

# **PROFILE OF THE CALIFORNIA SUPREME COURT**

## **HISTORY OF THE COURT**

In September 1849, 48 people convened at Colton Hall in Monterey to draft the state's first Constitution. Six weeks later, that document was completed. Article VI of the new Constitution covered judicial tribunals and provided for a Supreme Court consisting of a Chief Justice and two associate justices, each serving six year terms. The Supreme Court was given appellate jurisdiction in all cases in which the amount in controversy was greater than \$200; cases in which the legality of a tax, toll, impost, or municipal fine was at issues; and felony matters raising questions of law. The court also had the power to issue writs of habeas corpus and all writs necessary to exercise its appellate jurisdiction.

Initially, the court was elected by the state Legislature and later by the voters in contested elections. In 1879, the Constitution was amended to increase the size of the Supreme Court to one Chief Justice and six associate justices, and to increase their terms 10 to 12 years. Currently the justices are nominated by the Governor after review by the State Bar's Judicial Nominees Evaluation Commission. The judicial nomination must be confirmed by the Commission on Judicial Appointments after a hearing. In addition, justices must stand for confirmation for the remainder of their predecessor's unexpired term on a statewide ballot at the first gubernatorial election following their appointment. To be eligible for appointment, a person must have been a member of the State Bar of California or a judge of a court of record in this state for at least 10 years immediately preceding appointment.

Many changes in judicial process have occurred since the Supreme Court of California was established. Some of the most important changes follow:

- 1904 The Supreme Court initiates mandatory review of all cases in which the death penalty has been pronounced.
- 1904 District Courts of Appeal (three) were created to handle appeals in "ordinary cases," leaving appeals in the "great and important" cases to the Supreme Court.
- 1927 Article VI is amended to create the State Bar, a public corporation to which all attorneys licensed to practice law in California must belong.
- 1934 Article VI is amended to create non-contested judicial elections for the appellate courts, and to let the voters decide whether or not a justice should be elected for a full term or the remainder of a predecessor's unexpired term.
- 1984 Article VI is amended to allow the Supreme Court to review decisions of the Court of Appeal rather than judgments of the superior court, therefore limiting review to specified issues. The change allowed the court to run more efficiently and gave the justices more time to focus on important questions of law. (Note: Supreme Court filings totaled 8,667 in fiscal year 1997-98. The majority of these filings were petitions for review in cases decided by the Courts of Appeal - 5,625.)
- 1989 The Supreme Court developed and implemented the Ninety-Day Policy which requires the court to file written opinions within 90 days after oral argument or post-argument briefing.

## **PURPOSE OF THE COURT**

The function of the Supreme Court is to preside over the orderly development of the law. It is the court of last resort on questions of state law. The Supreme Court of California is the state's highest court, and its decisions are binding on all other California state courts.

The state Constitution gives the Supreme Court the authority to review decisions of the state Courts of Appeal. This reviewing power enables the Supreme Court to decide important legal questions and to maintain uniformity in the law.

Like the United States Supreme Court, the California Supreme Court has discretionary jurisdiction over most of the matters presented to it. Thus, with the exception of a relatively small number of appeals that come to the court directly, it has discretion to decide whether or not it will accept any particular case for review and decision on the merits.

The state Constitution directs the Supreme Court to review all cases in which the trial court has pronounced a judgment of death. Under state law, these cases are automatically appealed. In addition, the Supreme Court may review the recommendations of the Commission of Judicial Performance and the State Bar of California concerning the removal and suspension of judges and attorneys for misconduct and may review decisions of the Public Utilities Commission.

Cases other than automatic appeals of death judgments normally come before the court either in the form of petitions for review of decisions by the Courts of Appeal or as petitions for extraordinary writs of mandamus, prohibition, certiorari, or habeas corpus. (See definitions at end.) In these cases, the court must decide whether to accept the matter for decision. In exercising its discretion to do so, the court seeks to secure uniformity of decision and settlement of important legal questions of statewide concern. The court decides matters accepted for consideration by written opinions that determine the legal issues raised and serve to guide the lower courts in applying the law.

Some issues go directly to the Supreme Court. The Supreme Court has original jurisdiction, meaning it can be the first court involved, in the proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition, and in habeas corpus proceedings.

Unlike appeals, which can only be taken from certain types of decisions designated by statute or case law, writ petitions can theoretically be taken from any order or decision. These petitions are assigned immediately to legal staff and requests for emergency relief are given prompt attention. Writ petitions are not considered within the definition of "causes," and the constitutional mandate requiring a written opinion does not apply to summary denials. A petition may be denied without further briefing or argument.

