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The Courts of appeal seem divided as to whether the denial of a motion to reconsider an appealable order is appealable. In *Rojes Riverside General Hospital* (1989) 203 Cal. App. 3d 1151, 250 Cal. Rptr. 435 (overruled on another point in *Passavanti v. Williams* (1990) 225 Cal. App. 3d 1602, 1607, 275 Cal. Rptr. 887 , discussed in Form 32, Discussion of Authorities, under Motion to Reconsider After Entry of Judgment), the Court of Appeal of the Fourth Appellate District, Division Two, held that the denial of a motion for reconsideration, whether based on new facts or new facts, is nonappealable. *Rojes* rejected the earlier ruling in *Blue Mountain Development Co.* (discussed under When Original Order Is Not Appealable, above ), in the extent *Blue Mountain* held that an order for reconsideration may be treated as an order made after judgment and, thus, an appealable order, if the original ruling is an appealable order and if the motion for reconsideration is based on new and different facts [ *Rojes Riverside General Hospital* (1989) 203 Cal. App. 3d 1151, 1160, 250 Cal. Rptr. 435 (overruled on another point in *Passavanti v. Williams* (1990) 225 Cal. App. 3d 1602, 1607, 275 Cal. Rptr. 887 ). *Rojes* has been followed by the Court of Appeal of the First Appellate District, Division Four (see In re Jeffrey P. (1990) 218 Cal. App. 3d 1548, 1550 n.2, 267 Cal. Rptr. 764 (stating that an order denying a motion for reconsideration is not an appealable order, and holding denial of a motion for reconsideration of a juvenile court's dependency order was not appealable); and the Court of Appeal of the First Appellate District, Division Three (see Estate of Simoncini (1991) 229 Cal. App. 3d 881, 891, 280 Cal. Rptr. 393 (stating that orders denying reconsideration are not generally appealable, and holding meritless appellant's contention that the probate court erred in denying her application for reconsideration of the preliminary distribution decree because her application purportedly met the requirements of Code Civ. Proc. ♦ 1008[Deering's] , dealing with applications for reconsideration based on an allegedly different state of facts)]. In *Santee v. Santa Clara County Office of Education* (1990) 220 Cal. App. 3d 702, 710, 269 Cal. Rptr. 605 , the Court of Appeal of the Sixth Appellate District held that an order denying a motion for reconsideration of an order denying a petition for relief from the claim presentation requirements of the Tort Claims Act [ Gov. Code ♦ 900[Deering's] et seq. ] is an appealable order if the motion raised new facts. Note, however, that, because the order denying a petition for relief is in effect a judgment, a motion to reconsider it would not be proper under the holding in *Passavanti v. Williams* (1990) 225 Cal. App. 3d 1602, 1607-1608, 275 Cal. Rptr. 887 (discussed in Form 31, Discussion of Authorities, Unavailability After Judgment of Motion to Reconsider Order Granting Judgment). Conversely, in *Gill v. Hughes* (1991) 227 Cal. App. 3d 1299, 1311, 278 Cal. 306 (discussed in Discussion of Authorities under Order Denying Motion to Reconsider Appealable Order on Same Facts Is Nonappealable, below ), the Court of Appeal of the Fifth Appellate District held that the denial of a motion for reconsideration based on exactly the same factual showing was offered in support of the original motion is not appealable. At page 1310 n.3, the court acknowledged the conflict between *Santee* and *Rojes*, Related Pleading and Practice Forms For a form of motion to dismiss an appeal in an unlimited civil case, see Ch. 48, Appeal: Abandonment, Dismissal, and Stipulated Reversal, in CALIFORNIA FORMS OF PLEADING AND PRACTICE. For a form of motion to dismiss an appeal in a limited civil case to the superior court appellate division, see Ch. 345A, Limited Civil Cases, in CALIFORNIA FORMS OF PLEADING AND PRACTICE (Matthew Bender). DISCUSSION OF AUTHORITIES Order Made After Judgment Is Appealable The facts and procedural background of *Gill v. Hughes* (1991) 227 Cal. App. 3d 1299, 278 Cal. Rptr. 306 , are discussed under Order Denying Motion to Reconsider Appealable Order on Same Facts Is Nonappealable, below. In affirming the summary judgment for defendants, the court of appeal said that an order denying a