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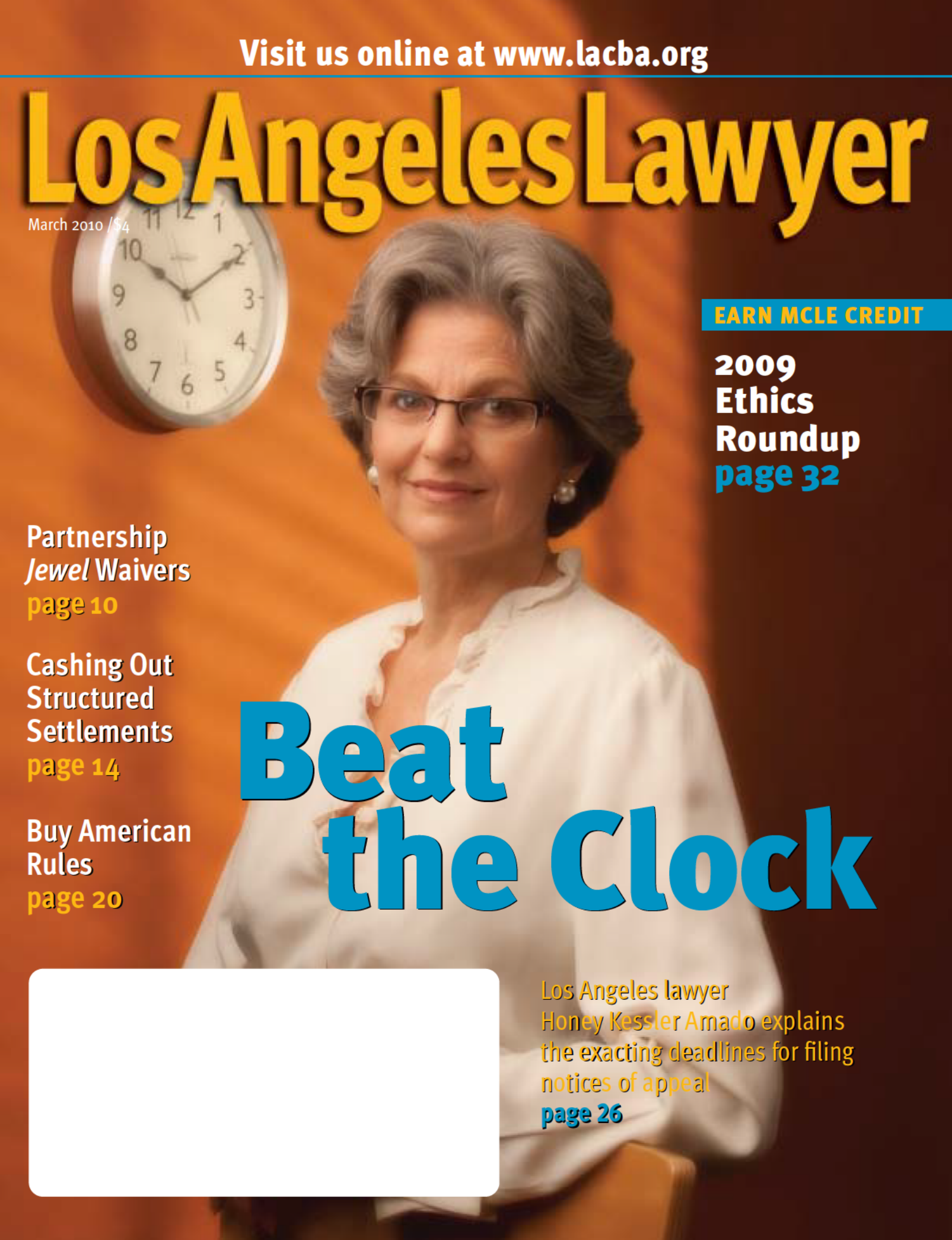

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by Honey Kessler Amado

Beat the CLOCK

The deadlines for filing notices of appeal are unforgiving

FEW THINGS IN PROCEDURAL LAW are as critical or as potentially fatal to an action as the timely filing of a notice of appeal. Not only does a timely notice of appeal vest the court of appeal with jurisdiction[1] but it is also an absolute prerequisite to that court's exercise of jurisdiction.[2] If the notice of appeal is filed after the expiration of the time to appeal, the court is without jurisdiction to proceed and is mandated to dismiss the appeal.[3]

