



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.: 23-143*

For business meeting on September 19, 2023

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**Title**

Appellate Procedure: Time for Electing and Filing an Appendix

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rules 8.124 and 8.845; revise forms APP-001-INFO, APP-010, APP-101-INFO, and APP-110; revoke forms APP-011 and APP-111

**Recommended by**

Appellate Advisory Committee  
Hon. Louis R. Mauro, Chair

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2024

**Date of Report**

June 29, 2023

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### Executive Summary

The Appellate Advisory Committee recommends amending two rules of court regarding appendixes to allow appellants to file an appendix before filing an opening brief and to allow respondents to elect an appendix when their other record designations are due. These amendments are intended to assist courts and litigants by permitting earlier filing of an appendix and to provide respondents the opportunity to elect an appendix after receiving notice that the appellant has designated a clerk's transcript. The committee also recommends revising four forms to reflect the rule changes and revoking two forms that would no longer be necessary.

### Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2024:

1. Amend California Rules of Court, rules 8.124 and 8.845, to change the deadline for a respondent to elect an appendix and to allow an appellant to file an appendix before filing the opening brief.

2. Revise the following forms to reflect the above rule changes:

- *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO);
- *Respondent’s Notice Designating Record on Appeal* (form APP-010);
- *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO); and
- *Respondent’s Notice Designating Record on Appeal* (form APP-110).

3. Revoke the following forms as no longer necessary:

- *Respondent’s Notice Electing to Use an Appendix (Unlimited Civil Case)* (form APP-011); and
- *Respondent’s Notice Electing to Use an Appendix (Limited Civil Case)* (form APP-111).

The proposed amended rules and revised forms are attached at pages 7–52.

### **Relevant Previous Council Action**

Rule 8.124 of the California Rules of Court,<sup>1</sup> governing the use of an appendix in unlimited civil appeals, was adopted as rule 5.1 in 2002 and renumbered in 2007. The council adopted rule 8.845, which authorizes the use of an appendix in lieu of a clerk’s transcript in limited civil appeals, effective January 1, 2021. Rule 8.124 was amended, effective January 1, 2010, to provide that a respondent may not elect an appendix when the appellant has a fee waiver. No other amendments to rule 8.124 are relevant to the instant proposal.

The council approved form APP-101-INFO effective January 1, 2009; forms APP-010, APP-011, and APP-110 effective January 1, 2010; form APP-001-INFO effective January 1, 2019; and form APP-111 effective January 1, 2021. No previous amendments are relevant to the instant proposal.

### **Analysis/Rationale**

#### **Respondent’s election of an appendix**

Currently, rule 8.124(a)(1)(B) allows a respondent in a civil appeal to elect to use an appendix instead of a clerk’s transcript if (1) the respondent serves and files the notice of election “within 10 days after the notice of appeal is filed” and (2) the appellant is not granted a fee waiver for a clerk’s transcript. The respondent’s election governs—even if the appellant chooses a clerk’s transcript—unless the superior court orders otherwise. The respondent’s notice electing an appendix is due the same day as the appellant’s notice designating the record on appeal. Rule 8.845(a)(1)(B) contains identical provisions for limited civil appeals.<sup>2</sup> For the respondent’s other

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<sup>1</sup> All further rule references are to the California Rules of Court.

<sup>2</sup> See rules 8.121(a), 8.124(a)(1)(B), and 8.845(a)(1)(B).

record designations—such as requesting additional proceedings in the reporter’s transcript—the respondent’s designation is due 10 days after the appellant’s designation is filed.<sup>3</sup>

Under these rules, there is a risk that a respondent may miss the opportunity to elect an appendix. Some respondents may be unaware that they must elect an appendix at the same time as the appellants. They may be surprised when an appellant elects a clerk’s transcript and then they discover that it is too late for them to elect an appendix. Still other respondents may be unable to secure appellate counsel to advise them during this short time period immediately after the notice of appeal has been filed. A missed opportunity to elect an appendix can impact the length of the appeals process, given the amount of time it can take superior courts to compile the clerk’s transcript.

To ensure that respondents have a sufficient opportunity to elect an appendix, this proposal amends rule 8.124(a)(1)(B) and rule 8.845(a)(1)(B) to allow respondents additional time to elect an appendix. It changes the deadline for respondents to elect an appendix to “within 10 days after the appellant’s notice designating the record on appeal is filed.” This is the same deadline for filing the respondent’s notice designating the record on appeal.

The committee believes these amendments will reduce the workload of superior court clerks by relieving them of the burden of preparing clerk’s transcripts in certain cases. This, in turn, will help expedite these appeals by eliminating the time needed to compile and transmit the clerk’s transcript.

#### **Timing of filing appellant’s appendix or joint appendix**

Rules 8.124(e)(2) and 8.845(e)(2) require appellant’s appendix or a joint appendix to be filed “with the appellant’s opening brief.” The advisory committee comments to both rules explain that the requirement that the appendix be filed “with” the brief means that any extension of time to file the brief includes the same extension of time to file the appendix.

This proposal amends rules 8.124(e)(2) and 8.845(e)(2) to allow the filing of the appellant’s appendix or joint appendix “before or together with the appellant’s opening brief.”

A clerk’s transcript is always filed before the appellant’s opening brief.<sup>4</sup> Similarly allowing an appendix to be filed before the appellant’s opening brief would facilitate the preparation of the parties’ briefs in complex civil cases and would assist the courts’ consideration of petitions for writ of supersedeas. These amendments do not affect the automatic extension of time for filing an appendix if the appellant receives an extension of time to file the opening brief.

#### **Forms for respondents to designate the record**

Respondents in the Court of Appeal can use *Respondent’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010) to request that additional documents be included in a

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<sup>3</sup> Rules 8.122(a)(2), 8.130(a)(3), 8.832(b)(1), and 8.834(a)(3).

<sup>4</sup> Rules 8.212(a) and 8.882(a).

clerk's transcript or additional oral proceedings be included in a reporter's transcript. To elect an appendix, respondents can use *Respondent's Notice Electing to Use an Appendix (Unlimited Civil Case)* (form APP-011).

In light of the recommended rule change (discussed above) allowing respondents more time to elect an appendix, respondents' choices regarding the record on appeal would all be due at the same time. Accordingly, the committee believes that a separate form for the respondent to elect an appendix is no longer needed.

This proposal revises item 1 on form APP-010 to add a check box for respondents to indicate that they are electing to proceed by an appendix. The revised item advises the respondent that if the appellant obtains a fee waiver, respondents cannot elect an appendix. The item further prompts the respondent to designate any additional documents and exhibits for the clerk's transcript in the event that their election of an appendix is not given effect. This proposal makes the same revisions to the form used for respondents to designate the record in limited civil appeals, *Respondent's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-110).<sup>5</sup>

The committee recommends form APP-011 and *Respondent's Notice Electing to Use an Appendix (Limited Civil Case)* (form APP-111) be revoked as no longer necessary.

### **Information sheet revisions**

To reflect the recommended rule changes, this proposal revises *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO) at items 14a and 16 to indicate that a joint appendix or an appellant's appendix may be filed "before or together" with the appellant's opening brief. Additionally, a paragraph has been added to item 25a to advise the respondent that if appellant chooses a clerk's transcript but does not have a fee waiver for a clerk's transcript, the respondent can choose an appendix or a clerk's transcript. This item further advises the respondent that to make this election, the respondent must fill out and file APP-010 within 10 days after the appellant's notice designating the record is filed.

The same revisions have been made to *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) in items 13b, 15, and 24d, but with form APP-110 referenced.

### **Policy implications**

The above rule changes and form revisions will simplify the record designation process and help expedite the appellate process in those cases in which respondents elect to proceed by an appendix. These revisions are therefore consistent with *The Strategic Plan for California's*

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<sup>5</sup> In addition, the titles of forms APP-010 and APP-110 have been revised to set apart the "Unlimited Civil Case" and "Limited Civil Case" phrases with an em dash, rather than placing them in parentheses, to make the titles clearer and consistent with other council forms.

*Judicial Branch*, specifically the goals of Modernization of Management and Administration (Goal III) and Quality of Justice and Service to the Public (Goal IV).<sup>6</sup>

## **Comments**

This proposal circulated for public comment between March 30 and May 12, 2023. The committee received nine comments from two courts, four county bar associations, and three legal organizations. All commenters agreed with the proposed changes or did not indicate a position. The principal comments are summarized below. A chart with the full text of the comments received and the committee’s responses is attached at pages 53–61.

The California Lawyers Association Committee on Appellate Courts commented that the proposal addresses the problem in which respondents may inadvertently miss the deadline to elect an appendix, and that encouraging greater use of appendixes “would speed up appeals and save court resources.” The Appellate Courts Section of the Los Angeles County Bar Association stated that the proposal “will potentially eliminate an unnecessary filing by the respondent, and reduce the workload of superior court clerks in compiling clerk’s transcripts where the respondent would prefer to elect an appendix, thereby expediting appeals.” Regarding the rule change to allow early filing of appendixes, the commenter felt the change would be “unlikely to change actual practice,” but acknowledged there may be instances (such as with the filing of a writ of supersedeas), where early filing of the appendix would be helpful.

The invitation to comment asked for comment on the rule changes’ potential impact on the deadline for an appellant’s opening brief. Under rule 8.212(a), if an appendix is being used and a reporter’s transcript has not been designated, the appellant must serve the opening brief within 70 days after the filing of the election to use an appendix.<sup>7</sup> Under the rule change, the respondent’s election would be due 10 days later than under current practice, and the appellant’s time to file its opening brief would run from this later date. The invitation to comment asked whether this would be problematic.

Four commenters responded to this request and stated that the briefing deadlines would not be problematic. The Family Violence Appellate Project indicated that it “rarely proceeds without a reporter’s transcript, and even if that occurred, a 10-day extension would have minimal impact on the total duration of the appeal.” It further stated that the appellate courts retain discretion to expedite briefing where necessary. Additionally, the Orange County Bar Association noted that the appellate process would still be faster where a respondent elects an appendix, even where no reporter’s transcript is designated, because of the length of time normally needed to compile the clerk’s transcript.

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<sup>6</sup> Available at [www.courts.ca.gov/3045.htm](http://www.courts.ca.gov/3045.htm).

<sup>7</sup> Similarly, in limited civil appeals, rule 8.882(a) provides that if an appendix is being used and a reporter’s transcript has not been designated, the appellant must serve the opening brief within 60 days after the filing of the election to use an appendix.

The invitation to comment also asked whether a separate form for the respondent to elect an appendix should be retained. The commenters who addressed this request for comment uniformly supported moving the respondent's election of an appendix into the form for the respondent's other record designations.

Finally, the commenters did not identify any other record preparation or briefing procedures that would be affected by allowing respondents more time to elect an appendix.

### **Alternatives considered**

The committee considered the alternative of not taking any action but concluded that the amendments would benefit courts and litigants by saving time and expense. The committee also considered retaining separate forms for the respondent to elect an appendix but concluded that consolidating that form into the respondent's record designation form would make the process more efficient.

### **Fiscal and Operational Impacts**

The committee expects that fiscal and operational impacts would be minimal. The Superior Court of San Diego County noted the need for minimal training for staff, but also noted that the proposal could possibly save 1.5–3 hours of clerk time in cases where a respondent elects an appendix over a clerk's transcript.

### **Attachments and Links**

1. Cal. Rules of Court, rules 8.124 and 8.845, at pages 7–10
2. Forms APP-001-INFO, APP-010, APP-011, APP-101-INFO, APP-110, and APP-111, at pages 11–52
3. Chart of comments, at pages 53–61

Rules 8.124 and 8.845 of the California Rules of Court are amended, effective January 1, 2024, to read:

1 **Title 8. Appellate Rules**

2  
3 **Division 1. Rules Relating to the Supreme Court and Courts of Appeal**

4  
5 **Chapter 2. Civil Appeals**

6  
7 **Article 2. Record on Appeal**

8 **Rule 8.124. Appendixes**

9  
10 **(a) Notice of election**

- 11  
12 (1) Unless the superior court orders otherwise on a motion served and filed  
13 within 10 days after the notice of election is served, this rule governs if:  
14  
15 (A) The appellant elects to use an appendix under this rule in the notice  
16 designating the record on appeal under rule 8.121; or  
17  
18 (B) The respondent serves and files a notice in the superior court electing to  
19 use an appendix under this rule within 10 days after the appellant's  
20 notice of appeal designating the record on appeal is filed and no waiver  
21 of the fee for a clerk's transcript is granted to the appellant. If the  
22 appellant has a fee waiver, the respondent cannot elect an appendix  
23 instead of a clerk's transcript.  
24  
25 (2) When a party files a notice electing to use an appendix under this rule, the  
26 superior court clerk must promptly send a copy of the register of actions, if  
27 any, to the attorney of record for each party and to any unrepresented party.  
28  
29 (3) The parties may prepare separate appendixes or they may stipulate to a joint  
30 appendix.

31  
32 **(b)–(d) \* \* \***

33  
34 **(e) Service and filing**

- 35  
36 (1) A party preparing an appendix must:  
37  
38 (A) Serve the appendix on each party, unless otherwise agreed by the  
39 parties or ordered by the reviewing court; and  
40  
41 (B) File the appendix in the reviewing court.  
42

Rules 8.124 and 8.845 of the California Rules of Court are amended, effective January 1, 2024, to read:

1 (2) A joint appendix or an appellant’s appendix must be served and filed before  
2 or together with the appellant’s opening brief.

3  
4 (3) A respondent’s appendix, if any, must be served and filed with the  
5 respondent’s brief.

6  
7 (4) An appellant’s reply appendix, if any, must be served and filed with the  
8 appellant’s reply brief.

9  
10 **(f)–(g) \* \* \***

11  
12 **Advisory Committee Comment**

13  
14 **Subdivision (a). \* \* \***

15  
16 **Subdivision (b). \* \* \***

17  
18 **Subdivision (d). \* \* \***

19  
20 **Subdivision (e).** Subdivision (e)(2) requires a joint appendix to be filed with the appellant’s  
21 opening brief or before the filing of the appellant’s opening brief. The provision is intended to  
22 improve the briefing process by enabling the appellant’s opening brief to include citations to the  
23 record and, by allowing earlier filing of the appendix, to assist courts in considering petitions for  
24 supersedeas. To provide for the case in which a respondent concludes in light of the appellant’s  
25 opening brief that the joint appendix should have included additional documents, subdivision  
26 (b)(5) permits such a respondent to present in an appendix filed with its respondent’s brief (see  
27 subd. (e)(3)) any document that could have been included in the joint appendix.

