



SUPERIOR COURT OF CALIFORNIA
County of Sacramento
720 Ninth Street ~ Room 102
Sacramento, CA 95814-1380
(916) 874-5522—Website www.saccourt.com

**GUIDE TO THE PROCEDURES FOR PROSECUTING PETITIONS
FOR PREROGATIVE WRITS**
(as specified in Local Rule 2.01)

This guide to the procedures for prosecuting petitions for writs of mandate and other prerogative writs in the Sacramento Superior Court is made available for your general information pursuant to Local Rule 2.01(E). The department to which the writ is assigned (hereinafter "assigned writ department") should be contacted for additional information concerning the scheduling of hearings and filing of papers.

<u>Topic</u>	<u>Page</u>
Filing a Writ Petition	2
Serving a Writ Petition	2
Filing Subsequent Papers	2
Noticing Related Writ Cases and Possible Consolidation	3
Applying for a Temporary Stay in Administrative Mandate Proceedings (CCP § 1094.5 (g) or (h))	4
Applying for a Temporary Stay in Traditional Mandate Proceedings (CCP § 1085)	5
Bringing Motions before the Hearing on the Merits of a Writ Petition	6
Setting a Hearing on the Merits of a Writ Petition	7
(1) By noticing a hearing on a writ petition	7
(2) By securing issuance of an alternative writ	8
Applying for a Continuance	9
Dismissing a Writ Petition	10
Lodging an Administrative Record	10
The Hearing on the Merits	10
Appearing by Telephone	11
Preparing a Judgment and Peremptory Writ	11



Filing a Writ Petition:

Step	Action
1.	File an original and two copies of the petition and a civil case cover sheet at the civil front counter in Room 102 on the first floor of the main courthouse. <u>Or</u> mail an original and two copies of the petition and a civil case cover sheet to the Civil Division - Room 102, 720 9th Street, Sacramento, CA 95814.
2.	Pay the filing fee pursuant to Government Code section 70611 in Room 102.
3.	Receive from the civil front counter clerk a Notice of Case Assignment and a copy of this Guide to the Procedures for Prosecuting Petitions for Prerogative Writs.

Serving a Writ Petition:

Step	Action
1.	Serve the writ petition on respondent(s) and real party(ies) in compliance with the requirements of Code of Civil Procedure (CCP) sections 1107 and 1088.5. Until compliance with these statutory service requirements is established by the filing of an appropriate proof of service, the court cannot hear or act on the petition.
2.	Along with the writ petition, serve copies of the Notice of Case Assignment and this Guide to the Procedures for Prosecuting Petitions for Prerogative Writs.

For service of an application for an alternative writ, see below, "Setting a Hearing on the Merits of a Writ Petition, (2) Securing issuance of an alternative writ."

Filing Subsequent Documents:

Step	Action
1.	File an original and two copies of all subsequent documents related to the writ petition either at the civil front counter in Room 102 or by mail addressed to the Civil Division - Room 102, 720 9th Street, Sacramento, CA 95814. <i>Exception:</i> Documents filed one day before or on the day of the hearing shall be filed with the courtroom clerk in the assigned writ department after any applicable fees have been paid in Room 102.
2.	File documents by fax in compliance with rule 2.303 of the California Rules of Court and Local Rule 9.20. Documents faxed directly to the court will not be filed .
3.	Specify on the first page of each document the date, time and department of any scheduled hearing to which the document applies. To set a hearing, see below, "Bringing Motions before the Hearing on the Merits of a Writ Petition" and "Setting a Hearing on the Merits of a Writ Petition."



**Noticing Related
Writ Cases and
Possible Consolidation:**

Step	Action
1.	When filing a Notice of Related Case pursuant to rule 3.300 of the California Rules of Court regarding two or more writ cases assigned to different judges in this court, file the Notice in each writ case .
2.	When filing a Response to a Notice of Related Case pursuant to rule 3.300 of the California Rules of Court, file the Response in each writ case .
3.	Serve the Notice or Response on each party to each case .

Note that the court proceeds with respect to related writ cases as follows:

When a judge becomes aware that a Notice of Related Case has, or should have, been filed concerning two or more writ cases assigned to different judges in this court and that the cases have not been consolidated, the judge may, if appropriate, issue a minute order indicating that a Notice of Related Case has, or should have, been filed concerning two or more writ cases pending in this court, that a Response to the Notice has or has not been filed by another party, that the cases are being referred to the Presiding Judge for determination as to the appropriateness of their assignment to a single judge or their consolidation before a single judge, and any other information the judge deems relevant. The judge shall serve the minute order on each party to each case, send it to each judge assigned to one of the cases and forward it to the Presiding Judge for determination as to the appropriateness of assignment or consolidation. Prior to determining the matter, the Presiding Judge may seek briefing from the parties and/or schedule a hearing regarding the assignment or consolidation of the cases.



