
**RULES OF PRACTICE
OF THE
STATE BAR COURT**

STATE BAR OF CALIFORNIA

NOVEMBER 1, 2020

RULES OF PRACTICE OF THE STATE BAR COURT

Adopted by the Executive Committee of the State Bar Court
pursuant to Business and Professions Code
sections 6086.5 and 6086.65, subdivision (c);
effective November 1, 2020

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RULES OF PRACTICE OF THE STATE BAR COURT

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RULES OF PRACTICE OF THE STATE BAR COURT

DIVISION I GENERAL PROVISIONS

CHAPTER 1 TITLE, AUTHORITY, AND DEFINITIONS

RULE 1100. TITLE AND CITATION

These rules shall be known and may be cited as the Rules of Practice of the State Bar Court (Rules of Practice).

RULE 1101. AUTHORITY FOR ADOPTION; APPLICATION

These Rules of Practice have been adopted by the Executive Committee of the State Bar Court pursuant to Business and Professions Code sections 6086.5 and 6086.65, subdivision (c), in order to facilitate and govern the conduct of proceedings within the jurisdiction of the State Bar Court. They apply to and govern all proceedings before the State Bar Court. Fair, equal, and consistent application of these rules by all concerned is vital to the conduct of proceedings before the State Bar Court.

Revised March 1, 2020; November 1, 2020.

RULE 1102. DEFINITIONS

Unless the context otherwise requires, the definitions stated in rule 5.4 of the Rules of Procedure of the State Bar of California (Rules of Procedure) are incorporated by reference and apply to these Rules of Practice.

Revised March 1, 2020.

RULE 1103. OFFICIAL COURT RECORD

The paper record is the official court record of the State Bar Court. Pursuant to these Rules of Practice and the Rules of Procedure, the State Bar Court permits the electronic submission of documents.

Effective November 1, 2020.

RULE 1104. REQUESTS FOR ACCOMMODATIONS BY PERSONS WITH DISABILITIES

(a) Except as modified by this rule, California Rules of Court, rule 1.100 applies to requests for accommodations directed to the State Bar Court.

(b) Requests for accommodations.

(1) All written requests for accommodations should be on Form MC-410, approved for use by the Judicial Council of California, or be made in person, by U.S. mail, by email, or orally, as the court may allow. If the requester does not utilize Form MC-410, the requester should provide his/her name and address, the case number, the date the accommodation is needed, the reason an accommodation is necessary, and the type of accommodation.

(A) Requests for physical facility accommodations, or for the provision of auxiliary aides and services, including equipment, devices, materials in alternative formats, and qualified interpreters or readers should be made to the designated State Bar Court ADA Coordinator in the appropriate venue, as listed at <http://www.statebarcourt.ca.gov/ADA-Accommodations>.

(B) Requests for accommodations of a procedural nature, including, but not limited to, extensions of time or appearances by telephone, should be made to the courtroom clerk where the proceeding will take place, or orally to the judge who will preside over the proceeding.

(c) Review procedure.

(1) If the determination to grant or deny a request for accommodation is made by a State Bar Court ADA Coordinator, an applicant or any participant in the proceeding may submit a written request for review of that determination to the Hearing Judge assigned to the case for a Hearing Department matter, or the Presiding Judge for a Review Department matter. The request for review must be submitted within 15 days of the date the determination to grant or deny an accommodation request was delivered in person or sent to the applicant or participant.

(2) If the determination to grant or deny a request for accommodation is made by the Hearing Judge assigned to the case for a Hearing Department matter, an applicant or any participant in the proceeding may file a petition for interlocutory review pursuant to rule 5.150 of the Rules of Procedure. If the determination is made by the Presiding Judge in a Review Department matter, the applicant or any participant may seek review of that decision by filing a motion for reconsideration in the Review Department pursuant to rule 5.158 of the Rules of Procedure. The petition for interlocutory review or request for reconsideration must be filed within 15 days of the date the determination to grant or deny an accommodation request was delivered in person or sent to the applicant or participant by U.S.

mail or by email. The petition for interlocutory review must be served on the Hearing Judge who issued the order pursuant to rule 5.150(D) of the Rules of Procedure and served on any participants in the proceeding who were notified by the court of the determination to grant or deny the request for accommodation.

