

# Petition for Review

## 11. Petition for Review

Any party – appellant or respondent – can challenge the Court of Appeal’s decision by filing a petition for review in the California Supreme Court.

The California Supreme Court is the highest court in the state and it chooses which cases to hear. Only about 3% of cases filed in the California Supreme Court are reviewed. Generally, the court only hears cases that have significant statewide impact, and cases where the Courts of Appeal disagree about the law.

**The California Supreme Court normally will not consider any issues that the party who is petitioning for review did not raise in the Court of Appeal.**

Here’s an overview of what to expect in this step of the appeal process and what goes into a petition for review.

### When to File a Petition for Review

A party must file a petition for review within 10 calendar days after the Court of Appeal decision becomes final, which is generally 30 days after the Court of Appeal files a decision.

The 10 days begin counting on the 31<sup>st</sup> day after the Court of Appeal files a decision. Holidays and weekend days when the court is closed are included in the 10 days.

The Supreme Court is open Monday through Friday, 9 a.m. to 5 p.m., except court holidays. [Check the Supreme Court calendar](#)

The petition for review must be served to all parties in the case, the trial court, and the Court of Appeal **BEFORE** it is filed in the California Supreme Court.

The deadline to file a petition for review is strict and there are **no extensions**.

In rare cases, the Chief Justice may permit a party to file a petition for review after the deadline. This only happens if a party has good cause *and* if it is within the time the Supreme Court can order a review of the Court of Appeal’s decision.

**Note:** A party is permitted to file a petition for review after the Court of Appeal issues an opinion but before the decision becomes final (30 days later). When this happens, the clerk of the California Supreme Court will accept and hold the petition for review, and file the petition for review the day after the Court of Appeal decision becomes final.

## Cost of a Petition for Review

There is a \$710 court cost to file a petition for review in civil cases.

## Reasons Why a Party Can Petition for Review

Petition for review is a way for a party who lost the appeal to challenge the Court of Appeal's decision.

Any Court of Appeal decision can be challenged with a petition for review. However, review in the California Supreme Court is extremely rare. A party should only petition for review if they believe their case will:

- settle an important question of law *or*
- make sure decisions in California courts are consistent or equal – the courts describe this as “uniform” decisions

A party may file a petition for review without filing a petition for rehearing. However, when this happens, the California Supreme Court will accept the Court of Appeal's statement of the issues and facts as correct. That means a party will not be able to challenge an issue in the California Supreme Court if they did not first raise it in a petition for rehearing with the Court of Appeal.

Also, the California Supreme Court normally will not consider any issues that the party who is petitioning for review did not raise in the Court of Appeal.

Petition for review ***is not*** an opportunity to challenge a decision just because you do not like it.

[Read the full grounds for review in the California Rules of Court](#)

## Reasons Why the California Supreme Court Reviews a Case

The California Supreme Court is not required to hear all cases that are filed with the court. In fact, the court only chooses to hear about 3% of cases that petition for review.

Here are common reasons the court may decide to review a decision:

- the case presents issues that have never come before the courts before – the legal term for this is “issues of first impression”
- the case has a substantial impact on the citizens of California
- the Courts of Appeal do not agree on the decision

### *Elective Review by the California Supreme Court*

It does not happen often, but sometimes the California Supreme Court will select a case to review. The court has a legal right to do this even if no parties in the case file a petition for review. Generally, the court can only order an elective review within 30 days after the Court of Appeal files an opinion.

## **Writing a Petition for Review**

Here is a general guideline about how to format a petition for review and what to include.

### How to Format the Petition for Review

There is no court form for a petition for review. Basically it has three required parts:

1. **A white cover page** that includes general information about the parties (like contact information) and the appeal (like the case number)  
[Learn what information to include on the cover](#)
2. **A document** that includes an explanation of the issues to consider and why the court should hear the case
3. **Attachments required by the court**

### Formatting rules:

- The petition for review must follow the same formatting rules as briefs.  
[Review the formatting rules for paper filings](#)

Check with the California Supreme Court for up-to-date electronic formatting [rules](#).

### Rules about length:

- If written on a computer, the petition must be 8,400 words or less.
- If written on a typewriter, the petition must be 30 pages or less.
- The cover, signature block, required attachments, and some tables are not included in the word count or page limit.
- If a party wants to file a longer petition, they must file an application with the Court of Appeal and provide good cause – which means a good reason. The presiding justice may or may not say yes to the request.

### What to include in the petition for review document

The most important part of a petition for review is the document written by the petitioner.

