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# "One Shot" Appeals

**When courts interpret ambiguous orders as limiting or eliminating the right to appeal, an appellant may lose the opportunity for appeal all together, as recently occurred in *State Farm General Insurance Co. v. Lara***

A civil litigant's right to appeal from a final judgment is well-established under California law.[1] Conversely, with certain clearly defined and limited exceptions, a litigant cannot appeal from an interlocutory order.[2] Most interlocutory orders are reviewable only on appeal from the final judgment.[3]

California also follows the "one shot" rule.[4] When an interlocutory order is appealable, the "appeal must be taken or the right to appellate review is forfeited."[5] Stated differently, on appeal from a final judgment, the appellate court cannot review an interlocutory order from which an appeal could have been but was not taken.[6]

Together, these rules can create uncertainties in cases in which a party combines a petition for writ of administrative mandate with a civil complaint for other relief. When the court enters an order disposing of the writ petition without mentioning the other claims for relief, does the aggrieved party's time to appeal run from the date of entry of the order, or may the party safely await entry of a final judgment and then obtain review of the interlocutory order on appeal from the final judgment?

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Too Early
Too Late
Just Right?

The appellate courts have not provided clear guidance on this question. As a result, an aggrieved party often cannot know whether to appeal promptly, at the risk of having the appeal dismissed as premature, or to appeal later after entry of judgment, at the risk of having acted too late and, under the "one shot" rule, losing the right to appellate review of the order disposing of the writ petition. The California Supreme Court has yet to speak to this issue. That court recently denied review in a case raising the issue, though two justices voted to grant review.[7]

## Clarity and Certainty

Appellate jurisdiction is statutory.[8] Under the California Rules of Court, in most cases, the door to appeal opens when the trial court enters a final judgment.[9] The "[n]ormal time" to appeal runs from service of notice of entry of the judgment or, absent such notice, from entry of the judgment itself.[10]

Under California Rule of Court 8.104(b), the time for filing a notice of appeal cannot be extended, and a late notice is ineffective to confer appellate jurisdiction.[11] Given the potentially fatal legal consequences of failing to file a timely notice of appeal, California courts have long recognized the need "for clarity in rules governing the time within which a party must file a notice of appeal and the effect on the aggrieved party when an appellate court holds the notice of appeal untimely."[12] Courts also have acknowledged the unfairness and difficulties that can arise when unclear rules force litigants to guess when or whether a trial court order is appealable.[13] Rules governing appealability and the time to appeal should be clear and unambiguous. Clear rules "reduce both the temptation to file dilatory appeals and the compulsion to file protective ones."[14]

On their face, the California Rules of Court and Code of Civil Procedure provide reasonably clear guidance on the timing for most appeals.[15] In application, however, uncertainties sometimes arise. The courts have the opportunity to step in to fill the gaps.[16] One such gap in the statutory scheme the courts have yet to clearly fill concerns the appealability of an order disposing of a petition for writ of administrative mandate that is combined with a civil complaint for other relief, which herein is called a "combined pleading."

Finality is a matter of substance, not labels.[17] An order or judgment is final when nothing "'"further in the nature of judicial action on the part of the court is essential to a final determination of the rights of the parties."'"[18] Conversely, an order or judgment that leaves a cause of action pending is not final or appealable.[19]

A petition for writ of administrative mandate is a "'special proceeding of a civil nature.'"[20] When a writ petition is filed as a standalone pleading, an order disposing of the petition constitutes a final judgment in the special proceeding and is immediately appealable.[21] It is not unusual, however, for the petitioner to combine a writ petition with a civil complaint seeking other relief.[22]

In the combined pleading context, whether an order disposing of the writ petition is immediately appealable turns on whether the order finally resolves the entire dispute between the parties or only the writ petition, leaving other claims to be decided. If an order resolves all claims, it is treated as a final judgment and is immediately appealable.[23] On the other hand, if the order resolving the writ petition leaves other claims unresolved, it cannot be appealed until a final judgment has been entered on the remaining claims.[24]

These rules function well enough when the court's order clearly reflects the court's intent. The order on its face may indicate that the court intends it to finally dispose of all claims and to leave nothing more for the court to determine.[25]

However, uncertainty arises when 1) the petitioner/plaintiff files a combined pleading, 2) the court enters an order adjudicating the writ petition, but 3) the court does not make clear whether it intended to leave other causes of action for later resolution or to resolve them by the order.[26] In such cases, the aggrieved party may be left to speculate whether the order disposing of the writ petition is an immediately appealable judgment or whether the party must wait for the court to formally resolve the remaining claims before the party can appeal to challenge the order on the petition. The time to appeal becomes a high-stakes guessing game for the parties.

