



SUPERIOR COURT OF CALIFORNIA
County of Amador
500 Argonaut Lane
Jackson, CA 95642
(209) 257-2603 — Website www.amadorcourt.org

GUIDE TO THE PROCEDURES FOR PROSECUTING PETITIONS FOR PREROGATIVE WRITS

This guide to the procedures for prosecuting petitions for writs of mandate and other prerogative writs in the Amador Superior Court is made available for your general information.

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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 counter of the courthouse. <i>Or</i> mail an original and two copies of the petition and a civil case cover sheet to the Amador Superior Court, 500 Argonaut Lane, Jackson, CA 95642.
2.	Pay the filing fee pursuant to Government Code section 70611.
3.	Receive from the civil front counter clerk 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 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 counter or by mail addressed to the Amador Superior Court, 500 Argonaut Lane, Jackson, CA 95642 <i>Exception:</i> Documents filed on the day of the hearing shall be filed with the courtroom clerk in the assigned department except if fees apply.
2.	File documents by fax in compliance with rule 2.303 of the California Rules of Court. 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(d) of the California Rules of Court regarding two or more writ cases, file the Notice in each writ case .
2.	When filing a Response to a Notice of Related Case pursuant to rule 3.300(g) 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 under rule 3.300(h)(1) of the California Rules of Court (CRC) as follows:

The judges assigned to civil writ cases listed in a Notice Of Related Case filed and served pursuant to CRC 3.300(d) identify which one of them is assigned to the earliest filed case, information which should be included in the Notice of Related Case pursuant to CRC 3.300(c)(2). That judge proceeds under CRC 3.300(h)(1)(A) to determine whether the cases are related within the meaning of CRC 3.300(a).

If the judge assigned to the earliest filed case determines that the cases are related, the judge orders the cases related and assigned to his or her department. That order is filed in each of the related cases and served on the parties to each of the related cases pursuant to CRC 3.300(i). In addition, an Amended Notice of Case Assignment, reassigning to the judge each of the related cases not previously assigned to him or her, is filed and served upon all parties to each reassigned case. Courtesy copies of the order and Amended Notice(s) of Case Assignment are sent to the judges previously assigned to any of the related cases.

If the judge assigned to the earliest filed case determines that the cases are not related within the meaning of CRC 3.300(a), the judge issues a minute order stating and briefly explaining the determination. This minute order is filed in each of the cases listed in the Notice of Related Case and is served on all parties to the listed cases pursuant to CRC 3.300(i).

In response to an order determining that the cases are not related, any party to any of the cases listed in the Notice of Related Case may file a motion pursuant to CRC 3.300(h)(1)(D) to have the cases related. The motion must be filed with the Presiding judge or a judge designated by the Presiding Judge.



**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>The court does not reserve dates and times for Ex Parte hearings, upon submission of the documents a hearing date and time will be assigned by the judge.</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>



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 civil department to reserve a date and time available on the Court'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.
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.



**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:

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 for page limits refer to 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 civil 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). Amador Superior Court uses the tentative ruling system, the notice of hearing must contain tentative ruling language available from the civil department.
3.	File the notice of hearing either at the civil counter or by mail addressed to the Amador Superior Court, 500 Argonaut Lane, Jackson, CA 95642
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.



(2) Securing issuance of an alternative writ

The alternative writ is an order to show cause that calendars a writ petition for a hearing on the merits. With the exception of an alternative writ of prohibition issued pursuant to CCP § 1104, the alternative writ does not, in and of itself, accomplish a stay or afford any affirmative relief.

Note that, with the alternative writ method, two writs may be issued in the proceeding. First, the alternative writ is issued to set a hearing on the merits of the petition. Second, a peremptory writ may issue after the hearing on the merits.

Step	Action
1.	<p>Prepare an ex parte application for an alternative writ. Specify "Ex Parte" in the title of the application.</p> <p>As provided in rules 3.1201 and 3.1202 of the California Rules of Court and this Guide, an ex parte application for an alternative writ includes the following supporting documents and papers:</p> <ul style="list-style-type: none">▪ Endorsed copy of the petition.▪ Points and authorities and any other supporting documents.▪ Proposed order directing issuance of alternative writ.▪ Proposed alternative writ with blank spaces for the date and time of a hearing on the petition. (Include a signature block for the clerk, not the judge.)▪ Declaration regarding notice, as specified in rule 3.1204.
2.	<p>Submit ex parte application and supporting documentation to the clerk's office for the court's review and approval of hearing date and time.</p> <p>Please note, absent a showing of good cause or waiver by the respondent(s) and real party(ies), the court may not issue an alternative writ unless the writ petition and application for the alternative writ have been served on respondent(s) and real party(ies) at least five days before the ex parte hearing. (See CCP § 1088, requiring service of copy of petition in conjunction with application for alternative writ; CCP § 1107, providing a five-day period for respondent(s) and real party(ies) to respond to a writ petition after receiving service of the petition.)</p>
3.	<p>Notify the respondent(s) and real party(ies) of the date and time of the ex parte hearing on the alternative writ pursuant to rule 3.1203 of the California Rules of Court. Include the details of this notification in the declaration regarding notice 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 Court does not require any of the documents listed above in Step 1 to be filed before the hearing, file and serve on all parties the documents and papers as soon as possible and no later than the time of the hearing.</p>