28  
29 Under subdivision (e)(2)–(4) an appendix is required to be filed, at the latest, “with” the  
30 associated brief. This provision is intended to clarify that an extension of a briefing period ipso  
31 facto extends the filing period of an appendix associated with the brief.

32  
33 **Subdivision (g). \* \* \***

34  
35  
36 **Division 4. Rules Relating to the Superior Court Appellate Division**

37  
38 **Chapter 2. Appeals and Records in Limited Civil Cases**

39  
40 **Article 2. Record in Civil Appeals**

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Rules 8.124 and 8.845 of the California Rules of Court are amended, effective January 1, 2024, to read:

1 **Rule 8.845. Appendixes**

2  
3 **(a) Notice of election**

4  
5 (1) Unless the superior court orders otherwise on a motion served and filed  
6 within 10 days after the notice of election is served, this rule governs if:

7  
8 (A) The appellant elects to use an appendix under this rule in the notice  
9 designating the record on appeal under rule 8.831; or

10  
11 (B) The respondent serves and files a notice in the superior court electing to  
12 use an appendix under this rule within 10 days after the appellant's  
13 notice of appeal designating the record on appeal is filed, and no waiver  
14 of the fee for a clerk's transcript is granted to the appellant. If the  
15 appellant has a fee waiver, the respondent cannot elect an appendix  
16 instead of a clerk's transcript.

17  
18 (2) When a party files a notice electing to use an appendix under this rule, the  
19 superior court clerk must promptly send a copy of the register of actions, if  
20 any, to the attorney of record for each party and to any unrepresented party.

21  
22 (3) The parties may prepare separate appendixes or they may stipulate to a joint  
23 appendix.

24  
25 **(b)–(d) \* \* \***

26  
27 **(e) Service and filing**

28  
29 (1) A party preparing an appendix must:

30  
31 (A) Serve the appendix on each party, unless otherwise agreed by the  
32 parties or ordered by the reviewing court; and

33  
34 (B) File the appendix in the reviewing court.

35  
36 (2) A joint appendix or an appellant's appendix must be served and filed before  
37 or together with the appellant's opening brief.

38  
39 (3) A respondent's appendix, if any, must be served and filed with the  
40 respondent's brief.

41

Rules 8.124 and 8.845 of the California Rules of Court are amended, effective January 1, 2024, to read:

1           (4) An appellant’s reply appendix, if any, must be served and filed with the  
2           appellant’s reply brief.

3

4           **(f)–(g) \* \* \***

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6

**Advisory Committee Comment**

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8           **Subdivision (a). \* \* \***

9

10          **Subdivision (b). \* \* \***

11

12          **Subdivision (d). \* \* \***

13

14          **Subdivision (e).** Subdivision (e)(2) requires a joint appendix to be filed with the appellant’s  
15 opening brief or before the filing of the appellant’s opening brief. The provision is intended to  
16 improve the briefing process by enabling the appellant’s opening brief to include citations to the  
17 record and, by allowing earlier filing of the appendix, to assist courts in considering petitions for  
18 supersedeas. To provide for the case in which a respondent concludes in light of the appellant’s  
19 opening brief that the joint appendix should have included additional documents, subdivision  
20 (b)(5) permits such a respondent to present in an appendix filed with its respondent’s brief (see  
21 subd. (e)(3)) any document that could have been included in the joint appendix.

22

23 Under subdivision (e)(2)–(4) an appendix is required to be filed, at the latest, “with” the  
24 associated brief. This provision is intended to clarify that an extension of a briefing period ipso  
25 facto extends the filing period of an appendix associated with the brief.

26

27          **Subdivision (g). \* \* \***

## GENERAL INFORMATION

### 1 What does this information sheet cover?

This information sheet tells you about appeals in unlimited civil cases. These are civil cases in which the amount of money claimed is more than \$25,000, as well as other types of cases, such as those filed in family court, probate court, and juvenile court.

If you are the party who is appealing (asking for the trial court's decision to be reviewed), you are called the APPELLANT, and you should read "Information for the Appellant," starting on page 3. If you received notice that another party in your case is appealing, you are called the RESPONDENT and you should read "Information for the Respondent," starting on page 13.

This information sheet does not cover everything you may need to know about appeals in unlimited civil cases. It gives you a general idea of the appeal process. To learn more:

- Read [rules 8.100–8.278](#) of the California Rules of Court, which set out the procedures for unlimited civil appeals. You can get these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).
- Read the local rules and find out about self-help resources for the district in which you filed your appeal at [www.courts.ca.gov/courtssofarpeal.htm](http://www.courts.ca.gov/courtssofarpeal.htm).
- Visit the [Self-Help Guide to the California Courts at https://selfhelp.courts.ca.gov/](https://selfhelp.courts.ca.gov/).
- Review the counties included in each appellate district at [www.courts.ca.gov/documents/appdistmap.pdf](http://www.courts.ca.gov/documents/appdistmap.pdf).

### 2 What is an appeal?

An appeal is a request to a higher court to review a decision made by a judge or jury in the superior court. In an unlimited civil case, the court hearing the appeal is the Court of Appeal for the district in which the superior court is located. The lower court—called the "trial court" in this information sheet—is the superior court.

It is important to understand that **an appeal is NOT a new trial**. The Court of Appeal will not consider new evidence, such as the testimony of new witnesses or new exhibits.

The appellate court's job is to review a record of what happened in the trial court and the trial court's decision to see if certain kinds of legal errors were made.

For information about appeal procedures in other kinds of cases, see:

- *Information on Appeal Procedures for Limited Civil Cases* (form [APP-101-INFO](#))
- *Information on Appeal Procedures for Infractions* (form [CR-141-INFO](#))
- *Information on Appeal Procedures for Misdemeanors* (form [CR-131-INFO](#))

You can get these forms at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

### 3 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative unless you are a legally appointed representative of that person (such as the person's guardian or conservator).

### 4 Can I appeal any decision the trial court made?

No. Generally, you can only appeal the final judgment—the decision at the end that decides the whole case. Other rulings made by the trial court before the final judgment generally cannot be separately appealed but can be reviewed only later as part of an appeal of the final judgment. There are a few exceptions to this general rule. [Code of Civil Procedure section 904.1](#) lists a few types of orders in an unlimited civil case that can be appealed right away. These include orders that:

- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum.
- Grant a new trial or deny a motion for judgment notwithstanding the verdict.
- Discharge or refuse to discharge an attachment or grant a right to attach.
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction. Note: Injunctions include restraining orders.
- Appoint a receiver.
- Are made after final judgment in the case.



- Are made appealable by the Family Code or the Probate Code.

You should consult with a lawyer or a court self-help center to determine if your order is final and appealable. Go to [www.courts.ca.gov/selfhelp-selfhelpcenters.htm](http://www.courts.ca.gov/selfhelp-selfhelpcenters.htm) to find information about the self-help center in your county.

(You can view [Code of Civil Procedure section 904.1](#) using the link below:  
<http://leginfo.legislature.ca.gov/faces/codes.xhtml>.)

## 5 What does the appellant need to prove to win on appeal?

The appellant must prove that an error in the trial court proceedings was made and that the error affected the outcome of the court's or jury's decision. An error that affected the outcome of the case is called a "prejudicial error."

An error can include things like errors made by the judge about the law, errors or misconduct by the lawyers or by the jury, incorrect instructions given to the jury, or insufficient evidence to support the judgment, order, or other decision being appealed. Note: This is not a complete list of all possible errors.

When the appellant argues that the error was based on insufficient evidence to support the judgment or other decision being appealed, the Court of Appeal will determine whether there was "substantial evidence" to support the judgment, order, or other decision being appealed. But in conducting its review, the Court of Appeal only looks to see if there was evidence that reasonably supports the decision.

The Court of Appeal generally will not reconsider the jury's or the trial court's conclusions about which side had more or stronger evidence or whether witnesses were believable. It only determines whether the evidence is sufficient to support the judgment, order, or other decision.

The Court of Appeal will generally not overturn the judgment, order, or other decision being appealed unless the record shows a prejudicial error was made. The winning party does not have to prove that the judgment, order, or other decision was correct. Instead, it is up to the appellant to prove that the error was made and that the error affected the outcome of the case.

## 6 Do I need a lawyer to represent me in an appeal?

You do not *have* to have a lawyer; if you are an individual (rather than a corporation, for example), you are allowed to represent yourself in an appeal in an unlimited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you decide not to use a lawyer, you must put your address, telephone number, fax number (if available), and email address (if available) on the first page of every document you file with the court.

However, if you need to keep your contact information private (for instance, in an appeal involving a domestic violence restraining order), you may give a different mailing address instead. But if you use a different address, be sure to check it regularly to stay informed about your case and about your obligations regarding your case.

You must keep the Court of Appeal, the trial court (if the trial court proceedings continue or are expected to continue), and the other parties in your case informed of any change in your contact information for service of notices and other documents relating to the appeal.

For your trial court case, you may complete *Notice of Change of Address or Other Contact Information* ([form MC-040](#)), file it in the trial court, and have it served on the parties in the case.

For your case in the Court of Appeal, you may refer to form MC-040 as an example of the information that you need to include in a notice regarding the change in your contact information. That notice must be filed in the Court of Appeal and served on the parties in the appellate case.

## 7 Where can I find a lawyer to help me with my appeal?

You have to hire your own lawyer if you want one. You can get information about finding a lawyer on the [Self-Help Guide to the California Courts](https://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help) at <https://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help>.



## INFORMATION FOR THE APPELLANT

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in an unlimited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 13 of this information sheet.

### 8 How do I start my appeal?

First, you must serve and file a notice of appeal. The notice of appeal tells the other party or parties in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal/Cross-Appeal—Unlimited Civil Case* (form APP-002) to prepare a notice of appeal in an unlimited civil case. You can get form APP-002 at any courthouse or county law library or online at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm).

### 9 How do I “serve and file” the notice of appeal?

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the notice of appeal to the other party or parties in the way required by law. If the notice of appeal is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice of appeal has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) can be used to make this record. The proof of service must show who served the notice of appeal, who was served with the notice of appeal, how the notice of appeal was served (by mail, in person, or electronically), and the date the notice of appeal was served.
- Bring or send (by mail or electronically) the original notice of appeal and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice of appeal you are planning to file for your own records before you file it with the court.

Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the notice of appeal to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form APP-009-INFO) and on the [Self-Help Guide to the California Courts at www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

### 10 Is there a deadline to serve and file my notice of appeal?

Yes. Generally, in an unlimited civil case, the notice of appeal must be served on the other party or parties in the case and filed with the clerk of the superior court within **60 days** after the trial court clerk or a party serves either (1) a document called a “Notice of Entry” of the trial court judgment or appealable order or (2) a file-stamped copy of the judgment or appealable order.

If the clerk or a party served neither of these documents, the notice of appeal must be filed within 180 days after entry of judgment or appealable order (generally, the date the judgment or appealable order is file-stamped).

**This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the Court of Appeal will not be able to consider your appeal.**

If a notice of appeal has been filed in a case, any other party to the case may file its own appeal from the same judgment or order. This is called a “cross-appeal.”

To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal or within 20 days after the clerk of the superior court mails notice of the first appeal, whichever is later. A party that wishes to cross-appeal may use *Notice of Appeal/Cross-Appeal—Unlimited Civil Case* (form APP-002) to file this notice in an unlimited civil case.

### 11 Do I have to pay a fee to file a notice of appeal?

Yes. Unless the court waives this fee, you must pay a fee for filing your notice of appeal. You can ask the clerk of the court where you are filing the notice of appeal what the fee is or look up the fee for an appeal in an unlimited civil case in the current Statewide Civil Fee Schedule at [www.courts.ca.gov/7646.htm](http://www.courts.ca.gov/7646.htm) (see the “Appeal and Writ Related Fees” section near the end of the schedule).



If you cannot afford to pay the fee, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

## 12 If I file a notice of appeal, do I still have to do what the trial court ordered me to do?

Filing a notice of appeal does NOT automatically postpone most judgments or orders, such as those requiring you to pay another party money, deliver property to another party, or comply with child custody or visitation orders (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at [www.leginfo.ca.gov/faces/codes.xhtml](http://www.leginfo.ca.gov/faces/codes.xhtml)). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request or some other procedure authorizes a stay (such as filing a bond in appropriate cases).

In most cases, if the trial court denies your request for a stay, you can apply to the Court of Appeal for a stay. If you do not get a stay and you do not do what the trial court ordered you to do, court proceedings to collect the money or otherwise enforce the judgment or order may be started against you.

## 13 What do I need to do after I file my notice of appeal?

Within 15 days after the trial court clerk mails a notice that a notice of appeal has been filed in an unlimited civil case, the appellant must serve and file in the Court of Appeal a completed *Civil Case Information Statement* (form [APP-004](#)), attaching a copy of the judgment or appealed order that shows the date it was entered. See [rules 8.100](#) and [8.104](#) of the California Rules of Court.

In addition, since the Court of Appeal justices were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the Court of Appeal for its review.

Within 10 days of filing the notice of appeal, the appellant must tell the trial court in writing (designate) what documents and oral proceedings, if any, to include in the record that will be sent to the Court of Appeal. You will need to designate all parts of the record that the Court of Appeal will need to decide the issues you raised in the appeal.

You can use *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) to designate the record in an unlimited civil case. You can get form APP-003 at any courthouse or county law library or online at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm).

You must serve and file this notice designating the record on appeal within 10 days after you file your notice of appeal. “Serving and filing” this notice means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (serve) the notice to the other party or parties in the way required by law. If the notice is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the notice, who was served with the notice, how the notice was served (by mail, in person, or electronically), and the date the notice was served.
- Bring or send (by mail or electronically) the original notice and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the notice to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.



You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service* (form [APP-009-INFO](#)) and on the *Self-Help Guide to the California Courts* at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

## 14 What is the official record of the trial court proceedings?

There are three parts of the official record:

- A record of the documents filed in the trial court (other than exhibits);
- A record of what was said in the trial court (this is called the “oral proceedings”); and
- Exhibits that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court.

Read below for more information about these parts of the record.

### a. Record of the documents filed in the trial court

The first part of the official record of the trial court proceedings is a record of the documents that were filed in the trial court. There are three ways in which a record of the documents filed in the trial court can be prepared for the Court of Appeal:

- A *clerk’s transcript* or an *appendix*,
- The original *trial court file*, or
- An *agreed statement*.

Read below for more information about these options.

#### (1) Clerk’s transcript or appendix

**Description:** A clerk’s transcript is a compilation of the documents filed in the trial court that is prepared by the trial court clerk. An appendix is a compilation of these documents prepared by a party. (Cal. Rules of Court, [rule 8.124](#).)

