

INTERNAL OPERATING PRACTICES AND PROCEDURES OF THE CALIFORNIA SUPREME COURT

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August 25, 2004, January 1, 2007, April 22, 2015, May
26, 2021, and February 18, 2026)*¹

The following internal operating practices and procedures (IOPPs) are observed by the California Supreme Court in the performance of its duties.²

I. ACTING CHIEF JUSTICE

An Acting Chief Justice performs the functions of the Chief Justice when the Chief Justice is absent or unable to participate in a matter. The Chief Justice, pursuant to constitutional authority (Cal. Const., art. VI, § 6), selects on a rotational basis an associate justice to serve as Acting Chief Justice.

II. TRANSFERS OF CASES

A. All transfers to the Supreme Court of a cause in a Court of Appeal pursuant to article VI, section 12 of the California Constitution are accomplished by order of the Chief Justice made on a vote of four justices assenting thereto.

B. Unless otherwise ordered by the Chief Justice, all petitions for writs of mandate and/or prohibition that have not previously been filed with the proper Court of Appeal are transferred to such court.

¹ These practices and procedures may be amended from time to time, as needed, to facilitate the court's ability to discharge its duties. Amendments will be reflected in updated versions of these practices and procedures posted on the court's website and printed in the Advance Sheets of the California Official Reports.

² Various provisions of the California Constitution, codes, and rules of court, as well as numerous provisions of the decisional law, bear on how the court functions. The court's internal operating practices and procedures should be considered within that context.

III. CONFERENCES

A. Unless otherwise directed by the Chief Justice, regular conferences of the justices are held each Wednesday, excluding the Wednesday of regular calendar sessions and the first Wednesday of July and August.

B. Special conferences may be called by the Chief Justice whenever deemed necessary or desirable.

C. Four justices constitute a quorum for any regular or special conference.

D. A justice pro tempore assigned by the Chief Justice to assist the court, or to act in the place of a regular member of the court who is disqualified or otherwise unable to act, may be counted to obtain a quorum for a conference. A regular member of the court, present at a conference, who is not participating in a particular matter is not counted in determining a quorum for that matter.

E. A justice who has ascertained that he or she will not be present at a conference or will not be participating in a particular matter will notify the Chief Justice and the Calendar Coordinator. The absent justice may communicate in writing to the Calendar Coordinator his or her votes on some or all of the matters on any given conference and may be counted to constitute a quorum for each such conference matter on which a vote has been cast. If an absent justice intends to communicate votes on some but not all of the matters on conference, the justice affirmatively identifies the matters for which the justice is not communicating votes.

IV. CONFERENCE MEMORANDA

A. Unless otherwise directed by the Chief Justice, a conference memorandum is prepared for each petition or other matter requiring consideration or action by the full court. Each regular conference of the justices includes a discussion of conference memoranda that have been prepared for that conference.

B. Incoming petitions for review and other matters are generally referred to one of the central staffs for preparation of a conference memorandum as follows:

1. Petitions in civil cases, to the civil central staff.

2. Petitions in or arising from criminal cases (including petitions for writ of habeas corpus), other than cases arising from judgments of death, to the criminal central staff.

3. Motions, applications, and petitions relating to capital appeals and other proceedings involving a judgment of death, to the capital central staff.

4. Requests to decide a question of state law under rule 8.548 of the California Rules of Court, to either the civil central staff or the criminal central staff, depending on the nature of the question presented.

5. Requests pursuant to article V, section 8 of the California Constitution for a recommendation regarding the granting of a pardon or a commutation of sentence to a person twice convicted of a felony, to the criminal central staff.

6. Petitions for review of State Bar proceedings pursuant to rule 9.13 et seq. of the California Rules of Court, to the civil central staff.

7. Requests for depublication or publication, to either the civil central staff or the criminal central staff, depending on the nature of the case.

C. Petitions for rehearing after decision in the Supreme Court are referred to an associate justice who concurred in but did not author the majority opinion for preparation of a conference memorandum. Requests for modification of an opinion are referred to the authoring justice. The court may order that a decision will become final more than 30 days after filing when additional time within the jurisdictional limit is necessary to address a petition for rehearing or a request for modification.