- Begin with a short statement about the issues in the case for the Supreme Court to consider.
- State your argument. The court instructions ask for a “concise, nonargumentative statement of the issues presented for review, framing them in terms of the facts of the case but without too much detail.”
- Explain why the issues are so important that the California Supreme Court should agree to review the case. [Refer to these “grounds for review” under California rule of court 8.500](#)
- You cannot ask the court to refer to your brief or other documents in the record on appeal. However, you can ask the court to refer to another petition for review in your case. You can also ask the court to refer to another a petition for review in a different case, on the same issue, that the court has agreed to review.
- Say if a petition for rehearing was filed in the Court of Appeal and, if so, how the Court of Appeal ruled.

When writing a petition for review, keep in mind the reasons why the court reviews a case.

Remember, the petition for review **should focus on the issues of the case**. The petition for review **should not focus on the history** of what happened in the trial court or the Court of Appeal.

#### Attachments to Include with the Petition for Review

The court has strict rules about attachments with a petition for review.

- **Attachments that must be included**
  - a copy of the Court of Appeal order or opinion
  - any order modifying or changing the court’s opinion
  - an order for publication of the opinion
- **Attachments that can be included but are not required**
  - exhibits or orders from the trial court or Court of Appeal if they are especially significant to the case
  - copies of relevant local, state, or federal regulations, or rules, out-of-state statutes, or other similar legal authorities that are not easily available to the justices

Attachments are placed after the petition for review document and before proof of service.

#### **Serving a Petition for Review**

You must serve a copy of the petition for review to all parties in the case, the trial court, and the Court of Appeal BEFORE the petition for review can be filed in the California Supreme Court.

If there are problems with the proof of service a party files in the Supreme Court, the court will give a party 5 days to serve and file corrected proof of service. If the party does not file corrected proof of service, the Supreme Court may dismiss the petition.

[Learn how to serve the petition for review](#)

### **Special Filing Instructions for a Petition for Review**

The party who files a petition for review must give the California Supreme Court paper copies of the petition, even if they electronically file (e-file).

**If filing on paper**, the petitioner must give the Supreme Court an original petition for review plus 13 copies.

**If filing electronically**, the petitioner must give the Supreme Court 8 paper copies of the petition.

The petition for review can be filed:

- at the [California Supreme Court in San Francisco](#)
- at any California Court of Appeal, which will forward the petition to the Supreme Court

[Learn more about how to file the petition for review with the California Supreme Court](#)

### **What the Parties Do During Petition for Review**

The opposing parties can – but are not required to – file a response to the petition for review. The California Supreme Court generally will not ask other parties to provide information until after it agrees to review the case.

### **Filing an Answer to Oppose the Petition for Review**

Any party who opposes the review can file an answer – also called a response – to the petition. An answer is an opportunity for a party in the case to add another issue for the court to consider in review. Here are some general guidelines for a party who chooses to file an answer.

- The deadline to serve and file an answer in the California Supreme Court is within 20 days after the petition for review is filed.
- The cover page is blue. It includes general information about the parties (like contact information) and the appeal (like the case number). [Learn what information to include on the cover](#)
- Rules about length:
  - If written on a computer, the answer must be 8,400 words or less.
  - If written on a typewriter, the answer must be 30 pages or less.
- An answer has the same formatting, service, and filing requirements as the petition for review.

### **What to write in the answer**

- An answer that raises additional issues for review must contain a statement of the issues and how the issues relate to the case.
- The court instructions are to write a “concise, nonargumentative

statement of those issues, framing them in terms of the facts of the case but without unnecessary detail.”

- Begin with a short statement about the issues in the case for the Supreme Court to consider. Then explain why the issues are so important that the California Supreme Court should agree to review the case. [Refer to the “grounds for review” under California rule of court 8.500](#)

#### Including attachments with the answer

- attachments are not required
- only select attachments are permitted
- exhibits or orders from the trial court or Court of Appeal can be included if they are especially significant to the case
- copies of relevant local, state, or federal regulations, or rules, out-of-state statutes, or other similar legal authorities can be include if they are not easily available to the justices

#### Filing a Reply to the Answer

The party who filed the petition for review can file a **reply** to the answer, but it is not required. Here are some general guidelines for a petitioner who chooses to file a reply:

- The deadline to serve and file a reply is within 10 days after the answer is filed.
- The cover page is white. [Review what information to include on the cover](#)
- The reply should only address the issues raised in the answer.
- Rules about length:
  - If written on a computer, the reply must be 4,200 words or less.
  - If written on a typewriter, the reply must be 15 pages or less.
- A reply has the same formatting, service, and filing requirements as the petition for review.