**Applying for a
Temporary Stay in
Administrative Mandate
Proceedings (CCP § 1094.5 (g) or (h)):**

Step	Action
1.	<p>Prepare an ex parte application for an order temporarily staying operation of the administrative decision under review in the proceeding. Identify whether the temporary stay order is requested pursuant to subdivision (g) or (h) of the CCP § 1094.5. Specify "Ex Parte" in the title of the application.</p> <p>Pursuant to rules 3.1201 and 3.1202 of the California Rules of Court and this Guide to the Procedures for Prosecuting Petitions for Prerogative Writs, an ex parte application for a stay order includes the following supporting documents and papers:</p> <ul style="list-style-type: none">▪ Endorsed copy of the petition.▪ Points and authorities, declarations and other supporting documents, including relevant portions of the administrative record if available.▪ Proposed order to show cause why the administrative decision under review in the proceeding should not be temporarily stayed pending a hearing on the merits of the writ petition (OSC). This proposed OSC should contain:<ul style="list-style-type: none">- blank spaces for the date and time of the hearing on the OSC,- an order for service of the OSC and any supporting papers not previously served with a blank space for a date of service prior to the hearing on the OSC, and- an order staying the administrative decision pending the hearing on the OSC.▪ Proposed stay order.▪ Notice of hearing on the petition with blank spaces for date and time (unless the stay is being requested in conjunction with an application for an alternative writ).▪ Declaration regarding notice, as specified in rule 3.1204. <p>In addition, CCP § 1094.5 (g) and (h) require that proof of service of a copy of the application on the respondent accompany an application for a stay. See subdivisions (g) and (h) for required manner of service.</p>
2.	<p>Contact the assigned writ department to reserve an ex parte hearing date and time and to determine whether the assigned writ department requires any of the documents or papers listed above in Step 1 to be filed before the hearing. Note that some writ departments hear writ matters only on Fridays.</p>
3.	<p>Notify respondent(s) and real party(ies) of the hearing on the ex parte stay application in accordance with rule 3.1203 of the California Rules of Court. Include the details of this notification in the declaration regarding notice prepared pursuant to rule 3.1204.</p> <p>Note: The Court prefers at least 48 hours' notice but, upon a showing of urgency, will accept less notice.</p>
4.	<p>If the assigned writ department does not require any of the documents listed above in Step 1 to be filed before the ex parte hearing, file and serve the documents and papers as soon as possible and no later than the time of the hearing. (See rule 3.1206 of the California Rules of Court.)</p>



At the ex parte hearing, depending on the nature of the factual and legal issues raised by the stay application and the practical exigencies of the matter, the court will either rule on the stay application immediately or issue the proposed OSC with or without a temporary stay order pending the hearing on the OSC at a specified date and time.

If the court grants a stay at the ex parte hearing or the hearing on the OSC, the court will sign and file the proposed stay order and set a date and time for a hearing on the merits of the petition. The court clerk will record the hearing date and time in the notice of hearing on the petition, or if the court has ordered the issuance of an alternative writ, in the alternative writ.

If the Court denies a stay at the ex parte hearing or the hearing on the OSC, the court, upon petitioner's request, will set a date and time for a hearing on the merits of the petition. The clerk will record the hearing date and time in the notice of hearing on the petition, or if the court has ordered the issuance of an alternative writ, in the alternative writ.

**Applying for a
Temporary Stay
in Traditional Mandate
Proceedings (CCP § 1085):**

Step	Action
1.	Follow the statutory and regulatory provisions for obtaining a temporary restraining order (TRO), an order to show cause why a preliminary injunction should not be issued (OSC), and/or a preliminary injunction, set forth in the Code of Civil Procedure (including but not limited to CCP §§ 525, 526, 527, 528 and 529) and rule 3.1150 of the California Rules of Court. These provisions constitute rules of practice for temporary stays in mandate proceedings brought under CCP § 1085 in the absence of temporary stay provisions specific to such mandate proceedings. (See CCP § 1109.)
2.	When following the statutory and regulatory procedures for obtaining a TRO and/or an OSC, comply with the ex parte procedures outlined above in "Applying for a Temporary Stay in Administrative Mandate Proceedings" and in rule 3.1201 et seq. of the California Rules of Court.
3.	If no TRO or OSC is sought, notice a motion for a preliminary injunction following the procedures set forth below in "Bringing Motions Before the Hearing on the Merits

Note that a temporary stay in proceedings on a petition for a writ of prohibition may be obtained by following the procedures set forth below under "Setting a Hearing on the Merits of a Petition, (2) Securing issuance of alternative writ." An alternative writ of prohibition, unlike an alternative writ of mandate, stays specified action by the respondent until further order of the court. (See CCP §§ 1087, 1104.)