This rule is unforgiving, as illustrated by *In re Hanley's Estate*. In *Hanley's*, the notice of appeal was filed one day late because counsel representing the appellant in her capacity as executrix told the appellant's personal attorney the wrong date on which the appealable order had been filed. The court of appeal said that "it is immaterial whether the misrepresentations concerning the date…were willful or inadvertent, whether the reliance thereon was reasonable or unreasonable, or whether the parties seeking to dismiss [the appeal] are acting in good faith or not."[4]

The time to appeal is governed by Rule 8.104 of the California Rules of Court.[5] The general rule is that the notice of appeal must be filed 1) within 60 days after the superior court clerk mails the party filing the notice of appeal a document titled "notice of entry" of judgment or a file-stamped copy of the judgment ("triggering documents"), showing the date either was mailed,[6] or 2) within 60 days after any party serves on the party filing the notice of appeal either of the triggering documents, accompanied by a proof of service, or 3) within 180 days after entry of judgment.[7] In the absence of service, the date of entry is critical for determining the outside date for filing the notice of appeal (180 days), but when the triggering document is served by the clerk or a party, the date of service—not date of entry—becomes the critical date for determining the timeliness of an appeal.[8]

Service by mail requires strict compliance with the court rules.[9] Thus, service on an incorrect address—indeed, the mere use of an incorrect zip code—will not suffice as legal notice.[10] Similarly, service of an unsigned judgment (which necessarily would not include the file stamp) will not trigger the 60-day period for filing the notice of appeal.[11] If the party filing the notice of appeal was not properly served with one of the triggering

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documents,[12] or absent proof of service of the triggering documents by either a party or the clerk, the party seeking to appeal will have 180 days from entry of the judgment or order within which to appeal.[13]

When a party is represented by several cocounsel, service on one of the counsel and not the others will suffice as the required notice.[14] One important caveat: If the clerk or counsel serve the triggering document by mail, Code of Civil Procedure Section 1013 will not expand the time within which to appeal.[15]

To satisfy Rule 8.104(a), the clerk must mail a single, self-contained document—a notice of entry or a file-stamped copy of the judgment or appealable order—which shows the date of mailing of the document. If the judgment is not file stamped or the minute order containing the court's ruling is not titled "notice of entry," the document will not operate to commence the 60-day appeal period.[16] As the California Supreme Court has noted, "[T]he rule does not require litigants to glean the required information from multiple documents or to guess, at their peril, whether such documents in combination trigger the duty to file a notice of appeal. Neither parties nor appellate courts should have to speculate about jurisdictional time limits."[17]

Thus, in one case, a document titled "Court Order re Stipulated Judgment" that did not also bear the title "Notice of Entry of Judgment (or Order)" did not commence the 60-day time period within which to appeal under Rule 8.104(a)(1).[18] Moreover, in another decision, a 14-page minute order that contained the ruling on a motion but did not state under "nature of proceedings" that the minute order was a ruling on the motion until page 13, at which point the document was defined as a "clerk's certificate of mailing/ [¶] notice of entry of order," did not comply with the requirement that the triggering document must be titled "notice of entry" and did not commence the 60-day appellate clock. Placing the critical language on page 13 of the minute order was not the same as titling the document with the mandated title.[19]

Within reason, Rule 8.104 must be read literally and stand "without embroidery."[20] But the rule has been brought into modernity, albeit in small steps. Thus, when Rule 8.104(a)(1) requires the clerk to "mail" the triggering document, "mail" refers to the use of the U.S. Postal Service and does not encompass e-mail.[21] However, when Rule 8.104(a)(2) mentions "service" by a party, service is broader than mail and will include delivery by fax and e-mail upon agreement of the parties.[22] However, the e-mail being served must be a copy of the actual triggering document, not a link to the document.[23]

Under Rule 8.104(d), the date of entry of a judgment is the date the judgment is filed or the date it is entered in the judgment book. Case law has interpreted this to require only that the judgment be signed by the judge and file stamped by the clerk. It does not require that the judgment be entered in the registry of actions.[24] In Los Angeles, where a judgment book is not maintained, entry of the judgment occurs upon the filing of the document.[25]

