



## JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688  
www.courts.ca.gov

---

# R E P O R T T O T H E J U D I C I A L C O U N C I L

For business meeting on: September 21, 2018

---

### Title

Appellate Procedure: Settled Statements in  
Unlimited Civil Cases

### Agenda Item Type

Action Required

### Effective Date

January 1, 2019

### Rules, Forms, Standards, or Statutes Affected

Approve forms APP-014A, APP-014-INFO,  
APP-020, APP-022, APP-025; revise forms  
APP-003, APP-010; revoke form APP-001  
and replace with APP-001-INFO; revoke and  
replace form APP-014

### Date of Report

August 20, 2018

### Contact

Christy Simons, 415-865-7694

[christy.simons@jud.ca.gov](mailto:christy.simons@jud.ca.gov)

Gabrielle Selden, 415-865-8085

[gabrielle.selden@jud.ca.gov](mailto:gabrielle.selden@jud.ca.gov)

### Recommended by

Appellate Advisory Committee

Hon. Louis R. Mauro, Chair

Family and Juvenile Law Advisory  
Committee

Hon. Jerilyn L. Borack, Cochair

Hon. Mark A. Juhas, Cochair

---

## Executive Summary

To facilitate use of the settled statement procedure in unlimited civil cases, the Appellate Advisory Committee and the Family and Juvenile Law Advisory Committee recommend adopting new forms and revising existing forms for litigants and courts to use in preparing and certifying settled statements. This proposal is based on comments received last year in response to the Appellate Advisory Committee's invitation to comment on proposed changes to the settled statement rule and forms.

## Recommendation

The Appellate Advisory Committee and the Family and Juvenile Law Advisory Committee recommend that the Judicial Council, effective January 1, 2019:

1. Approve *Other Party and Nonparty Witness Testimony and Other Evidence Attachment (Unlimited Civil Case)* (form APP-014A) to streamline the settled statement form by moving certain testimony and evidence to an attachment;
2. Approve *Information Sheet for Proposed Settled Statement* (form APP-014-INFO) to provide instructions for completing the settled statement form and information about the settled statement process;
3. Approve *Response to Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-020) to assist respondents with responding to and proposing any changes to appellants' proposed settled statements;
4. Approve *Order on Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-022) to allow the trial court judge to order certification of the statement, the preparation of a reporter's transcript, or modifications or corrections to the appellant's proposed settled statement;
5. Approve *Appellant's Motion to Use a Settled Statement (Unlimited Civil Case)* (form APP-025) to assist appellants who wish to use a settled statement but are not automatically entitled to do so and must seek a court order;
6. Revise *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003) to be more understandable and easier to complete;
7. Revise *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010) to conform to content changes in form APP-003;
8. Revoke and replace *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001), relabeled as form APP-001-INFO, to update and expand the existing form; and
9. Revoke *Proposed Statement on Appeal (Unlimited Civil Case)* (form APP-014) and replace with *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014) to reformat, reorganize, and simplify the form.

The new and revised forms are attached at pages 11–53.

## **Relevant Previous Council Action**

Effective January 1, 2018, the Judicial Council amended California Rules of Court, rule 8.137—the rule regarding settled statements in appeals to the Court of Appeal in unlimited civil cases—to make the settled statement procedure less burdensome for appellants and the courts. Those amendments permit an appellant to use the settled statement procedure without filing a motion in certain circumstances, eliminate the option of using a settled statement as the record of the documents from the trial court proceeding, and add provisions specifying the contents of settled statements and the procedure for the trial court's review. The amendments also allow the respondent to pay for a reporter's transcript in cases in which a court reporter recorded the proceedings but the appellant elects or moves to use a settled statement.

As part of the same proposal, the Judicial Council approved new *Proposed Statement on Appeal (Unlimited Civil Case)* (form APP-014) to help appellants prepare their proposed statements, and

revised *Appellant's Notice Designating the Record on Appeal (Unlimited Civil Case)* (form APP-003) to reflect the amendments to rule 8.137 and the availability of new form APP-014.

