

CHAPTER 15

SUPERIOR COURT WRITS AND PETITIONS FOR REVIEW

15.1 HABEAS CORPUS

This rule applies only to petitioners currently in state custody (actual or constructive) as a result of a criminal prosecution or conviction.

All petitions for writ of habeas corpus must comply with the California Rules of Court, rule 4.550 et seq. and Penal Code section 1473 et seq.

A petition for writ of habeas corpus is filed and decided in the Salinas courthouse. The presiding judge shall designate a single superior court judge to consider all petitions.

A party seeking court review shall address the petition to the designated habeas judge.

A party seeking to set a habeas matter on calendar shall address the request to the designated habeas judge.

The court shall assign unique case numbers to all petitions for writs of habeas corpus.

(Rule 15.01 previously adopted October 1, 1998; Repealed January 1, 2009; New rule 15.01 adopted January 1, 2009; Amended July 1, 2014; Amended July, 2017)

15.2 FELONY WRITS

All judicial officers of the superior court have jurisdiction to consider a petition for writ of mandate or prohibition in any felony matter still pending before the magistrate. (*Magallan v. Monterey County Superior Court* (2011) 192 Cal.App.4th 1444.)

The filing party shall address the petition to the presiding judge. The presiding judge shall designate one or more superior court judges to consider the petition.

(Rule 15.03 renumbered as 15.02, amended January 1, 2009; Amended July 1, 2014, Amended July 1, 2017)

15.3 ADMINISTRATIVE WRITS (CCP § 1094.5)

Administrative writ petitions filed under Code of Civil Procedure, section 1094.5 are reviewed by a superior court judge in the Monterey courthouse. The party seeking court review shall address the petition to the presiding judge of the civil division.

A. Administrative record.

Parties shall lodge any administrative record in electronic format only (e.g., a thumb drive or CD-ROM) in the department in which the matter will be heard, as soon as is practicable after the record has been certified but in no event less than 30 days before the hearing on the merits.

B. The administrative record shall be divided into discrete, logical sections. For example, in the divisions prescribed for CEQA cases by California Rules of Court 3.2205(a)(1) (findings, EIR, initial study, staff reports, transcripts, the remainder of the record.)

Each section shall be contained in individual, searchable, electronically bookmarked .PDF

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files.

Each filename shall reference the portion of the record contained therein, e.g., "Administrative Record Volume 1 (AR 1-195).pdf."

C. Joint Appendix

This rule applies in any matter in which the Administrative Records exceeds 2,000 pages

Parties shall coordinate to prepare and lodge an electronic joint appendix containing each page of the records cited in the parties' briefing.

The joint appendix shall be divided into individual files not to exceed 200 pages.

The joint appendix shall be lodged as expeditiously as possible following completion of the parties' briefing on the merits, but in no event more than 14 calendar days thereafter.

(Adopted January 1, 2000; Rule 15.04 renumbered as 15.03, amended January 1, 2009; Amended July 1, 2014, Amended July 1, 2017; Amended January 1, 2020)

15.4 OTHER STATUTORY PETITIONS FOR REVIEW

Reserved.

(Adopted January 1, 2000; Rule 15.06 Renumbered as 15.04, January 1, 2009, Amended July 1, 2014, Amended July 1, 2015, Amended July 1, 2017)

15.5 TRADITIONAL WRIT OF MANDAMUS (CCP § 1085)

Traditional writs of mandamus filed under Code of Civil Procedure section 1085 are reviewed by a superior court judge in the Monterey courthouse. The party seeking court review shall address the petition to the presiding judge of the civil division.

A. Record on review.

Parties shall lodge any documentary evidence presented in support of, or in opposition to, the writ, in electronic format only (e.g., a thumb drive or CD-ROM) in the department in which the matter will be heard, as soon as is practicable after the record has been certified but in no event less than 30 days before the hearing on the merits.

(Amended July 1, 2017; Amended January 1, 2020)

15.6 ADMINISTRATIVE AND TRADITIONAL WRIT OF MANDAMUS BRIEFING SCHEDULES AND PAGE LIMITS

Unless otherwise ordered by the court, points and authorities prepared for a hearing on the merits of a writ petition shall be filed in accordance with the following schedule and page limits: The opening memorandum of points and authorities shall be filed at least 45 calendar days prior to the hearing date; the opposition memorandum shall be filed at least 25 calendar days prior to the hearing date; and the reply memorandum shall be filed at least 15 calendar days prior to the

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hearing.

The opening and opposition memoranda shall not exceed 7,500 words. The reply memorandum shall not exceed 5,000 words. Attorneys shall, on a separate page following the final page of the memorandum, certify compliance with this requirement using substantially the language below:

I, [attorney name], counsel for [party], hereby certify, under Local Rule 15.06, that I prepared the foregoing memorandum of points and authorities on behalf of my client, and that the word count for this briefing is [insert word count], which does not include the cover, the tables, signature blocks, or this certification. This briefing complies with the rule, which limits briefing to [insert the appropriate number] words. I certify that I prepared this document in [insert software name such as Word 2010], and that this is the word count [Word] generated for this document.

Dated: _____, 20__ _____

[Attorney name]

Attorney for [party]

The parties may, subject to this court's approval, stipulate to file briefs exceeding the word count noted in this rule 15.06 and/or to modify this briefing schedule. Alternatively, any party may file a motion to file an oversized brief consistent with the procedure specified in rule 3.1113(e) of the California Rules of Court.

Any motion to be heard prior to the merits of a writ petition shall comply with the filing schedule and page limits specified in rules 3.1113 and 3.1300 of the California Rules of Court.

(Adopted July 1, 2016; Amended July 1, 2017)