For an appealable order, entry is the date that the order is entered in the permanent minutes. However, if the minute order directs that a written order be prepared, the entry date for appellate purposes is the date on which the signed order is filed.[26] The operative words in the applicable court rule are "minute order directs"—not if another rule directs preparation of the order, and not if counsel unilaterally prepares the order. If a proposed order is submitted pursuant to Rule 3.1312, which requires a party who prevails on a motion to prepare and submit a proposed order, that written order will not supplant the original minute order as the triggering document. Rule 3.1312 does not abrogate Rule 8.104(d)(2), which requires that, unless a written order is expressly directed or required by the minute order, the time to appeal runs from the minute order, not from the written order.[27] Thus, for the order required by Rule 3.1312 to begin the appellate clock, the minute order must direct that the Rule 3.1312 order be prepared.

Similarly, a written order that is gratuitously prepared by counsel without an express direction in the minute order is not the operative order for appellate purposes and will not start the appellate clock.[28] If an appealable order is not entered in the minutes, the entry date is the date the signed order is filed, whether or not the minute order directs preparation of a written order.[29]

Not only does a late notice of appeal fail to vest jurisdiction in the court of appeal but also writ relief will not be available if the claim could have been raised, but was not, by a timely appeal.[30] However, unlike a late appeal, which is fatal, a premature appeal may be treated as timely under some circumstances. Pursuant to Rule 8.104(e)(1), if the notice of appeal is filed after the judgment is rendered but before it is entered, the appeal is valid. It will be treated as if it were filed after entry of judgment. Under Rule 8.104(e)(2), if the notice of appeal is filed after the court has announced its intended decision but before the court has rendered the judgment, the reviewing court may treat the notice of appeal as being filed immediately after entry of the judgment.[31] If the notice of appeal is filed after the filing of the minute order but before the filing of the written order required by the minute order, the notice will be deemed to have been filed after the written order.[32]

However, if the notice of appeal is filed before the court announces its intended decision, the notice of appeal is not valid and cannot be treated as a premature notice.[33] For example, if the notice of appeal is filed after a default was entered but before the default prove-up, the appellant is not entitled to relief under Rule 8.104(e) because the judgment had not been rendered.[34]

Extending the Time to Appeal

Rule 8.108 extends the time to appeal for cross-appeals and certain motions—specifically, motions for new trial or to vacate a judgment or order, for judgment notwithstanding the verdict (JNOV), and for reconsideration. Each of these motions is treated differently for the purpose of calculating the time within which to appeal; thus, one cannot rely on the rules applicable to one motion to determine the time to appeal from another of the motions. In no event can Rule 8.108 operate to shorten the time allowed to appeal under Rule 8.104.[35] (Worksheets for calculating the time allowed for filing a notice of appeal after each of the Rule 8.108 motions are available online at http://www.lacba.org/lalawyer/appellatetimelines.)

For all the motions, Rule 8.108 uses the word "valid," which means that a motion must comply with all procedural requirements regarding its components and its grounds.[36] For example, in *Branner v. Regents of the University of California*, a motion to reconsider was deemed invalid because the moving party neglected to include the requisite declaration in support of his relief with his moving papers. His attempt to cure the problem by submitting the declaration along with his reply documents was insufficient to render the motion valid.[37] The court noted that Rule 8.108 "does not appear to countenance a piecemeal filing of a motion.…[A] single, complete, valid motion must be filed—not one that is later assembled from constituent parts like some Frankenstein monster."[38] In *Payne v. Rader*, a motion to vacate was declared invalid because it did not contain a recognized ground for that type of motion.[39]

Furthermore, "valid" means timely. An untimely motion is an invalid motion, and an invalid motion will not extend the time to appeal.[40] This is so even if the trial court believes it has jurisdiction to act.[41] When a motion is untimely or otherwise invalid and cannot extend the time to appeal, the court of appeal expects a litigant to abandon the invalid motion and file a notice of appeal to protect the appellate court's jurisdiction.[42]

Failure to do so will result in the appeal being dismissed.