Bringing Motions before The Hearing on the Merits of a Writ Petition:

Motions on the pleadings and other pretrial matters brought in civil actions -- including motions for change of venue, demurrers, motions to strike, motions to dismiss, discovery motions, and motions for summary judgment -- may generally be brought in writ proceedings. (See CCP § 1109.)

Motions addressing the merits of the petition in whole or in part should be calendared for a hearing at the same time as the hearing on the merits. Motions directed at resolving issues preliminary to and distinct from the issues related to the merits of the petition, such as untimeliness of the petition under an applicable statute of limitations, should be calendared before the hearing on the merits of a writ petition. The court, in the exercise of its discretion to control the order of litigation before it, may advance the hearing on a motion to a date before the hearing on the merits or may postpone a motion to the hearing on the merits when such advancement or postponement will promote the efficient conduct and disposition of the proceeding.

Because a writ petition is usually disposed of by a hearing on the merits which is limited to oral argument on written briefs and documentary evidence, the usefulness of a motion for summary judgment or summary adjudication in economically disposing of an unmeritorious case or claim is substantially reduced in writ proceedings. Thus, before bringing a motion for summary judgment or summary adjudication, counsel should carefully evaluate whether the purpose of the motion can be achieved more directly and completely through a hearing on the merits of the petition.

Step	Action
1.	Contact the assigned writ department to reserve a date and time available on the department's calendar for a hearing on the motion. Prior to reserving a date, contact the other parties to the writ petition and determine their availability on the date. Some assigned writ departments hear writ matters only on Fridays.
2.	Notice the motion in accordance with the civil law and motion procedures in CCP § 1005 and in compliance with the California Rules of Court, including rules 3.1110 through 3.1113, 3.1115-3.1116, 3.1300, and 3.1320 through 3.1324. Comply with the page limits for memoranda set forth in rule 3.1113. If the assigned writ department uses the tentative ruling system, the notice of motion must contain tentative ruling language available from the department.



**Setting a Hearing
on the Merits of a
Writ Petition:**

If a hearing on the merits of a writ petition has not been set in conjunction with an ex parte hearing on an application for a temporary stay, it may be set either by (1) noticing a hearing on the petition or (2) securing issuance of an alternative writ. **Note:** The court prefers, as more efficient and economical for both itself and the parties, the procedure of noticing a hearing on the petition.

The date set for a hearing on the merits of a writ petition, whether by notice or alternative writ, should allow the parties to file briefs in accordance with the following schedule established in Local Rule 2.01(D):

Opening brief:	Due 45 days before the hearing
Opposition brief:	Due 25 days before the hearing
Reply brief:	Due 15 days before the hearing

Note that Local Rule 2.01(D) limits the length of each of these briefs to 50 pages instead of the page limits in rule 3.1113 of the California Rules of Court.

The date of the hearing on the merits may be expedited and the briefing schedule shortened upon an application setting forth circumstances warranting an expedited hearing. The application for an expedited hearing may be made orally at a hearing for a temporary stay or alternative writ or on an ex parte basis in accordance with rules 3.1201 through 3.1206 of the California Rules of Court.

(1) Noticing a hearing on a writ petition

Step	Action
1.	Contact the assigned writ department to reserve an available date and time for a hearing on the writ petition. Prior to reserving a date, contact the other parties to the writ petition and determine their availability on the date. Writ petitions are normally heard on Fridays.
2.	Prepare and file a notice of hearing on the writ petition specifying the reserved hearing date and time. If the assigned writ department uses the tentative ruling system, the notice of hearing must contain tentative ruling language available from the department.
3.	File the notice of hearing either at the civil front counter in Room 102 or by mail addressed to the Civil Division - Room 102, 720 9th Street, Sacramento, CA 95814.
4.	Serve a copy of the notice of hearing on respondent(s) and real party(ies) no later than the time allowed for filing and serving the opening brief. If not previously served, the writ petition, the Notice of Assignment, and this Guide should also be served no later than the time for filing and serving the opening brief.