motion to tax costs, made after the judgment has been entered, is appealable (227 Cal. App. 3d 1299, 1310). Order Denying Motion to Reconsider Appealable Order on Same Facts Is Nonappealable In *Gill v. Hughes* (1991) 227 Cal. App. 3d 1299, 278 Cal. Rptr. 306 , a physician who had been denied full surgical staff privileges at a hospital in administrative proceedings sought writ review of the denial. He appealed for denial of the writ. While the appeal was pending, he filed a complaint for damages for alleged violation of his constitutional rights, violations of California's antitrust statute (Cartwright Act), interference with existing business relations, interference with prospective business advantage, intentional and negligent infliction of emotional distress, and slander per se. The trial court sustained defendants' demurrer to the first three causes of action and stayed those causes of action on the ground they were based on the same subject matter as the relief sought in the writ proceeding which was then pending on appeal. After the appellate court affirmed the trial court's denial of the writ petition, the trial court granted summary judgment to the defendants on the remaining causes of action. Defendants submitted a memorandum of costs requesting attorney fees on the civil rights causes of action; plaintiff moved to tax costs, and the motion was denied on December 16, 1988. Plaintiff filed a motion for reconsideration of the order on December 22, 1988. The judgment awarding attorney's fees and costs was entered on December 27, 1988. The hearing on the motion for reconsideration was held on January 30, 1989, but the court did not rule on the motion until April 26, 1989. The court granted plaintiff's motion at that time and ordered defendants to resubmit their itemized statements of attorney fees. On June 14, 1989, the court denied the motion for reconsideration. In addition to appealing from the judgment, plaintiff also appealed from the order denying the motion for reconsideration and order denying motion to tax costs on July 13, 1989. Among other things, plaintiff argued that the June 14 order awarding attorney's fees should be reversed. The court of appeal rejected the argument on the ground that the June 14 order denied the motion for reconsideration and that the order awarding attorney fees was entered on December 27, 1988. The court said that an order denying a motion to tax costs, made after the judgment has been entered, is appealable and that when, as in the case before it, the motion for reconsideration of an appealable order is based on exactly the same factual showing as was offered in support of the original motion, the order denying the motion for reconsideration is not appealable (227 Cal. App. 3d 1299, 1310). Thus, plaintiff could not appeal from the order of June 14, 1989, denying his motion for reconsideration. Rather the appeal had to be taken from the order entered December 27, 1988 (227 Cal. App. 3d 1299, 1310-1311). Form 31 Supporting Motion to Dismiss Appeal as Untimely [Cal. Rules of Ct., Rules 2, 41, 104, 122]-Appeal From Original Appealable Order After Denial of Motion for Reconsideration Is Untimely When Not Filed Within Extended Times Specified in Cal. Rules of Ct., Rule 3 or 123 MEMORANDUM OF POINTS AND AUTHORITIES THE MOTION OF DEFENDANT TO DISMISS THE APPEAL FROM THE ORIGINAL APPEALABLE ORDER OF THE [ specify, e.g., SUPERIOR COURT OF ] COUNTY OF [ specify, e.g., DENYING] THE MOTION OF [ party, e.g., PLAINTIFF] TO [ specify, e.g., TAX COSTS] AFTER DENYING THE MOTION OF [ party, e.g., PLAINTIFF] FOR RECONSIDERATION SHOULD BE GRANTED BECAUSE THE APPEAL WAS UNTIMELY FILED. [EITHER ] A. Time to Appeal From Superior Court Other Than In Limited Civil Case. In an appeal, other than in a limited civil case, except as otherwise provided by Code of Civil Procedure Section 870[Deering's] or other statute or California Rules of Court, Rule 3[Deering's] (relating to extension of time to appeal), a notice of appeal shall be filed on or before the earliest of the following dates: (1) 60 days after the date of mailing by the clerk of the court of a document entitled `` notice of entry'' of judgment or appealable order; (2) 60 days after the date of service of a document entitled `` notice of entry'' of judgment or appealable order by any