The withdrawal of a Rule 8.108 motion is equivalent to a denial and will be treated as such for Rule 8.108 calculation purposes.[43] To extend the time to appeal, the ruling on the Rule 8.108 motion need not be file stamped or titled "notice of entry of order," as required for appealable orders under Rule 8.104.[44] However, the order or notice of ruling must show a date of mailing if sent by the clerk and must be accompanied by a proof of service if served by a party.[45]

Motion for New Trial. Rule 8.108(b) extends the time to appeal from a judgment upon the service and filing of a valid notice of intention to move for a new trial.[46] If the motion for a new trial is denied, the time is extended to the earliest of 1) 30 days after the superior court clerk mails, or a party serves, an order denying the motion or a notice of entry of that order, 2) 30 days after denial of the motion by operation of law, or 3) 180 days after entry of judgment.[47] If any party serves an acceptance of a conditionally ordered additur or remittitur of damages pursuant to a trial court finding of excessive or inadequate damages, the time to appeal is extended until 30 days after the date the party serves the acceptance.[48]

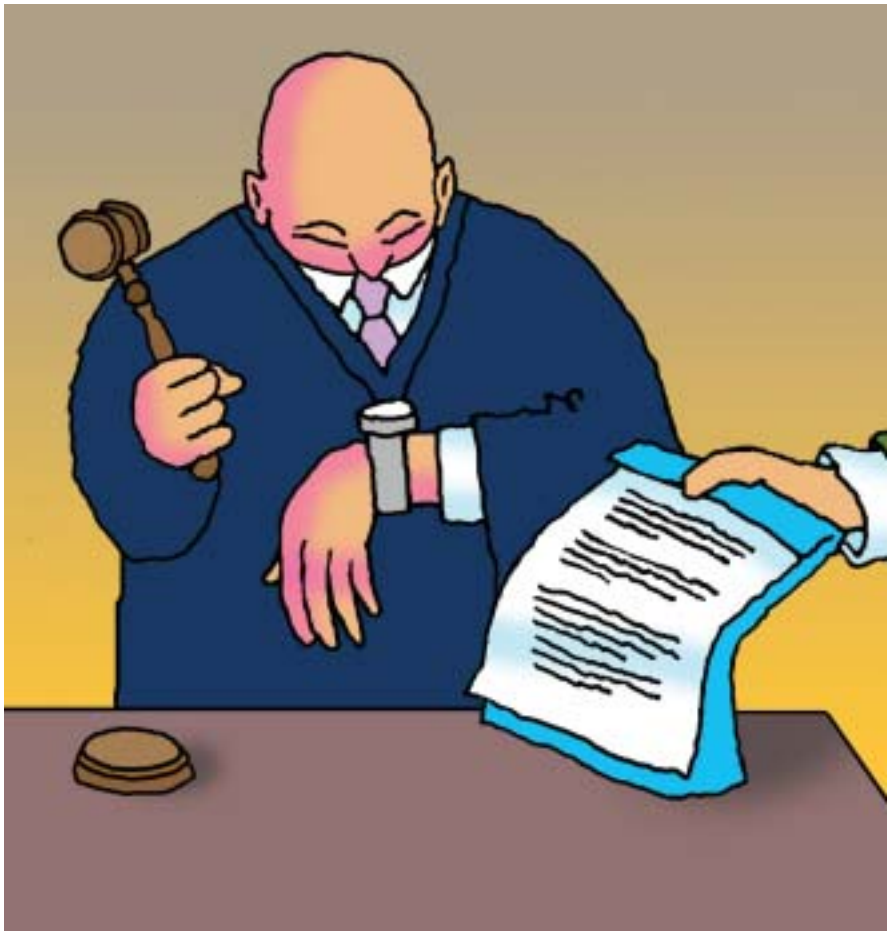
Code of Civil Procedure Section 660 requires that the trial court rule on a motion for new trial within 60 days from the date of mailing by the clerk or service by a party of the notice of entry of judgment, whichever is earliest—and if no notice is given, then within 60 days of the first notice of intention to move for a new trial. Code of Civil Procedure Section 1013 does not extend the time within which the trial court may rule on the motion.[49] Therefore, at the expiration of the controlling 60 days, if the court has not ruled on the motion, it is deemed denied by operation of law, and the trial court has no further jurisdiction to act on it.[50] Once the motion is denied by operation of law, the time within which to appeal begins to run under Rule 8.108(b)(1). Even if the trial court thereafter enters an order denying the motion, that late order will not commence the appellate clock, because the court's jurisdiction to rule on the motion expired, and the order is an invalid order.[51]

Motion to Vacate. Rule 8.108(c) extends the time to appeal when any party, within the time to appeal from the judgment allowed by Rule 8.104, serves and files a valid notice of intention to move—or a valid motion—to vacate the judgment. The time to appeal is extended for all parties until the earliest of 1) 30 days after the superior court clerk mails, or a party serves, an order denying the motion or a notice of entry of that order, 2) 90 days after the first notice of intention to move or the motion itself is filed, or 3) 180 days after entry of judgment.

