

MEMORANDUM

TO: All Attorneys Accepting Appointments Through CAP/LA

FROM: Jonathan B. Steiner

RE: Recent Division Two *Blakely* Order Regarding Supplemental Briefs

DATE: August 4, 2004

Please note that Division Two of the Second Appellate District has issued the attached Order. To date, it applies only to Division Two cases.

Please also note that it is my understanding of the court's Order that, as of the date of this Order, appointed appellate counsel in Division Two case cannot be paid for filing a request for permission to file a Blakely supplemental brief as so articulated in the court's order.

The Court's Order:

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

MISCELLANEOUS ORDER No. 2004-1956

August 3, 2004

By the Court:

In pending appeals in which an appellant's opening brief was filed prior to the date this order is issued, and in which an opinion has not yet been filed, an application for leave to file a supplemental opening brief shall not be required before filing of a supplemental brief in which proponent's claim for relief is premised on the decision of the United State Supreme Court in *Blakely v. Washington* (No. 02-1632. June 24, 2004) 542 U.S. \_\_\_\_; 124 S.Ct. 2531; 159 L. Ed.2d 403; 2004 WL 1402697; 2004 DJDAR

7581. Henceforth, appellants shall not submit for filing any application for leave to file a supplemental brief premised on Blakely.

If a supplemental opening brief is filed pursuant to this order, the time for filing respondent's brief shall be extended by 15 days. If respondent's brief has already been filed, respondent shall have leave to file a supplemental respondent's brief within 15 days of the date of filing of the appellant's supplemental opening brief.

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Presiding Justice