party on the party filing the notice of appeal, or by the party filing the notice of appeal, or (3) 180 days after the date of entry of the judgment. For the purposes of this provision, a file-stamped copy of the judgment or appealable order may be used in place of the document entitled `` notice of entry'' ( Code Civ. Proc. ♦ 904.1(a)[Deering's] ; Cal. Rules of Ct., Rule 2(a)[Deering's] ). [OR ] A. Time to Appeal From Superior Court Limited Civil Case. Although California Rules of Court, Rules 121[Deering's], 122[Deering's] dealing with the filing of a notice of appeal concerning a municipal court case are silent concerning a superior court limited civil case, because Code of Civil Procedure Section 904.2[Deering's] provides that an appeal in a limited civil case is to the appellate division of the superior court, the time limits for filing a notice of appeal in California Rules of Court, Rule 122(a)[Deering's] should also apply to an appeal concerning a superior court limited civil case. Thus, except as otherwise specifically provided by law, a notice of appeal shall be filed within 30 days after the date of mailing notice of entry of judgment by the clerk of the court pursuant to Code of Civil Procedure Section 664.5[Deering's], or within 30 days after the date of service of written notice of entry of judgment by any party on the party filing the notice of appeal, or within 90 days after the date of entry of the judgment, whichever is earliest, unless the time is extended by California Rules of Court, Rule 123[Deering's] (relating to motions for new trial, motions to vacate, and cross appeals) ( Cal. Rules of Ct., Rule 122(a)[Deering's] ). [OR ] A. Time to Appeal From Municipal Court. Except as otherwise specifically provided by law, a notice of appeal shall be filed within 30 days after the date of mailing notice of entry of judgment by the clerk of the court pursuant to Code of Civil Procedure Section 664.5[Deering's], or within 30 days after the date of service of written notice of entry of judgment by any party on the party filing the notice of appeal, or within 90 days after the date of entry of the judgment, whichever is earliest, unless the time is extended by California Rules of Court, Rule 123[Deering's] (relating to motions for new trial, motions to vacate, and cross appeals) ( Cal. Rules of Ct., Rule 122(a)[Deering's] ). [EITHER ] B. Entry of Judgment in Superior Court. The date of entry of a judgment is the date of its entry in the judgment book, or in a county following the procedure specified in Code of Civil Procedure Section 668.5[Deering's] (relating to date of entry in which clerk places individual judgments in which clerk places either a microfilm copy is made, or judgment is entered in register of actions, or judgment is entered in court's electronic data-processing system) in lieu of maintaining a judgment book, the date of filing the judgment with the clerk pursuant to that section ( Cal. Rules of Ct., Rule 2(b)(1)[Deering's] ). In a county following Code of Civil Procedure Section 668.5[Deering's], Rule 2(b)(1) requires only that the judgment be signed by the judge and file stamped by the clerk; it does not require entry of the judgment in the register of actions or entry of the judgment in the court's electronic data-processing system, or microfilming the judgment ( Ten Eyck v. Industrial Forklifts Co. (1989) 216 Cal. App. 3d 540, 544-545, 265 Cal. Rptr. 29 ). [OR ] B. Entry of Order in Superior Court. The date of entry of an appealable order which is entered in the minutes is the date of its entry in the permanent minutes, unless such minute order as entered expressly directs that a written order be prepared, signed, and filed, in which case the date of entry is the date of filing of the signed order ( Cal. Rules of Ct., Rule 2(b)(2)[Deering's] ). The fact that a written order is to be prepared under California Rules of Court, Rule 391[Deering's], or a similar local rulef, such as [ specify relevant local rule ], does not constitute an express direction in the minute order that a written order be prepared, signed, and filed for the context of Rule 2(b)(2) ( Cal. Rules of Ct., Rule 2(b)[Deering's] ). The date of entry of an appealable order which is not entered in the minutes is the date of filing of the order signed by the court ( Cal. Rules of Ct., Rule 2(b)(3)[Deering's] ). [OR ] B. Entry of Decree of Distribution in Probate Proceeding. The date of entry of a decree of distribution in a probate proceeding is the date of its entry at length in the judgment book or other permanent record of the court ( Cal. Rules of Ct., Rule 2(b)(4)[Deering's] ). [OR ] B. Entry of Judgment or Order in Municipal Court. (1) The date of entry of a judgment is the date of its entry in the minute book or in the docket unless the entry expressly directs that a written order be prepared, signed, and filed, in which case the date of entry is the date of filing of the signed order ( Cal. Rules of Ct., Rule 122(b)(1)[Deering's] ). The date of entry of an order which is not entered in the minutes or docket is the date of filing of the order signed by the court ( Cal. Rules of Ct., Rule 122(b)(2)[Deering's] ). [CONTINUE ] C. Appeal From Original Order Is Untimely. Although a motion to reconsider under Code of Civil Procedure Section 1008(a)[Deering's] is treated for purposes of California Rules of Court, Rule 3[Deering's] (relating to extension of time to appeal) in the same manner as a motion for new trial or a motion to vacate, that is, it extends the time to appeal from the original order, the appeal is untimely if not filed within the extended period ( *Gill v. Hughes* (1991) 227 Cal. App. 3d 1299, 1311-1312, 278 Cal. Rptr. 306 ). [This rule should also apply to California Rules of Court, Rule 123[Deering's] with regard to a [ superior court limited civil case or municipal court case ].] Respectfully submitted, [ firm name, if any ] By: [ signature ] [ typed name ] Attorney for [ party ] COMMENTS Use of Form These points and authorities may be included in a memorandum of points and authorities submitted in support of a formal written motion to dismiss an appeal from an original appealable order taken after a motion for reconsideration was denied when the appeal was not filed with the time authorized under Cal. Rules of Ct., Rules 3[Deering's] or 123[Deering's]. With regard to the date of entry of a judgment or order discussed in paragraph B, however, neither Cal. Rules of Ct., Rule 2[Deering's] nor Cal. Rules of Ct., Rule 122[Deering's] have as of yet been amended to explicitly address this point with regard to a superior court limited civil case. For the absence of a caption from the form, the distinction between orders and judgments, the time to appeal, and appealable orders, see Discussion in Form 30, Comments. Counsel should insert argument in this form, showing the relationship between the facts of the case and the points of law stated. When Motion to Reconsider Extends Time to Appeal The California Rules of Court provide for an extension of time to appeal from the judgment (defined in Form 30, Comments, under Time to Appeal and `` Judgment'' Defined) after denial of a motion for new trial or motion to vacate [ Cal. Rules of Ct., Rules 3(a)[Deering's], (b)[Deering's] and 123(a)[Deering's], (b)[Deering's] ]. Although a motion to reconsider is not expressly listed in Cal. Rules of Ct., Rule 3[Deering's] or 123[Deering's] , as a motion that extends the time to appeal from an appealable order, it has been held that a motion for reconsideration of an appealable order is treated in the same manner as a motion for new trial or motion to vacate, for purposes of Rule 3. Thus, subject to the qualifications stated in that rule, the timely filing of a motion to reconsider would normally extend the time for filing a notice of appeal from the original appealable order until 30 days (or 15 days if the appeal is from a municipal court (see Cal. Rules of Ct., Rule 123(a)[Deering's], (b)[Deering's] )) after entry of the order denying reconsideration [ *Blue Mountain Development Co. v. Carville* (1982) 132 Cal. App. 3d 1005, 1009-1010, 183 Cal. Rptr. 594 (Fourth Appellate District, Division Two) (disapproved on another point in *Passavanti v. Williams* (1990) 225 Cal. App. 3d 1602, 1607-1608 n.5, 275 Cal. Rptr. 887 (Fourth Appellate District, Division Two), discussed in Form 32, Discussion of Authorities, under Motion to Reconsider Appealable Order on Same Facts Is Nonappealable) ]. However, this rule applies only to appealable orders that are not appealable orders that are in effect judgments ( *Passavanti v. Williams* (1990) 