The wrinkle with a motion to vacate is that it must be filed within the time allowed to appeal from the underlying order. For example, a motion to vacate filed more than 60 days after the notice of entry of judgment was mailed by the clerk did not extend the time for filing the notice of appeal from the underlying judgment.[52] Thus, notwithstanding the time frames allowed by Code of Civil Procedure Sections 473(b) (generally, within a reasonable time, not exceeding six months) and 663a (generally, within 15 days of mailing of notice of entry or within 180 days, whichever is earliest), Rule 8.104 will control the time for filing the motion if it will affect the time to appeal from the underlying judgment.

An order granting a motion to vacate or set aside operates to vacate the underlying judgment. Once a judgment is vacated, it ceases to exist, and there is no appealable order.[53] Moreover, parties cannot appeal from a vacated judgment. However, if, upon reconsideration of the motion to vacate, the trial court reverses itself and denies the set aside, the effect is to reinstate the judgment, and the appellate clock begins anew. The clock begins from the date the judgment is reinstated pursuant to entry of the order denying the motion to vacate upon reconsideration.[54]

Motion for Judgment Notwithstanding the Verdict. Rule 8.108(d) extends the time to appeal from a judgment when any party serves and files a valid motion for JNOV and the motion is denied. The time is extended for all parties until the earliest of 1) 30 days after the superior court clerk mails, or a party serves, an order denying the motion or a notice of entry of that order, 2) 30 days after denial of the motion by operation of law, or 3) 180 days after entry of judgment.[55] The order denying the motion for JNOV is itself separately appealable,[56] and Rule 8.104 governs the time to appeal from that order.[57]



Motions for JNOV and for a new trial can be filed in tandem. Indeed, in 1961, the Code of Civil Procedure was amended to synchronize the times for filing and ruling on the two motions to eliminate the requirement that aggrieved litigants elect between the two remedies. But the motions are not the same,[58] and ultimately they can lead to different paths and may be guided by different timetables.

The filing of a motion for JNOV does not extend the time within which to file a motion for new trial, but the trial court may not rule on the JNOV motion until the time to file a motion for new trial has expired.[59] The power of the court to rule on the motion

for JNOV does not extend beyond the last date on which the court has the power to rule on a motion for new trial—a time set by Code of Civil Procedure Section 660. If the court has not ruled on the motion for JNOV before the date on which it loses the power to rule, the motion will be deemed denied by operation of law.[60] This date is critical to determining the time within which to appeal from the ruling on the motion. A party may appeal directly from an order denying a motion for JNOV; the time to appeal is governed by Rule 8.104.[61]

If a party files a motion for JNOV and a motion for new trial, and the trial court denies both, the party may appeal from the underlying judgment and from the ruling on the motion for JNOV.[62] The time within which to appeal from the judgment is governed by Rule 8.104, as affected by Rule 8.108(b), and the time within which to appeal from the order denying the motion for JNOV also is governed by Rule 8.104, as dictated by Rule 8.108(d)(2). If it appears to the court of appeal that the motion for JNOV was wrongly denied, the appellate court may order that the judgment be entered either through its review of the underlying judgment or its review of the ruling on the motion for JNOV.[63]

If a party files a motion for JNOV and a motion for new trial, and the motion for new trial is granted but the motion for JNOV is denied, the party seeking the JNOV may appeal directly from the order denying the motion for JNOV.[64] If the court grants both the motion for JNOV (or on its own motion directs entry of a JNOV) and the motion for new trial, the order granting a new trial will be effective only if, on appeal, the judgment is reversed and the order granting a new trial is not appealed or, if appealed, is affirmed.[65] Thus, when a party is aggrieved by the granting of motions for JNOV and a new trial, it behooves that party to appeal from both orders.

