

statement of the case provided by the petitioner/appellant must be sufficient to show that the petitioner will raise substantial issues on appeal. In addition, similar to the requirements for other writ petitions under rule 8.490 when a reporter's transcript is not available, this proposal would require that the petition include a fair summary not only of the facts, but also of the issues likely to be raised on appeal and any statement by the trial court concerning its rulings relating to these issues.

The committee would also appreciate commentator's views about whether the term "petition for writ of supersedeas" should be replaced with the term "request for a stay."

Attachment

Rule 8.112 of the California Rules of Court would be amended, effective January 1, 2008, to read:

1 **Rule 8.112. Petition for writ of supersedeas**

2
3 **(a) Petition**

4
5 (1)–(3) * * *

6
7 (4) If the record has not been filed in the reviewing court, the petitioner must
8 ~~include~~:

9
10 (A) Attach to the petition:

11
12 (i) The judgment or order, showing its date of entry;

13
14 ~~(B)~~(ii) The notice of appeal, showing its date of filing; ~~and~~

15
16 (iii) Any application for a stay filed in the trial court and any opposition
17 to that application; and

18
19 (iv) Any other document from the trial court proceeding that is necessary
20 for proper consideration of the petition.

21
22 ~~(C)~~(B) Include in the petition a statement of the case sufficient to show that the
23 petitioner will raise substantial issues on appeal, including a fair summary
24 of the material facts, the issues that are likely to be raised on appeal, and
25 any oral statement by the court supporting its rulings related to these
26 issues.

27
28 (5) * * *

29
30 **(b)–(d) * * ***

Item SPR07-04 Response Form

Title: Appellate Procedure: Petitions for Writs of Supersedeas (amend Cal. Rules of Court, rule 8.112)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Camilla Kieliger,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Camilla Kieliger
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 15, 2007

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee. All comments will become part of the public record of the council's action.