**Contents:** Certain documents, such as the notice of appeal and the trial court judgment or order being appealed, must be included in the clerk’s transcript or appendix. These documents are listed in [rule 8.122\(b\)](#) and [rule 8.124\(b\)](#) of the California Rules of Court and in *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)).

**Clerk’s transcript.** If you want any documents other than those listed in [rule 8.122\(b\)](#) to be included in the clerk’s transcript, you must tell the trial court in your notice designating the record on appeal. You can use form [APP-003](#) to do this. You will need to identify each document you want included in the clerk’s transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.

If you (the appellant) request a clerk’s transcript, the respondent also has the right to ask the clerk to include additional documents in the clerk’s transcript. If this happens, you will be served with a notice saying what other documents the respondent wants included in the clerk’s transcript.

**Cost:** The appellant is responsible for paying for preparing a clerk’s transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk’s transcript.

You must do one of the following three things within 10 days after the clerk sends this bill or the Court of Appeal may dismiss your appeal:

- Pay the bill.
- Ask the trial court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm). The trial court will review this application to determine if you are eligible for a fee waiver.
- Give the trial court a copy of a court order showing that your fees in this case have already been waived by the court.

**Completion and delivery:** After the cost of preparing the clerk’s transcript has been paid or waived, the trial court clerk will compile the requested documents into a transcript format and, when the record on appeal is complete, will forward the original clerk’s transcript to the Court of Appeal for filing. The trial court clerk will send you a copy of the transcript. If the respondent bought a copy, the clerk will also send a copy of the transcript to the respondent.



**Appendix:** If you choose to prepare an appendix of the documents filed in the superior court, rather than designating a clerk’s transcript, that appendix must include all of the documents and be prepared in the form required by [rule 8.124](#) of the California Rules of Court. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the appellant will pay the cost.

The party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the Court of Appeal has ordered otherwise) and file the appendix in the Court of Appeal. The appellant’s appendix or a joint appendix must be served and filed **before or together** with the appellant’s opening brief. See **(16)** for information about the brief.

## (2) Trial court file

**When available:** If the Court of Appeal has a local rule allowing this, and the parties agree, the clerk can send the Court of Appeal the original trial court file instead of a clerk’s transcript as a record of documents filed in the trial court (see [rule 8.128](#) of the California Rules of Court).

**Cost:** As with a clerk’s transcript, the appellant is responsible for paying for preparing the trial court file. The trial court clerk will send you a bill for this preparation cost.

You must do one of the following things within 10 days after the clerk sends this bill or the Court of Appeal may dismiss your appeal:

- Pay the bill.
- Ask the trial court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at [www.court.ca.gov/forms](http://www.court.ca.gov/forms). The trial court will review this application to determine if you are eligible for a fee waiver.
- Give the trial court a copy of a court order showing that your fees in this case have already been waived by the court.

**Completion and delivery:** After the cost of preparing the trial court file has been paid or waived and the record on appeal is complete, the trial court clerk will number the pages and send the file and a list of the documents in the file to the Court of Appeal. The trial court clerk will also send a copy of the list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order and number the pages.

## (3) Agreed statement

**Description:** An agreed statement is a summary of the trial court proceedings agreed to by the parties. (See [rule 8.134](#) of the California Rules of Court.)

**When available:** If the trial court proceedings were not recorded by a court reporter or if you do not want to use that option, you can choose (elect) to use an agreed statement as the record of the oral proceedings. Please note that it may take more of your time to prepare an agreed statement than to use a reporter’s transcript, if it is available.

**Contents:** An agreed statement must explain what the trial court case was about, describe why the Court of Appeal is the right court to consider an appeal in this case (why the Court of Appeal has “jurisdiction”), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

**Preparation:** If you elect to use this option, you must file either (1) an agreed statement or (2) a written agreement (called a “stipulation”) that the parties are trying to agree on a statement, along with your notice designating the record on appeal. If you file the stipulation and the parties agree on a statement, you must file the statement within 40 days after filing the notice of appeal. If you file the stipulation and the parties cannot agree on the statement, you must file a new notice designating the record within 50 days after filing the notice of appeal.



**b. Record of what was said in the trial court (the “oral proceedings”)**

***Important!*** The type of record of the oral proceedings that you choose, including a reporter’s transcript or a settled statement, should be carefully considered, as it may affect your appeal. You should consult with a lawyer to determine the best option in your case.

The second part of the official record of the trial court proceedings is a record of what was said in the trial court (this is called a record of the “oral proceedings”). You do not *have* to send the Court of Appeal a record of the oral proceedings. But if you want to raise any issue in your appeal that would require the Court of Appeal to consider what was said in the trial court, the Court of Appeal will need a record of those oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the judgment, order, or other decision you are appealing, the Court of Appeal will presume there was substantial evidence unless it has a record of the oral proceedings.

You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying for preparing this record or for preparing an initial draft of the record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the Court of Appeal. **If the Court of Appeal does not receive this record, you may forfeit your arguments on appeal, or the Court of Appeal may make presumptions in favor of the judgment or order.**

In an unlimited civil case, you can use *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) to tell the trial court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get form [APP-003](#) at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

There are three ways in which a record of the oral proceedings can be prepared for the Court of Appeal:

- If you or the other party arranged to have a court reporter present during the trial court proceedings, the reporter can prepare a record, called a “*reporter’s transcript*.”
- You can use an *agreed statement*.
- You can use a *settled statement*.

Read below for more information about these options.

**(1) Reporter’s transcript**

**Description:** A reporter’s transcript is a written record (sometimes called a “verbatim” record) of the oral proceedings in the trial court prepared by a court reporter. [Rule 8.130](#) of the California Rules of Court establishes the requirements for reporter’s transcripts.

**When available:** If a court reporter was present in the trial court and made a record of the oral proceedings, you can choose (elect) to have the court reporter prepare a reporter’s transcript for the Court of Appeal. But a court reporter might not have been present unless you or another party in your case had made specific arrangements to have a court reporter present. If you are unsure, check with the trial court to see if a court reporter made a record of the oral proceedings in your case before choosing this option.

**Contents:** If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want to be included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—*Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#))—to do this.

If you elect to use a reporter’s transcript, the respondent also has the right to designate additional proceedings to be included in the reporter’s transcript. If you elect to proceed



without a reporter's transcript, however, the respondent may not designate a reporter's transcript without first getting an order from the Court of Appeal.

**Cost:** The appellant is responsible for paying for preparing a reporter's transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter's transcript. You must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule 8.130 with the trial court clerk within 10 days after this notice is sent. (See [rule 8.130](#) for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. Money from a special fund, called the Transcript Reimbursement Fund, may be available to help you pay for the transcript. You can get information about this fund at [www.courtreportersboard.ca.gov/consumers/index.shtml#rtf](http://www.courtreportersboard.ca.gov/consumers/index.shtml#rtf).

If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a settled statement, which are described below.

**Completion and delivery:** After the cost of preparing the reporter's transcript or a permissible substitute has been deposited, the court reporter will prepare the transcript and submit it to the trial court clerk. When the record is complete, the trial court clerk will submit the original transcript to the Court of Appeal and send you a copy of the transcript. If the respondent has purchased it, a copy of the reporter's transcript will also be mailed to the respondent.

## (2) Agreed statement

**Description:** An agreed statement is a written summary of the trial court proceedings agreed to by all the parties. See [rule 8.134](#) of the California Rules of Court.

**When available:** If the trial court proceedings were not recorded by a court reporter or if you do not want to use that option, you can choose (elect) to use an agreed statement as the record of the oral proceedings. Please note that it may take more of your time to prepare an agreed statement than to use a reporter's transcript, if it is available.

**Contents:** An agreed statement must explain what the trial court case was about, describe why the Court of Appeal is the right court to consider an appeal in this case (why the Court of Appeal has "jurisdiction"), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

**Preparation:** If you elect to use this option, you must file either (1) an agreed statement or (2) a written agreement (called a "stipulation") that the parties are trying to agree on a statement, along with your notice designating the record on appeal. If you file the stipulation and the parties agree on a statement, you must file the statement within 40 days after filing the notice of appeal. If you file the stipulation and the parties cannot agree on the statement, you must file a new notice designating the record within 50 days after filing the notice of appeal.

## (3) Settled statement

**Description:** A settled statement is a summary of the trial court proceedings that is approved by the trial court judge who conducted those proceedings (the term "judge" includes commissioners, referees, hearing officers, and temporary judges).

**When available:** Under [rule 8.137](#) of the California Rules of Court, you can choose (elect) to use a settled statement as the record of the oral



proceedings if (1) the trial court proceedings were not recorded by a court reporter or (2) if you have an order waiving your court fees and costs. Please note that it may take more of your time to prepare a settled statement than to use a reporter's transcript, if it is available.

If you want to use a settled statement as the record of the oral proceedings for reasons other than the two previously mentioned, you must file a motion to ask the trial court for an order. You may use *Appellant's Motion to Use a Settled Statement (Unlimited Civil Case)* (form APP-025) for this purpose. Read [rule 8.137](#) about the requirements of your motion or request for order.

**Contents:** A settled statement must include:

- A statement of the points you (the appellant) are raising on appeal;
- A condensed narrative of the oral proceedings that you specified in the notice designating the record on appeal or motion. The condensed narrative is a summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal; and
- A copy of the judgment or order you are appealing attached to the settled statement.

**Preparing a proposed settled statement:** If you elect to use a settled statement, you must prepare a proposed settled statement. You may use *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form [APP-014](#)) to prepare your proposed statement. You can get the form at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

(See rule 8.137 of the California Rules of Court for more information about what must be included in a settled statement and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).)

**Serving and filing a proposed settled statement:** You must serve and file the proposed statement within 30 days after filing your notice electing to use a settled statement or within 30 days after the trial court clerk sends, or a party serves, the order granting the motion to use a settled statement. "Serve and file" means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (serve) the proposed settled statement to the respondent in the way required by law. If the proposed statement is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed settled statement has been served. This record is called a "proof of service." *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail, in person, or electronically), and the date the proposed statement was served.
- File the original proposed settled statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).



**Respondent's review:** The respondent has 20 days from the date you serve your proposed settled statement to serve and file either:

- Proposed changes (called “amendments”) to the proposed statement; or
- If the oral proceedings in the trial court were reported by a court reporter, a notice indicating that the respondent is electing to provide a reporter’s transcript instead of proceeding with a settled statement.

**Review of appellant’s proposed settled statement:** If the respondent proposes changes, the trial court judge then reviews both your proposed statement and the respondent’s proposed amendments. The trial judge will either make or order you (the appellant) to make any corrections or modifications to the statement that are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal. For more information, see [rule 8.137\(f\)](#) of the California Rules of Court. See also [rule 8.140](#), which explains the consequences for a party’s failure to make corrections that are ordered to be made to the proposed statement.

**Request for hearing to review proposed settled statement:** No later than 10 days after the respondent files proposed amendments, or the time to do so has expired, a party may request a hearing to review and correct the proposed statement. No hearing will be held unless ordered by the trial court judge. A judge will not ordinarily order a hearing unless there is a factual dispute about a material aspect of the trial court proceeding. If there is a hearing, see [rule 8.137](#) for more information.

**Additional review procedures:** If there is no hearing after the respondent proposes changes to the settled statement, and if the judge makes any

corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you and the respondent for your review.

If the judge orders you to make any corrections or modifications to the proposed statement, you must serve and file the corrected or modified statement within the time ordered by the judge. See [rule 8.140](#), which explains the consequences for a party’s failure to make corrections to the proposed statement.

If you or the respondent disagree with anything in the modified or corrected statement, you have 10 days from the date the modified or corrected statement is sent to you to serve and file proposed amendments or objections to the statement. The judge then reviews the modified or corrected statement and any proposed modifications. If the judge decides that further corrections or modifications are necessary, the review process described above takes place again.

**Completion and certification:** If the judge does not order any corrections or modifications to the proposed statement, the judge must promptly certify the statement as an accurate summary of the evidence and testimony of each witness relevant to the issues you indicated you are raising on appeal.

Alternatively, the parties may serve and file a stipulation (agreement) that the statement as originally served or corrected or modified is correct. Such a stipulation is equivalent to the judge’s certification of the statement.

**Sending settled statement to the Court of Appeal:** Once the trial court judge certifies the statement or the trial court receives the parties’ stipulation, the trial court clerk will send the statement to the Court of Appeal as required under [rule 8.150](#) of the California Rules of Court.



**c. Exhibits**

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk’s transcript unless you ask that they be included in your notice designating the record on appeal. *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) includes a space for you to make this request.

You also can ask the trial court to send original exhibits to the Court of Appeal at the time briefs are filed. (See [rule 8.224](#) for more information about this procedure and see below for information about briefs.)

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for that exhibit to be included in the clerk’s transcript or sent to the Court of Appeal, the party who has the exhibit must deliver that exhibit to the trial court clerk as soon as possible.

**15 What happens after the official record has been prepared?**

As soon as the record on appeal is complete, the clerk of the trial court will send it to the Court of Appeal for the district in which the trial court is located. When the Court of Appeal receives the record, it will send you a notice telling you when you must file your brief in the Court of Appeal.

**16 What is a brief?**

**Description:** A “brief” is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer, you will have to prepare your brief yourself.

You should read [rules 8.200–8.224](#) of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in unlimited civil appeals, including requirements for the format and length of these briefs. You can get copies of these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules.htm](http://www.courts.ca.gov/rules.htm).

**Contents and format of briefs:** If you are the appellant, your brief, called an “appellant’s opening brief,” must clearly explain the legal errors you believe were made in the trial court. Your brief must refer to the exact places in the clerk’s transcript and the reporter’s transcript (or the other forms of the record you are using) that support your argument. Each brief must be no longer than 14,000 words if produced on a computer, including footnotes. A brief produced on a typewriter must not be longer than 50 pages. The brief must contain a table of contents and a table of authorities. The cover of appellant’s opening brief filed in paper form must be green. For other content and formatting requirements for the brief, read [rules 8.40](#) and [8.204](#) of the California Rules of Court.

Remember that an appeal is not a new trial. The Court of Appeal will not consider new evidence, such as new exhibits or the testimony of new witnesses, so do not include any new evidence in your brief.

**Serving and filing:** You must serve and file your opening brief within 40 days after the record is filed in the Court of Appeal or 70 days from the date the appellant chooses to proceed with no reporter’s transcript under [rule 8.124](#). “Serve and file” means that you must:

- Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.



- File the original brief and the proof of service with the Court of Appeal. You should make a copy of the brief you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.
- Note: If a party chooses to prepare an appendix of the documents filed in the trial court instead of designating a clerk’s transcript, the appellant’s appendix or a joint appendix must be served and filed **before or together** with the appellant’s opening brief.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the **Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm)**.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 60 days (see [rule 8.212\(b\)](#) for requirements for these agreements). You can also apply to the presiding justice of the Court of Appeal to extend the time for filing this brief if you can show good cause for an extension (see [rule 8.63](#) for information about extensions of time). You can use *Application for Extension of Time to File Brief—Unlimited Civil Case* (form [APP-006](#)) to ask the court for an extension.