225 Cal. App. 3d 1602, 1607-1608 n.5, 275 Cal. Rptr. 887 ). While a motion for reconsideration of an appealable order will extend the time to file a notice of appeal from the appealable order, a motion for reconsideration filed after judgment has been entered will not extend the time to appeal from the judgment [ *Passavanti v. Williams* (1990) 225 Cal. App. 3d 1602, 1605-1608, 275 Cal. Rptr. 887 ; see Form 32]. Thus, to determine whether the time for appeal is extended by a motion to reconsider, orders must first of all be distinguished from judgments (see discussion in Form 30, Comments, under `` Order'' and `` Judgment'' Distinguished), and, second, it must be determined whether the order for which reconsideration is sought is appealable (see *Passavanti v. Williams* (1990) 225 Cal. App. 3d 1602, 1605, 275 Cal. Rptr. 887 ; see also discussion in Form 30, Comments, under Appealability of Orders on Motions for Reconsideration--In General). DISCUSSION OF AUTHORITIES Entry of Judgment in Superior Court Ten Eyck v. Industrial Forklifts Co. (1989) 216 Cal. App. 3d 540, 265 Cal. Rptr. 29 , was an action for personal injuries in which the defendant's motion for summary judgment was granted on October 28, 1988. The judgment was signed by the court and file stamped on November 2, 1988. Defendant served plaintiff with a notice of entry of judgment on November 8, 1988. On November 7, 1988, plaintiff filed a motion for reconsideration of the order granting summary judgment, which was not heard or ruled on until January 6, 1989, on which date the court affirmed the order granting summary judgment. The 60-day period within which to appeal expired January 9, 1989. On January 10, 1989, plaintiff appealed from the October 28th minute order granting summary judgment. The judgment was entered in the register of actions on September 8, 1989. The court of appeal rejected plaintiff's argument that because the judgment was not entered in the register of actions until September 1989, the November 8, 1988 notice of entry of judgment was ineffectual for purposes of Cal. Rules of Ct., Rule 2[Deering's] (p. 543), and dismissed the appeal. The court pointed out that Cal. Rules of Ct., Rule 2(b)(1)[Deering's] requires only that the judgment be signed by the judge and file stamped by the clerk, and does not require that the judgment be entered in the register of actions (216 Cal. App. 3d 540, 544). The court held that the use of the word `` filing'' by Code Civ. Proc. 668.5[Deering's] and Cal. Rules of Ct., Rule 2(b)[Deering's] does not include or require entry of the judgment in the register of actions or entry of the judgment in the court's electronic data-processing system, or microfilming the judgment and, hence, the fact that judgment was not entered in the register of actions until September 1989 is of no consequence to the issue of the timeliness of the appeal (216 Cal. App. 3d 540, 545). Appeal From Original Order Is Untimely The facts and procedural background of *Gill v. Hughes* (1991) 227 Cal. App. 3d 1299, 278 Cal. Rptr. 306 , are discussed in Form 30, Discussion of Authorities, under Order Denying Motion to Reconsider Appealable Order on Same Facts Is Nonappealable. In affirming the judgment, the court of appeal said that Cal. Rules of Ct., Rule 2(a)[Deering's] requires that the notice of appeal be filed within 60 days of the mailing of the notice of entry of judgment or appealable order except as otherwise provided by statute or by Cal. Rules of Ct., Rule 3[Deering's] (relating to extension of time to appeal), and that because the notice of entry of the order was mailed January 9, 1989, to be timely, the notice of appeal must come within Cal. Rules of Ct., Rule 3[Deering's] (227 Cal. App. 3d 1299, 1311). The court said that this rule applies when a party seeks postjudgment relief in the trial court. Cal. Rules of Ct., Rule 3(a)[Deering's] pertains to a new trial motion and states that when such a motion is filed and denied, the time for filing the notice of appeal from the judgment is extended for all parties until 30 days after entry of the order denying the motion or denial thereof by operation of law, but in no event may such notice of appeal be filed later than 180 days after the date of entry of the judgment whether or not the motion for new trial has been determined. Cal. Rules of Ct., Rule 3(b)[Deering's] applies to motions to vacate and again extends the time for filing the notice of appeal until the earliest of 30 days after entry of the order denying the motion to vacate; or 60 days after the date of entry of the judgment; or 180 days after entry of the judgment, whichever is earliest, unless the time is extended by California Rules of Court, Rule 123[Deering's] (relating to motions for new trial, motions to vacate, and cross appeals) ( Cal. 