Effective November 1, 2020.

RULE 1105. PROHIBITION ON COMMUNICATIONS WITH STATE BAR COURT JUDGES

Consistent with and subject to the exceptions in the California Code of Judicial Ethics and the California Rules of Professional Conduct relating to ex parte communications, no attorney or party to an action may, either with or without prior notice to the opposing counsel or opposing party, contact any judge or court staff directly in any manner (e.g., telephone, email, or in-person) concerning a case pending before the court or a matter relating to a case pending before the court.

Effective November 1, 2020.

RULE 1106. QUALIFICATIONS OF APPOINTED COUNSEL IN STATE BAR COURT PROCEEDINGS

- (a) **Purpose.** The State Bar Court maintains a panel of counsel who desire to receive appointments to represent attorneys in State Bar Court matters pursuant to rules 5.68, 5.174, 5.192, or 5.258 of the Rules of Procedure. This rule sets forth the minimum qualifications for such counsel. An attorney on the appointed counsel panel is not entitled to appointment as counsel simply because the attorney meets these minimum qualifications. Nothing in this rule is intended to limit the discretion of the State Bar Court to appoint counsel it deems appropriate and who meets the qualifications below.
- (b) **Qualifications.** An attorney seeking appointment as counsel must satisfy the following minimum qualifications and experience:
- (1) *California legal experience.* The attorney must demonstrate that he or she:
 - (A) Is an active licensee of the State Bar of California and is eligible to practice law;
 - (B) Has been admitted to practice law in California for at least five years at the time of appointment; and
 - (C) Has no prior record of attorney discipline, is not currently subject to State Bar disciplinary probation, and has no currently pending attorney disciplinary investigations or proceedings in California or any other state, territory, or court in which the attorney is licensed or admitted.
 - (2) *Knowledge.* The attorney must have sufficient knowledge of and experience with

the State Bar Act, the California Rules of Professional Conduct, the Rules of Procedure of the State Bar of California, and the Rules of Practice of the State Bar Court.

- (3) *Skills.* The attorney must have demonstrated proficiency in issue identification, research, analysis, writing, investigation, and advocacy. To enable an assessment of the attorney's skills, he/she must submit:
 - (A) A resume;
 - (B) One writing sample written by the attorney and presenting analysis of complex legal issues. If the attorney has previously served as counsel in an attorney disciplinary proceeding, the writing sample should be from a filing in such a proceeding; and
 - (C) A recommendation from an attorney familiar with the attorney's qualifications and performance.

- (4) *Pending Disciplinary Investigations or Current Disciplinary Probation.* The attorney must confirm that he/she has no knowledge of any currently pending attorney disciplinary investigations or proceedings, and is not currently subject to attorney disciplinary probation, in California or any other state, territory, or court in which the attorney is licensed, admitted, or otherwise engaged in the practice of law.

- (5) *Professional Liability Insurance.*
 - (A) An attorney must inform the State Bar Court whether he/she maintains professional liability insurance and, if so, provide a copy of the policy to the Clerk. An attorney must inform the State Bar Court if he/she no longer maintains professional liability insurance while on the panel.
 - (B) If the attorney obtains professional liability insurance after he/she is added to the panel or during the attorney's appointment as counsel, the attorney must inform the State Bar Court and provide a copy of the policy to the Clerk.

(c) Removal of Appointed Counsel.

The State Bar Court retains full discretion to remove from the panel any counsel who fails to appear for court appearances; fails to follow the Rules of Procedure, these Rules of Practice, or other applicable law; fails to demonstrate a minimum level of proficiency in legal work deemed appropriate by judges of the State Bar Court; or is unavailable. Professional discipline of an attorney will result in removal of that attorney from the panel.

Effective November 1, 2020.