**If you do not file your brief by the deadline set by the Court of Appeal, the court may dismiss your appeal.**

## 17 What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent must respond by serving and filing a respondent’s brief. Within 20 days after the respondent’s brief was filed, you may, but are not required to, file another brief replying to the respondent’s brief. This is called a “reply brief.”

## 18 What happens after all the briefs have been filed?

After all the briefs have been filed or the time to file them has passed, the Court of Appeal will contact you to tell you the date for oral argument in your case or ask if you want to participate in oral argument.

## 19 What is “oral argument”?

“Oral argument” is not a chance to present new evidence. Instead, it is a chance to orally explain the arguments you made in your brief to the Court of Appeal justices. You do not have to participate in oral argument if you do not want to; you can notify the Court of Appeal that you want to “waive” oral argument. If all parties waive oral argument, the justices will decide your appeal based on the briefs and the appellate record. But if any party requests oral argument, the Court of Appeal will hold oral argument.

If you choose to participate in oral argument, you will have a limited amount of time as set by the court.

Remember that the justices will have already read the briefs, so you do not need to read your brief to the justices or merely repeat the information in it. It is more helpful to tell the justices what you think is most important in your appeal or ask the justices if they have any questions you could answer.

You can find more information about oral argument in appeals cases in [rule 8.256](#) of the California Rules of Court and online at [www.courts.ca.gov/12421.htm](http://www.courts.ca.gov/12421.htm).

## 20 What happens after oral argument?

After oral argument is held or waived, the justices of the Court of Appeal will make a decision about your appeal. The clerk of the court will mail you a notice of the Court of Appeal’s decision.

## 21 What should I do if I want to give up my appeal?

If you do not want to continue with your appeal, you must notify the court. If the record has not yet been filed in the Court of Appeal, file *Abandonment of Appeal (Unlimited Civil Case)* (form [APP-005](#)) in the superior court.

If the record has already been filed in the Court of Appeal, file *Request for Dismissal of Appeal (Civil Case)* (form [APP-007](#)) in the Court of Appeal.



**INFORMATION FOR THE RESPONDENT**

This part of this information sheet is written for the respondent—the party responding to an appeal filed by another party. It explains some of the rules and procedures relating to responding to an appeal in an unlimited civil case. The information may also be helpful to the appellant.

**22 I have received a notice of appeal from another party. Do I need to do anything?**

You do not *have* to do anything, but there may be consequences if you do nothing. The notice of appeal simply tells you that another party is appealing the trial court’s decision. However, this would be a good time to get advice from a lawyer, if you want it. You do not *have* to have a lawyer; if you are an individual (not a corporation, for example), you are allowed to represent yourself in an appeal in an unlimited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow.

If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the Self-Help Guide to the California Courts at <https://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help>.

**23 If the other party appealed, can I appeal too?**

Yes. Even if another party has already appealed, you may still appeal the same judgment or order. This is called a “cross-appeal.” To cross-appeal, you must serve and file a notice of appeal. You can use *Notice of Appeal/Cross-Appeal—Unlimited Civil Case* (form [APP-002](#)) to file this notice in an unlimited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 3 of this information sheet, if you are considering filing a cross-appeal.

**24 Is there a deadline to file a cross-appeal?**

Yes. You must serve and file your notice of appeal within either the regular time for filing a notice of appeal (generally 60 days after service of Notice of Entry of the judgment or a file-stamped copy of the judgment) or within 20 days after the clerk of the trial court serves notice of the first appeal, whichever is later.

**25 I have received a notice designating the record on appeal from another party. Do I need to do anything?**

You do not *have* to do anything, but there may be consequences if you do nothing. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the Court of Appeal. Depending on the kind of record chosen by the appellant, however, you may have the option to:

- Add to what is included in the record;
- Participate in preparing the record; *or*
- Ask for a copy of the record.

Look at the appellant’s notice designating the record on appeal to see what kind of record the appellant has chosen and read about that form of the record in the response to question 14 above. Then read below for what your options are when the appellant has chosen that form of the record.

**a. Clerk's transcript or appendix**

**Clerk’s transcript:** If the appellant is using a clerk’s transcript, you have the option of asking the clerk to include additional documents in the clerk’s transcript. To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk’s transcript. You may use *Respondent’s Notice Designating Record on Appeal—Unlimited Civil Case* (form [APP-010](#)) for this purpose.



Whether or not you ask for additional documents to be included in the clerk's transcript, you must pay a fee if you want a copy of the clerk's transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk's transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk's notice was sent.

If you cannot afford to pay this cost, you can ask the trial court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). The trial court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk's transcript for you unless you deposit payment for the cost or obtain a fee waiver.

**Appendix:** If the appellant is using an appendix, and you and the appellant have not agreed to a joint appendix, you may prepare a separate respondent's appendix. See pages 5–6 for more information about preparing an appendix.

If the appellant chooses a clerk's transcript but does not have a waiver of the fee for a clerk's transcript, you can choose an appendix instead of a clerk's transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent's Notice Designating Record on Appeal—Unlimited Civil Case* (form APP-010) within 10 days after the appellant's notice designating the record on appeal is filed.

#### **b. Reporter's transcript**

If the appellant is using a reporter's transcript, you have the option of asking for additional proceedings to be included in the reporter's transcript. To do this, within 10 days after the appellant files its notice designating the record on appeal, you must serve and file a notice designating additional proceedings to be included in the reporter's transcript. You may use *Respondent's Notice Designating Record on Appeal—Unlimited Civil Case* (form [APP-010](#)) for this purpose.

Whether or not you ask for additional proceedings to be included in the reporter's transcript, you must generally pay a fee if you want a copy of the reporter's transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter's transcript. If you want a copy of the reporter's transcript, you must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by [rule 8.130](#) with the trial court clerk within 10 calendar days after this notice is sent. (See [rule 8.130](#) for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. Money from a special fund, called the Transcript Reimbursement Fund, may be available to help you pay for the transcript. You can get information about this fund at [www.courtreportersboard.ca.gov/consumers/index.shtml#trf](http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf).

The reporter will not prepare a copy of the reporter's transcript for you unless you deposit the cost of the transcript, or provide one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

#### **c. Agreed statement**

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 40 days after the appellant files its notice of appeal. See [rule 8.134](#) of the California Rules of Court.

#### **d. Settled statement**

If the appellant elects to use a settled statement (a summary of the trial court proceedings that is approved by the trial court), the appellant will send you a proposed settled statement to review. You will have 20 days from the date the appellant served you this proposed statement to serve and file either:



- Suggested changes (called “amendments”) that you think are needed to make sure that the settled statement provides an accurate summary of the evidence and testimony of each witness relevant to the issues the appellant is raising on appeal (see page 10 of this form and [rule 8.137\(e\)–\(h\)](#) for more information about the amendment process); or
- If the oral proceedings in the trial court were reported by a court reporter, a notice indicating that you are choosing to provide a reporter’s transcript, at your expense, instead of proceeding with a settled statement (see [rule 8.137\(e\)\(2\)](#) for the requirements for choosing to provide a reporter’s transcript).

Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the proposed amendments to the appellant in the way required by law. If the proposed amendments are mailed or personally delivered, it must be by someone who is not a party to the case—so not you.

- Make a record that the proposed amendments have been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the proposed amendments, who was served with the proposed amendments, how the proposed amendments were served (by mail, in person, or electronically), and the date the proposed amendments were served.
- File the original proposed amendments and the proof of service with the trial court. You should make a copy of the proposed amendments you are planning to file for your own records before you file them with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the proposed amendments to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

## 26 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the Court of Appeal. When the Court of Appeal receives this record, it will send you a notice telling you when you must file your brief in the Court of Appeal.

A brief is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to prepare your brief yourself.

You should read [rules 8.200–8.224](#) of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in unlimited civil appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules.htm](http://www.courts.ca.gov/rules.htm).

The appellant serves and files the first brief, called an “appellant’s opening brief.” You must respond by serving and filing a “respondent’s brief” within 30 days after the appellant’s opening brief is filed. “Serve and file” means that you must:

- Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record.



The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.

- File the original brief and the proof of service with the Court of Appeal. You should make a copy of the brief you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the *Self-Help Guide to the California Courts* at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 60 days (see rule 8.212(b) for requirements for these agreements). You can also apply to the presiding justice of the Court of Appeal to extend the time for filing this brief if you can show good cause for an extension. You can use *Application for Extension of Time to File Brief—Unlimited Civil Case* (form [APP-006](#)) to ask the court for an extension.

If you do not file a respondent’s brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant’s brief, and any oral argument by the appellant. Remember that an appeal is not a new trial. The Court of Appeal will not consider new evidence, such as new exhibits or the testimony of new witnesses, so do not include any new evidence in your brief.

If you file a respondent’s brief, the appellant then has an opportunity to serve and file another brief within 20 days to reply to your brief.

## 27 What happens after all the briefs have been filed?

After all the briefs have been filed or the time to file them has passed, the Court of Appeal will contact you to tell you the date for oral argument in your case or ask if you want to participate in oral argument.

## 28 What is “oral argument”?

“Oral argument” is not a chance to present new evidence. Instead, it is a chance to orally explain the arguments you made in your brief to the Court of Appeal justices. You do not have to participate in oral argument if you do not want to; you can notify the Court of Appeal that you want to “waive” oral argument. If all parties waive oral argument, the justices will decide your appeal based on the briefs and the appellate record. But if any party requests oral argument, the Court of Appeal will hold oral argument.

If you choose to participate in oral argument, you will have a limited amount of time as set by the court.

Remember that the justices will have already read the briefs, so you do not need to read your brief to the justices or merely repeat the information in it. It is more helpful to tell the justices what you think is most important in your appeal or ask the justices if they have any questions you could answer.

You can find more information about oral argument in appeals cases in [rule 8.256](#) of the California Rules of Court and online at [www.courts.ca.gov/12421.htm](http://www.courts.ca.gov/12421.htm).

## 29 What happens after oral argument?

After oral argument is held or waived, the justices of the Court of Appeal will make a decision about your appeal. The clerk of the court will mail you a notice of the Court of Appeal’s decision.

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY  <b>DRAFT</b>  <b>06/22/2023</b>  <b>Not approved by the Judicial Council</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT: OTHER PARENT/PARTY:	
<b>RESPONDENT'S NOTICE DESIGNATING RECORD ON APPEAL— UNLIMITED CIVIL CASE</b>	SUPERIOR COURT CASE NUMBER:
Re: Appeal filed on (date):	COURT OF APPEAL CASE NUMBER (if known):
<b>Notice: Please read <i>Information on Appeal Procedures for Unlimited Civil Cases</i> (form APP-001-INFO) before completing this form. This form must be filed in the superior court, not in the Court of Appeal.</b>	

**1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT**

The appellant has chosen to use a clerk's transcript under Cal. Rules of Court, rule 8.122. (You must check a or b):

- a.  I agree to a clerk's transcript. (If you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk's transcript, you must identify those documents in item 2.)
- b.  If the appellant has not been granted a waiver of the fee for a clerk's transcript, I choose an appendix as the record of documents under Cal. Rules of Court, rule 8.124 instead of a clerk's transcript. (If the appellant has been granted a waiver of the fee for a clerk's transcript, you may not choose an appendix; a clerk's transcript will be used. If a clerk's transcript is used and you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk's transcript, you must identify those documents in item 2.)

**2. CLERK'S TRANSCRIPT**

The parties will use a clerk's transcript under Cal. Rules of Court, rule 8.122.

- a.  **Additional documents.** In addition to the documents designated by the appellant, I request that the clerk include in the transcript the following documents from the superior court proceedings. (You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

	Document Title and Description	Date of Filing
(1)		
(2)		
(3)		
(4)		
(5)		
(6)		
(7)		

See additional pages. (Check here if you need more space to list additional documents. List these documents on a separate page or pages labeled "Attachment 2(a)," and start with number (8).)

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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2. b.  **Additional exhibits.** In addition to the exhibits designated by the appellant, I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. *(For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence. If the superior court has returned a designated exhibit to a party, the party in possession of the exhibit must deliver it to the superior court clerk within 10 days after service of this notice designating the record. (Cal. Rules of Court, rule 8.122(a)(3).))*

Exhibit Number	Description	Admitted (Yes/No)
(1)		
(2)		
(3)		
(4)		

- See additional pages. *(Check here if you need more space to list additional exhibits. List these exhibits on a separate page or pages labeled "Attachment 2b," and start with number (5).)*

- c.  **Copy of clerk's transcript.** I request a copy of the clerk's transcript. *(Check (1) or (2).)*
- (1)  I will pay the superior court clerk for this transcript when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, I will not receive a copy.
- (2)  I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record *(check (a) or (b))*:
- (a)  An order granting a waiver of court fees and costs under **Cal. Rules of Court**, rules 3.50–3.58; or
- (b)  An application for a waiver of court fees and costs under **Cal. Rules of Court**, rules 3.50–3.58. *(Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)*

### 3. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

The appellant has chosen to use a reporter's transcript under **Cal. Rules of Court**, rule 8.130.

- a.  **Designation of additional proceedings.** *(If you want any oral proceedings in addition to the proceedings designated by the appellant to be included in the reporter's transcript, you must identify those proceedings here.)*
- (1) In addition to the proceedings designated by the appellant, I request that the following proceedings in the superior court be included in the reporter's transcript. *(You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)*

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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3. a. (1) (continued)

	Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(a)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(b)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(c)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(d)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(e)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(f)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(g)						<input type="checkbox"/> Yes <input type="checkbox"/> No

See additional pages. (Check here if you need more space to list additional proceedings. List these proceedings on a separate page or pages labeled "Attachment 3a(1)," and start with letter (h).)

(2) Deposit for additional proceedings.

I have (check a, b, c, or d):

- (a)  Deposited with the superior court clerk the approximate cost of preparing the additional proceedings by including the deposit with this notice as provided in Cal. Rules of Court, rule 8.130(b)(1).
- (b)  Attached a copy of a Transcript Reimbursement Fund application filed under Cal. Rules of Court, rule 8.130(c)(1)
- (c)  Attached the reporter's written waiver of a deposit under Cal. Rules of Court, rule 8.130(b)(3)(A) for (check either (i) or (ii)):
  - (i)  All of the designated proceedings.
  - (ii)  Part of the designated proceedings.
- (d)  Attached a certified transcript under Cal. Rules of Court, rule 8.130(b)(3)(C).

b. Copy of reporter's transcript.