Adding to the uncertainty, some California courts have found that because an order adjudicating a writ petition resolved a question or issue on which each cause of action rested, the order "effectively dispos[ed]" of all claims and therefore constituted a final, appealable judgment—even though it did not expressly resolve or even mention all the claims.[27]

For instance, in *Bettencourt v. City and County of San Francisco*, an order denying issuance of a writ of mandate and injunctive relief expressly adjudicated a statute of limitations issue that was essential to all claims in the case, including those not directly addressed by the petition.[28] The court of appeal held the order was appealable because the order effectively disposed of all claims and the parties who appealed from the order recognized and acknowledged that when filing the notice of appeal. The court reasoned that, when an issue adjudicated in the order denying a writ petition would be determinative of all causes of action, the order is the equivalent of a final judgment in the case.[29]

Similarly, in *Griset v. Fair Political Practices Committee*, the court held an order denying a petition for writ of mandate was final and appealable, despite three other unadjudicated causes of action, because the order resolved an issue essential to all: the constitutionality of a statute.[30] Moreover, in *Breslin v. City and County of San Francisco*, the court held that, because an order denying issuance of a writ decided a statute of limitations issue that effectively disposed of all causes of action, it could be directly appealed.[31] A footnote in *Consaul v. City of San Diego* vindicates the timeliness of appeal based on similar reasoning.[32]

This "effective disposition" principle has been applied outside of the writ petition context as well. For example, in *California Association of Psychology Providers v. Rank*, the trial court entered summary judgment on only one of seven causes of action.[33] However, that one cause of action "sought a declaration of plaintiffs' rights with respect to the facts alleged in all other causes of action." Again, the California Supreme Court found the order "effectively disposed of the case" and was therefore immediately appealable.[34]

Generally, when in doubt whether an order constitutes an appealable judgment, appellate courts seek to vindicate jurisdiction, if possible, and thereby preserve the parties' rights to appellate review.[35] In *Swain v. California Casualty Insurance Co.,* the court of appeal went so far as to exercise its inherent power to conform a nonfinal judgment to reflect the superior court's clear intent to enter a judgment conclusive of all causes of action, allowing immediate review of the merits.[36] Likewise, in *Belio v. Panorama Optics, Inc.,* the appellate court permitted an appeal from a summary adjudication order that left two causes of action pending, finding them to be mooted by the lead cause of action's adjudication.[37]

So long as courts interpret ambiguous orders resolving writ petitions in favor of preserving appellate rights, the worst that can happen to an appellant is that the

appeal from the order will be deemed premature. It will be dismissed, and the party will then need to appeal again after all claims are resolved and a final judgment has been entered.[38] However, when courts begin construing ambiguous orders in a manner that limits or eliminates a party's right to appeal, the stakes become much higher—as one litigant recently learned the hard way.

A recent case starkly illustrates the problem created when an order disposing of a writ petition in a combined pleading case fails clearly to disclose the court's intent to finally resolve or not to finally resolve the entire action. In *State Farm General Insurance Co. v. Lara*, the trial court entered an order denying a writ petition in a combined pleading.[39] The order did not mention the companion complaint for declaratory relief.[40] Recognizing that this omission created a potential for confusion, the plaintiff requested a status conference. At the conference, the court acknowledged that the order was ambiguous and that the court "'need[ed] to make a determination of whether the matter was fully and completely resolved or not.'"[41]

More than four months later, when it was too late to appeal from the order denying the writ petition (if, in fact, it had been a final judgment), the trial court entered a formal "'judgment denying [the] petition for writ of mandate.'" This judgment expressed the court's intent to resolve the case "'in full.'"[42] The plaintiff filed a notice of appeal within 60 days from notice of entry of that judgment.

The appellate court dismissed the appeal as untimely. The court ruled the proper time to appeal was after entry of the original order denying the writ petition. The court reasoned that the earlier order was, in effect, a final judgment because it "effectively disposed" of all causes of action.[43] Having missed its "one shot" to appeal, the plaintiff lost the right to obtain appellate review of the order. The appellate court was not swayed by the fact that the lower court itself had acknowledged its order did not clearly resolve all claims and had entered a final judgment for the purpose of resolving that uncertainty.