If a party files only a motion for JNOV and does not file a motion for new trial, the time for the court to rule on the motion for JNOV will be the earliest of 60 days from the mailing of the judgment or notice of entry of judgment by the clerk or 60 days from service of the triggering document by a party, as outlined in Code of Civil Procedure Section 660.[66] The filing of a motion for JNOV will not be treated as the equivalent of a notice of intention to move for a new trial for the purposes of calculating the time within which the trial court must rule on the motion for JNOV.[67] A denial by operation of law may be critical to determining the time within which to appeal from a ruling on a motion for JNOV, so correctly calculating the length of the trial court's jurisdiction to act is imperative.

Motion for Reconsideration. Rule 8.108(e) extends the time to appeal when a party serves and files a valid motion for reconsideration under Code of Civil Procedure Section 1008(a). This extension of time to appeal specifically does not apply to a motion for reconsideration brought on the court's own motion pursuant to Code of Civil Procedure Section 1008(d).[68] Rule 8.108(e)—which became effective January 1, 2002—resolved the split of authority on whether a motion for reconsideration would extend the time within which to file the notice of appeal.[69] The rule extends the time but only upon the filing of a valid motion for reconsideration.

A motion for reconsideration is not valid if it is filed after the final judgment is signed because entry of a judgment divests the trial court of the power to rule on the motion.[70] After the judgment is entered, if the court does rule on the motion to reconsider, its ruling will not operate to extend the time within which to appeal.[71] Even if the court believes itself empowered to rule on the motion, its beliefs or findings cannot extend the time to appeal.[72]

Under some circumstances showing "extremely good cause," a motion for reconsideration will be construed as a motion for new trial, which may be filed after entry of judgment.[73] In one case, the court treated a motion for reconsideration as a motion for new trial because the court itself had suggested that such a procedure would be appropriate.[74] In another case, which involved earthquake-insurance coverage, the trial court granted a demurrer on several grounds, including the statute of limitations, notwithstanding that a law extending the statute of limitations on earthquake-related suits was awaiting the governor's signature. The court invited the plaintiff to file a motion for reconsideration once the bill was signed. In fact, the bill was signed one day after the hearing on the defendant insurance company's demurrer. The plaintiff's motion, titled a motion for reconsideration, was truly one for a new trial.

In the motion she requested that her matter be restored to the court's trial calendar and argued error in law by the trial court regarding the statute of limitations.[75] The court of appeal believed that the plaintiff either would have brought the correct motion or would have appealed from an unfavorable ruling on the demurrer had the court not invited a motion for reconsideration and, thus, treated her motion as one for a new trial.[76] Such circumstances are very limited, and generally counsel are held to the labels they attach to their motions and to the remedies they elect.[77]

Cross-Appeal. Under Rule 8.108(f), if a party files a timely notice of appeal, the time for any other party to appeal from the same judgment or order is extended until 20 days after the superior court clerk mails notification of the first appeal. However, this extension only applies when the first appeal is timely. Thus, if the first appeal is untimely, it cannot operate to create a 20-day period within which to file a cross-appeal.[78]

The *Branner* case is a cautionary tale. Appellant Branner miscalculated his time to appeal—he relied on an invalid motion to reconsider to extend his time to appeal. The respondents filed their notice of cross-appeal within 20 days of Branner's notice of appeal, but the cross-appeal was also untimely. The time to appeal for all parties began from mailing or service of the appealable order. As the time to appeal could not be extended by an invalid motion for reconsideration, so the time to cross-appeal could not be extended by an invalid—that is, untimely—notice of appeal.[79]

The right to appeal is entirely statutory, and the time to appeal is strictly controlled by court rules. A late filing bars entry into the court of appeal. It prevents the court from exercising jurisdiction—either to give relief from the error or to address the merits of the case. Few other deadlines will cause counsel to sit for long hours with worksheets and calendars to determine the correct final date for filing—and few other missed deadlines will be so utterly irredeemable. ■

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[1] Adoption of Alexander S., 44 Cal. 3d 857, 864 (1988).

[2] Ramon v. Aerospace Corp., 50 Cal. App. 4th 1233, 1239 (1996).

[3] CAL. R. CT. 8.104(b); People v. Lyons, 178 Cal. App. 4th 1355, 1360 (2009). The only exception is when the court is closed due to a natural disaster. CAL. R. CT. 8.66. *See also* In re Hanley's Estate, 23 Cal. 2d 120, 122 (1943).

