

8 California Procedure (5th), Extraordinary Writs

I. NATURE AND TYPES OF EXTRAORDINARY WRITS

A. In General.

- 1. [§1] Ordinary and Extraordinary Writs.**
- 2. [§2] Abolition of Common Law Writs.**
- 3. [§3] Constitutional Relaxation of Common Law Restrictions.**
- 4. [§4] Constitutional Consolidation of Trial Courts.**

B. Certiorari: Review of Judicial Action.

- 1. [§5] In General.**
- 2. Comparison to Other Remedies.**
 - (a) [§6] Appeal.**
 - (b) [§7] Equitable Relief and Recall of Remittitur.**
 - (c) [§8] Prohibition.**
 - (d) [§9] Mandamus.**
 - (e) [§10] Habeas Corpus.**
 - (f) Special Types of Review.**
 - (1) [§11] State Bar Court Decisions.**
 - (2) Agricultural Labor Relations Board Decisions.**
 - (aa) [§12] In General.**
 - (bb) [§13] Effect of Constitutional Limitations.**
 - (cc) [§14] Summary Denial of Petition by ALRB.**
 - (3) [§15] Juvenile Court Orders Terminating Parental Rights.**
 - (4) [§16] Trial Court Orders for Disclosure Under Public Records Act.**
 - (5) [§17] Other Proceedings.**

C. Prohibition: Restraint of Judicial Action.

- 1. [§18] In General.**
- 2. Comparison to Other Remedies.**
 - (a) [§19] Mandamus.**
 - (b) [§20] Supersedeas.**
 - (c) [§21] Habeas Corpus.**
 - (d) [§22] Prohibitory Injunction.**

D. Mandamus: Compulsion of Ministerial Duty.

- 1. [§23] In General.**
- 2. Comparison to Other Remedies.**
 - (a) [§24] Mandatory Injunction.**
 - (b) [§25] Quo Warranto.**
 - (c) [§26] Declaratory Relief.**

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- 1. [§27] In General.**
- 2. [§28] Action by Attorney General.**
- 3. [§29] Action on Application of Private Person.**
- 4. [§30] Action by Local Legislative Body.**

F. [§31] Discretionary Issuance of Prohibition or Mandamus.

G. [§32] Review of Administrative Decisions.

II. CONDITIONS FOR ISSUANCE OF CERTIORARI

A. Completed Judicial Act.

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(a) [§33] In General.

(b) Nonappealable Judgments or Orders.

(1) [§34] In General.

(2) [§35] Contempt Orders.

(3) [§36] Probate Orders.

(4) [§37] Other Orders.

2. [§38] Legislative Acts Are Not Reviewable.

3. [§39] Ministerial Acts Are Not Reviewable.

4. [§40] Act Must Be Completed.

B. [§41] Lack or Excess of Jurisdiction.

C. No Appeal or Other Adequate Remedy.

1. Remedy by Appeal.

(a) [§42] General Rule.

(b) [§43] Remedy Lost by Neglect.

(c) [§44] Remedy Lost Without Fault.

(d) [§45] Appeal to Superior Court.

2. [§46] Review on Later Appeal.

3. [§47] Other Adequate Remedy.

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2. [§49] Act Must Be Threatened.

3. Act Must Not Be Completed.

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B. [§52] Lack or Excess of Jurisdiction.

C. No Other Adequate Remedy.

1. In General.

(a) [§53] Nature of Condition.

(b) [§54] Question of Fact.

(c) [§55] Effect of Respondent's Acquiescence.

(d) [§56] Effect of Alternative Writ.

(e) [§57] Effect of Order To Show Cause.

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(b) Appeal as Adequate Remedy.

(1) [§59] Direct Appeal With Stay.

(2) [§60] Direct Appeal Is "Speedy" Remedy.

(c) Appeal as Inadequate Remedy.

(1) Direct Appeal But Undue Hardship.

(aa) [§61] In General.

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(cc) [§63] Other Kinds of Hardship.

- (2) **No Direct Appeal.**
 - (aa) **[\$64] In General.**
 - (bb) **[\$65] No Jurisdiction of Subject Matter.**
 - (cc) **[\$66] Excess of Jurisdiction.**
- (3) **Public Interest in Prompt Decision.**
 - (aa) **[\$67] Constitutional or Statutory Interpretation.**
 - (bb) **[\$68] Threatened Public Injury.**
 - (cc) **[\$69] Issue of General Importance: Review Granted.**
 - (dd) **[\$70] Issue of General Importance: Review Denied.**

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- (a) **[\$71] In General.**
- (b) **[\$72] Order Enforceable by Contempt Proceedings.**
- (c) **[\$73] Trial Without Jurisdiction of Person.**

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- 1. **[\$74] In General.**
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 - (b) **No Beneficial Interest in Petitioner.**
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 - (2) **[\$77] Minority Member of Administrative Agency.**
 - (c) **[\$78] Beneficial Interest of Labor Union.**
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 - (a) **[\$79] No Present Duty.**
 - (b) **No Ministerial Duty.**
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 - (2) **[\$81] Act Contrary to Law.**
 - (c) **[\$82] No Present Ability To Perform.**
 - (d) **[\$83] Effect of Respondent's Acquiescence.**
- 4. **[\$84] Exception: Public Interest.**
- 5. **Illustrations: Acts of Administrative Agencies.**
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 - (2) **[\$86] Taxing Officials.**
 - (3) **[\$87] Election Officials.**
 - (4) **[\$88] Other Local Officials.**
 - (5) **[\$89] Restoration of Office or Employment.**
 - (6) **Allowance or Payment of Claim.**
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 - (2) **[\$93] Controlling Exercise of Legislative Powers.**
 - (3) **[\$94] Compelling Exercise of Discretion.**
 - (4) **[\$95] Controlling Abuse of Discretion.**
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 - (bb) [§107] Compelling Leave To File or Amend Pleading.
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 - (bb) [§111] Exercise of Discretion in Decision.
 - (7) Judgment.
 - (aa) [§112] Entry of Judgment.
 - (bb) [§113] Summary Judgment.
 - (cc) [§114] Enforcing or Vacating Judgment.
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1. In General.

- (a) [§116] Nature of Condition.
- (b) [§117] Question of Fact.
- (c) [§118] Effect of Respondent's Acquiescence.
- (d) [§119] Effect of Alternative Writ.
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- (a) [§122] Remedy Is Normally Adequate.
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- (c) [§124] Mandamus Prohibited by Statute.

3. [§125] Remedy by Motion.

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- (a) Direct Appeal as Adequate Remedy.
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 - (4) [§130] Other Orders After Final Judgment.

- (b) Appeal as Inadequate Remedy.**
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 - (4) Public Interest in Prompt Decision.**
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- 2. Main Case Within Different Appellate Jurisdiction.**
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 - (b) [§139] Scope of Rule.**
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- 3. [§150] Exception: Public Interest.**

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 - (1) [§243] Theory: Prohibiting Enforcement of Order.**
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