- (1)  I request a copy of the reporter's transcript.
- (2)  I request that the reporters provide (check (a), (b), or (c)) :
  - (a)  My copy of the reporter's transcript in electronic format.
  - (b)  My copy of the reporter's transcript in paper format.
  - (c)  My copy of the reporter's transcript in electronic format and a second copy of the reporter's transcript in paper format.

(Code Civ. Proc., § 271.)

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

  
\_\_\_\_\_  
(SIGNATURE OF RESPONDENT OR ATTORNEY)

**APP-101-INFO****Information on Appeal Procedures for Limited Civil Cases****GENERAL INFORMATION****1 What does this information sheet cover?**

This information sheet tells you about appeals in limited civil cases. These are civil cases in which the amount of money claimed is \$25,000 or less.

If you are the party who is appealing (asking for the trial court’s decision to be reviewed), you are called the APPELLANT, and you should read Information for the Appellant, starting on page 2. If you received notice that another party in your case is appealing, you are called the RESPONDENT and you should read Information for the Respondent, starting on page 11.

This information sheet does not cover everything you may need to know about appeals in limited civil cases. It is meant only to give you a general idea of the appeal process. To learn more, you should read rules 8.800–8.843 and 8.880–8.891 of the California Rules of Court, which set out the procedures for limited civil appeals. You can get these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).

**2 What is an appeal?**

An appeal is a request to a higher court to review a decision made by a judge or jury in a lower court. **In a limited civil case, the court hearing the appeal is the appellate division of the superior court and the lower court—called the “trial court” in this information sheet—is the superior court.**

It is important to understand that **an appeal is NOT a new trial**. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits. The appellate division’s job is to review a record of what happened in the trial court and the trial court’s decision to see if certain kinds of legal errors were made:

For information about appeal procedures in other kinds of cases, see:

- *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001)
- *Information on Appeal Procedures for Infractions* (form CR-141-INFO)
- *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO)

You can get these forms at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

- **Prejudicial error:** The appellant (the party who is appealing) may ask the appellate division to determine if an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called “prejudicial error”).

Prejudicial error can include things like errors made by the judge about the law, errors or misconduct by the lawyers, incorrect instructions given to the jury, and misconduct by the jury that harmed the appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. It is the responsibility of the appellant to show the appellate division that an error was made and that the error was harmful.

- **No substantial evidence:** The appellant may also ask the appellate division to determine if there was substantial evidence supporting the judgment, order, or other decision being appealed. When it conducts its review, the appellate division only looks to see if there was evidence that reasonably supports the decision. The appellate division generally will not reconsider the jury’s or trial court’s conclusion about which side had more or stronger evidence or whether witnesses were telling the truth or lying.

**The appellate division generally will not overturn the judgment, order, or other decision being appealed unless the record clearly shows that one of these legal errors was made.**



**3 Do I need a lawyer to represent me in an appeal?**

You do not *have* to have a lawyer; if you are an individual (rather than a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you decide not to use a lawyer, you must put your address, telephone number, fax number (if available), and email address (if available) on the first page of every document you file with the court and let the court know if this contact information changes so that the court can contact you if needed.

**4 Where can I find a lawyer to help me with my appeal?**

You have to hire your own attorney if you want one. You can get information about finding an attorney on the **Self-Help Guide to the California Courts at <https://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help>**.

**INFORMATION FOR THE APPELLANT**

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in a limited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 11 of this information sheet.

**5 Who can appeal?**

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative unless you are a legally appointed representative of that person (such as the person’s guardian or conservator).

**6 Can I appeal any decision the trial court made?**

No. Generally, you can only appeal the final judgment—the decision at the end that decides the whole case. Other rulings made by the trial court before the final judgment generally cannot be separately appealed but can be reviewed only later as part of an appeal of the final judgment. There are a few exceptions to this general rule. Code of Civil Procedure section 904.2 lists a few types of orders in a limited civil case that can be appealed right away. These include orders that:

- Change or refuse to change the place of trial (venue)
- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum
- Grant a new trial or deny a motion for judgment notwithstanding the verdict
- Discharge or refuse to discharge an attachment or grant a right to attach
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction
- Appoint a receiver
- Are made after final judgment in the case

(You can get a copy of Code of Civil Procedure section 904.2 at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.)

**7 How do I start my appeal?**

First, you must serve and file a notice of appeal. The notice of appeal tells the other party or parties in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal/Cross-Appeal—Limited Civil Case* (form APP-102) to prepare a notice of appeal in a limited civil case. You can get form APP-102 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

**8 How do I “serve and file” the notice of appeal?**

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the notice of appeal to the other party or parties in the way required by law. If the notice of appeal is mailed or personally

delivered, it must be by someone who is not a party to the case—so not you.

- Make a record that the notice of appeal has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the notice of appeal, who was served with the notice of appeal, how the notice of appeal was served (by mail, in person, or electronically), and the date the notice of appeal was served.
- Bring or mail the original notice of appeal and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice of appeal you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice of appeal to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the **Self-Help Guide to the California Courts** at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

### 9 Is there a deadline to file my notice of appeal?

Yes. In a limited civil case, except in the very limited circumstances listed in rule 8.823, you must file your notice of appeal within **30 days** after the trial court clerk or a party serves either a document called a “Notice of Entry” of the trial court judgment or a file-stamped copy of the judgment or within 90 days after entry of the judgment, whichever is earlier.

**This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.**

### 10 Do I have to pay to file an appeal?

Yes. Unless the court waives this fee, you must pay a fee for filing your notice of appeal. You can ask the clerk of the court where you are filing the notice of appeal what the fee is or look up the fee for an appeal in a limited civil case in the current Statewide Civil Fee Schedule linked at [www.courts.ca.gov/7646.htm](http://www.courts.ca.gov/7646.htm) (note that the “Appeal and Writ Related Fees” section is near the end of this schedule and that there are different fees for limited civil cases depending on the amount demanded in the case). If you cannot afford to pay the fee, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

### 11 If I file a notice of appeal, do I still have to do what the trial court ordered me to do?

Filing a notice of appeal does NOT automatically postpone most judgments or orders, such as those requiring you to pay another party money or to deliver property to another party (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at [www.leginfo.legislature.ca.gov/faces/codes.xhtml](http://www.leginfo.legislature.ca.gov/faces/codes.xhtml)). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request. In most cases, other than unlawful detainer cases in which the trial court’s judgment gives a party possession of the property, if the trial court denies your request for a stay, you can apply to the appellate division for a stay. If you do not get a stay and you do not do what the trial court ordered you to do, court proceedings to collect the money or otherwise enforce the judgment or order may be started against you.

### 12 What do I need to do after I file my notice of appeal?

You must ask the clerk of the trial court to prepare and send the official record of what happened in the trial court in your case to the appellate division.

Since the appellate division judges were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the appellate division for its review. You can use *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to ask the trial court to prepare this record. You can get form APP-103 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

You must serve and file this notice designating the record on appeal within 10 days after you file your notice of appeal. “Serving and filing” this notice means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the notice to the other party or parties in the way required by law. If the notice is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the notice, who was served with the notice, how the notice was served (by mail, in person, or electronically), and the date the notice was served.
- Bring or mail the original notice and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the [Self-Help Guide to the California Courts](http://www.courts.ca.gov/selfhelp-serving.htm) at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

### 13 What is the official record of the trial court proceedings?

There are three parts of the official record:

- A record of what was said in the trial court (this is called the “oral proceedings”)
- A record of the documents filed in the trial court (other than exhibits)
- Exhibits that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court

Read below for more information about these parts of the record.

#### a. Record of what was said in the trial court (the “oral proceedings”)

The first part of the official record of the trial court proceedings is a record of what was said in the trial court (this is called a record of the “oral proceedings”). You do not *have* to send the appellate division a record of the oral proceedings. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of those oral proceedings. For example, if you are claiming that there was not evidence supporting the judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings.

You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying for preparing this record or for preparing an initial draft of the record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. **If the appellate division does not receive this record, it will not be able to review any issues that are based on what was said in the trial court and it may dismiss your appeal.**

In a limited civil case, you can use *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to tell the court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get form APP-103

at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

There are four ways in which a record of the oral proceedings can be prepared for the appellate division:

- If you or the other party arranged to have a court reporter there during the trial court proceedings, the reporter can prepare a record, called a “reporter’s transcript.”
- If the proceedings were officially electronically recorded, the trial court can have a transcript prepared from that recording or, if the court has a local rule permitting this and you and the other party agree (“stipulate”) to this, you can use the *official electronic recording* itself instead of a transcript.
- You can use an agreed statement.
- You can use a statement on appeal.

Read below for more information about these options.

### (1) **Reporter’s transcript**

**Description:** A reporter’s transcript is a written record (sometimes called a “verbatim” record) of the oral proceedings in the trial court prepared by a court reporter. Rule 8.834 of the California Rules of Court establishes the requirements relating to reporter’s transcripts.

**When available:** If a court reporter was there in the trial court and made a record of the oral proceedings, you can choose (“elect”) to have the court reporter prepare a reporter’s transcript for the appellate division. In most limited civil cases, however, a court reporter will not have been there unless you or another party in your case made specific arrangements to have a court reporter there. Check with the court to see if a court reporter made a record of the oral proceedings in your case before choosing this option.

**Contents:** If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—*Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this.

If you elect to use a reporter’s transcript, the respondent also has the right to designate additional proceedings to be included in the reporter’s transcript. If you elect to proceed without a reporter’s transcript, however, the respondent may not designate a reporter’s transcript without first getting an order from the appellate division.

**Cost:** The appellant is responsible for paying for preparing a reporter’s transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter’s transcript. You must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule 8.834 with the trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk’s transcript, the court cannot waive the fee for preparing a reporter’s transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at [www.courtreportersboard.ca.gov/consumers/index.shtml#rtf](http://www.courtreportersboard.ca.gov/consumers/index.shtml#rtf). If you are unable to pay the cost of a reporter’s transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a statement on appeal, which are described below.

**Completion and delivery:** After the cost of preparing the reporter’s transcript or a permissible substitute has been deposited, the court reporter will prepare the transcript and submit it to the trial court clerk. When the record is complete, the trial court clerk will submit the original transcript to the appellate division and send you a copy of the transcript. If the respondent has purchased it, a copy of the reporter’s transcript will also be mailed to the respondent.

**(2) Official electronic recording or transcript**

**When available:** In some limited civil cases, the trial court proceedings were officially recorded on approved electronic recording equipment. If your case was officially recorded, you can choose (“elect”) to have a transcript prepared from the recording. Check with the trial court to see if the oral proceedings in your case were officially electronically recorded before you choose this option. If the court has a local rule permitting this and all the parties agree (“stipulate”), a copy of an official electronic recording itself can be used as the record, instead of preparing a transcript. If you choose this option, you must attach a copy of this agreement (“stipulation”) to your notice designating the record on appeal.

**Contents:** If you elect to use a transcript of an official electronic recording, you must identify by date (this is called “designating”) what proceedings you want included in the transcript. You can use the same form you used to tell the court you wanted to use a transcript of an official electronic recording —*Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this.

**Cost:** The appellant is responsible for paying the court for the cost of either (a) preparing a transcript *or* (b) making a copy of the official electronic recording.

(a) If you elect to use a transcript of an official electronic recording, you will need to deposit the estimated cost of preparing the transcript with the trial court clerk and pay the trial court a \$50 fee. There are two ways to determine the estimated cost of the transcript:

- You can use the amounts listed in rule 8.130(b)(1)(B) for each full or half day of court proceedings to estimate the cost of making a transcript of the proceeding you have designated in your notice designating the record on appeal. Deposit this estimated amount and the \$50 fee with the trial court clerk when you file your notice designating the record on appeal.

- You can ask the trial court clerk for an estimate of the cost of preparing a transcript of the proceedings you have designated in your notice designating the record on appeal. You must deposit this amount and the \$50 fee with the trial court within 10 days of receiving the estimate from the clerk.

(b) If the court has a local rule permitting the use of a copy of the electronic recording itself, rather than a transcript, and you have attached your agreement with the other parties to do this (“stipulation”) to the notice designating the record on appeal that you filed with the court, the trial court clerk will provide you with an estimate of the costs for this copy of the recording. You must pay this amount to the trial court.

If you cannot afford to pay the cost of preparing the transcript, the \$50 fee, or the fee for the copy of the official electronic recording, you can ask the court to waive these costs. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). The court will review this application to determine if you are eligible for a fee waiver.

**Completion and delivery:** After the estimated cost of the transcript or official electronic recording has been paid or waived, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared and the rest of the record is complete, the clerk will send it to the appellate division.

**(3) Agreed statement**

**Description:** An agreed statement is a written summary of the trial court proceedings agreed to by all the parties. (See rule 8.836 of the California Rules of Court.)

**When available:** If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose (“elect”) to use an agreed statement as the record of the oral proceedings (please note that it

may take more of your time to prepare an agreed statement than to use either a reporter's transcript or official electronic recording, if they are available).

**Contents:** An agreed statement must explain what the trial court case was about, describe why the appellate division is the right court to consider an appeal in this case (why the appellate division has "jurisdiction"), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

**Preparation:** If you elect to use this option, you must file the agreed statement with your notice designating the record on appeal or, if you and the other parties need more time to work on the statement, you can file a written agreement with the other parties (called a "stipulation") stating that you are trying to agree on a statement. If you file this stipulation, within the next 30 days you must either file the agreed statement or tell the court that you and the other parties were unable to agree on a statement and file a new notice designating the record.

#### (4) Statement on appeal

**Description:** A statement on appeal is a summary of the trial court proceedings that is approved by the trial court judge who conducted those proceedings (the term "judge" includes commissioners and temporary judges).

**When available:** If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose ("elect") to use a statement on appeal as the record of the oral proceedings (please note that it may take more of your time to prepare a statement on appeal than to use either a reporter's transcript or official electronic recording, if they are available).

**Contents:** A statement on appeal must include:

- A statement of the points you (the appellant) are raising on appeal;

- A summary of the trial court's rulings and judgment; and
- A summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal.

(See rule 8.837 of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).)

**Preparing a proposed statement:** If you elect to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use *Proposed Statement on Appeal (Limited Civil Case)* (form APP-104) to prepare your proposed statement. You can get form APP-104 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

**Serving and filing a proposed statement:** You must serve and file the proposed statement with the trial court within 20 days after you file your notice designating the record. "Serve and file" means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the proposed statement to the respondent in the way required by law. If the proposed statement is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed statement has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail, in person, or electronically), and the date the proposed statement was served.
- File the original proposed statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records before you

file it with the court. It is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the [Self-Help Guide to the California Courts](http://www.courts.ca.gov/selfhelp-serving.htm) at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

**Review and modifications:** The respondent has 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial court judge then reviews both your proposed statement and any proposed amendments filed by the respondent. The trial judge will either make or order you (the appellant) to make any corrections or modifications to the statement that are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal.