[4] Hanley's Estate, 23 Cal. 2d at 122; *see also* Hollister Convalescent Hosp. v. Rico, 15 Cal. 3d 660 (1975). The dissent in *Hanley's Estate* pointed out that a rigid rule against late filings would preclude any remedy if the messenger taking the notice of appeal to the court clerk's office were kidnapped or if "the courthouse and all its occupants were destroyed by…earthquake." 23 Cal. 2d at 127 (J. Carter, dissenting). How prescient. After the Northridge earthquake of 1994, when courthouses—and clerk's offices—in Los Angeles closed down, the Judicial Council modified the California Rules of Court to extend the time to file a notice of appeal in the event of a natural disaster. *See* CAL R. CT. 8.66.

[5] All further references to rules are to the California Rules of Court.

[6] Adaimy v. Ruhl, 160 Cal. App. 4th 583, 588 (2008); Alan v. American Honda Motor Co., Inc., 40 Cal. 4th 894, 903 (2007).

[7] The word "judgment" includes any judgment or appealable order. CAL. R. CT. 8.10(4), 8.104(f).

[8] Ramon v. Aerospace Corp., 50 Cal. App. 4th 1233, 1238-39 (1996); *see also* Casado v. Sedgwick, Detert, Moran & Arnold, 22 Cal. App. 4th 1284, 1285 (1994).

[9] Moghaddam v. Bone, 142 Cal. App. 4th 283, 289 (2006).

[10] *Id*. at 288.

[11] Glasser v. Glasser, 64 Cal. App. 4th 1004, 1010 (1998).

[12] Moghaddam, 142 Cal. App. 4th at 288.

[13] 20th Century Ins. Co. v. Superior Court (Ahles), 90 Cal. App. 4th 1247, 1262 (2001).