RULE 1107. COMPENSATION FOR APPOINTED COUNSEL AND APPOINTED MEDICAL PROFESSIONALS IN STATE BAR COURT PROCEEDINGS

- (a) **Requests for compensation by appointed counsel and appointed medical professionals.** Requests for compensation may be made ex parte and must be submitted on the applicable State Bar Court form, available at <http://www.statebarcourt.ca.gov/Forms>. Detailed and itemized bills for the claimed services and expenses must be attached to the form.
- (b) **Timing of requests for compensation by appointed counsel.** Requests for compensation for work performed in the State Bar Court may be made at two separate stages of the proceeding: (1) for services performed from the date of appointment through the filing of the Hearing Judge's decision; and (2) for services performed following the filing of the Hearing Judge's decision to finality of the proceeding in the State Bar Court. Requests for compensation for work performed in seeking review from the California Supreme Court may be made following the finality of the proceeding in the Supreme Court.

Effective November 1, 2020.

**CHAPTER 2
FORMAT AND FILING OF PLEADINGS**

RULE 1110. FORMAT OF PLEADINGS SUBMITTED IN PAPER FORM AND INTENDED TO BE FILED IN THE STATE BAR COURT

- (a) **Size, pagination, etc.** All pleadings filed in the State Bar Court by any party, except exhibits, must be typewritten or printed or be prepared by a photocopying or other duplication process that will produce clear and permanent copies equally legible to printing in type not smaller than 12 point, on white paper of standard quality not less than 13 pound weight, 8-1/2 by 11 inches in size. Only one side of the paper must be used, and the lines on each page must be double spaced and numbered consecutively. Quotations and footnotes may be single spaced. All pleadings must be firmly bound together at the top. "Pleadings," as used in this rule, do not include printed court forms.
- (b) **Format of first page.** The first page of all pleadings filed by a party must be in the following form:
- (1) In the space commencing with line 1, to the left of the center of the page, must be set forth the office or law firm name (if any), the name(s) of the attorney(s) within the office or law firm handling the proceeding and their State Bar license number(s), the office address (or, if none, the residence address), email address,

and telephone number of the attorney(s) for the party on whose behalf the pleading is presented, or of the party, if the party appears in propria persona. The information required by this subparagraph may be printed instead of typed on the first page of the pleading.

- (2) The space between lines 1 and 7 to the right of the center of the page must be left blank.
 - (3) On or below line 8, on a separate line, must be the words "The State Bar Court," on the next line, the particular department and/or geographical area (i.e., Hearing Department – San Francisco, Hearing Department – Los Angeles, or Review Department), and, on the following lines, to the left, the caption of the particular proceeding; and to the right thereof, the case number.
 - (4) Beneath the case number described in subparagraph (3) of this rule, there must be a title describing the nature of the particular pleading.
 - (5) In proceedings pending in the Hearing Department, immediately below the title describing the nature of the pleading, each pleading must specify (1) the date and time of the next event to which the pleading refers, if any (e.g., trial date, settlement conference date, date of hearing on motion) and (2) the trial date, if set.
- (c) **Original pleading.** At least one of all pleadings, which shall constitute the original of the pleading filed, must bear handwritten original signatures or an electronic signature, as defined in rule 5.4(30) of the Rules of Procedure, in all signature blanks. Where possible, all copies of pleadings should display, by photocopy, duplicate signature, or otherwise, all signatures present on the original.
 - (d) **Pleading pagination.** All pages of a multiple-page pleading, including all attachments, must be numbered consecutively.
 - (e) **Number of paper copies filed.** An original and two copies must be filed for all pleadings in the Hearing Department. Filings in the Review Department must be in the number specified in the applicable Rule(s) of Procedure.
 - (f) **Hearing Department pleadings in excess of 25 pages.** Pleadings intended for filing in the Hearing Department in excess of 25 pages, including all attachments, must be two-hole punched in the top center one-half inch from the top of the page and fastened together with a metal fastener.
 - (g) **Maximum length of briefs in Hearing Department.** No pleading may exceed 20 pages in length unless otherwise ordered by the court. The page limit does not include exhibits, declarations, attachments, or a table of contents. A party may request a

higher page limit in writing. Such request must be made at least two court days before the filing is due and must state the reason(s) why the pleading cannot conform to the standard page limit. The court may grant the extension for good cause.