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Rptr. 306 , are discussed in Form 30, Discussion of Authorities, under Order Denying Motion to Reconsider Appealable Order on Same Facts Is Nonappealable. In affirming the judgment, the court of appeal said that Cal. Rules of Ct., Rule 2(a)[Deering's] requires that the notice of appeal be filed within 60 days of the mailing of the notice of entry of judgment or appealable order except as otherwise provided by statute or by Cal. Rules of Ct., Rule 3[Deering's] (relating to extension of time to appeal), and that because the notice of entry of the order was mailed January 9, 1989, to be timely, the notice of appeal must come within Cal. Rules of Ct., Rule 3[Deering's] (227 Cal. App. 3d 1299, 1311). The court said that this rule applies when a party seeks postjudgment relief in the trial court. Cal. Rules of Ct., Rule 3(a)[Deering's] pertains to a new trial motion and states that when such a motion is filed and denied, the time for filing the notice of appeal from the judgment is extended for all parties until 30 days after entry of the order denying the motion or denial thereof by operation of law, but in no event may such notice of appeal be filed later than 180 days after the date of entry of the judgment whether or not the motion for new trial has been determined. Cal. Rules of Ct., Rule 3(b)[Deering's] applies to motions to vacate and again extends the time for filing the notice of appeal until the earliest of 30 days after entry of the order denying the motion to vacate; or 60 days after the date of entry of the judgment; or 180 days after entry of the judgment, whichever is earliest, unless the time is extended by California Rules of Court, Rule 123[Deering's] (relating to motions for new trial, motions to vacate, and cross appeals) ( Cal. Rules of Ct., Rule 122(a)[Deering's] ). [OR ] A. Time to Appeal From Municipal Court. Except as otherwise specifically provided by law, a notice of appeal shall be filed within 30 days after the date of mailing notice of entry of judgment by the clerk of the court pursuant to Code of Civil Procedure Section 664.5[Deering's], or within 30 days after the date of service of written notice of entry of judgment by any party on the party filing the notice of appeal, or within 90 days after the date of entry of the judgment, whichever is earliest, unless the time is extended by California Rules of Court, Rule 123[Deering's] (relating to motions for new trial, motions to vacate, and cross appeals) ( Cal. Rules of Ct., Rule 122(a)[Deering's] ). [EITHER ] B. Entry of Judgment in Superior Court. The date of entry of a judgment is the date of its entry in the judgment book, or in a county following the procedure specified in Code of Civil Procedure Section 668.5[Deering's] (relating to date of entry in which clerk places individual judgments in which clerk places either a microfilm copy is made, or judgment is entered in register of actions, or judgment is entered in court's electronic data-processing system) in lieu of maintaining a judgment book, the date of filing the judgment with the clerk pursuant to that section ( Cal. Rules of Ct., Rule 2(b)(1)[Deering's] ). In a county following Code of Civil Procedure Section 668.5[Deering's], Rule 2(b)(1) requires only that the judgment be signed by the judge and file stamped by the clerk; it does not require entry of the judgment in the register of actions or entry of the judgment in the court's electronic data-processing system, or microfilming the judgment ( Ten Eyck v. Industrial Forklifts Co. (1989) 216 Cal. App. 3d 540, 544-545, 265 Cal. Rptr. 29 ). [OR ] B. Entry of Order in Superior Court. The date of entry of an appealable order which is entered in the minutes is the date of its entry in the permanent minutes, unless such minute order as entered