[14] Adaimy v. Ruhl, 160 Cal. App. 4th 583, 586-87 (2008).
[15] Casado v. Sedgwick, Detert, Moran & Arnold, 22 Cal. App. 4th 1284, 1286 (1994).
[16] CAL. R. CT. 8.104(a)(1), (2); Hughey v. City of Hayward, 24 Cal. App. 4th 206, 210 (1994); Cuenllas v. VRL Int'l, Ltd., 92 Cal. App. 4th 1050, 1054 (2001).
[17] Alan v. American Honda Motor Co., Inc., 40 Cal. 4th 894, 905 (2007) (internal punctuation omitted); *see* Bi-Coastal Payroll Servs., Inc. v. California Ins. Guarantee Ass'n, 174 Cal. App. 4th 579, 586 (2009).
[18] Bi-Coastal Payroll Servs., Inc., 174 Cal. App. 4th at 586.
[19] Sunset Millennium Assocs., LLC v. Le Songe, LLC, LHO Grafton Hotel, L.P., 138 Cal. App. 4th 256, 260 (2006).
[20] *Id.*
[21] Insyst, Ltd. v. Applied Materials, 170 Cal. App. 4th 1129, 1135 (2009).
[22] For facsimile service, *see* CODE CIV. PROC. §1013(e); CAL. R. CT. 2.306(a)(1); e-mail service, *see* CODE CIV. PROC. §1010.6(a)(6), CAL. R. CT. 2.260(a)(1); Insyst, Ltd., 170 Cal. App. 4th at 1139. *See also* Benjamin G. Shatz, *E-Notice Something?*, Focus Column, L.A. DAILY J., Feb. 27, 2009.
[23] Insyst, Ltd., 170 Cal. App. 4th at 1140.
[24] Ten Eyck v. Industrial Forklifts, 216 Cal. App. 3d 540, 544 (1989).
[25] *See* CAL. R. CT. 8.104(d)(1); Filipescu v. California Hous. Fin. Agency, 41 Cal. App. 4th 738, 741 (1995).
[26] CAL. R. CT. 8.104(d)(2); Hughey v. City of Hayward, 24 Cal. App. 4th 206, 209 (1994).
[27] Cuenllas v. VRL Int'l, Ltd., 92 Cal. App. 4th 1050, 1053-54 (2001); Hughey, 24 Cal. App. 4th at 209-10.
[28] Cuenllas, 92 Cal. App. 4th at 1053.
[29] CAL. R. CT. 8.104(d)(3).
[30] Adoption of Alexander S., 44 Cal. 3d 857, 865 (1988).
[31] CAL. R. CT. 8.104(e)(2).
[32] Matera v. McLeod, 145 Cal. App. 4th 44, 59 (2006); Davaloo v. State Farm Ins. Co., 135 Cal. App. 4th 409, 413, n.7 (2005).
[33] First Am. Title Co. v. Mirzaian, 108 Cal. App. 4th 956, 958, 960 (2003).
[34] *Id.* at 958.
[35] Matera, 145 Cal. App. 4th at 57; Rolen v. Rhine, 117 Cal. App. 3d 23, 26 (1981).
[36] Branner v. Regents of the Univ. of Cal., 175 Cal. App. 4th 1043, 1047, 1048 (2009); Payne v. Rader, 167 Cal. App. 4th 1569, 1574-75 (2008).
[37] Branner, 175 Cal. App. 4th at 1048-49.
[38] *Id.*
[39] Payne, 167 Cal. App. 4th at 1574-75.
[40] Ramon v. Aerospace Corp., 50 Cal. App. 4th 1233, 1236-37 (1996).
[41] Wenzoski v. Central Banking Sys., Inc., 43 Cal. 3d 539, 542 (1987).
[42] Ten Eyck v. Industrial Forklifts, 216 Cal. App. 3d 540, 545-46 (1989).
[43] Rolen v. Rhine, 117 Cal. App. 3d 23, 26 (1981).
[44] Adaimy v. Ruhl, 160 Cal. App. 4th 583, 588 (2008).
[45] CAL. R. CT. 8.108(g).
[46] Adaimy, 160 Cal. App. 4th at 586.
[47] CAL. R. CT. 8.108(b)(1).
[48] CAL. R. CT. 8.108(b)(2).
[49] Westrec Marina Mgmt. v. Jardine Ins. Brokers Orange County, Inc., 85 Cal. App. 4th 1042, 1049 (2000).
[50] *Id.* at 1048.
[51] *See id.* at 1048-49.
[52] Marriage of Eben-King & King, 80 Cal. App. 4th 92, 108, 109, 115 (2000).
[53] Matera v. McLeod, 145 Cal. App. 4th 44, 57-58 (2006).
[54] *Id.* at 58-59.
[55] CAL. R. CT. 8.108(d)(1).
[56] CODE CIV. PROC. §904.1(a)(4).
[57] CAL. R. CT. 8.108(d)(2). The time to appeal from the order denying the motion for JNOV is subject to extension by the filing of a valid motion for reconsideration. CAL. R. CT. 8.108(d)(2).
[58] *See* Pratt v. Vencor, Inc., 105 Cal. App. 4th 905 (2003).
[59] CODE CIV. PROC. §629.
[60] *Id.*
[61] CAL. R. CT. 8.108(d)(2).
[62] CODE CIV. PROC. §§629, 904.1(a)(4).
[63] CODE CIV. PROC. §629.
[64] CODE CIV. PROC. §§629, 904.1(a)(4).
[65] CODE CIV. PROC. §629.
[66] *See* CODE CIV. PROC. §§629, 660; Pratt v. Vencor, Inc., 105 Cal. App. 4th 905, 910 (2003).
[67] Pratt, 105 Cal. App. 4th at 911.
[68] Advisory Committee Comment to CAL. R CT. 8.108(e).
[69] Safeco Ins. Co. of Ill. v. Architectural Facades Unlimited, Inc., 134 Cal. App. 4th 1477, 1480-81 (2005).
[70] *Id.* at 1482; Ramon v. Aerospace Corp., 50 Cal. App. 4th 1233, 1236, 1238 (1996).
[71] Ramon, 50 Cal. App. 4th at 1236; Ten Eyck v. Industrial Forklifts, 216 Cal. App. 3d 540, 545 (1989).
[72] Ten Eyck, 216 Cal. App. 3d at 546.
[73] 20th Century Ins. Co. v. Superior Court (Ahles), 90 Cal. App. 4th 1247, 1259-60 (2001).
[74] Passavanti v. Williams, 225 Cal. App. 3d 1602 (1990).
[75] 20th Century Ins. Co., 90 Cal. App. 4th at 1261.
[76] *Id.*
[77] *Id.* at 1260.
[78] Branner v. Regents of the Univ. of Cal., 175 Cal. App. 4th 1043, 1050 (2009).
[79] *Id.*