## **Analysis/Rationale**

### **Background**

Settled statements are one of the methods permitted under the California Rules of Court to prepare a record of the trial court oral proceedings for an appeal. A settled statement is a summary of the oral proceedings prepared by the appellant and reviewed and approved by the trial court judge who presided over the proceedings. Because court reporters are no longer present to record the proceedings in many civil cases, reporter's transcripts are unavailable in many civil appeals, and more appellants are now trying to use the settled statement procedure in these cases.

Effective January 1, 2018, the Judicial Council amended rule 8.137 of the California Rules of Court to permit an appellant to use the settled statement procedure without filing a motion if the trial court proceedings were not recorded by a court reporter or the appellant received a fee waiver. The council also approved new, optional *Proposed Statement on Appeal (Unlimited Civil Case)* (form APP-014) to help litigants prepare their proposed written record of the oral proceedings, and revised *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003) to conform to the rule change.

The Appellate Advisory Committee received a number of comments on last year's proposal that raised issues and expressed concerns that were beyond the scope of that proposal. Based on these comments, the committee identified several potential projects for future rules cycles, including further simplifying the rule and forms, developing new forms, and working with the Family and Juvenile Law Advisory Committee on whether to develop a separate settled statement form or modify the current form for family law proceedings.

### **Recommended changes**

The Appellate Advisory Committee and the Family and Juvenile Law Advisory Committee recommend new and revised forms to help parties, particularly those who are self-represented, better understand the settled statement procedure, how to seek a court order to use a settled statement, how to complete the proposed settled statement form, and how to navigate the appeals process generally. The new and revised forms are also intended to reduce the burdens on trial court judges who must review and certify the settled statements.

***New information sheet on appeal procedures.*** Proposed new *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO) updates and expands on existing form APP-001 of the same title and is intended to replace that form. This new form is based on the parallel form for use in appellate division cases, *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO). The new form includes the following changes:

- Reformatting to be more user-friendly and easy to follow;
- Relabeling as “-INFO” to signify that it is an information sheet;

- Separate sections addressed to the appellant and the respondent;
- Expanded information on how to serve and file documents;
- A new section describing prejudicial error and the appellant's burden on appeal;
- A new section on whether a notice of appeal stays enforcement of a judgment;
- An expanded description of the record on appeal and the options for providing a record of the documents and oral proceedings; and
- A new section describing oral argument and subsequent procedures.

***New proposed settled statement form.*** The committees are proposing major changes to existing *Proposed Settled Statement on Appeal* (form APP-014), including:

- Standard formatting consistent with other unlimited civil forms, and the instructions moved to a more comprehensive information sheet, resulting in a shorter settled statement form;
- Removal of the space for describing the dispute so that appellants are not required to summarize information trial court judges already possess or can access through the case file;
- Removal of the requirement that an appellant describe how he or she was harmed by a legal error because such legal analysis is not required in a settled statement;
- Summaries of witness testimony no longer limited to matters that involved a trial. Many family law matters are heard in law-and-motion proceedings and involve witness testimony;
- Space for describing *party* testimony and evidence; an attachment (form APP-014A) has been created for any additional party and *all nonparty* witness testimony and evidence. In many family law proceedings, only the parties testify and present evidence;
- Simplified space for describing motions, now placed after the summaries of testimony and evidence; and
- A new item for summarizing any relevant jury instructions.

Because of the extent of these changes, the committees are proposing revoking the existing form and replacing it with a new version of the form incorporating these changes.

***New attachment for witness testimony and evidence.*** *Other Party and Nonparty Witness Testimony and Other Evidence Attachment* (form APP-014A) is an attachment for summarizing party testimony and evidence that will not fit in the space on form APP-014, and all nonparty testimony and evidence. The formatting is identical to the party testimony and evidence sections in form APP-014.