expressly directs that a written order be prepared, signed, and filed, in which case the date of entry is the date of filing of the signed order ( Cal. Rules of Ct., Rule 2(b)(2)[Deering's] ). The fact that a written order is to be prepared under California Rules of Court, Rule 391[Deering's], or a similar local rulef, such as [ specify relevant local rule ], does not constitute an express direction in the minute order that a written order be prepared, signed, and filed for the context of Rule 2(b)(2) ( Cal. Rules of Ct., Rule 2(b)[Deering's] ). The date of entry of an appealable order which is not entered in the minutes is the date of filing of the order signed by the court ( Cal. Rules of Ct., Rule 2(b)(3)[Deering's] ). [OR ] B. Entry of Decree of Distribution in Probate Proceeding. The date of entry of a decree of distribution in a probate proceeding is the date of its entry at length in the judgment book or other permanent record of the court ( Cal. Rules of Ct., Rule 2(b)(4)[Deering's] ). [OR ] B. Entry of Judgment or Order in Municipal Court. (1) The date of entry of a judgment is the date of its entry in the minute book or in the docket unless the entry expressly directs that a written order be prepared, signed, and filed, in which case the date of entry is the date of filing of the signed order ( Cal. Rules of Ct., Rule 122(b)(1)[Deering's] ). The date of entry of an order which is not entered in the minutes or docket is the date of filing of the order signed by the court ( Cal. Rules of Ct., Rule 122(b)(2)[Deering's] ). [CONTINUE ] C. Appeal From Original Order Is Untimely. Although a motion to reconsider under Code of Civil Procedure Section 1008(a)[Deering's] is treated for purposes of California Rules of Court, Rule 3[Deering's] (relating to extension of time to appeal) in the same manner as a motion for new trial or a motion to vacate, that is, it extends the time to appeal from the original order, the appeal is untimely if not filed within the extended period ( *Gill v. Hughes* (1991) 227 Cal. App. 3d 1299, 1311-1312, 278 Cal. Rptr. 306 ). [This rule should also apply to California Rules of Court, Rule 123[Deering's] with regard to a [ superior court limited civil case or municipal court case ].] Respectfully submitted, [ firm name, if any ] By: [ signature ] [ typed name ] Attorney for [ party ] COMMENTS Use of Form These points and authorities may be included in a memorandum of points and authorities submitted in support of a formal written motion to dismiss an appeal from an original appealable order taken after a motion for reconsideration was denied when the appeal was not filed with the time authorized under Cal. Rules of Ct., Rules 3[Deering's] or 123[Deering's]. With regard to the date of entry of a judgment or order discussed in paragraph B, however, neither Cal. Rules of Ct., Rule 2[Deering's] nor Cal. Rules of Ct., Rule 122[Deering's] have as of yet been amended to explicitly address this point with regard to a superior court limited civil case. Counsel will have to determine the applicable rule concerning a superior court limited civil case. Counsel should insert argument in this form, showing the relationship between the facts of the case and the points of law stated. Related Pleading and Practice Forms For a form of motion to dismiss an appeal in an unlimited civil case, see CALIFORNIA FORMS OF PLEADING AND PRACTICE, Ch. 48, Appeal: Abandonment, Dismissal, and Stipulated Reversal. For a form of motion to dismiss an appeal in a limited civil case to the superior court appellate division, see Ch. 345A, Limited Civil Cases, in that publication. DISCUSSION OF AUTHORITIES Motion to Reconsider After Entry of Judgment *Ramon v. Aerospace Corp.* (1996) 50 Cal. App. 4th 1233, 58 Cal. Rptr. 2d 217 (Second App. Dist., Div. Three) is discussed in Form 11, Discussion of Authorities, under Unavailability After Judgment of Motion to Reconsider Order Granting Judgment. The facts and procedural background of *Passavanti v. Williams* (1990) 225 Cal. App. 3d 1602, 275 Cal. Rptr. 887 , are discussed in Form 11, Discussion of Authorities, under Unavailability After Judgment of Motion to Reconsider Order Granting Judgment. The court of appeal did not state that a postjudgment motion for reconsideration will not extend the time to appeal from the judgment ( 225 Cal. App. 3d 1602, 1610-1611 ). The *Passavanti v. Williams* court criticized contrary language or holdings relating to postjudgment motions to reconsider in the following appellate cases: *Miller v. United States Automobile Assn.