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March 25, 2026

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Via E-Mail:
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Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

**Re: Comments on potential amendments to rules
8.1115 and 8.1125 of the California Rules of Court**

The California Academy of Appellate Lawyers (calappellate.org), one of the nation's first bar organizations devoted to appellate practice, supports the proposed revisions to rules 8.1115 and 8.1125 of the California Rules of Court. We briefly explain our support and suggest minor non-substantive changes to make the rules even clearer for practitioners and courts.

I. Rule 8.1115. Citation of Opinions.

Subdivision (b). The Academy supports the proposal to allow citation of unpublished opinions in a petition for review, answer, or reply, to show the existence or nonexistence of grounds for ordering review. Unpublished opinions are relevant to show that review is necessary to secure uniformity of decision. The proposed amendment aligns the written rule with current practice. The proposal to allow citation of unpublished opinions in a letter requesting publication will also be helpful to show that an issue has emerged but has not yet been the subject of a published opinion.

Subdivision (e). The Academy supports the proposals to clarify the rules under subdivision (e) of rule 8.1115 and to bring the substance of the comments into the text of the rule. We note that, especially under the proposed amendments, subdivision (e) primarily concerns the precedential effect of published opinions, as distinguished from when published opinions may be cited.

Subdivision (d) establishes that a party may cite or rely upon a published opinion as soon as it is certified for publication or ordered published. In our suggested language below we delete the language “is citable” from proposed subdivision (e)(2) as it seems superfluous because a precedential decision has to be citable and, perhaps more importantly, an opinion is either citable or it’s not—it would not be practical for practitioners and unrepresented litigants to have to conduct a legal analysis with respect to every sentence in a published opinion to decide whether it is citable. It would also be difficult to enforce any such rule. We respectfully suggest that the text of subdivision (e) would be clearer if modified.

For the Court’s convenience, we set forth our proposed language below, followed by a redlined version.

The Academy’s proposed language

(e) Precedential effect of published opinion after review has been granted

(1) *While review is pending*

(A) A published opinion has no binding or precedential effect while review of the opinion is pending before the Supreme Court, except that if the published opinion under review conflicts with another published opinion of the Court of Appeal, the superior court may choose which published opinion to follow.

(B) Any citation to the Court of Appeal opinion while review is pending must also note the grant of review and any subsequent action by the Supreme Court affecting the opinion's precedential status.

(2) After decision on review

After decision on review by the Supreme Court, a published opinion of a Court of Appeal in the matter has binding or precedential effect, except to the extent it is inconsistent with the decision of the Supreme Court or is disapproved by that Court.

(3) Supreme Court order

At any time after granting review or after decision on review, the Supreme Court may order that all or part of an opinion covered by (1) or (2) is not citable or has a binding or precedential effect different from that specified in (1) or (2). Unless otherwise specified by the Supreme Court, an order transferring a matter to the Court of Appeal with directions to vacate its published opinion and reconsider the matter has the effect of rendering the Court of Appeal opinion depublished, or not citable.

Redline of the Academy's proposed language over the Court's proposal

(e) Precedential effect of published opinion after review has been granted

(1) While review is pending

(A) A published opinion has no binding or precedential effect while review of the opinion is pending before the Supreme Court, except that if the published opinion under review conflicts with another published opinion of the Court of Appeal, the superior court may choose which published opinion to follow.

(B) Any citation to the Court of Appeal opinion while review is pending must also note the grant of review and any subsequent action by the Supreme Court affecting the opinion's precedential status.

(2) After decision on review

After decision on review by the Supreme Court, a published opinion of a Court of Appeal in the matter has binding or precedential effect, except to the extent it is inconsistent with the decision of the Supreme Court or is disapproved by that Court.

(3) Supreme Court order

At any time after granting review or after decision on review, the Supreme Court may order that all or part of an opinion covered by (1) or (2) is not citable or has a binding or precedential effect different from that specified in (1) or (2). Unless otherwise specified by the Supreme Court, an order transferring a matter to the Court of Appeal with directions to vacate its published opinion and reconsider the matter has the effect of rendering the Court of Appeal opinion depublished, or not citable.

II. Rule 8.1125. Requesting depublication of published opinions.

The Academy supports the proposal to require any person requesting depublication of a Court of Appeal opinion to serve the request on any person who had requested publication of the Court of Appeal opinion. A person who requests publication has an interest in any subsequent request for depublication of the published opinion and service on that person is appropriate.

For all these reasons, the California Academy of Appellate Lawyers respectfully supports the proposed revisions to 8.1115 and 8.1125 of the California Rules of Court. Thank you for your consideration of these comments.

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Respectfully submitted,



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