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Attorney for Appellant

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT, DIVISION [NUMBER]

**THE PEOPLE OF THE STATE OF
CALIFORNIA,**

Plaintiff and Respondent,

v.

[CLIENT NAME],

Defendant and Appellant.

A#####

([County] County
Superior Court
No. #####)

**MOTION TO CONSOLIDATE APPEALS AND REQUEST
FOR A BRIEFING SCHEDULE AND/OR REQUEST TO
EXTEND TIME TO FILE APPELLANT'S OPENING BRIEF**

To the Honorable Presiding Justice and Associate Justices of the
California Court of Appeal, First Appellate District, Division
[Number]:

Appellant [Client Name], through [his/her/their] appointed
appellate counsel, requests that this Court consolidate appeal
number [A1#####] with appeal number [A2#####] for all

purposes and for a briefing schedule and/or extension of time within which to file the opening brief[s].

Respondent does not object to consolidation.*

This motion is based on the following points and authorities.

Dated: [Month, Day, Year]

Respectfully submitted,

[Attorney signature]
[ATTORNEY NAME]

Attorney for Appellant

* **Practice Note:** First District Local Rule 7 requires that a motion to consolidate appeals include a statement indicating whether the other party or parties agree with the proposed consolidation.

MEMORANDUM OF POINTS AND AUTHORITIES

I. This Court Should Consolidate the Appeals To Expedite the Appellate Process and Promote Judicial Economy.

The court of appeal has discretion to consolidate appeals. (*Sampson v. Sapoznik* (1953) 117 Cal.App.2d 607, 609.) Consolidation is appropriate if the issues are “so related as to make it advisable to consolidate” and consolidation will expedite the appeals. (*Ibid.*) “Because consolidation ordinarily promotes efficiency, the law prefers it.” (*People v. Ochoa* (1998) 19 Cal.4th 353, 409.)

While there is not an express rule of court governing applications to consolidate appeals, California Rules of Court, rules 8.147(a) and 8.408 provide for production of a single record on appeal where multiple appeals are taken from a single judgment. In addition, rule 8.147(b) refers to use of records from prior appeals in subsequent appeals in the same case. Rule 8.147 has been interpreted to permit consolidation of appeals unless it can be shown that a party would be prejudiced by such consolidation. (*General Elec. Co. v. Fed. Etc. Distribution Co.* (1954) 122 Cal.App.2d 509, 511 [interpreting former version of Rule 8.147].)

Briefly explain the nature and procedural posture of the appeals to be consolidated. For example:

Case number A1##### is an appeal from appellant's conviction for grand theft (Pen. Code, § 487) following a jury trial in [County] County Case No. #####. Case number A2##### is an appeal from a probation revocation and termination based on the conduct at issue in A1#####. At the time of the offense in A1#####, appellant was on probation for receipt of stolen property (Pen. Code, § 496) in [County] County Case No. #####. Following the jury trial, the trial court found appellant violated his probation by committing theft and terminated probation. (CT #.) Timely notices of appeal were filed in each case. (CT #, #.) The records on appeal in the two cases overlap significantly and contain duplicate documents in the clerk's transcripts and duplicate transcripts of oral proceedings in the reporter's transcripts.

Explain why the appeals should be consolidated.† For example:

Judicial economy is served by consolidation of appellant's two cases because the probation violation was based on the conduct underlying the charges in A1#####. Following the jury trial, appellant was found in violation of probation by the same trial court that presided over the trial. He was sentenced on both

† **Practice Note:** The reasons to request consolidation of appeals are varied and fact specific. This example is not indicative of all situations that may require consolidation.

cases at the same time and by the same court. Any challenge to the termination of appellant’s probation in A2##### would necessarily involve reference to the record in A1#####. If appellant challenges the court’s finding that he violated probation in A2#####, counsel may need to file two separate opening briefs with substantial repetition of facts and arguments. If the two appeals remain separate, nearly identical claims would have to be pursued separately, leading to a waste of resources.

These appeals arise from the same lower court proceedings, involve the same respondent, and largely share the same appellate record. To avoid unnecessarily consuming judicial and state resources, appellant requests that Nos. A1##### and A2##### be consolidated for all purposes.

Appellant requests that this Court grant the motion to consolidate and extend the time for appellant to file an opening brief by [##] days.‡

Dated: [Month Day, Year]

Respectfully submitted,

[ATTORNEY NAME]
Attorney for Appellant

‡ **Practice Note:** The relief requested will depend on factors specific to each appeal and should be adjusted accordingly.