Court of Appeal's opinion, there are two ways to challenge the decision: file a petition for rehearing or file a petition for review. A party may challenge the opinion if they believe the court stated the facts or the law incorrectly, or failed to consider an issue raised by the parties.

If the court issues a dismissal order because of a procedural default, the appellant can ask for a rehearing by filing a motion to reinstate the appeal.

Choose an option to learn more

[Petition for rehearing in the Court of Appeal](#)

[Motion to reinstate an appeal in the Court of Appeal](#)

[Petition for review in the California Supreme Court](#)

What Happens Next

The Court of Appeal has jurisdiction – or legal authority to make rulings – over an appeal case for 30 days after the date it issues an opinion.

Any party can file a petition for rehearing or motion to reinstate the appeal within 15 days after the Court of Appeal issues an opinion or order. If no one challenges the Court of Appeal's opinion or order, then the decision becomes final in the Court of Appeal after 30 days. A party may then file a petition for review in the California Supreme Court.

If no one files a petition for review, the California Supreme Court can still elect to review the case, but this is very rare. After the time for the Supreme Court to review the case has passed, the Court of Appeal will then issue a remittitur transferring jurisdiction of the case back to the trial court. [Learn more about remittitur](#)

If someone challenges the Court of Appeal's opinion or order with a petition for rehearing, a motion to reinstate the appeal, and/or a petition for review, then what happens next depends on how the Court of Appeal and/or California Supreme Court responds.

FORMS

Documents you will need for your case.