***New information sheet on proposed settled statements.*** *Information Sheet for Proposed Settled Statement* (form APP-014-INFO), in plain language format, is consistent with other appellate information sheets. In addition to providing expanded instructions for completing each section of the settled statement form, the information sheet includes definitions of legal terms, the time for filing the form, a description of the process of reviewing and proposing amendments to the

settled statement prior to certification, and resources for finding general information on the appeals process.

***New form for responding to an appellant's proposed settled statement.*** *Response to Appellant's Proposed Settled Statement* (form APP-020) may be used by the respondent to indicate agreement with appellant's proposed statement or to request amendments.

***New order form.*** *Order on Appellant's Proposed Settled Statement* (form APP-022) will facilitate the process for trial court judges to order certification of the appellant's proposed settled statement, the preparation of a reporter's transcript, or corrections or modifications to the statement. It includes space to specify any necessary corrections and any missing content required by rule 8.137. It also includes space for the court to indicate the date by which the appellant must serve and file a corrected proposed statement.

***New motion form.*** *Appellant's Motion to Use a Settled Statement* (form APP-025) will help appellants who wish to use a settled statement but are not automatically entitled to do so under rule 8.137 and must seek a court order. The form walks the appellant through the requirements for the motion and provides space for the necessary information.

***Revisions to the appellant's record designation form.*** *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003) is revised to be more understandable and easier to complete as suggested in comments submitted on the 2017 proposal. Of note, it includes a notice in the caption advising appellants to read *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO).

***Revisions to the respondent's record designation form.*** *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010) contains minor revisions to conform to content changes in form APP-003.

## **Policy implications**

The committees have identified no policy implications.

## **Comments**

This proposal was circulated for public comment from April 9 to June 8, 2018, as part of the regular spring comment cycle. Eleven organizations submitted comments on this proposal. Four commenters agreed with the proposal. Seven organizations, including the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee, agreed if the proposal is modified. A chart with the full text of all comments received and the committee's responses is attached at pages 54–80.

Generally, the discussion of comments below is organized in the same manner as the comment chart, beginning with general comments about the proposal, followed by comments regarding a specific form arranged numerically by form number. The discussion does not include all comments suggesting points of clarification or minor edits.

### ***General comments***

As noted above, all 11 commenters support the proposal, and several included positive general comments.

One superior court expressed concern, however, about whether the forms would work in family law matters and recommended developing a separate set of forms tailored to these proceedings. The committees considered this issue when the proposal was being developed. A number of modifications were made to the forms, including adding “other parent/party” to the captions, referencing appealable orders in addition to judgments, including examples from family law matters, and revising form APP-014, *Appellant’s Proposed Settled Statement (Unlimited Civil Case)*, so that party and witness testimony is not limited to trial proceedings. Several more such modifications were suggested in the comments and added to the forms by the committees. Based on the Family and Juvenile Law Advisory Committee’s conclusion that the forms will work well for family law matters, the committees concluded that no action on this comment is required.

The Joint Rules Subcommittee (JRS) of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee commented on the impacts of this proposal on court operations: training of staff on the forms and an increase in court staff workload, particularly self-help staff. JRS indicated that self-help staff typically do not assist litigants with appellate procedures, but they “would likely have to develop long-term services and use existing resources to help self-represented litigants with appellate processes, particularly in family law cases.”

The committees acknowledge that courts will incur some costs in implementing the new and revised forms, including training costs and potential impacts to self-help staff when more self-represented litigants undertake the settled statement process. However, the potential increased workload for court staff may be more a result of the increasing number of litigants who cannot afford a court reporter than a result of this proposal. The committees expect that the new and revised forms will ultimately save resources by making the settled statement process easier for parties to understand and utilize and less burdensome for the courts.