#### Formatting rules

[Review formatting rules for paper filings](#)

Check with the California Supreme Court for up-to-date electronic formatting [rules](#)

## **What the California Supreme Court Does During Petition for Review**

The California Supreme Court considers the petition for review and decides what to do. The court agrees to hear fewer than 3% of cases that petition for review.

How much time does the court have to respond to a petition for review?

The California Supreme Court has 60 days to respond after the last petition for review is filed. The court may extend the deadline to up to 90 days after the last petition for review is filed.

How can the court respond to a petition for review?

The California Supreme Court can respond to a petition for review in a few ways:

- the court can decide not to respond and take no action *or*
- the court can deny the petition for review *or*
- the court can agree to review the case

How does the court make a decision?

When it decides whether or not to hear a case, the California Supreme Court considers:

- the petition for review, filed by the petitioner who lost the appeal *and*
- any answers – or responses – to the petition, filed by opposing parties *and*
- the record on appeal

An order granting review of a case must be signed by at least 4 of the 7 justices on the California Supreme Court. An order denying review may be signed by only the Chief Justice.

What happens after the court makes a decision?

What happens next in the case depends on what the court decides.

- *If the California Supreme Court does not take any action,* the appeal decision generally becomes final 61 days from the date it was issued and then the Court of Appeal issues a remittitur.
- *If the California Supreme Court denies the petition for review,* the appeal decision becomes final immediately and then the Court of Appeal issues a remittitur.
- *If the California Supreme Court agrees to review the case,* then the case moves from the Court of Appeal to the Supreme Court and a new briefing process begins.

# What Happens if the California Supreme Court Grants a Petition for Review

As the highest court in the state, the California Supreme Court has a lot of flexibility when it reviews a case. Every case is different and the parties need to learn the [rules and procedures of the court](#).

Here are answers to common questions about Supreme Court review.

Will the review process start immediately?

It depends on the case. The court may delay review while it waits for another case to be decided. The court may also take time to decide which of the issues in the case it wants to hear.

What issues will the court consider?

The court has total control over what issues to consider. It may review one, some, or all the issues raised in the appeal. The court may also decide not to review any of the issues raised in the appeal and may identify one or more new issues to review.

What are the parties required to do?

If the California Supreme Court decides to hear a case, the process is similar in some ways to what happens in the Court of Appeal. The parties file briefs and then present oral arguments. During review, the parties can only address the issues selected by the California Supreme Court.

The petitioner must file a brief within 30 days after the court agrees to review the case. This can be an opening brief or respondent's brief that the party filed in the Court of Appeal. The other side then has 30 days to file an answer or a copy of the brief they filed in the Court of Appeal. An optional petitioner's reply brief must be filed within 20 days of the answer.

What can the court decide?

After reviewing the case, the California Supreme Court can affirm, reverse, or modify the Court of Appeal's judgment.

The Supreme Court may also hear the case but send it back to the Court of Appeal with instructions. The Supreme Court may or may not make a decision, and the decision may or may not address all of the issues in the appeal.



Either way, the Supreme Court will remand (send) the case back to the Court of Appeal with instructions. The Supreme Court can order the Court of Appeal to take action, like rehear the case or decide any remaining issues.

When is a Supreme Court decision final?

A California Supreme Court decision is generally final 30 days after it is filed, but there are some exceptions. When the Supreme Court decision becomes final, the court issues a remittitur and sends the remittitur to the Court of Appeal to follow up with the parties in the case.

## What Happens Next

When the California Supreme Court or Court of Appeal opinion becomes final, the court issues a remittitur. [Learn more about remittitur](#)

## Additional Resources

[Read the court's full requirements about what information to include in a petition for review, an answer to the petition, and a reply to the answer](#)

[Learn more about petition for review on the California Supreme Court website](#)

[Read the full California Rules of Court about court decisions](#)

[Read the full California Rules of Court about petitions for review](#)

[Listen to oral arguments made before the California Supreme Court](#)

[Watch oral arguments made before the California Supreme Court](#)

[Visit TrueFiling™, the court's online filing system](#)

## Common Questions:

Can I can file a petition for review in the California Supreme Court if I did not file a petition for rehearing in the Court of Appeal?

Yes. You can petition for review in the California Supreme Court without petitioning for rehearing in the Court of Appeal. You can wait to file the petition for review until the Court of Appeal decision becomes final, which is generally 30 days after the court issues its opinion. If you file a petition for review before the Court of Appeal's decision becomes final, the clerk of the California Supreme Court will hold the petition and file it the day after the Court of Appeal decision becomes final. Note that if the Court of Appeal made a legal mistake that you do not challenge with a petition for

rehearing, the California Supreme Court will accept that the statement of facts and issues are correct in the Court of Appeal's decision.