If the court grants the application for an alternative writ, the court signs and files the proposed order directing issuance of the alternative writ that sets the petition for a hearing on the merits. The clerk then issues the proposed alternative writ with the date and time of the hearing and provides it to the petitioner after the petitioner has paid the issuance fee. The writ must be served upon respondent(s) and real party(ies) in the same manner as a summons in a civil action unless the court expressly orders otherwise. (See CCP §§ 1073, 1096.) Once served, the writ must be filed with a proof of service.

Applying for a Continuance:

After a hearing has been set on a motion or on the merits of a petition, it may be continued only upon approval of the Court. If the continuance requires a change in the briefing schedule, such change must also be approved.

Step	Action
1.	Obtain available continuance dates from the clerk's office.
2.	Promptly confer with all counsel to agree upon a mutually convenient hearing date from among the dates provided by the clerk and any necessary changes in the briefing schedule. If counsel cannot agree to a continuance, a new hearing date and/or changes in the briefing schedule, the party seeking the continuance may apply for a continuance by noticed motion.
3.	Promptly present to the court a stipulation signed by all parties, including the reason for the continuance, the agreed upon hearing date and any agreed upon changes in the briefing schedule, with a proposed order. Pay the filing fee for the stipulation pursuant to subdivision (c) of Government Code section 70617 to the court.
4.	When the stipulation and order has been signed and filed by the Court, serve the stipulation and order on all parties.

Note that these procedures do not apply when a motion is dropped from the calendar by the moving party. In such circumstances, the moving party must telephonically notify the court and all other parties as far as possible in advance of the date on which the motion is to be heard and send a confirming letter to the court with copies to the other parties.



Dismissing a Writ Petition:

Step	Action
1.	Promptly notify the Court pursuant to rule 3.1385 of the California Rules of Court when a writ proceeding is settled or otherwise disposed of.
2.	File a dismissal of the writ proceeding at the civil counter or by mail within 45 days after the date of the settlement pursuant to rule 3.1385(b) or after the date specified in the notice of conditional settlement pursuant to rule 3.1385(c).

Lodging an Administrative Record:

Step	Action
1.	When securing a date and time for a hearing on the merits of the petition, inform the clerk about the size of any administrative record in the case. Determine the Court's preferences regarding the format, binding and container for the administrative record.
2.	Lodge the administrative record with the clerk no later than 25 days prior to the hearing on the merits of a writ petition. If the record is not lodged by this time, the Court may take the matter off calendar. Consult with the clerk if you wish to lodge the administrative record more than 25 days before the hearing on the merits of a writ petition.
3.	Attach a cover sheet to the administrative record and any boxes containing the record that lists the: Case name, Case number, Date and time of the hearing.

At the hearing on the merits of the petition, the court will mark the administrative record as an exhibit and admit it into evidence. At the conclusion of the proceedings on the petition, the court may return the administrative record to the party who lodged it or destroy it pursuant to CCP § 1952 through 1952.3 and subdivision (i) of CCP § 1094.5.

The Hearing on the Merits:

All hearings on writ petitions proceed by way of oral argument. If a party wishes to present oral testimony at the hearing, the party must obtain permission pursuant to rule 3.1306 of the California Rules of Court



**Appearing by
Telephone:**

Parties may appear by telephone in accordance with Local Rule 11.09.

**Preparing a
Judgment and
Peremptory Writ:**

If the court denies the writ petition, the party designated by the court shall, pursuant to rule 3.1312 of the California Rules of Court, prepare, serve on all parties, and present to the court a judgment denying the petition.

If the court grants the writ petition:

Step	Action
1.	The party designated by the court prepares (1) a judgment granting the writ petition and (2) a peremptory writ. The peremptory writ includes a signature block for the clerk, not the judge.
2.	Pursuant to rule 3.1312 of the California Rules of Court, prepare, serve on all parties, and present to the court a judgment granting the petition and the peremptory writ. The judgment, when approved, will be signed by the court. The clerk will issue the peremptory writ and provide it to the petitioner for service upon respondent(s) and real party(ies) after the petitioner pays the issuance fee.
3.	Serve a copy of both the judgment granting the writ petition and the peremptory writ on the respondent(s) and real party(ies). The writ must be served in the same manner as summons in a civil action. (CCP §§ 1073, 1096, 1107.)
4.	Return the original peremptory writ with a proof of service to the clerk's office for filing.
5.	Prepare, serve, and file at the civil counter of the courthouse a notice of entry of judgment pursuant to CCP § 664.5(a).