In essence, the appellate court in *State Farm* decided that both the plaintiff and the trial court itself had incorrectly guessed that the original order denying the writ petition was insufficient to constitute a final judgment. Because of that incorrect guess, the plaintiff lost its right to appellate review. Stated differently, the plaintiff's inability to correctly predict the views of the appellate court deprived it of the opportunity to obtain appellate review.

The plaintiff in *State Farm* filed a petition for review, asking the supreme court to address the following issue:

> Whether the time for filing an appeal runs from notice of the entry of judgment, as specified in the California Rules of Court, or an earlier order denying a writ petition, as the court below held, where the parties contested whether the earlier order disposed of all issues in the case and the court did not resolve that dispute until it entered judgment.[44]

The supreme court denied the petition for review. However, Justices Ming W. Chin and Joshua P. Groban voted to grant the petition.[45]

Unfortunately, the *State Farm* case is not unique. In *Laraway v. Pasadena Unified School District*, the trial court issued an order denying a writ petition and later entered a judgment formally adjudicating every form of relief the plaintiff sought.[46] After the time to appeal from the order had expired, the appellant filed a notice of appeal from the formal judgment.[47] The court of appeal held the original order "resolved all issues between the parties, did not direct or contemplate the preparation of any further order or judgment, and was thus an appealable, final order."[48] In other words, the order denying the writ petition had constituted a final, appealable judgment because both its text and context showed that was the superior court's intent. Accordingly, the window for appealing from the order had begun running with the order's entry and had expired before the appellant attempted to appeal from the later judgment. The court dismissed the attempted appeal.[49]

## A Court-Fashioned Solution

Both *State Farm* and *Laraway* demonstrate that an appellate court reviewing an order resolving a writ petition in a combined pleading case may interpret the order, and thus the time for appealing, against the appellant. Recognizing this risk, prudent attorneys may be inclined to file a notice of appeal whenever the court rules on a writ petition in a combined pleading case and the order fails to expressly address other pending claims. Protective appeals of this sort impose burdens on the parties and the appellate courts, which may be obliged to devote time and resources to assessing appellate jurisdiction in appeals that may have been unnecessary in the first place. Further, a protective appeal may divest the superior court of jurisdiction to correct or clarify an uncertain order, as the superior court attempted to do in the *State Farm* case by entering a true final judgment.[50]

Again, however, the most serious problem under the current state of the law is that an attorney may delay filing a notice of appeal, confident that the superior court's order did not resolve all claims, only to find on a later appeal from final judgment that the appellate court sees things differently and concludes it lacks jurisdiction to entertain a challenge to the order disposing of the writ petition. Until the legislature resolves this uncertainty, the supreme court or the courts of appeal could step in to provide more clarity.

One approach the courts could take to clarify when an order on a writ petition constitutes a final, appealable judgment would be to adopt a rule that such an order is immediately appealable only if it states, on its face, that it disposes of "all claims," "the entire case," or other words to that effect. A statement of this sort would put all parties on notice that the order is intended to function as the final judgment in the case and that the aggrieved party must timely appeal from the order to have his or her "one shot" at appellate review.

Conversely, if the order omits such a recital, the aggrieved party could rest assured that he or she will be free to seek appellate review of the interlocutory order on the writ petition after all other claims have been resolved and a final judgment has been entered.

Under California law, there is a precedent and model for this type of court-engineered solution. The state supreme court adopted a similar rule for a similar purpose in *Van Beurden Insurance Services, Inc. v. Customized Worldwide Weather Ins. Agency, Inc.*[51] That case involved Code of Civil Procedure Section 660, subdivision (c), under which the trial court's deadline for ruling on a motion for new trial—and, consequently, the parties' deadline for filing a notice of appeal from the judgment—depends on whether the trial court clerk served notice of the entry of judgment "'pursuant to [Code of Civil Procedure s]ection 664.5.'"[52] Section 664.5, in turn, provides in relevant part: "Upon order of the court in any action or special proceeding, the clerk shall serve notice of entry of any judgment or ruling, whether or not appealable."[53] The question before the supreme court was "what constitutes evidence sufficient to establish that the clerk of the court mailed a 'notice of entry' of judgment '[u]pon order of the court.'"[54]