- (h) **Signature of counsel or party.** Every pleading of a party represented by counsel must be signed by at least one counsel of record in the counsel's individual name, whose address, telephone number, and email address must be stated on the first page of the pleading. A party who is not represented by counsel must sign the party's pleading and state the party's address, telephone number, and email address on the first page of the pleading.
- (i) **Media files.** Media files such as audio or video must be submitted on an electronic medium such as a flash drive, DVD, or compact disc (CD). If an original electronic media file is converted to a required format for submission, the submitting party must retain the original.

Eff. January 1, 1995. Revised July 1, 1997; January 1, 2001; January 1, 2009; March 1, 2020; November 1, 2020.

RULE 1111. FORMAT OF PLEADINGS SUBMITTED IN ELECTRONIC FORM AND INTENDED TO BE FILED IN THE STATE BAR COURT

- (a) Pleadings may be submitted in electronic form by electronic submission pursuant to rule 5.4(31) of the Rules of Procedure for filing in the State Bar Court. The State Bar Court does not accept pleadings submitted by electronic notification as set forth in rule 5.4(27) of the Rules of Procedure (i.e., by providing a hyperlink at which the served document may be viewed and downloaded) or attached to an electronic submission as a Zip (compressed) file. If the submitting party is unable to meet the requirements of this rule, the submitting party may submit a pleading pursuant to rule 1110.
- (b) Pleadings submitted in electronic form must be in text-searchable PDF (portable document format), have an effective resolution of at least 300 dpi, and not be secured or password protected. The printing of pleadings must not result in the loss of text, format, or appearance. If the submitting party possesses only a paper copy of a pleading, it may be scanned to convert it to a searchable PDF format. It is the submitting party's responsibility to ensure that any pleading that is filed is complete and readable.
- (c) Pleadings submitted in electronic form must comply with the content and form requirements of rule 1110, with the exception of those provisions dealing exclusively with requirements for paper pleadings.
- (d) **Electronic bookmarks.** Pleadings submitted in electronic form must include electronic

bookmarks to each section heading and subheading in the text (as listed in the table of contents) and to the first page of any component of the pleading, including any table of contents, table of authorities, declaration, proof of service, tab, exhibit, or attachment. Each electronic bookmark to a tab, exhibit, or attachment must include the letter or number and a description of the tab, exhibit, or attachment.

- (e) **Media files and photographs.** Pursuant to rule 1110(i), media files such as audio or video must be submitted on an electronic medium such as a flash drive, DVD, or compact disc (CD), and must not be submitted as an electronic attachment to an electronic submission. If submitted electronically, photographs must be filed in PDF format and conform to the other requirements of this rule. If an original electronic media file or photograph is converted to a required format for submission, the filer must retain the original.
- (f) **Size.** An electronic submission must not exceed a total file size of 25 MB. If a pleading submitted in electronic form exceeds the size limitation, a party must submit the pleading in paper form pursuant to rule 1110. This rule does not change the page limitations set forth in rule 1110 for pleadings submitted to the Hearing Department and in the Rules of Procedure for pleadings submitted to the Review Department. A pleading must be submitted as a single attachment to an electronic submission.
- (g) An email will be sent to the email address provided by the submitting party stating that the pleading(s) submitted by electronic transmission is accepted and filed. If a pleading(s) is not accepted and filed, an email stating that the pleading(s) is rejected will be sent to the email address provided by the submitting party.

Effective November 1, 2020.

RULE 1112. REJECTION OF PLEADINGS SUBMITTED FOR FILING

- (a) Pleadings submitted for filing in any proceeding in the State Bar Court will be rejected by the Clerk for the following reasons:
 - (1) The pleading is not accompanied by a proof of service or is not accompanied by a proof of service that (A) bears an original signature or an electronic signature as defined in rule 5.4(30) of the Rules of Procedure; (B) sets forth the date upon which service was made; and (C) contains the exact title of the pleading(s) served.
 - (2) A party to the proceeding executes the party's own proof of service, unless the pleading was served by personal service or served electronically.