**Completion and certification:** If the judge makes any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you and the respondent for your review. If the judge orders you to make any corrections or modifications to the proposed statement, you must serve and file the corrected or modified statement within the time ordered by the judge. If you or the respondent disagree with anything in the modified or corrected statement, you have 10 days from the date the modified or corrected statement is sent to you to serve and file objections to the statement. The judge then reviews any objections, makes or orders you to make any additional corrections to the statement, and certifies the statement as an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal.

**Sending statement to the appellate division:** Once the trial court judge certifies the statement on appeal, the trial court clerk will send the statement to the appellate division along with any record of the documents filed in the trial court.

## b. Record of the documents filed in the trial court

The second part of the official record of the trial court proceedings is a record of the documents that were filed in the trial court. There are three ways in which a record of the documents filed in the trial court can be prepared for the appellate division:

- *A clerk’s transcript or an appendix*
- The original *trial court file* or
- *An agreed statement*

Read below for more information about these options.

### (1) Clerk’s transcript or appendix

**Description:** A clerk’s transcript is a record of the documents filed in the trial court prepared by the clerk of the trial court. An appendix is a record of these documents prepared by a party. (See rule 8.845 of the California Rules of Court.)

**Contents:** Certain documents, such as the notice of appeal and the trial court judgment or order being appealed, must be included in the clerk’s transcript or appendix. These documents are listed in rule 8.832(a) and rule 8.845(b) of the California Rules of Court and in *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103).

**Clerk’s transcript:** If you want any documents other than those listed in rule 8.832(a) to be included in the clerk’s transcript, you must tell the trial court in your notice designating the record on appeal. You can use form APP-103 to do this. You will need to identify each document you want included in the clerk’s transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.

If you—the appellant—request a clerk’s transcript, the respondent also has the right to ask the clerk to include additional documents in the clerk’s transcript. If this happens, you will be served with a notice saying what other

documents the respondent wants included in the clerk's transcript.

**Cost:** The appellant is responsible for paying for preparing a clerk's transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk's transcript. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

**Completion and delivery:** After the cost of preparing the clerk's transcript has been paid or waived, the trial court clerk will compile the requested documents into a transcript format and, when the record on appeal is complete, will forward the original clerk's transcript to the appellate division for filing. The trial court clerk will send you a copy of the transcript. If the respondent bought a copy, the clerk will also send a copy of the transcript to the respondent.

**Appendix:** If you choose to prepare an appendix of the documents filed in the superior court, rather than designating a clerk's transcript, that appendix must include all of the documents and be prepared in the form required by rule 8.845 of the California Rules of Court. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the appellant will pay the cost.

The party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the appellate division has ordered otherwise) and file the appendix in the appellate division. The appellant's appendix or a joint appendix must be served and filed **before or together** with the appellant's opening brief. See (15) for information about the brief.

## (2) Trial court file

**When available:** If the court has a local rule allowing this, the clerk can send the appellate division the original trial court file instead of a clerk's transcript (see rule 8.833 of the California Rules of Court).

**Cost:** As with a clerk's transcript, the appellant is responsible for paying for preparing the trial court file. The trial court clerk will send you a bill for this preparation cost. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

**Completion and delivery:** After the cost of preparing the trial court file has been paid or waived and the record on appeal is complete, the trial court clerk will send the file and a list of the documents in the file to the appellate division. The trial court clerk will also send a copy of the list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order.

**(3) Agreed statement**

**When available:** If you and the respondent have already agreed to use an agreed statement as the record of the oral proceedings (see a(3) above) and agree to this, you can use an agreed statement instead of a clerk's transcript. To do this, you must attach to your agreed statement all of the documents that are required to be included in a clerk's transcript.

**c. Exhibits**

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk's transcript unless you ask that they be included in your notice designating the record on appeal. *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103), includes a space for you to make this request. You also can ask the trial court to send original exhibits to the appellate division at the time briefs are filed (see rule 8.843 for more information about this procedure and see below for information about briefs).

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for that exhibit to be included in the clerk's transcript or sent to the appellate division, the party who has the exhibit must deliver that exhibit to the trial court clerk as soon as possible.

**14 What happens after the official record has been prepared?**

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives the record, it will send you a notice telling you when you must file your brief in the appellate division.

**15 What is a brief?**

**Description:** A "brief" is a party's written description of the facts in the case, the law that applies, and the party's argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer, you will have to prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get copies of these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).

**Contents:** If you are the appellant, your brief, called an "appellant's opening brief," must clearly explain what you believe are the legal errors made in the trial court. Your brief must refer to the exact places in the clerk's transcript and the reporter's transcript (or the other forms of the record you are using) that support your argument. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

**Serving and filing:** You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division or 60 days from the date the appellant chooses to proceed with no reporter's transcript under rule 8.845. "Serve and file" means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.

- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.
- Note: If a party chooses to prepare an appendix of the documents filed in the trial court instead of designating a clerk's transcript, the appellant's appendix or a joint appendix must be served and filed before or together with the appellant's opening brief.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the **Self-Help Guide to the California Courts** at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 30 days (see rule 8.882(b) for requirements for these agreements). You can also ask the court to extend the time for filing this brief if you can show good cause for an extension (see rule 8.811(b) for a list of the factors the court will consider in deciding whether there is good cause for an extension). You can use *Application for Extension of Time to File Brief—Limited Civil Case* (form APP-106) to ask the court for an extension.

**If you do not file your brief by the deadline set by the appellate division, the court may dismiss your appeal.**

### **16** What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent may, but is not required to, respond by serving and filing a respondent's brief. If the respondent does not file a brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant's brief, and any oral argument by the appellant.

If the respondent files a brief, within 20 days after the respondent's brief was filed, you may, but are not required to, file another brief replying to the respondent's brief. This is called a "reply brief."

### **17** What happens after all the briefs have been filed?

Once all the briefs have been filed or the time to file them has passed, the appellate division will notify you of the date for oral argument in your case.

### **18** What is "oral argument"?

"Oral argument" is the parties' chance to explain their arguments to the appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to "waive" oral argument. If all parties waive oral argument, the judges will decide your appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to 10 minutes for your argument unless the appellate division orders otherwise. Remember that the judges will have already read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in your appeal or ask the judges if they have any questions you could answer.

### **19** What happens after oral argument?

After oral argument is held (or the date it was scheduled passes if all the parties waive oral argument), the judges of the appellate division will make a decision about your appeal. The appellate division has 90 days after the date scheduled for oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division's decision.

### **20** What should I do if I want to give up my appeal?

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called "abandoning") your appeal. You can use *Abandonment of Appeal (Limited Civil Case)* (form APP-107) to file this notice in a limited civil case. You

can get form APP-107 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

### INFORMATION FOR THE RESPONDENT

This section of this information sheet is written for the respondent—the party responding to an appeal filed by another party. It explains some of the rules and procedures relating to responding to an appeal in a limited civil case. The information may also be helpful to the appellant.

#### 21 I have received a notice of appeal from another party. Do I need to do anything?

You do not *have* to do anything. The notice of appeal simply tells you that another party is appealing the trial court’s decision. However, this would be a good time to get advice from a lawyer, if you want it. You do not *have* to have a lawyer; if you are an individual (not a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow.

If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the Self-Help Guide to the California Courts at <https://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help>.

#### 22 If the other party appealed, can I appeal too?

Yes. Even if another party has already appealed, you may still appeal the same judgment or order. This is called a “cross-appeal.” To cross-appeal, you must serve and file a notice of appeal. You can use *Notice of Appeal/Cross-Appeal—Limited Civil Case* (form APP-102) to file this notice in a limited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 2 of this information sheet, if you are considering filing a cross-appeal.

#### 23 Is there a deadline to file a cross-appeal?

Yes. You must serve and file your notice of appeal within either the regular time for filing a notice of appeal (generally 30 days after mailing or service of Notice of Entry of the judgment or a file-stamped copy of the judgment) or within 10 days after the clerk of the trial court mails notice of the first appeal, whichever is later.

#### 24 I have received a notice designating the record on appeal from another party. Do I need to do anything?

You do not *have* to do anything. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the appellate division. Depending on the kind of record chosen by the appellant, however, you may have the option to:

- Add to what is included in the record
- Participate in preparing the record *or*
- Ask for a copy of the record

Look at the appellant’s notice designating the record on appeal to see what kind of record the appellant has chosen and read about that form of the record in the response to question 13 above. Then read below for what your options are when the appellant has chosen that form of the record.

##### (a) Reporter’s transcript

If the appellant is using a reporter’s transcript, you have the option of asking for additional proceedings to be included in the reporter’s transcript. To do this, within 10 days after the appellant files its notice designating the record on appeal, you must serve and file a notice designating additional proceedings to be included in the reporter’s transcript.

Whether or not you ask for additional proceedings to be included in the reporter’s transcript, you must generally pay a fee if you want a copy of the reporter’s transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter’s transcript. If you want a copy of the reporter’s transcript, you must deposit this

amount (and a fee for the trial court) or one of the substitutes allowed by rule 8.834 with the trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for preparing a clerk’s transcript, the court cannot waive the fee for preparing a reporter’s transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at [www.courtreportersboard.ca.gov/consumers/index.shtml#trf](http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf). The reporter will not prepare a copy of the reporter’s transcript for you unless you deposit the cost of the transcript, or one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

If the appellant elects not to use a reporter’s transcript, you may not designate a reporter’s transcript without first getting an order from the appellate division.

### (b) Agreed statement

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 30 days after the appellant files its notice designating the record.

### (c) Statement on appeal

If the appellant elects to use a statement on appeal (a summary of the trial court proceedings that is approved by the trial court), the appellant will send you a proposed statement to review. You will have 10 days from the date the appellant sent you this proposed statement to serve and file suggested changes (called “amendments”) that you think are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues the appellant indicated the appellant is raising on appeal. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the proposed amendments to the appellant in the way required by law. If the proposed amendments are mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed amendments have been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the proposed amendments, who was served with the proposed amendments, how the proposed amendments were served (by mail, in person, or electronically), and the date the proposed amendments were served.
- File the original proposed amendments and the proof of service with the trial court. You should make a copy of the proposed amendments you are planning to file for your own records before you file them with the court. It is a good idea to bring or mail an extra copy of the proposed amendments to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the [Self-Help Guide to the California Courts](http://www.courts.ca.gov/selfhelp-serving.htm) at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

### (d) Clerk’s transcript or appendix

**Clerk’s transcript:** If the appellant is using a clerk’s transcript, you have the option of asking the clerk to include additional documents in the clerk’s transcript.

To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk’s transcript. You may use *Respondent’s Notice Designating Record on*

*Appeal—Limited Civil Case* (form APP-110) for this purpose.

Whether or not you ask for additional documents to be included in the clerk’s transcript, you must pay a fee if you want a copy of the clerk’s transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk’s transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk’s notice was sent.

If you cannot afford to pay this cost, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). The court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk’s transcript for you unless you deposit payment for the cost or obtain a fee waiver.

**Appendix:** If the appellant is using an appendix, and you and the appellant have not agreed to a joint appendix, you may prepare a separate respondent’s appendix. See pages 8–9 for more information about preparing an appendix.

If the appellant chooses a clerk’s transcript but does not have a waiver of the fee for a clerk’s transcript, you can choose an appendix instead of a clerk’s transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent’s Notice Designating Record on Appeal—Limited Civil Case* (form APP-110) within 10 days after the appellant’s notice designating the record on appeal is filed.

## 25 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

A brief is a party’s written description of the facts in the case, the law that applies, and the party’s argument about

the issues being appealed. If you are represented by a lawyer, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules.htm](http://www.courts.ca.gov/rules.htm).

The appellant serves and files the first brief, called an “appellant’s opening brief.” You may, but are not required to, respond by serving and filing a respondent’s brief within 30 days after the appellant’s opening brief is filed. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.
- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed. You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the [Self-Help Guide to the California Courts](http://www.courts.ca.gov/selfhelp-serving.htm) at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 30 days (see rule 8.882(b) for requirements for these agreements). You can also ask the court to extend the time for filing this brief if you can show good cause for an extension (see rule 8.811(b) for a list of the factors the court will consider in deciding whether there is good cause for an

extension). You can use *Application for Extension of Time to File Brief—Limited Civil Case* (form APP-106) to ask the court for an extension.

If you do not file a respondent's brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant's brief, and any oral argument by the appellant. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

If you file a respondent's brief, the appellant then has an opportunity to serve and file another brief within 20 days replying to your brief.

### **26 What happens after all the briefs have been filed?**

Once all the briefs have been filed or the time to file them has passed, the court will notify you of the date for oral argument in your case.

“Oral argument” is the parties' chance to explain their arguments to appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to “waive” oral argument. If all parties waive oral argument, the judges will decide the appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to 10 minutes for your argument unless the appellate division orders otherwise. Remember that the judges will have already read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in the appeal or ask the judges if they have any questions you could answer.

After oral argument is held (or the scheduled date passes if all parties waive argument), the judges of the appellate division will make a decision about the appeal. The appellate division has 90 days after oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division's decision.

**Respondent's Notice Designating Record on Appeal—Limited Civil Case**

*Clerk stamps date here when form is filed.*

**DRAFT**

**06/22/2023**

**Not approved by the Judicial Council**

**Instructions**

- This form is only for choosing (“designating”) the record on appeal in a **limited civil case**. Note that any rules referenced in this form are to the **California Rules of Court**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) or on the **Self-Help Guide to the California Courts** at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).
- Take or mail the original completed form and proof of service on the other parties to the clerk’s office for the same court that issued the judgment or order that is being appealed. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

*You fill in the name and street address of the court that issued the judgment or order you are appealing:*

**Superior Court of California, County of**

*You fill in the number and name of the trial court case in which you are appealing the judgment or order:*

**Trial Court Case Number:**

**Trial Court Case Name:**

*You fill in the appellate division case number (if you know it):*

**Appellate Division Case Number:**

**1 Your Information**

a. Name of respondent (the party who is responding to an appeal filed by another party):

Name: \_\_\_\_\_

b. Respondent’s contact information (*skip this if the respondent has a lawyer for this appeal*):

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (*if different*): \_\_\_\_\_  
Street City State Zip

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

c. Respondent’s lawyer (*skip this if the respondent does not have a lawyer for this appeal*):

Name: \_\_\_\_\_ State Bar number: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (*if different*): \_\_\_\_\_  
Street City State Zip

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Fax: \_\_\_\_\_

**Information About the Appeal**

**2** On (*fill in the date*): \_\_\_\_\_ another party filed a notice of appeal in the trial court case identified in the box on page 1 of this form.