D. Conference memoranda are prepared and distributed in advance of the conference at which they will be considered. Petitions for review are placed on conference on a schedule that ensures each matter may, if necessary, be “put over” for at least two conferences to allow for further consideration by the court.

E. Matters in which time is of the essence may be considered by the court without a formal conference. In such matters, the appropriate central staff will prepare and circulate an “ASAP” memorandum. This memorandum will describe the matter, including any critical date for action by the court, and recommend a disposition. An order in an “ASAP” matter will be filed after the justices have had sufficient time to review the matter and four justices vote for

a particular disposition. Such a matter may, by agreement of the justices, be held over to a weekly conference to allow for further discussion.

F. The recommendation set forth in a conference memorandum addressing a petition for review will generally be one of the following: (1) “Grant,” (2) “Grant and Hold,” (3) “Grant and Transfer,” (4) “Grant Submitted,” (5) “Deny,” (6) “Submitted,” (7) “Denial Submitted,” or (8) “Deny and Depublish.”

1. The designation “grant” is used when the author believes the court should grant review.

2. The designation “grant and hold” is used when the author believes that the court should grant review and defer briefing and argument in the matter pending resolution of an issue pending in another case.

3. The designation “grant and transfer” is used when the author believes that the court should grant review and transfer the matter to another court with instructions.

4. The designation “grant submitted” is used when the author believes, on balance, that the court should grant review, but also perceives grounds for denying review.

5. The designation “submitted” is used when the author believes the case warrants special discussion regarding a grant of review, as there are substantial reasons why review should be granted, but there are also substantial reasons to deny review.

6. The designation “denial submitted” is used when the author believes the petition should be denied, but nevertheless believes some ground exists that could arguably justify a grant, or an issue is raised that otherwise warrants discussion by the court.

7. The designation “deny” is used when the author believes that review should be denied.

8. The designation “deny and depublish” is used when the author does not believe the decision warrants review, but nevertheless believes the opinion is potentially misleading and should not be relied on as precedent.

G. A conference memorandum addressing an original writ petition generally will recommend one of the following: (1) issuance of an order to show cause; (2) issuance of an alternative writ; or (3) that the petition be

denied. In exceptional circumstances, a conference memorandum may recommend that the court issue a *Palma* notice advising the parties that the court may issue a peremptory writ in the first instance. (See *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171.) If a conference memorandum recommends the issuance of an order to show cause or an alternative writ, it will specify the court before which further proceedings on the writ petition will take place.

H. The author of the conference memorandum assigns it to either the “A” or the “B” list. Cases assigned to the “A” list include all those in which (1) the recommendation is to grant or take affirmative action of some kind, e.g., “grant and transfer” or “deny and depublish,” (2) a dissenting opinion has been filed in the Court of Appeal, or (3) the author believes denial is appropriate, but that the case poses issues that deserve special attention at conference. Cases that do not meet the criteria for placement on the “A” list are assigned to the “B” list. A case will ordinarily be placed on the “B” list when it involves the routine application of settled law.

I. Conference memoranda are generally delivered to the Calendar Coordinator no later than the Tuesday of the week before the conference for distribution to the justices, thus providing ample time for the justices and their staffs to review the memoranda and case materials. When necessary, memoranda addressing time-sensitive matters in which a memorandum could not have been prepared earlier may be added to a conference after this deadline.

J. The court’s Calendar Coordinator divides the weekly conference agenda into an “A” and “B” list, based on the designation appearing on each conference memorandum.

1. Matters appearing on the “A” list are called and considered at the conference for which they are scheduled. Before or after a vote is taken, any justice may request that a case be put over to a subsequent conference within the jurisdictional time limit for further study, preparation of a supplemental memorandum, or both. The time within which action thereon must be taken will be extended pursuant to rules 8.264 and 8.500 of the California Rules of Court, if necessary.

2. Matters appearing on the “B” list will be denied in accordance with the recommendation of the memorandum at the conference for which they are scheduled, unless a justice requests that a case be put over to a subsequent conference within the jurisdictional

time limit for further study, preparation of a supplemental memorandum, or both.

K. A justice may circulate a supplemental conference memorandum in any “A” list matter to express the views of the justice regarding the issues raised in the matter. A justice may also request that a matter appearing on the “B” list be elevated to the “A” list.

L. In any case in which the petition, application, or motion is denied, a justice may request that his or her vote be recorded in the court minutes.