### ***Comments on form APP-001-INFO***

A state lawyers’ association noted that the form includes a statement regarding the presumption on appeal that a judgment or order is correct but does not include information regarding when that presumption does not apply. The commenter suggested adding a note of caution to the appellant to carefully consider the form of the oral record because it may affect the appeal, and that the appellant may wish to consult with an attorney. The committees agreed with adding this note but declined any invitation to describe in the form the exceptions to the presumption, the effects of implied findings, and ways to avoid implied findings. Any such discussion would involve technical points of law and exceed the scope of an information sheet that provides an overview of the appeals process.

The lawyers' association also suggested modifying the form to add language allowing self-represented victims of domestic violence and others with privacy concerns to keep their contact information private. The committees agreed and made the modification.

This commenter also suggested clarifying that oral argument is not the same as a hearing or a trial in that no new evidence can be considered. The committees added language to this effect as well as references to rule 8.256 and an online self-help page for more information about oral argument.

A county bar association raised issues with the item on this form that described an appeal as distinguished from trial court proceedings and included discussions of "prejudicial error" and "no substantial evidence." The commenter opined that this item presented a confusing explanation of the requirements to prevail on appeal, did not adequately explain appellate concepts, and seemed to combine the need to prove prejudicial error with the substantial evidence standard of review. The committees reorganized this item, separating the description of an appeal from a new item (item 5) entitled "What does the appellant need to prove to win on appeal?" The new item describes prejudicial error, includes a brief discussion of insufficiency of the evidence as one possible prejudicial error, and emphasizes that the burden of proof lies with the appellant.

### ***Comments on form APP-003***

With respect to the item on the form where appellants can check a box to indicate that they wish to proceed with a settled statement as the record of the oral proceedings (item 2b(3)(c)), two commenters suggest adding language that appellants must file new form APP-025, *Appellant's Motion to Use a Settled Statement (Unlimited Civil Case)*. The committees agreed with adding a reference to form APP-025 to the check box for appellants who must obtain an order allowing them to use a settled statement. The language reflects the fact that form APP-025 is for optional use.

A bar association submitted several suggestions regarding the designation of exhibits (item 4c). First, the commenter suggested that the form be revised to reflect the practice of courts routinely returning exhibits to the parties following a hearing or trial. The committees agreed and added language describing the procedure for obtaining such exhibits. Second, the bar association suggested including a check box for a party to indicate the intent to file an exhibit directly with the appellate court, citing rule 8.244(b)(2) of the California Rules of Court. The committees declined to make this change because this is the form appellants file to designate the record, and the cited rule applies to a request for exhibits later in the appellate proceedings. Third, the bar association suggested revising the field for describing exhibits to account for exhibits that are lodged and not numbered. The committees decided not to make this change because the item already includes lodged exhibits and any further revisions tailored to lodged exhibits would likely cause confusion and make the form more complex.

### ***Comments on form APP-014***

Two child support organizations requested that the requirement that an appellant describe how he or she was harmed by the complained-of error on appeal be restored to this form. The commenters explained that it helps alert self-represented litigants that an error alone is not grounds for an appeal; rather, there must be an error that caused harm. The committees considered this matter in developing the proposal and concluded that appellants should not be required to describe the harm in a settled statement because it calls for a legal analysis that is not required by the rule. It also could result in forfeiture of arguments on appeal if the description is inartfully drafted. The committees reaffirmed their earlier conclusion and, in responding to these comments, noted that item 5 on form APP-001-INFO includes a section describing prejudicial error.

A bar association questioned the requirement that an appellant fill in the date the notice of appeal was filed, because having that date would necessarily mean that the notice of appeal was already filed at the time the appellant was drafting his or her settled statement. The commenter opined that the process of preparing a settled statement would help the self-represented litigant decide whether to appeal a trial court decision. Moreover, having a settled statement would also help an unrepresented litigant find counsel for the appeal. The commenter recognized that rule 8.137 contemplates that the notice of appeal is already on file at the time a notice designating the record (including choosing to proceed with a settled statement) is filed. The commenter suggested that form APP-014 not include “a mandatory reference to the date of filing a notice of appeal.” The commenter further suggested that the committees consider these issues in connection with a broader review of rule 8.137.