- (3) The pleading presented for filing does not contain an original, handwritten signature or an electronic signature as defined in rule 5.4(30) of the Rules of Procedure.
 - (4) The original, if filed in paper form, is not accompanied by the requisite number of copies.
 - (5) The assigned case name and/or case number is missing or incorrect and the correct case name and case number is not readily identifiable by the Clerk.
 - (6) The pleading is submitted by a respondent in a proceeding in which that respondent's default has been entered, except (A) a stipulation signed by all parties, (B) a motion for relief from default accompanied by a proposed response, or (C) a motion for stay filed concurrently with a petition for interlocutory review to vacate or set aside default under rule 5.150 of the Rules of Procedure.
 - (7) The pleading is a petition for interlocutory review under rule 5.150 of the Rules of Procedure and was not served on the Hearing Judge who issued the order or if filed in electronic form, the certificate of service did not include the Hearing Judge's name.
 - (8) The pleading is submitted in electronic form and is not submitted in text-searchable PDF, is secured or password protected, or does not include electronic bookmarks.
 - (9) The pleading is submitted by electronic notification pursuant to rule 5.4(27) of the Rules of Procedure (i.e., by providing a hyperlink at which the served document may be viewed and downloaded) or is submitted as a Zip (compressed) file.
 - (10) The electronic submission includes a media file(s).
 - (11) The pleading is not submitted as a single PDF attachment to an electronic submission.
- (b) All other pleadings presented for filing in the State Bar Court will be filed by the Clerk. However, the fact that a pleading is accepted for filing does not mean that it does not contain some other defect that may be raised by an opposing party or the court, such as lack of timeliness, defects in service, failure to comply with the Rules of Procedure, and other defects in pleadings. Such defect(s) may result in denial of the motion or other relief sought or in striking the pleading, whether or not the defect is raised by the opposing party.

(c) If a party whose pleading has been rejected under this rule submits a corrected pleading for filing, the pleading shall be accompanied by a proof of service showing that the corrected pleading has been re-served on all parties and, if appropriate, by a motion for late filing.

Revised March 1, 2020; November 1, 2020.

RULE 1113. LAST OPPORTUNITY TO FILE MOTIONS

Unless otherwise ordered by the court, all motions, other than motions in limine and motions to continue the trial, regarding the conduct of any trial shall be filed no later than fourteen (14) calendar days before the first trial date in the matter, or the date for filing of the pretrial statement, whichever date is earlier.

Revised January 1, 2001; March 1, 2020.

RULE 1114. REPLIES TO MOTIONS

An issue is deemed submitted to the court on the filing of the opposing party's response brief pursuant to rule 5.45(B) of the Rules of Procedure. Unless ordered by the court, no reply or supplemental brief may be filed.

Effective November 1, 2020.

RULE 1115. JUDICIAL NOTICE

A party requesting judicial notice as permitted by the Rules of Procedure must submit the Request for Judicial Notice in pleading format, must include a copy of any document(s) for which judicial notice is requested, and, if required, must include a declaration.

Effective November 1, 2020.

CHAPTER 3 ADMISSION PRO HAC VICE

RULE 1121. ADMISSION PRO HAC VICE

Motions to appear in the State Bar Court as counsel pro hac vice shall conform to the requirements of rule 9.40 of the California Rules of Court, except that the filing, service, and determination of such motions shall be in accordance with the general State Bar Court motion rules.

Revised January 1, 2007.

**DIVISION II
HEARING DEPARTMENT**

**CHAPTER 1
MOTIONS**

RULE 1200. RULINGS ON MOTIONS

The judge to whom a proceeding has been assigned shall ordinarily rule on any motion filed in that proceeding. In unusual or urgent circumstances, if the assigned judge is unavailable, the Supervising Judge shall assign a judge to rule on the motion.