M. A justice may also prepare and circulate a conference memorandum that includes a separate statement regarding a denial of review, a denial of an original writ petition, a denial of a depublication request, or a dismissal of review (see IOPP XI.B., *post*) by the court. Any separate statement is circulated within the court by a prescribed deadline prior to the filing of the order to which it relates, so that all other justices have adequate time to review the statement and, if they choose to do so, to prepare and circulate a response.

N. When a justice is unavailable or disqualified to participate in a vote on a petition for review or other matter and four justices cannot agree on a disposition, the Chief Justice, pursuant to constitutional authority (Cal. Const., art. VI, § 6), assigns in alphabetical order (except as set forth below) a Court of Appeal justice as a pro tempore justice to participate in the vote on the petition or matter. The assigned justice is furnished all pertinent petitions, motions, applications, answers, briefs, memoranda, and other material. A newly appointed Court of Appeal justice will be assigned as a pro tempore justice of the Supreme Court only after he or she has served on the Court of Appeal for one year. If a Court of Appeal justice is unable to serve on a particular case, the next justice on the alphabetical list will be assigned, and the Court of Appeal justice who was unable to serve will be assigned in the next case in which a pro tempore appointment is required. In the event that no Court of Appeal justices are eligible to participate in a particular case, judges from the superior courts may be assigned to participate.

O. Either at the time review is granted or thereafter, the court may limit, restate, or add to the issues to be briefed and argued. The court may also order at the time of granting review or thereafter that the opinion of the Court of Appeal has precedential status different from that specified in rule 8.1115(e)(1) or (2) of the California Rules of Court.

P. Within 15 days after review is granted in a civil case or a criminal case in which a corporate entity is a party, each party must file a “Certification of Interested Entities or Persons” that lists any persons, associations of persons, firms, partnerships, corporations (including parent and subsidiary corporations) or

other entities other than the parties themselves known by the party to have either (1) a financial interest in the subject matter of the controversy or in a party to the proceeding; or (2) any other kind of interest that could be substantially affected by the outcome of the proceeding. This requirement does not apply to any governmental entity or its agencies. The Clerk's Office notifies all parties, including real parties in interest, in writing of this requirement at the time the parties are notified of the court's grant of review.

V. CALENDARS AND CALENDAR MEMORANDA

A. All cases are assigned for preparation of a calendar memorandum in a manner that equalizes the workload of the justices and expedites the work of the court. A calendar memorandum is prepared by assigned chambers and circulated internally before a case is set for oral argument. The calendar memorandum presents the facts and legal issues involved in a case, including an analysis of how the legal issues should be addressed and decided, and proposes a disposition for consideration by the full court.

B. The Chief Justice ordinarily assigns review-granted matters to one of the justices who voted to order review. If a case involves substantially the same issues as another case already assigned for preparation of a calendar memorandum, it may be assigned to the justice who has the similar case. Preference in case assignments also may be given to a justice who authored a supplemental conference memorandum recommending that the petition be granted.

C. When rehearing has been granted and a supplemental calendar memorandum is needed, the matter will ordinarily be assigned to the justice who prepared the prior opinion if it appears that he or she can present the views of the majority. Otherwise, the case will be reassigned to a justice who is able to do so.

D. The court's general procedures for circulation and consideration of calendar memoranda are as follows:

1. The justice to whom a case is assigned prepares and circulates a calendar memorandum within a prescribed time after the filing of the last brief.
2. Within a prescribed time after the calendar memorandum circulates, each justice prepares and circulates his or her preliminary response to the calendar memorandum (i.e., that he or she concurs, concurs with reservations, is doubtful, disagrees, or has some other position). A preliminary response may further set out a justice's views concerning some

or all of the issues presented in the case, including any recommendations the justice may have regarding how these issues should be addressed in the court's opinion. Each justice also indicates whether he or she intends to write a separate concurring or dissenting calendar memorandum in the case.

3. If it appears from the preliminary responses that a majority of the justices concur in the original calendar memorandum, the Chief Justice places the case on a weekly conference to discuss whether the case should be set for an upcoming oral argument. If it appears from the preliminary responses that a majority of the justices will probably not concur with the original calendar memorandum or a modified version of that memorandum, the Chief Justice places the matter on a conference for discussion or reassigns the case.