3 On (fill in the date): \_\_\_\_\_ the appellant filed an appellant’s notice designating the record on appeal.

**Record of the Documents Filed in the Trial Court**

4 The appellant elected (chose) to use a clerk’s transcript under rule 8.832 as the record of the documents filed in the trial court. (You must check a or b):

a.  I agree to a clerk’s transcript. (If you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk’s transcript, you must identify those documents in item 5.)

b.  If the appellant has not been granted a waiver of the fee for a clerk’s transcript, I elect (choose) to use an appendix as the record of documents under rule 8.845 instead of a clerk’s transcript. (If the appellant has been granted a waiver of the fee for a clerk’s transcript, you may not choose an appendix; a clerk’s transcript will be used. If a clerk’s transcript is used and you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk’s transcript, you must identify those documents in item 5.)

**Clerk's Transcript**

5 The parties will use a clerk’s transcript.

a. **Additional documents and exhibits.**

I understand that if I do not identify any additional documents or exhibits below, only the documents and exhibits designated by the appellant will be included in the clerk’s transcript.

(1) **Documents**

In addition to the documents designated by the appellant, I request that the clerk include in the transcript the following documents that were filed in the trial court. (Identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

Document Title and Description	Date of Filing
(a)	
(b)	
(c)	
(d)	

Check here if you need more space to list other documents and attach a separate page or pages listing those documents. At the top of each page, write “APP-110, item 5a(1).”

(2) **Exhibits**

In addition to the exhibits designated by the appellant, I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the trial court. (For each exhibit, give the exhibit number (such as Plaintiff’s #1 or Defendant’s A) and a brief description of the exhibit and indicate whether or not the court admitted the exhibit into evidence. If the trial court has returned a designated exhibit to a party, the party who has that exhibit must deliver it to the trial court clerk as soon as possible.)



**5** a. (2) (continued)

Exhibit Number	Description	Admitted Into Evidence	
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No

Check here if you need more space to list other exhibits and attach a separate page or pages listing those exhibits. At the top of each page, write “APP-110, item 5a(2).”

- b.  **Copy of clerk’s transcript.** I request a copy of the clerk’s transcript. (Check and complete (1) or (2).)
- (1)  I will pay the trial court clerk for this transcript myself when I receive the clerk’s estimate of the costs of the transcript.
- (2)  I am asking that a copy of the clerk’s transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (a) or (b) and submit the checked document):
- (a)  An order granting a waiver of the cost under rules 3.50–3.58 and 8.818(d).
- (b)  An application for a waiver of court fees and costs under rules 3.50–3.58 and 8.818(d). (Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.)

**Record of Oral Proceedings in the Trial Court**

**6** The appellant elected to use the following record of what was said in the trial court proceedings (check and complete **only one** of the following below—a, b, or c):

- a.  **Reporter’s Transcript.** The appellant elected to use a reporter’s transcript under rule 8.834 as the record of the oral proceedings in the trial court.
- (1)  **Designation of additional proceedings to be included in the reporter’s transcript.** (If you want any proceedings in addition to the proceedings designated by the appellant to be included in the reporter’s transcript, you must identify those proceedings here.)

In addition to the proceedings designated by the appellant, I request that the following proceedings in the trial court be included in the reporter’s transcript. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings, and whether a certified transcript of the designated proceeding was previously prepared.)

Date	Department	Description	Reporter’s Name	Prev. prepared?
(a)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(b)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(c)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(d)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(e)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(f)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(g)				<input type="checkbox"/> Yes <input type="checkbox"/> No

Check here if you need more space to list other proceedings and attach a separate page or pages listing those proceedings. At the top of each page, write “APP-110, item 6a(1).”



- 6 a. (continued) **Copy of reporter’s transcript.** I request a copy of the reporter’s transcript.
  - (2)  **Certified transcripts.** I have attached to this *Respondent’s Notice Designating Record on Appeal* an original certified transcript of all the proceedings I have designated in (1). The transcript complies with the format requirements in rule 8.144 of the California Rules of Court.
  - (3)  **Copy of reporter’s transcript.** I request a copy of the reporter’s transcript. *(Check and complete (a) or (b).)*
    - (a)  I will pay for the reporter’s transcript. Within 10 days of receiving the reporter’s estimate of the cost of the transcript, I will *(check and complete (i) or (ii))*:
      - (i)  Deposit an amount equal to the estimated cost of the transcript with the trial court, and a fee of \$50 for the trial court to hold this deposit in trust. I understand that if I do not comply with this requirement, I will not receive a copy of the transcript.
      - (ii)  Pay the reporter directly and file with the trial court a copy of the written waiver of deposit signed by the reporter. I understand that if I do not comply with this requirement, I will not receive a copy of the transcript.
    - (b)  I am unable to afford the cost of the reporter’s transcript and am therefore applying to the Transcript Reimbursement Fund to pay for this transcript. Within 10 days of receiving the reporter’s estimate of the cost of the transcript, I will file with the trial court a copy of my application to the Court Reporters Board for payment or reimbursement from the Transcript Reimbursement Fund. I understand that within 90 days of filing my application, I must file with the trial court a copy of the provisional approval of my application or pay for the reporter’s transcript as provided in (a). I understand that if I do not comply, I will not receive a copy of the transcript.
  - (4) **Format of reporter’s transcript.** I request that the reporter provide my copy of the transcript in:
    - (a)  Electronic format only.
    - (b)  Paper format only.
    - (c)  Electronic format and a second copy of the reporter’s transcript in paper format.

**OR**

- b.  **Transcript From Official Electronic Recording.** The appellant elected to use the transcript from an official electronic recording as the record of the oral proceedings in the trial court under rule 8.835(b).
  - (1)  **Designation of additional proceedings to be included in the transcript.** *(If you want any proceedings in addition to the proceedings designated by the appellant to be included in the transcript, you must identify those proceedings here.)*

In addition to the proceedings designated by the appellant, I request that the following proceedings in the trial court be included in the transcript. *(You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings, and if you know it, the name of the electronic recording monitor who recorded the proceedings.)*

**6** b. (1) (continued)

Date	Department	Description	Electronic Monitor's Name
(a)			
(b)			
(c)			

Check here if you need more space to describe any proceeding or to list other proceedings and attach a separate page describing or listing those proceedings. At the top of each page, write "APP-110, item 6b(1)."

(2) **Copy of the transcript from an official electronic recording.** I request a copy of this transcript. (Check and complete (a) or (b).)

- (a)  I will pay the trial court clerk for this transcript myself when I receive the clerk's estimate of the cost of the transcript. I understand that if I do not pay for the transcript, I will not receive a copy.
- (b)  I am asking that the transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record. (Check (i) or (ii) and submit the appropriate document):
  - (i)  An order granting a waiver of the cost under rules 3.50–3.58 and 8.818(d).
  - (ii)  An application for a waiver of court fees and costs under rules 3.50–3.58 and 8.818(d). (Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.)

**OR**

c.  **Copy of Official Electronic Recording.** The appellant and I have agreed to use the official electronic recording itself as the record of the oral proceedings in the trial court under rule 8.835(a). I request a copy of this recording. (Check and complete (1) or (2).)

- (1)  I will pay the trial court clerk for this copy of the recording myself when I receive the clerk's estimate of the costs of this copy.
- (2)  I am asking that the transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record. (Check (a) or (b) and submit the appropriate document):
  - (a)  An order granting a waiver of the cost under rules 3.50–3.58 and 8.818(d).
  - (b)  An application for a waiver of court fees and costs under rules 3.50–3.58 and 8.818(d). (Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.)

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or print your name

▶ \_\_\_\_\_  
Signature of respondent or attorney

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR ( <i>name</i> ):	STATE BAR NO.:   STATE:                      ZIP CODE: FAX NO.:	
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**SUPERIOR COURT OF CALIFORNIA, COUNTY OF**  
STREET ADDRESS:  
MAILING ADDRESS:  
CITY AND ZIP CODE:  
BRANCH NAME:

PLAINTIFF/PETITIONER:  
DEFENDANT/RESPONDENT:

**RESPONDENT'S NOTICE ELECTING TO USE AN APPENDIX  
(UNLIMITED CIVIL CASE)**

SUPERIOR COURT CASE NUMBER:

RE: Appeal filed on (*date*):

COURT OF APPEAL CASE NUMBER (*if known*):

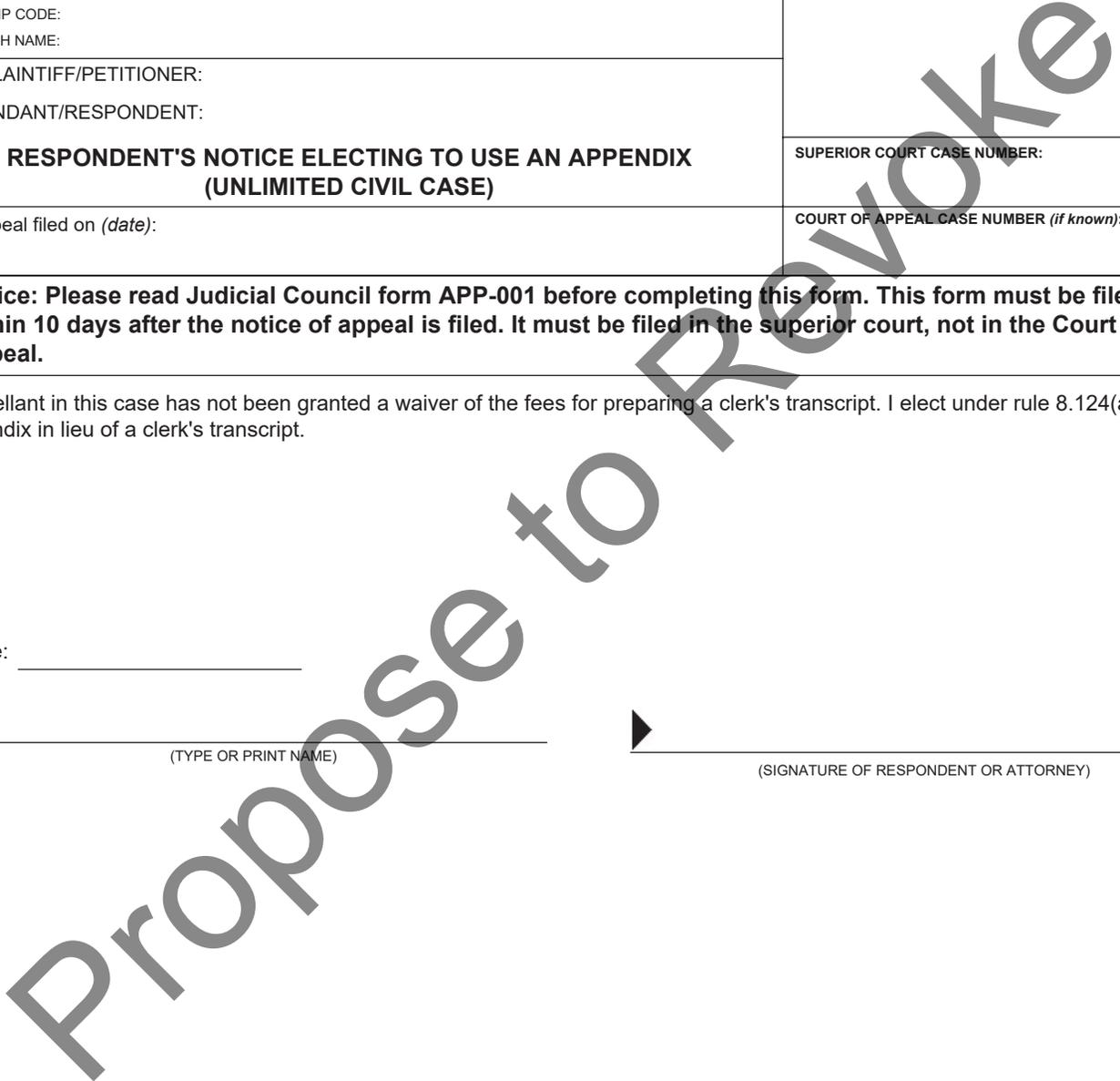
**Notice: Please read Judicial Council form APP-001 before completing this form. This form must be filed within 10 days after the notice of appeal is filed. It must be filed in the superior court, not in the Court of Appeal.**

The appellant in this case has not been granted a waiver of the fees for preparing a clerk's transcript. I elect under rule 8.124(a) to use an appendix in lieu of a clerk's transcript.

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF RESPONDENT OR ATTORNEY)



**Respondent's Notice Electing to Use an Appendix (Limited Civil Case)**

Clerk stamps date here when form is filed.

**Instructions**

- This form is only for choosing (“electing”) to use an appendix as the record of the documents filed in the trial court on appeal in a **limited civil case**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).
- You must serve and file this form **no later than 10 days** after the notice of appeal is filed.
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) or on the California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).
- Take or mail the original completed form and proof of service on the other parties to the clerk’s office for the same court that issued the judgment or order that is being appealed. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

**Superior Court of California, County of**

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

**Trial Court Case Number:**

**Trial Court Case Name:**

You fill in the appellate division case number (if you know it):

**Appellate Division Case Number:**

**1 Your Information**

a. Name of respondent (the party who is responding to an appeal filed by another party):

Name: \_\_\_\_\_

b. Respondent’s contact information (skip this if the respondent has a lawyer for this appeal):

Street address: \_\_\_\_\_

Street City State Zip

Mailing address (if different): \_\_\_\_\_

Street City State Zip

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

c. Respondent’s lawyer (skip this if the respondent does not have a lawyer for this appeal):

Name: \_\_\_\_\_ State Bar number: \_\_\_\_\_

Street address: \_\_\_\_\_

Street City State Zip

Mailing address (if different): \_\_\_\_\_

Street City State Zip

Phone: \_\_\_\_\_ E-mail: \_\_\_\_\_

Fax: \_\_\_\_\_



Trial Court Case Number: \_\_\_\_\_

Trial Court Case Name: \_\_\_\_\_

**Information About the Appeal**

- ② On *(fill in the date)*: \_\_\_\_\_ another party filed a notice of appeal in the trial court case identified in the box on page 1 of this form.
- ③ On *(fill in the date)*: \_\_\_\_\_ the appellant filed an appellant’s notice designating the record on appeal.

**Record of the Documents Filed in the Trial Court**

- ④ The appellant has not been granted a waiver of the fees for a clerk’s transcript. I elect under rule 8.845(a) to use an appendix instead of a clerk’s transcript under rule 8.832 as the record of the documents filed in the trial court.