**CHAPTER 2
CONFERENCES AND EXHIBITS**

RULE 1205. STATUS CONFERENCE ORDERS

Following any conference held pursuant to rule 5.44.1 of the Rules of Procedure, the assigned judge shall enter an order addressing, as appropriate, the items specified in rule 5.44.1(B) of the Rules of Procedure. Such order, unless and until modified, shall govern all further proceedings. Copies of the order shall be served on all parties who have appeared in the proceeding.

Revised March 1, 2020; November 1, 2020.

RULE 1206. EARLY NEUTRAL EVALUATION CONFERENCE STATEMENTS

Pursuant to rule 5.30 of the Rules of Procedure, the Office of Chief Trial Counsel must submit a copy of the draft notice of disciplinary charges, or other written summary to the judge at least three court days prior to the Early Neutral Evaluation Conference. Each party must also submit the following:

- (a) A brief statement of the case, including the party's settlement position; and
- (b) All available supporting evidence or a proffer of what such evidence would show if the party is requesting consideration of aggravating or mitigating circumstances.

Effective November 1, 2020.

RULE 1207. SETTLEMENT CONFERENCE STATEMENTS

Pursuant to rule 5.52.5 of the Rules of Procedure, each party shall lodge with the court a settlement conference statement at least five days before a scheduled settlement conference. The statement must include:

- (a) A brief statement of facts;
- (b) A brief statement of claims or defenses;
- (c) Key issues or facts in dispute;
- (d) A list of any exhibits or transcripts that are useful to settlement process. These documents should be available at the settlement conference;
- (e) A history of settlement discussions including any offers of settlement made;
- (f) Each party's current settlement position;
- (g) Any pending or anticipated motions; and
- (h) Identification of any additional discovery that may be needed to facilitate settlement.

Effective November 1, 2020.

RULE 1215. DISCOVERY

- (a) **Meet and confer.** Parties must meet and confer in person or by telephone and in good faith to thoroughly discuss (1) any issues regarding discovery; (2) the substance of any contemplated discovery motion; and (3) any potential resolution prior to filing a discovery motion.
- (b) **Discovery motions.** If either party files a discovery motion, such motion must be directed solely to substantive issues requiring resolution by the court. The moving party shall detail in a declaration submitted with its discovery motion the date, duration, participants, and communication method of the meet and confer session. In addition, the declaration shall set forth the matters raised and resolved during the session, as well as the outstanding issues and each party's final proposed resolution on each issue. Failure to strictly comply with this order will result in the striking or denial of the motion.

Effective November 1, 2020.

RULE 1220. PRETRIAL CONFERENCES

One or more pretrial conferences may be held in any proceeding at such time as the assigned judge may order, subject to rule 5.101 of the Rules of Procedure. Unless otherwise ordered by the court, the Clerk shall serve upon all parties a written notice of the date, time, and place of the pretrial conference at least thirty (30) days prior to the conference. The conference may be held in court or by telephone or other appropriate means. The agenda for the pretrial conference shall consist of the matters covered by the Rules of Procedure and the Rules of Practice, including Division II, Chapter 2, and any other matter germane to the proceeding. Each party shall be present or represented at the pretrial conference by counsel having authority with respect to all matters on the agenda, including settlement of the proceeding.

Revised March 1, 2020.

RULE 1224. TRIAL EXHIBITS

- (a) A party who would like to offer into evidence an electronic sound or sound-and-video recording, or any other type of digital file, must lodge the recorded or digital evidence on a flash drive, DVD, or compact disc (CD) and file a transcript of the relevant portions sought to be considered by the court as an exhibit.
- (b) The State Bar Court will not provide technical assistance to any party in the presentation, playback, review, or submission of electronic exhibits. Any equipment required to view and/or listen to electronic exhibits, including laptops, projectors, and DVD/CD players, is the responsibility of the party who presents the evidence.
- (c) **Exhibits lodged for use of the court:** Each party must supply to the courtroom clerk the original exhibits in compliance with rule 5.101.1(F)(1) of the Rules of Procedure. Additionally, each party must lodge one set of its proposed exhibits in paper format, unless otherwise ordered by the court, in compliance with rule 5.101.1(F)(2) of the Rules of Procedure. If a party is exchanging exhibits in electronic form with the opposing party, a courtesy copy of the electronic exhibits must be provided to the court on a USB flash drive. The USB flash drive will not be returned to the submitting party.
- (d) **Exhibits lodged for the use of witnesses:** A party must provide a witness with exhibits in advance of trial that are relevant to the matters for which a party calls that witness to testify about in the case. Failure to provide the witness with such exhibits in advance may result in the exclusion of the witness's testimony regarding those exhibits.