E. At least 20 days prior to each oral argument the justices will confer to discuss what cases appear ready for oral argument. The Chief Justice constructs the oral argument calendars from the cases identified as ready to be argued.

F. After a case has been set for oral argument, the justice who authored the calendar memorandum generally circulates a preargument memorandum that responds to the preliminary responses. This memorandum discusses the changes the author intends to make in drafting the court's opinion and identifies issues that the author wants to discuss at the postargument conference.

G. After a calendar memorandum circulates within the court, the parties are notified that the case may be set for oral argument in the near future. A party must promptly notify the court if it believes that good cause exists not to set the case for a date when oral argument may be heard. The Chief Justice determines whether good cause exists to avoid any oral argument dates. Once a case has been set for oral argument, any request to avoid the designated argument date must involve extraordinary cause, such as a medical emergency.

VI. CALENDAR SESSIONS FOR ORAL ARGUMENT

A. Regular oral argument sessions of the court are held each year, on a day or days as determined by the Chief Justice, in San Francisco, Los Angeles, or Sacramento. Special sessions may be held elsewhere, or remotely, by order of the Chief Justice or by order on a vote of four justices assenting thereto.

B. Each oral argument calendar, identifying when and where oral argument will occur and the cases to be argued, is filed no less than 20 days before the first day of an oral argument session, unless good cause exists for later filing.

C. Unless otherwise ordered, only one counsel may be heard for each side. In all matters not involving an automatic appeal from a judgment of death, each side is allotted 30 minutes for oral argument. In an automatic appeal from a judgment of death, each side is allotted 45 minutes for oral argument. Any request to divide time or for additional time must be served and filed with the Court no later than ten days after the case has been set for oral argument. In no event shall oral argument be divided into segments of less than ten minutes, except that one counsel for the opening side (unless additional counsel are so authorized) may reserve a portion of his or her allotted time for rebuttal.

D. A party may, no later than seven days after a case has been set for oral argument, request permission for its counsel to appear remotely.

VII. SUBMISSION

A. A cause is submitted when the court has heard oral argument and the time has passed for filing all briefs permitted by the court, including any supplemental briefs.

B. Submission may be vacated only by an order of the Chief Justice stating in detail the reasons therefor. Any order vacating submission specifies when the cause will be resubmitted.

VIII. ASSIGNMENTS FOR PREPARATION OF OPINIONS

A. After argument the Chief Justice convenes a conference to determine whether the calendar memorandum continues to represent the views of a majority of the justices. The postargument conference also affords the justices an opportunity to further discuss the issues presented in a case and how they should be resolved. In light of that discussion, the Chief Justice assigns the case for opinion.

B. The Chief Justice assigns the cases for preparation of opinions in the following manner:

1. If a majority of the justices agree with the disposition suggested in the calendar memorandum, ordinarily the case is assigned to the author of that memorandum.
2. If a majority of the justices disagree with the disposition reached in the calendar memorandum, unless the author of that memorandum agrees to adopt the majority view, the case is reassigned to one of the majority.

3. When a case is argued on rehearing, it ordinarily remains with the justice who prepared the prior opinion or any supplemental calendar memorandum if it appears that he or she can express the majority view. If he or she does not agree with the majority view, the case is reassigned to a justice who is a member of the majority.

4. In making assignments pursuant to these guidelines, the Chief Justice takes several considerations into account, including the following: (1) the fair distribution of work among the members of the court; (2) the likelihood that a justice can express the view of the majority of the court in a particular case; (3) the amount of work he or she has done on that case or on the issues involved; and (4) the status of the unfiled cases theretofore assigned to him or her.

C. Every reasonable effort is made by the justices to agree on the substance of opinions and to avoid unnecessary concurring or dissenting opinions.

D. The rules of the *California Style Manual* are consulted in the preparation of opinions as well as conference and calendar memoranda.

IX. CIRCULATION OF OPINIONS

A. Within a prescribed time after submission, the justice to whom the case is assigned circulates the proposed majority opinion. All opinions are cite-checked and proofread before circulating.

B. If a justice has concerns regarding a proposed majority opinion, any such issues are promptly brought to the author's attention.

