

COURT RULES



California Rules of Court Title 8. Appellate Rules

Division 1. Rules Relating to the Supreme Court and Courts of Appeal

Rule 8.208. Certificate of Interested Entities or Persons

(a) Purpose and intent

The California Code of Judicial Ethics states the circumstances under which an appellate justice must disqualify himself or herself from a proceeding. The purpose of this rule is to provide justices of the Courts of Appeal with additional information to help them determine whether to disqualify themselves from a proceeding.

(b) Application

This rule applies in appeals in civil cases other than family, juvenile, guardianship, and conservatorship cases.

(Subd (b) adopted effective January 1, 2008.)

(c) Definitions

For purposes of this rule:

- (1) "Certificate" means a Certificate of Interested Entities or Persons signed by appellate counsel or an unrepresented party.
- (2) "Entity" means a corporation, a partnership, a firm, or any other association, but does not include a governmental entity or its agencies or a natural person.

(Subd (c) relettered effective January 1, 2008; adopted as subd (b).)

(d) Serving and filing a certificate

- (1) Except as otherwise provided in this rule, if a party files a motion, an application, or an opposition to such motion or application in the Court of Appeal before filing its principal brief, the party must serve and file its certificate at the time it files the first such motion, application, or opposition and must include a copy of this certificate in the party's principal brief. If no motion, application, or opposition to such motion or application is filed before the parties file their principal briefs, each party must include its certificate in its principal brief. The certificate must appear after the cover and before the tables.
- (2) If the identity of any party or any entity or person subject to disclosure under this rule has not been publicly disclosed in the proceedings and a party wants to keep that identity confidential, the party may serve and file an application for permission to file its certificate under seal separately from its principal brief, motion, application, or opposition. If the application is granted, the party must file the certificate under seal and without service within 10 days of the court's order granting the application.
- (3) If a party fails to file a certificate as required under (1), the clerk must notify the party by mail that the party must file the certificate within 15 days after the

clerk's notice is mailed and that if the party fails to comply, the court may impose one of the following sanctions:

- (A) If the party is the appellant, the court may strike the document or dismiss the appeal; or
 - (B) If the party is the respondent, the court may strike the document or decide the appeal on the record, the opening brief, and any oral argument by the appellant.
- (4) If the party fails to file the certificate as specified in the notice under (2), the court may impose the sanctions specified in the notice.

(Subd (d) amended effective January 1, 2009; adopted as subd (c); previously amended and relettered effective January 1, 2008.)

(e) Contents of certificate

- (1) If an entity is a party, that party's certificate must list any other entity or person that the party knows has an ownership interest of 10 percent or more in the party.
- (2) If a party knows of any person or entity, other than the parties themselves, that has a financial or other interest in the outcome of the proceeding that the party reasonably believes the justices should consider in determining whether to disqualify themselves under canon 3E of the Code of Judicial Ethics, the party's certificate must list that entity or person and identify the nature of the interest of the person or entity. For purposes of this subdivision:
 - (A) A mutual or common investment fund's ownership of securities or bonds issued by an entity does not constitute a financial interest in that entity.
 - (B) An interest in the outcome of the proceeding does not arise solely because the entity or person is in the same industry, field of business, or regulatory category as a party and the case might establish a precedent that would affect that industry, field of business, or regulatory category.
 - (C) A party's insurer does not have a financial interest in the outcome of the proceeding solely on the basis of its status as insurer for that party.
- (3) If the party knows of no entity or person that must be listed under (1) or (2), the party must so state in the certificate.

(Subd (e) amended effective January 1, 2009; adopted as subd (d); previously amended effective January 1, 2007; previously relettered effective January 1, 2008.)

(f) Supplemental information

A party that learns of changed or additional information that must be disclosed under (e) must promptly serve and file a supplemental certificate in the reviewing court.

(Subd (f) amended and relettered effective January 1, 2008; adopted as subd (e).)

Rule 8.208 amended effective January 1, 2009; adopted as rule 14.5 effective July 1, 2006; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2008.