(e) **Inadmissible exhibits:** If an exhibit's admission is denied at trial, the exhibit shall be so marked and remain part of the official court record.

Eff. January 1, 1995. Revised July 1, 1997; January 1, 2001; January 1, 2003; March 1, 2020; November 1, 2020.

RULE 1240. NOTICE OF CONFERENCES

The Clerk shall serve upon all parties a written notice of the date, time, and place of any conference pursuant to this chapter at least ten (10) days prior to the conference unless otherwise ordered by the court.

**CHAPTER 3
PRESENTATION OF EVIDENCE**

RULE 1250. ORDER OF PROOF IN DISCIPLINARY PROCEEDINGS

In disciplinary proceedings, the parties shall present evidence as to culpability prior to presenting evidence as to aggravating or mitigating circumstances, except as ordered by the court. The judge shall not consider evidence as to aggravating or mitigating factors, including a respondent's prior disciplinary record, in determining culpability. However, evidence of a respondent's other acts of misconduct, including his/her disciplinary record, may be received in the culpability phase of a hearing if this evidence is admissible pursuant to Evidence Code section 1101, subdivision (b).

Revised January 1, 2001.

**DIVISION III
REVIEW DEPARTMENT**

**CHAPTER 1
TRANSCRIPT ON REVIEW**

RULE 1311. PROOF OF TRANSCRIPT ORDER

(a) All requests for review filed pursuant to rule 5.151 of the Rules of Procedure must have attached thereto, or be accompanied by:

- (1) In the case of requests for review filed by the Office of Chief Trial Counsel or any division thereof, copies of the completed transcript order form signed by the deputy trial counsel.
- (2) In the case of requests for review filed by any other party, either:

- (A) Copies of the completed transcript order form and of a check, together with a declaration under penalty of perjury stating that the check is in the amount requested by the Clerk for the transcript deposit and that the originals of the transcript order form and check have been delivered to the Clerk; or
 - (B) A motion for a reasonable extension of time to pay the transcript deposit, supported by one or more declarations under penalty of perjury stating:
 - (i) the amount of the transcript deposit requested by the Clerk; (ii) specific facts regarding the party's assets, debts, income, expenses, and possible sources of credit, establishing the party's present inability to pay; and
 - (iii) specific facts establishing that the requested extension of time will be sufficient to permit the party to obtain the necessary funds.
- (b) Requests for review which do not comply with this requirement will not be filed by the Clerk, provided, however, that a request for review which is timely served and submitted for filing, but which is rejected by the Clerk pursuant to this rule, shall be filed, notwithstanding the applicable time limit in rule 5.151(B) or 5.151(E) of the Rules of Procedure, if it is re-served and resubmitted for filing with the proper attachments within ten (10) days after service of the Clerk's rejection notice. The Clerk shall refer to this rule in all rejection notices mandated by this rule.
- (c) The requirement of a transcript and of payment therefor by the party requesting review will not be waived except in the case of matters designated for summary review pursuant to rule 5.157 of the Rules of Procedure.

Revised March 1, 2020.

CHAPTER 2 SUBMISSION

RULE 1333. TIME OF SUBMISSION

- (a) A proceeding pending in the Review Department is submitted when that Department has heard oral argument or has approved a waiver of oral argument, or when the time has passed for filing all briefs and papers, including any supplemental post-argument briefs permitted by that Department, whichever is latest.
- (b) Submission may be vacated only by an order stating the reasons therefor. The order shall provide for resubmission of the proceeding.