C. Within a prescribed time after the proposed majority opinion circulates, all concurring or dissenting opinions circulate. If the author of the proposed majority opinion wishes to respond by change or by memorandum to any concurring or dissenting opinion, he or she does so promptly after that opinion circulates. The author of the concurring or dissenting opinion thereafter has a prescribed time in which to respond.

D. If it becomes necessary to reassign a case after a proposed majority opinion has circulated, the Chief Justice will reassign the case to a justice capable of expressing the views of a majority of the court.

E. A justice indicates concurrence in an opinion by signing the opinion. All filed opinions identify the author and the concurring justices unless a majority of the court conclude that because substantial portions of a majority

opinion have been drafted by a number of justices, or for other compelling reasons, the opinion should be issued “By the Court.”

F. All proposed opinions, including any proposed opinion changes, are provided to the Reporter of Decisions for review either prior to circulation within the court or simultaneously with such circulation.

X. FILING OF OPINIONS

A. When the circulation process has been completed, the Calendar Coordination Office notifies the authoring justice of each proposed opinion that the matter appears ready for filing and inquires whether each authoring justice is releasing his or her opinion for filing. When all opinions have been released for filing, the Calendar Coordination Office notifies the Clerk/Executive Officer and the Reporter of Decisions of the scheduled filing date.

B. When releasing an opinion for filing, the authoring justice of any majority or separate opinion provides the Reporter of Decisions with an electronic version of the opinion, as well as electronic archival copies of any Internet websites cited in the opinion. The Reporter of Decisions assembles the components of the opinion in preparation for filing and posting to the judicial branch’s website. Once the components of the opinion are assembled, the Reporter of Decisions provides an electronic version of the compiled opinion to the Calendar Coordination Office for duplication.

C. The Clerk/Executive Officer files the opinion on the scheduled date at the San Francisco office of the Supreme Court, at which time the opinion also will be posted on the court’s website. Opinions are released for filing in time for filing and posting on the court’s website on a normal filing day (Mondays and Thursdays). All opinions are to be filed on or before the 90th day following submission or resubmission.

D. Internal circulation of a concurring or dissenting opinion after the 80th day following submission may result in the inability of the author of the proposed majority or of another timely circulated opinion to afford the views contained in the late circulated opinion full consideration and response. Unless the Chief Justice finds good cause for the belated circulation, such late-circulated opinions will not be filed until at least 10 days but in no event more than 20 days after the filing of the majority opinion.

XI. REHEARING AND MODIFICATION; DISPOSITION OF HELD CASES

A. At any time before the majority or lead opinion becomes final, the court may modify an opinion or grant rehearing pursuant to the applicable rules of court, either on its own motion or upon a properly served and filed request.

B. Promptly after the opinion in a case becomes final, the justice who authored the majority opinion will identify any “held” cases in which further proceedings were deferred by the court pending disposition of a related issue presented in the case. The justice will prepare and circulate a memorandum for consideration at a weekly conference addressing each “held” case. The memorandum generally recommends that the court (1) dismiss review in the held case; (2) transfer the held case to the appropriate Court of Appeal for reconsideration; or (3) retain review and order briefing in the held case.

XII. REVIEW OF DETERMINATIONS BY THE COMMISSION ON JUDICIAL PERFORMANCE

A petition for review of a determination by the Commission on Judicial Performance to retire, remove, censure, admonish, or disqualify a judge or former judge under subdivision (d) of section 18 of article VI of the California Constitution must address both the appropriateness of review and the merits of the commission’s determination, and it must comply with the other requirements of rule 9.60 of the California Rules of Court. The commission may file a response, and the petitioner a reply, within prescribed times. The petition is assigned by the Calendar Coordinator, under the direction of the Chief Justice, to the civil central staff. When briefing is complete, the staff prepares a conference memorandum in which the recommendation generally will be either to “Deny” or “Retain for Further Consideration.” If a majority of the justices vote to “deny,” the petition is denied, and an order to that effect is filed forthwith. If a majority vote to “retain for further consideration,” the Chief Justice assigns the case to a justice who voted to retain. The justice then prepares a memorandum on the merits, which will serve as a calendar memorandum if an order granting review subsequently is filed. The court’s usual procedures for circulation of calendar memoranda then are followed. Once all concurring and dissenting memoranda have circulated, and it appears there is a majority for a particular disposition, the matter is considered at a conference. If a majority vote to deny review, an order to that effect is filed forthwith. If a majority vote to grant review, an order to that effect is filed, and the case is simultaneously set for oral argument at the soonest possible time under the court’s usual scheduling rules.