Propose to Revoke

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

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*Signature of respondent or attorney*

### SPR23-03

**Appellate Procedure: Time for Electing and Filing an Appendix** (Amend Cal. Rules of Court, rules 8.124 and 8.845; revise forms APP-001-INFO, APP-010, APP-101-INFO, and APP-110; revoke forms APP-011 and APP-111)

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	California Academy of Appellate Lawyers by Wendy Cole Lascher, Rule Commentary Chair	A	No specific comment.	The committee notes the commenter’s support for the proposal.
2.	California Lawyers Association by Kelly Woodruff, Chair Litigation Section, Committee on Appellate Courts	A	In Invitation to Comment SPR23-03, the Appellate Advisory Committee (AAC) proposes several changes to rules and forms regarding the Respondent’s Election of Appendix, which will require amending California Rules of Court, rules 8.124 and 8.845, revising forms APP-001-INFO, APP010, APP-101-INFO, and APP-110, and revoking forms APP-011 and APP-111.	No response required.
			Most importantly, the AAC proposes to move the deadline for submitting the Respondent’s Election of Appendix from 10 days after notice of appeal to 10 days after appellant files and serves its notice of designation of record. A member of the CAC had first made this recommendation to the AAC, and other members concur with the recommendation.	No response required.
			As noted in the Invitation to Comment, this rule change “is intended to reduce the likelihood that respondents miss their opportunity to elect an appendix; relieve superior court clerks of the burden of compiling some clerk’s transcripts, reducing their workload; and expedite appeals by eliminating the time it takes for superior court clerks to compile the clerk’s transcript.” The AAC also observed that some attorneys may not be aware of the deadline and be unpleasantly surprised that they can no longer elect an appendix after the appellant serves a notice designating the election of a clerk’s transcript.	No response required.
			The CAC agrees that facilitating the greater use of the appendix would speed up appeals and save court resources. The CAC also agrees that, in the experience of its members, too many	The committee appreciates the commenter’s feedback on this proposal and notes the

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			<p>respondents miss the deadline to elect an appendix under the current rule. These objectives would be furthered by the proposal to move the deadline for the respondent’s election of an appendix to 10 days after appellant’s notice of designation of record (with the election of an appendix superseding the appellant’s election of a clerk’s transcript), and various minor rule changes to ensure consistency with the new deadline. The CAC also supports the proposal to combine two current forms—(1) respondent’s notice to designate the record to add additional items to the clerk’s transcript or reporter’s transcript, and (2) respondent’s notice to designate election of an appendix—into one form.</p>	<p>commenter’s support for the proposal.</p>
3.	<p>Family Violence Appellate Project by Shuray Ghorishi, Senior Managing Attorney</p>	<p>NI</p>	<p>On behalf of the Family Violence Appellate Project (FVAP), I write to offer comments on ITC SPR23-03.</p> <p>FVAP is a legal support center and the only nonprofit organization in California dedicated to providing free appellate representation to low-income survivors of domestic violence and other gender-based abuse in civil appeals. FVAP’s goal is to empower survivors of abuse through the court system and ensure that they and their children can live in safe and healthy environments. In addition to providing legal representation to survivors who need to appeal dangerous trial court decisions that leave them or their children at risk of ongoing abuse, FVAP also provides trainings, technical assistance, and legal information to pro bono attorneys, domestic violence advocates, and self-represented survivors on the appellate process, including how to perfect an appeal.</p> <p><b>Does the proposal appropriately address the stated purpose?</b></p> <p>Yes, the proposal appropriately addresses the stated purpose of</p>	<p>See responses to specific comments below.</p>

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			<p>reducing the likelihood that respondents miss their opportunity to elect an appendix, reducing the burden of superior court clerks to compile clerk’s transcripts, and expediting the appellate process in general.</p>	<p>The committee appreciates the commenter’s feedback on this proposal and notes the commenter’s support for the proposal.</p>
			<p><b>Allowing the respondent more time to elect an appendix can extend the time for filing the appellant’s opening brief if no reporter’s transcript is being used. Is this problematic?</b></p> <p>No, the extension of the appellant’s opening brief would not be problematic for the low-income and self-represented litigants that FVAP serves. In our practice, FVAP rarely proceeds without a reporter’s transcript, and even if that occurred, a 10-day extension would have minimal impact on the total duration of an appeal. Moreover, if an appeal necessitated urgent resolution such that this extension would become problematic, then the appellate court would still have discretion to grant expedited briefing under California Rules of Court, rule 8.240. (See Advisory Com. com, Cal. Rules of Court, rule 8.240 [explaining that calendar preference may be granted when a statute permits trial preference or on other nonstatutory grounds].)</p>	<p>The committee appreciates the response.</p>
			<p>With that said, FVAP has an additional suggestion for the Council to consider for rule 8.240. We have recently observed more and more appellate courts denying calendar preference in appeals involving abuse, even when trial preference is mandated by statute. For example, Family Code section 244 provides that an application for a restraining order under the Domestic Violence Prevention Act (Fam. Code, § 6200 et seq.) is afforded calendar preference in the trial court. (<i>In re Marriage of Nadkarni</i> (2009) 173 Cal.App.4th 1483, 1500.) Yet appellate courts still deny calendar preference motions in such cases. As such, we</p>	<p>This suggestion is outside the scope of the instant proposal. The committee will consider the issue in the future as time and resources allow.</p>

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			<p>recommend this Committee consider adding to the Advisory Committee Comment of California Rules of Court, rule 8.420 (emphasis added):</p> <p>The rule is broad in scope: it includes motions for preference on the grounds (1) that a statute provides for preference in the reviewing court (e.g., Code Civ. Proc., §§ 44 [probate proceedings, contested elections, libel by public official), 45 [judgment freeing minor from parental custody]); (2) that the reviewing court should exercise its discretion to grant preference when a statute provides for trial preference (e.g., <i>id.</i>, §§ 35 [certain election matters], 36 [party over 70 and in poor health; party with terminal illness; minor in wrongful death action]; <i>Fam. Code, § 244 [domestic violence restraining order matter]</i>; see <i>Warren v. Schechter</i> (1997) 57 Cal.App.4th 1189, 1198-1199); and (3) that the reviewing court should exercise its discretion to grant preference on a nonstatutory ground (e.g., economic hardship).</p>	
			<p><b>Should separate forms for the respondent to elect an appendix be retained?</b></p> <p>No. FVAP supports the proposed change to integrate the Respondent’s selection of an appendix into the Respondent’s Notice Designating Record on Appeal form, in both unlimited and limited cases. In FVAP’s experience, many, if not most, low-income and self-represented litigants already struggle to navigate the appellate process and find the number of forms to perfect an appeal daunting. This is especially true for litigants who have a language barrier. Consolidating these requests into one form</p>	<p>The committee appreciates the response.</p>

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			<p>would make the process less cumbersome for these litigants, especially since the proposal suggests adding only one check box and instructions on when that box cannot be selected. It would also eliminate the additional hurdle for this demographic of having to effectuate service on two occasions.</p>	
			<p>In conclusion, FVAP supports this proposal.</p>	<p>No further response required.</p>
4.	<p>Los Angeles County Bar Association Appellate Courts Section by John A. Taylor, Jr., Executive Committee Member</p>	A	<p>The Appellate Courts Section of the Los Angeles County Bar Association (LACBA-ACS) supports SPR23-03. Under the existing rule, a respondent may not know within the current 10-day period following the filing of the notice of appeal whether the appellant is going to elect an appendix, because the designation often is not filed that soon. An appellant may file on the 10th day, or may go into the default period, and it is inefficient to require a respondent to file an election while the status of the appellant’s designation is in flux. Extending the deadline until after the respondent learns whether the appellant has designated a clerk’s transcript will potentially eliminate an unnecessary filing by the respondent, and reduce the workload of superior court clerks in compiling clerk’s transcripts where the respondent would prefer to elect an appendix, thereby expediting appeals. In addition, with recent bookmarking and electronic filing requirements that are lacking with clerk’s transcripts, efficiencies in the brief and opinion writing processes will be promoted with greater use of appendices.</p> <p>The LACBA-ACS also support amending form APP-010 to add a check box for respondents to indicate their election of an appendix, eliminating the need for APP-011.</p> <p>As for the proposed change allowing for the early filing of an</p>	<p>The committee appreciates the commenter’s feedback on this proposal and notes the commenter’s support for the proposal.</p> <p>The committee appreciates the response.</p> <p>The committee appreciates the</p>

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			appendix, that seems unlikely to change actual practice; the appellant generally cannot be sure exactly what to include in the appendix until the opening brief is all but final. However, the LACBA-ACS agrees that there may be instances—e.g., when a writ of supersedeas is necessary—that the early filing of an appendix would be advantageous, so LACBA-ACS does not object to the proposal.	response.
5.	Orange County Bar Association by Michael A. Gregg, President	A	1. The proposal adequately addresses the stated purpose. It is a welcome change.  2. The fact that allowing the respondent to designate the appendix at the normal time for respondent to designate the record will potentially allow an extension of time for appellant to file the opening brief (in cases where no reporter’s transcript is designated) is not a problem. If a respondent does not want to give appellant that extra time, the respondent does not have to designate the appendix method but can allow appellant’s designation of the clerk’s transcript to stand. And because the clerk’s transcript is generally slower anyway, a respondent who designates the appendix under these new rules will still likely speed up the process even when there is no reporter’s transcript.  3. We do not see the need for separate forms, so long as trial court clerks know to look to the respondent’s designation and not prepare the clerk’s transcript.	The committee notes the commenter’s support for the proposal.  The committee appreciates the response.  The committee appreciates the response.
6.	Sacramento County Bar Association, Appellate Law Section by Brendan J. Begley, Co-Chair	A	In addition to the proposed changes, the Sacramento County Bar Association’s Appellate Law Section suggests that you consider amending rule 8.140(a)(2) of the California Rules of Court to confirm whether the trial court must send a default notice to the respondent if the respondent does not counter-designate the	This suggestion is outside the scope of the instant proposal. The committee will consider the issue in the future as time and resources allow.

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			<p>record within the time specified by the amended rules 8.124 and 8.845 of the California Rules of Court. Currently rule 8.140(a) expressly applies to a default by both the appellant in designating the record and the respondent in counter-designating the record (albeit with different sanctions depending on which party defaulted). We do NOT advocate for any alteration of that even-handed approach, but prefer to keep it intact. Still, we believe it is in need of more clarification -- especially if the other rules are amended in this fashion -- since we have met some resistance from certain trial courts when we have tried to elect an appendix for a respondent after the ten-day period had expired where no default notice had been previously issued to the respondent.</p>	
7.	San Diego County Bar Association, Appellate Practice Section by John T. Sylvester, Certified Legal Specialist – Family Law	A	<p>The Appellate Practice Section of the San Diego County Bar Association (APS) strongly supports the proposed amendment to Rules of Court, rule 8.124(e)(2), which it proposed to the Judicial Council by letter on August 10, 2020. Permitting the filing of a party-prepared appendix before the filing of the appellant’s opening brief would be a salutary change for the reasons described in the invitation to comment.</p> <p>The APS also supports the extension of time for a respondent to elect to use an appendix, and the related form changes, for the reasons stated in the invitation to comment. The proposal appropriately addresses the stated purpose. It is beneficial, not problematic, to allow the respondent more time to elect an appendix and to extend the time for filing the appellant’s opening brief if no reporter’s transcript is being used. There are no record preparation or briefing procedures affected by allowing respondents more time to elect an appendix.</p> <p>Separate forms for the respondent to elect an appendix do not</p>	<p>The committee notes the commenter’s support for the proposal.</p> <p>The committee appreciates the response.</p> <p>The committee appreciates the</p>

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			<p>appear to be necessary if item 1 of the Respondent’s Notice Designating Record on Appeal (APP-010) were appropriately revised, as suggested, to permit such an election by the respondent. A separate, respondent’s notice to elect an appendix filed before the timely filing of the Respondent’s Notice Designating Record on Appeal would be unnecessary. And a separate, respondent’s notice to elect an appendix filed after the Respondent’s Notice Designating Record on Appeal might well be untimely. Use of the Judicial Council form (APP-010) to elect an appendix, rather than a separate form, would serve to remind respondents of the possible need to augment the reporter’s transcript designated by the appellant.</p>	<p>response.</p>
			<p>In keeping with the views expressed above, it is APS’s position that the Judicial Council’s proposal appropriately addresses the stated purpose of the proposed rule.</p>	<p>The committee appreciates the response.</p>
			<p>Thank you for considering our feedback. If you have any further questions, you may contact Lisa Cannon, Appellate Practice Section Chair.</p>	<p>No further response required.</p>
<p>8.</p>	<p>Superior Court of California, County of Orange by Iyana Doherty Courtroom Operations Supervisor</p>	<p>A</p>	<p>The proposed changes are to forms that are filed and processed in the appellate court. No impact to us.</p>	<p>The committee appreciates the response.</p>
<p>9.</p>	<p>Superior Court of California, County of San Diego by Mike Roddy Executive Officer</p>	<p>A</p>	<ul style="list-style-type: none"> <li>• Does the proposal appropriately address the stated purpose? <b>Yes.</b></li> <li>• Allowing the respondent more time to elect an appendix can extend the time for filing the appellant’s opening brief if no reporter’s transcript is being used. Is this problematic? <b>No.</b></li> </ul>	<p>The committee appreciates the response and information.</p> <p>The committee appreciates the response and information.</p>

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			<ul style="list-style-type: none"> <li>• Are any other record preparation or briefing procedures affected by allowing respondents more time to elect an appendix? <b>No.</b></li> </ul>	The committee appreciates the response and information.
			<ul style="list-style-type: none"> <li>• Should separate forms for the respondent to elect an appendix be retained? <b>No.</b></li> </ul>	The committee appreciates the response and information.
			<ul style="list-style-type: none"> <li>• Would the proposal provide cost savings? If so, please quantify. <b>Possibly. This court estimates 1.5-3 hours of clerk time would be saved when not producing a clerk’s transcript.</b></li> </ul>	The committee appreciates the response and information.
			<ul style="list-style-type: none"> <li>• What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? <b>Minimal training for staff (e.g., notice and an internal processing “tip sheet” update).</b></li> </ul>	The committee appreciates the response and information.
			<ul style="list-style-type: none"> <li>• Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <b>Yes.</b></li> </ul>	The committee appreciates the response and information.
			<ul style="list-style-type: none"> <li>• How well would this proposal work in courts of different sizes? <b>This proposal would work fine in the San Diego Superior Court (a large court).</b></li> </ul>	The committee appreciates the response and information.

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