How will the California Supreme Court get a record of my case?

When the Court of Appeal receives a copy of your petition for review, it automatically sends the record on appeal for your case to the California Supreme Court. You do not need to file a request to send the record to the Supreme Court.

If the California Supreme Court reviews my case but I do not like the decision, can I appeal to the U.S. Supreme Court?

Decisions of the California Supreme Court are final unless they involve questions of federal law. If a decision does involve an issue of federal law, you may seek review in the U.S. Supreme Court. Like the California Supreme Court, the U.S. Supreme Court is not required to hear every case.

Who needs to receive a copy of the petition for review? When do I serve the petition for review?

You must serve a copy of the petition for review to all parties in the case, the trial court, and the Court of Appeal BEFORE the petition for review can be filed in the California Supreme Court.

If the other party *has a lawyer*, then the petition is served to the lawyer. If the other party *does not have a lawyer*, then the petition is served to the other party.

You *may* be required to serve the petition to a public officer or agency that is not a party to the case, or to the California Attorney General. For example, if you are arguing that a California statute is unconstitutional, you must serve a copy of the petition to the Attorney General.

How do I serve a petition for review? What's proof of service?

Serving a petition for review means delivering a copy of the petition to someone.

There are three ways to serve a petition for review: by mail, in person, or electronically. If you want to serve a petition electronically, you will first need to get the recipient to agree.

The court has rules about who can serve a petition for review. It must be a person who is over 18 and lives in the county where they are serving. A party to the case cannot serve a petition for review by mail or in person.

**You need a proof of service form for each person or court who receives a copy of the petition. You are encouraged to use form [APP-009 \(serve by mail or in person\)](#) or [APP-009E \(serve electronically\)](#) for proof of service.**

The person who is serving a petition for review must complete and sign a proof of service form when they deliver the petition. The court requires this form as proof that the petition was delivered to all parties in the appeal, the trial court, and the Court of Appeal.

If the other party *has a lawyer*, then the petition is served to the lawyer. If the other party *does not have a lawyer*, then the petition is served to the other party.

If you submit your petition electronically, there's an option to have TrueFiling™ serve your petition electronically to the other parties before your brief is filed with the Supreme Court. TrueFiling™ will automatically attach an electronic proof of service to any documents you electronically file (e-file).

The original proof of service forms should be attached as the last pages of the original petition for review that you file in the California Supreme Court.

A copy of the proof of service forms must be attached as the last pages of each copy of the petition for review that you serve to other parties.

[Get a blank proof of service form APP-009 \(mail or in person\)](#)

[Get a blank proof of service form APP-009E \(electronic\)](#)

[See the instructions sheet for the proof of service form](#)

[See detailed proof of service information from the California Courts](#)

Read the California rules of court on proof of service requirements [CRC 8.25\(a\)](#), [8.212\(c\)\(1\)](#), and [CRC 8.29, 8.212\(c\)\(3\)](#).

[Visit TrueFiling™, the court's online filing system](#)

What happens if there's a problem with my proof of service?

You must file proof of service with the California Supreme Court at the same time you file a petition for review. If there are problems with the proof of service you file with the Supreme Court, the court will give you 5 days to serve and file corrected proof of service. If you do not file corrected proof of service, the Supreme Court may dismiss the petition.

How do I file a petition for review with the California Supreme Court?

There are two ways to file a petition for review: electronically file (e-

file) on the computer or file on paper.

The California Supreme Court requires lawyers and people who have a lawyer to file electronically. If the petitioner is self-represented – meaning they do not have a lawyer – then the petitioner can choose to file electronically or file on paper.

If filing electronically, the court requires you to file 8 paper copies.

If filing on paper, the original petition for review **and** proof of service forms are always given to the California Supreme Court. The court also requires you to file 13 copies of the petition.

The petitioner keeps one copy of the petition. It's also a good idea to bring or mail an extra copy of the petition to the court clerk. The petitioner can ask the clerk to stamp "filed" on the extra copy to show that the original was filed, and keep the extra copy as proof.

[Visit TrueFiling™, the court's online filing system](#)

Where can I get legal help?

You can visit a [law library](#) to do legal research.

The California Courts website has a lot of [information about lawyers and legal help](#).

If you need help finding a lawyer, the California Bar Association website can connect you to a [lawyer referral service](#) in your area.

## **FORMS**

Documents you will need for your case.