The supreme court stressed that, because

the statutes at issue involved jurisdictional deadlines, the parties and the reviewing court should not be required to guess whether a clerk was acting "'upon order of the court'" when the clerk served notice of entry of judgment.[55] "[I]n a matter involving jurisdictional restrictions on the right to appeal, we should not engage in 'guesswork' concerning whether the trial court actually ordered the clerk to mail notice of entry of judgment. Nor should parties operate under uncertainty about when they must file an appeal."[56]

Thus, to eliminate any uncertainty, the court adopted the following rule: "[W]hen the clerk of the court mails a file-stamped copy of the judgment, it will shorten the time for ruling on the motion for a new trial only when the order itself indicates that the court directed the clerk to mail 'notice of entry' of judgment."[57] The rule accomplishes its goal of removing the potential for uncertainty and eliminating guesswork.

The Judicial Council devised a similar solution to a similar problem when it adopted California Rule of Court 8.264 (c)(2). A petition for review of a court of appeal decision is due in the supreme court 10 days after the decision becomes final.[58] With limited exceptions, a court of appeal decision becomes final 30 days after filing.[59] However, when a court of appeal modifies its decision before the decision becomes final, the parties may be uncertain whether the modification changes the decision in a way that operates to restart the 30-day finality clock.

To eliminate uncertainty over the date of finality of a court of appeal decision and, accordingly, the date by which a petition for review must be filed, California Rule of Court 8.264(c)(2) requires that any order modifying an opinion expressly state whether the modification changes the appellate judgment: "An order modifying an opinion must state whether it changes the appellate judgment. A modification that does not change the appellate judgment does not extend the finality date of the decision. If a modification changes the appellate judgment, the finality period runs from the filing date of the modification order." The rule thus spares the parties from having to guess whether the modification changes the judgment and consequently restarts the clock on finality and the proper timing for filing a petition for review.[60]

To eliminate uncertainty about appealability and the need "to speculate about jurisdictional time limits,"[61] the courts also could consider adopting an "explicit statement" requirement for orders resolving writ petitions in combined pleading cases, similar to the rules the supreme court adopted in *Van Beurden* and the Judicial Council enacted in California Rules of Court, Rule 8.264(c)(2). A trial court's order resolving the writ petition would be appealable only if it explicitly expresses the trial court's intent to dispose of all claims in the action. This rule would spare the parties from having to guess whether the order might be appealable because it "effectively disposes" of all claims.

### Formal Final Judgment

Alternatively, the court could extend the general rule requiring entry of a final judgment to the combined pleading context. The "'one final judgment rule'" is considered "a basic principle of appellate practice."[62] This longstanding principle of law is intended to avoid "'piecemeal disposition and multiple appeals in a single action'" for the reasons that it "'would be oppressive and costly and that a review of intermediate rulings should await the final disposition of the case.'"[63] This general rule has been applied in various contexts based on reasoning that would be equally applicable in the context of combined pleadings.

Establishing a rule that, in cases of combined pleadings, no appeal will lie unless and until the court enters a final judgment formally concluding the case would impose minimal burdens on the parties and the court. The aggrieved party need only propose a judgment for the court to sign and enter. The court's entry of the judgment would remove any doubt that the court intended its order disposing of the writ petition to finally resolve all claims in the case, whether or not the order mentioned all claims. This approach would provide the same level of certainty as a rule mandating an explicit statement in the order of the court's intent to dispose of all causes of action.

These solutions illustrate two rules the courts could adopt to eliminate the current uncertainty surrounding the appealability of orders resolving writ petitions in combined pleading cases. Either solution would also reduce or eliminate the danger that a would-be appellant might entirely miss the window to appeal by incorrectly guessing that the appellate court would later agree the order on the writ petition did not resolve all claims.

Until the legislature or the courts choose to address the problem, however, attorneys will continue to be responsible for navigating the legal uncertainties that currently surround the timing of writ appealability and for acting to protect themselves and their clients in light of those uncertainties. The attorney should carefully examine any order resolving the writ petition in a case involving a combined pleading. When the court's intent to dispose of the entire case is in doubt, the attorney should not hesitate to ask the court to clarify its intent on the record. Absent clarification, the attorney's better course may be to file notices of appeal from both the order and from any later-entered final judgment. The attorney could then ask the court of appeal to consolidate the two appeals. By following this approach, the attorney can protect the client's right to appellate review of the order, regardless of how the court of appeal may later resolve the question whether the order itself was separately appealable. ■

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[1] *See* In re Baycol Cases I & II, 51 Cal. 4th 751, 754 (2011).