* (1989) 213 Cal. App. 3d 222, 261 Cal. Rptr. 515 (Fourth App. Dist., Div. Three); *Iade K. v. Viguri* (1989) 210 Cal. App. 3d 1459, 1467, 258 Cal. Rptr. 907 (Fourth App. Dist., Div. One); *Stratton v. First Nat. Life Ins. Co.* (1989) 210 Cal. App. 3d 1071, 1082, 258 Cal. Rptr. 721 (Second App. Dist., Div. One); and *Monsan Homes, Inc. v. Pogrebnak* (1989) 210 Cal. App. 3d 826, 831, 258 Cal. Rptr. 676 (Sixth Appellate District) ( 225 Cal. App. 3d 1602, 1607-1608 n.5 ). The *Passavanti* court agreed with the statement in *Eddy v. Sharp* (1988) 199 Cal. App. 3d 858, 863 n.3, 245 Cal. Rptr. 211 (Third App. Dist.) that a motion for reconsideration may only be considered before the entry of judgment, but questioned the *Eddy* court's further statement that the court is free to consider a motion regardless of the label put on it by the moving party (suggesting a postjudgment motion) on the ground the opinion in *Eddy* does not state when the judgment was entered or when the order denying reconsideration was made ( 225 Cal. App. 3d 1602, 1608-1609 ). Moreover, the case cited by *Eddy* in support of the quoted statement, *Graham v. Hansen* (1982) 128 Cal. App. 3d 965, 180 Cal. Rptr. 604 (Third App. Dist.), did not involve a motion for reconsideration made after entry of judgment, but, rather, a motion for reconsideration of the court's prior order denying a motion for summary judgment and for summary judgment, which the appellate court characterized as a renewed motion for summary judgment under Code Civ. Proc. ♦ 1008(b) [Deering's] , which imposes no time limitation on when the motion must be made [ *Graham v. Hansen* (1982) 128 Cal. App. 3d 965, 970-971, 180 Cal. Rptr. 604 ; see Form 2 ]. The procedural background of *Ten Eyck v. Industrial Forklifts Co.* (1989) 216 Cal. App. 3d 540, 265 Cal. Rptr. 29 , is discussed in Form 31, Discussion of Authorities, under Entry of Judgment in Superior Court. In an order of judgment, the court of appeal did not state that a postjudgment motion for reconsideration will not extend the time to appeal from the judgment ( 225 Cal. App. 3d 1602, 1607-1608 n.5, 275 Cal. Rptr. 887 ). The court pointed out that in its prior decisions it had held that a motion for reconsideration of an appealable order would extend the time to file a notice of appeal from the order (citing *Rojes v. Riverside General Hospital* (1989) 203 Cal. App. 3d 1151, 250 Cal. Rptr. 435 (Fourth App. Dist., Div. Two); *Blue Mountain Development Co. v. Carville* (1982) 132 Cal. App. 3d 1005, 183 Cal. Rptr. 594 (Fourth App. Dist., Div. Two); and *Dockter v. City of Santa Ana* (1968) 261 Cal. App. 2d 69, 67 Cal. Rptr. 686 (Fourth App. Dist., Div. Two) ( 225 Cal. App. 3d 1602, 1605 ). The court explained that in reviewing these cases, it found they made no distinction between final orders, which are actually judgments, and orders which clearly are not judgments but nonetheless are appealable. The court said that, on further consideration, it now recognized that, while *Blue Mountain* was correctly decided, *Rojes* and *Dockter* were incorrect to the extent that they suggested that a postjudgment motion for reconsideration will extend the time to file a notice of appeal ( 225 Cal. App. 3d 1602, 1607 ). The court noted that in *Blue Mountain Development Co. v. Carville* (1982) 132 Cal. App. 3d 1005, 183 Cal. Rptr. 594 , it reaffirmed the rule that a valid motion for reconsideration brought under Code Civ. Proc. ♦ 1008(a)[Deering's] is treated, for purposes of Cal. Rules of Ct., Rule 3[Deering's] , in the same manner as a motion for new trial or a motion to vacate, but disapproved language in that case that might be interpreted as approving the filing of postjudgment motions for reconsideration ( 225 Cal. App. 3d 1602, 1607-1608 n.5 ). However, because of its prior decisions, the court felt compelled out of fairness to treat the motion for reconsideration in the case before it as a motion for new trial or a motion to vacate the judgment. Plaintiff's motion for reconsideration was filed on December 22, 1988. Thus, the last day for filing the