Because of the 120-day time limitation in subdivision (d) of section 18 of article VI of the California Constitution, continuance of oral argument rarely will be granted. Following oral argument and submission of the cause, the court's usual rules for preparation and circulation of opinions apply.

XIII. DISQUALIFICATION OF JUSTICES AND ASSIGNMENT OF RETIRED JUSTICES

A. Each justice has a duty to hear and decide all matters coming before the court in the absence of a ground of disqualification. (Cal. Code Jud. Ethics, canon 3B(1).) Although one ground of disqualification is presented when a justice has specified financial interests in a party to a proceeding (*id.*, canon 3E(5)(d)), recusal is not required based on a justice's financial interest in an entity that appears in a proceeding but is not a party (e.g., a nonparty entity or a nonparty member of a nonparty advocacy group that requests publication or republication of a Court of Appeal opinion, or that writes in support of or in opposition to a petition for review, or that appears in a proceeding as *amicus curiae*), unless "the justice believes his or her recusal would further the interests of justice" (*id.*, canon 3E(4)(a)), "the justice substantially doubts his or her capacity to be impartial" (*id.*, canon 3E(4)(b)), or "the circumstances are such that a reasonable person aware of the facts would doubt the justice's ability to be impartial" (*id.*, canon 3E(4)(c)). As soon as a justice discovers that he or she is disqualified in any proceeding, he or she will notify the Calendar Coordinator.

B. When it is known after a case is granted but before argument that a justice for any reason is unable to participate in a matter, the Chief Justice pursuant to constitutional authority (Cal. Const., art. VI, § 6) assigns on an alphabetical rotational basis (under the procedure described *ante*, IOPP IV.N.) a Court of Appeal justice to assist the court in place of the nonparticipating justice. The assigned justice is furnished all pertinent petitions, motions, applications, answers, briefs, memoranda, and other material.

C. If an assigned justice has participated in the decision of a case before this court, that justice will also participate in any further proceedings — including requests for modification, petitions for rehearing, and rehearings — until such time as the decision has become final. This procedure is to be followed unless the original assignment was necessitated by the absence of a regular justice of this court, in which event a regular justice, if able to do so, will participate in lieu of the assigned justice in the consideration of any petition for rehearing and, if rehearing is granted, in any subsequent proceeding.

D. If a justice retires before a case in which he or she has heard oral argument is final, he or she may be assigned to continue to participate in the case. When a permanent replacement justice appointed to fill the vacancy created by the retirement of that justice has taken the oath of office, and the opinion has been filed, any petition for rehearing will be acted on by the permanent replacement justice.

XIV. RECOMMENDATIONS RELATING TO EXECUTIVE CLEMENCY

A. An application for a recommendation for executive clemency comes before this court pursuant to article V, section 8, subdivision (a) of the California Constitution and Penal Code section 4851. When such applications are received by the Clerk's Office, they are given a file number, and the fact that they have been filed is a matter of public record. The papers and documents transmitted to the court by the Governor with the application often contain sensitive material. When a clemency record is before the court, a person seeking access to its contents must file a motion to unseal the record. The extent to which the contents of the record will be made available to the public is evaluated on a case-by-case basis.

B. Applications are denied unless four or more justices, including any justice pro tempore assigned to participate in the matter, vote to issue a favorable recommendation. The Chief Justice informs the Governor by letter of the court's decision, and a copy of such letter is included in the court's file and considered a matter of public record.

XV. STAYS

A. When a defendant in a criminal case files a petition for review after denial without opinion by the Court of Appeal of a petition for writ of prohibition or mandate attacking a Penal Code section 995 or section 1538.5 ruling, the matter will be placed on the agenda of a regular conference and will not be accelerated. Absent a demonstration of extraordinary circumstances, no order staying the trial will issue. If the case goes to trial and the matter becomes moot before the regular conference, the conference memorandum need only so state, and the petition may then be denied as moot without the necessity of considering its merits.

When the Court of Appeal has denied such a writ petition with opinion, a request to stay the trial pending action by the Supreme Court on the petition for review will be granted when necessary to prevent the matter from becoming moot.