[2] *Id.*; *see* CODE CIV. PROC. §904.1; Rao v. Campo, 233 Cal. App. 3d 1557, 1565 (1991).

[3] Rao, 233 Cal. App. 3d at 1565.

[4] Baycol, 51 Cal. 4th at 761 n.8.

[5] *Id.*

[6] *See id.*; Naranjo v. Spectrum Sec. Servs., Inc., 40 Cal. App. 5th 444, 478 (2019), *review granted* Jan. 2, 2020, S258966; *see also* CODE CIV. PROC. §906 (supporting limitation on review).

[7] State Farm Gen. Ins. Co. v. Lara, No. S259327 (Cal. filed Nov. 25, 2019) (Petition for Review), *available at* https://bit.ly/35dQMtj.

[8] Dana Point Safe Harbor Collective v. Superior Ct., 51 Cal. 4th 1, 5 (2010); *see* CODE CIV. PROC. §904.1.

[9] *See* CAL. R. CT. 8.104(d)(1).

[10] *See* CAL. R. CT. 8.104(a) (boldface omitted).

[11] *See, e.g.,* Starpoint Props., LLC v. Navmar, 201 Cal. App. 4th 1101, 1107 (2011) ("'Compliance with the requirements for filing a notice of appeal is mandatory and jurisdictional,' and an appellate court therefore must dismiss an appeal that is untimely.").

[12] Delmonico v. Laidlaw Waste Sys, Inc., 5 Cal. App. 4th 81, 84 (1992).

[13] *See* Van Beurden Ins. Servs., Inc. v. Customized Worldwide Weather Ins. Agency, Inc., 15 Cal. 4th 51, 62 (1997) (noting that "in a matter involving jurisdictional restrictions on the right to appeal, we should not engage in 'guesswork'").

[14] Kinoshita v. Horio, 186 Cal. App. 3d 959, 968 (1986).

[15] *See* CAL. R. CT. 8.104; *see also* CODE CIV. PROC. §904.1.

[16] *See, e.g.,* Mid-Wilshire Assocs. v. O'Leary, 7 Cal. App. 4th 1450, 1455 (1992) (holding the court could not review an order denying a petition to vacate because there was no statutory basis for jurisdiction and the "court is without power to bestow jurisdiction on itself"); Kinoshita, 186 Cal. App. 3d at 963, 967-68 (clarifying the application of the one final judgment rule in the context of business dissolutions with multiple adjudications).

[17] Dana Point Safe Harbor Collective v. Superior Ct., 51 Cal. 4th 1, 5 (2010); Griset v. Fair Political Practices Com., 25 Cal. 4th 688, 698 (2001).

[18] Dana Point, 51 Cal. 4th at 5.

[19] *See* Morehart v. County of Santa Barbara, 7 Cal. 4th 725, 743-44 (1994).