## **PROCESS OF HANDLING A CASE**

The Supreme Court of California decides whether or not it will accept a case over which it has discretionary review. After a case has been accepted for review, the Chief Justice assigns it to one of the justices who voted to grant review for preparation of a "calendar memorandum," setting out the facts and legal issues, and proposing resolution of those issues. Soon thereafter, each justice states his or her "preliminary response" to the calendar memorandum, and indicates whether he or she will request changes, or will concur or dissent from the opinion expressed in the memorandum. The author of the calendar memorandum may make changes and, if appropriate, tentative concurring and dissenting memoranda may be circulated. If the majority of justices tentatively concur in the calendar memorandum's proposed disposition, the case is ready to be heard. If the majority dissent, one of the dissenters is assigned to draft a subsequent memorandum. Alternatively the memorandum may be revised to accommodate the majority's view. Only when that majority concurrence in a disposition and a rationale for the disposition is reached does the court set oral argument.

After the oral argument, a conference is held to determine the status of each case. Immediately following, the justices take a tentative vote on the case. If the majority votes in favor of a disposition and rationale, then the author of the calendar memorandum usually will retain the case for drafting a proposed majority opinion. If the majority view is contrary to that of the author of the “calendar memorandum,” the Chief Justice will assign one of the justices comprising the majority to write the proposed opinion. As soon as possible after the matter is submitted to the court, the assigned justice circulates a proposed majority opinion. Justices who deem it appropriate to write and circulate dissenting or concurring opinions are afforded time in which to do so, and the author of the proposed majority opinion in turn is given an opportunity to respond to any such opinion.

When the deliberation and drafting process has been completed and all justices have subscribed to the majority or timely circulated concurring or dissenting opinions, a “Notice of Forthcoming Filing” is posted in the Clerk’s Office. A decision does not become final until 30 days after it has been filed. The parties may petition for rehearing during the first 15 days after the filing date. The court may extend the period.

If a case is appealed at the state Supreme Court level and it (a) could be considered a federal issue or (b) deals with the Constitution it is possible that it will be heard by the United States Supreme Court.

## COURT PERSONNEL AND OFFICES

**Clerk:** The Court Administrator/Clerk, appointed by the court, is the court’s executive officer. The Clerk is responsible for overseeing the administration and management of the court’s non-judicial functions, including supervising and directing the Clerk’s Office, administering the court’s personnel and budget systems, and overseeing activities relating to information systems, purchasing, and other business services. The Clerk is also responsible for recruiting counsel in capital appeals and other cases; preparing the court’s calendar; docketing its cases; maintaining the court’s public records, filings, and documents; advising litigants, counsel, and the public of the status of matters before the court. The Court Administrator/Clerk’s Office is headquartered in San Francisco, with branch offices in Los Angeles and Sacramento

**Calendar Coordination Office:** The Calendar Coordination Office, headed by the Calendar Coordinator, coordinates and expedites the flow of internal documents such as conference and calendar memoranda and circulating draft opinions, and, this office advises the justices of action taken or scheduled to be taken on matters before the court.

**Reporter of Decision:** The Reporter of Decisions, appointed by the court, supervises the publication of California appellate court opinions in the *Official Reports*. The reporter ensures the editorial integrity of all opinions from filing through publication and reviews the accuracy of the editorial information included in the advance sheets and bound volumes. The standards for publication of opinions are established by California Rules of Court, rule 976. The Reporter of Decisions is assisted by the Assistant Reporter and a staff of attorney editors.

**Bailiffs:** The bailiffs are responsible for the security of the court and its justices. The bailiffs also prepare the courtroom for calendar sessions, staff the court’s reception area to maintain security of the

court's facilities, and perform various other support duties.

**The Justices' Staffs:** Each justice is supported by a staff of attorneys and a secretary. Associate justices have five staff attorneys, all of whom are long-term career court employees. Some justices also make use of law student externs to augment their research staffs.

**The Central Staffs:** The court has two central staffs. The criminal central staff prepares conference memoranda in criminal matters (except automatic appeals) and State Bar disciplinary proceedings. The civil central staff prepares conference memoranda in civil matters and some other State Bar proceedings. Both central staffs consists primarily of long-term career court employees.

**Law Library:** Established in 1868, the Supreme Court's law library serves as a repository for source materials that aid the court and its staff in legal research. The library's 150,000 volumes are supplemented by several computerized legal research systems.

### **Bibliography**

1. "*Supreme Court of California: Practices and Procedures.*" Revised Edition, 1997. Updated Amendments, 2002.
2. "*Guide to Clerkships: Information on Public Interest and Government Careers.*" [www.law.indiana.edu/car/guides/judicial](http://www.law.indiana.edu/car/guides/judicial).

### **Extraordinary Writs**

**Of Certiorari:** an extraordinary writ issued by a higher court (as the Supreme Court) to call up the records of a particular case from an inferior judicial body (as a Court of Appeals)

**Of Habeas Corpus:** an extraordinary writ issued upon a petition challenging the lawfulness of restraining a person who is imprisoned or otherwise in another's custody.

Of Mandamus: an extraordinary writ issued by a court of competent jurisdiction to an inferior tribunal, a public official, an administrative agency, a corporation, or any person compelling the performance of an act usually only when there is a duty under the law to perform the act, the plaintiff has a clear right to such performance, and there is no other adequate remedy available.

Of Prohibition: an extraordinary writ issued by a higher court commanding an inferior court to keep within its proper jurisdiction (as by ceasing a prosecution).