When a misdemeanor conviction has become final on appeal or a final contempt order has been filed by a trial court and the defendant or contemner files a petition for review following denial of a timely habeas corpus or certiorari petition by a Court of Appeal or files a timely original petition, a stay of execution of the judgment or order will issue pending determination of the petition. The Chief Justice may condition the stay on the filing of a bond or on the continuation of an appeal bond, if any, if he or she deems it appropriate to do so. If the petition appears to lack merit, however, expedited consideration will be given to deny the petition in preference to releasing an incarcerated petitioner.

B. Pending disposition of a petition for writ of habeas corpus to review an order permitting extradition, the Chief Justice may stay extradition on behalf of the court. If the petition appears to lack merit, however, expedited consideration will be given to deny the petition in preference to staying the extradition proceedings.

C. In other cases, when not precluded by subdivisions D or E of this section, the Chief Justice may, in his or her discretion, grant applications for stays of judicial proceedings or orders pending regular conference consideration of the matters involved, or expedited consideration by the full court when necessary.

D. Stays governed by special provisions of statutes or rules of court will be issued only in compliance with such provisions. (See, e.g., Pub. Util. Code, §§ 1761–1766; Cal. Rules of Court, rule 8.112.)

E. Applications to stay actions by public agencies or private parties pending consideration of petitions for writs of mandate (i.e., *Emeryville*-type stays [see *People ex rel. S. F. Bay etc. Com. v. Town of Emeryville* (1968) 69 Cal.2d 533]) are to be resolved at the weekly case conference.

F. Upon receipt of a proper notice of bankruptcy relating to a pending petition for review in a creditor's action or an action that would diminish the relevant estate, the court will file an order noting the stay of proceedings and suspending the operation of the applicable time period under rule 8.500 of the California Rules of Court. (See 11 U.S.C. § 362(a)(1).) Thereafter, the parties will be directed to file quarterly status reports to apprise the court of the current status of the bankruptcy proceedings. Upon receipt of a proper notice terminating the bankruptcy stay, the court enters an order terminating the stay of proceedings and indicating that the applicable time period of rule 8.500(a) shall begin running anew from the date of the order.

XVI. APPOINTMENT OF ATTORNEYS IN CRIMINAL CASES

A. In criminal matters, upon a verified or certified statement of indigency, the court, acting through the Clerk's Office, will appoint an attorney for a party in the following instances:

1. In a pending case in which the petition for review has been granted;
2. In a pending automatic appeal;
3. In an original proceeding in which an alternative writ or an order to show cause returnable before the court has been issued;
4. In capital cases in the following proceedings:
 - (a) Proceedings for appellate review of state court judgments in the United States Supreme Court, subject to the power of that court to appoint counsel therein; and
 - (b) Conduct of sanity hearings when indicated.

B. The court's policies and practices regarding the appointment of counsel to represent a condemned inmate in death penalty-related habeas corpus proceedings and executive clemency proceedings, and compensation of counsel in these matters, are described in the [Supreme Court Policies Regarding Cases Arising from Judgments of Death](#).

C. The court's Capital Appointments Coordinator is responsible for recruiting, evaluating, and making recommendations concerning the appointment of counsel on behalf of indigent appellants in capital appeals and/or related state habeas corpus/executive clemency proceedings.

D. Counsel in automatic appeals and/or related state habeas corpus/executive clemency proceedings are compensated by one of two alternative methods: Under the "time and costs" method, counsel are compensated on an hourly basis and reimbursed for necessary expenses that were reasonably incurred. The court makes partial payments on counsel's fee claims while these claims are pending full review. Under the alternative optional "fixed fee and expenses" method, counsel are paid a fixed amount at regular stages of a case, according to a predetermined assessment of its complexity.

XVII. COMMUNICATIONS FROM COUNSEL IN PENDING CASES

Any communications to the court from counsel in a pending matter should be addressed to the Clerk's Office. Unless otherwise required by law or direction of the court, copies of any communications to the court must be provided to all counsel.

XVIII. SUSPENSION OF PROCEDURES

Whenever exceptional or emergency conditions require speedy action, or whenever there is other good cause for special action regarding any matter, the operation of these procedures may be temporarily suspended by affirmative vote of four justices.