[20] Dhillon v. John Muir Health, 2 Cal. 5th 1109, 1115 (2017).
[21] *See* Pub. Defenders' Org. v. County of Riverside, 106 Cal. App. 4th 1403, 1409 (2003).
[22] *See, e.g.,* Christensen v. Lightbourne, 7 Cal. 5th 761, 770 (2019) (reviewing appealability of a "combined petition for writ of mandate and administrative mandamus [citations] as well as a complaint for declaratory relief"); Santa Monica Beach, Ltd. v. Superior Ct., 19 Cal. 4th 952, 959 (1999) (reviewing a combined petition for writ of administrative mandate and complaint for inverse condemnation); Rudick v. State Bd. of Optometry, 41 Cal. App. 5th 77, 80 (2019) (reviewing a "combined verified petition for writ of mandate and complaint for declaratory and injunctive relief"); 1041 20th St., LLC v. Santa Monica Rent Control Bd., 38 Cal. App. 5th 27, 37 (2019) (reviewing a "combined petition for writ of administrative mandamus and complaint for declaratory relief").
[23] *See* Consaul v. City of San Diego, 6 Cal. App. 4th 1781, 1792 n.6 (1992) ("The order denying the petition for writ of mandate and overruling the city's demurrer was a final determination of the entire action. As such we construe the order to be an appealable final judgment.").
[24] *See* Griset v. Fair Political Practices Com., 25 Cal. 4th 688, 696-97 (2001).
[25] *See, e.g.,* Morgan v. Imperial Irrigation Dist., 223 Cal. App. 4th 892, 904 (2014) (noting the trial court "addressed every cause of action asserted in the operative complaint and…clearly intended the statement of decision to constitute its final decision on the merits"); Consaul, 6 Cal. App. 4th at 1792 n.6 (holding an order to be appealable as a "final determination of the entire action").
[26] *See, e.g.,* Bettencourt v. City & County of San Francisco, 146 Cal. App. 4th 1090, 1093-1098 (2007).
[27] *Id.*; *see* Canandaigua Wine Co. v. County of Madera, 177 Cal. App. 4th 298, 303 (2009).
[28] Bettencourt, 146 Cal. App. 4th at 1097-98.
[29] *Id.* at 1098; *see* Sequoia Park Assocs. v. County of Sonoma, 176 Cal. App. 4th 1270, 1276 n.1 (2009) ("'Although the [trial court's] order was couched as a denial of the mandate petition alone, its effect was a dismissal of Sequoia's entire action.'").
[30] Griset v. Fair Political Practices Com., 25 Cal. 4th 688, 696-700 (2001).
[31] Breslin v. City & County of San Francisco, 146 Cal. App. 4th 1064, 1073-74 (2007).
[32] Consaul v. City of San Diego, 6 Cal. App. 4th 1781, 1792 n.6 (1992).
[33] California Ass'n of Psychology Providers v. Rank, 51 Cal. 3d 1, 9 (1990).
[34] *Id.*
[35] *See, e.g.*, Protect Our Water v. County of Merced, 110 Cal. App. 4th 362, 368 n.2 (2003) (finding appeal filed within 60 days of entry of final judgment was timely, even though appellee argued the time for appeal should have run from an earlier entry of order denying writ petition).
[36] Swain v. California Cas. Ins. Co., 99 Cal. App. 4th 1, 6 (2002).
[37] Belio v. Panorama Optics, Inc., 33 Cal. App. 4th 1096, 1101-02 (1995).
[38] *See, e.g.*, Canandaigua Wine Co., Inc., v. County of Madera, 177 Cal. App. 4th 298, 303 (2009) (dismissing appeal as premature because the remaining causes of action required additional fact-finding).
[39] State Farm Gen. Ins. Co. v. Lara, No. S259327 (Cal. filed Nov. 25, 2019) (Petition for Review), *available at* https://bit.ly/35dQMtj.
[40] *See id.* at 12-13.
[41] *Id.* at 13.
[42] *Id.* at 13-14.
[43] *Id.*, App. A.
[44] State Farm Gen. Ins. Co. v. Lara, No. S259327, 2020 WL 282254, at *6 (Cal. Jan. 13, 2020) (Answer to Petition for Review).
[45] State Farm, No. S259327 (Cal. filed Nov. 25, 2019) (Docket Entry, noting "Petition for review denied" (Jan. 29, 2020)).
[46] Laraway v. Pasadena Unified School District, 98 Cal. App. 4th 579, 580-82 (2002).
[47] *Id.* at 582.
[48] *Id.* at 581.
[49] *Id.* at 581, 584
[50] *See* Code Civ. Proc. §§916, 917.1 - 917.9 (providing for a stay of trial court proceedings during appellate review with specified exceptions).
[51] Van Beurden Ins. Servs., Inc. v. Customized Worldwide Weather Ins. Agency, Inc., 15 Cal. 4th 51, 61 (1997).
[52] *Id.* at 56.
[53] Code Civ. Proc. §664.5(d).
[54] Van Beurden, 15 Cal. 4th at 61.
[55] *See id.* at 61-63.
[56] *Id.* at 62-63.
[57] *Id.* at 64 (explaining that "to qualify as a notice of entry of judgment under Code of Civil Procedure section 664.5, the clerk's mailed notice must affirmatively state that it was given 'upon order by the court' or 'under section 664.5'").
[58] Cal. R. Ct. 8.500(e)(1).
[59] Cal. R. Ct. 8.264(b)(1).
[60] *See* Cal. R. Ct. 8.264(c)(2), 8.500(e)(1).
[61] Van Beurden Ins. Servs., Inc. v. Customized Worldwide Weather Ins. Agency, Inc., 15 Cal. 4th 51, 64 (1997).
[62] Horton v. Jones, 26 Cal. App. 3d 952, 956 (1972).
[63] *Id.* at 957.

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