The committees declined to make the suggested change to the form, and a review of rule 8.137, including any proposed amendments, is beyond the scope of this proposal. A settled statement is a record of the oral proceedings that are relevant to the reasons for an appeal. Preparing a settled statement requires time and effort on the part of the respondent/prevaling party and the trial court, in addition to the appellant/aggrieved party. Until a notice of appeal is filed and there is a matter pending, it does not seem feasible to expect a potential respondent or the trial court to devote resources to the settled statement process. The committees do not believe that a settled statement would function well as an aid to a litigant who is deciding whether to appeal or seeking the assistance of counsel on appeal.

The commenter also raised concerns that the new format of this form does not help an appellant focus on the factual and legal issues giving rise to the appeal, and that it could encourage “rambling, argumentative, narrative responses.” The commenter suggested it would be better to start with a description of the order or judgment being appealed from and the specific ruling that is being appealed. The form should then ask directed and specific questions about the basis for the appeal and ask the appellant to describe any relevant motions, findings, documents, testimony, instructions, etc.

Rather than making changes to form APP-014, the committees added a new item (item 7) to the information sheet, form APP-014-INFO, entitled “Overview for completing form APP-014.” The



new item provides guidance to the appellant on how to approach filling out the form and provides summaries of portions of the record that are relevant to the appeal.

#### ***Comments on form APP-014A***

Two child support organizations point out that, if there is testimony from more parties or nonparty witnesses than will fit on one form APP-014A, the appellant will need to attach more than one such form. However, there is no way to indicate how many additional forms are attached. This, the commenters suggest, could lead to confusion because “there is no way to distinguish one form APP-014A from another form APP-014A.” The commenters suggest requiring the appellant to state how many of these forms are attached.

The committees concluded that such a requirement could be confusing and likely would not improve the form. Form APP-014A is an optional form; the appellant is free to use it or draft another document to provide the additional testimony. Thus, any requirement to state the number of forms APP-014A would apply only to appellants who use this form exclusively. Likewise, requiring the appellant to state how many pages were attached to form APP-014A, rather than the number of those forms, would require the appellant to count the pages attached to an attachment. The potential fixes may be more problematic than the issue they are intended to address. The committees will revisit the issue in the future if they receive feedback that this is a problem and a numbering system is necessary.

#### ***Comments on form APP-022***

A state lawyers’ association suggested a modification for this form in light of issues an appellant might have based on the presumption that an order or judgment is correct and the doctrine of implied findings to support that order or judgment. The commenter is concerned that many litigants may not have meaningful access to an appeal because a statement of decision was not prepared in their case and suggested adding a check box for the court to state, “This settled statement contains the court’s decision and the court’s factual and legal basis for its decision.”

The committees declined to make this change. Adding a check box to allow the court to order that the settled statement is also the court’s statement of decision would be a substantive change that is beyond the scope of this proposal. Moreover, a statement of decision and a settled statement involve different procedures and serve two different functions. Nothing seems to preclude the court from including the order proposed by the commenter in item 2f of the form (“Other orders are specified below:”). However, adding a check box to indicate that “this settled statement contains the court’s decision and the court’s factual and legal basis for its decision” would seem to suggest that this is the norm or the preferred practice. In addition, notice to the respondent and an opportunity to have input are implicated if the settled statement is declared by the court to also constitute its statement of decision.

#### **Alternatives considered**

The committees considered making no changes and, with respect to each proposed new form, not proposing that form. However, based on (1) the complexity and difficulty of the settled statement process for litigants and courts, (2) the increasing number of civil proceedings that are not

reported by a court reporter, and (3) the increasing number of self-represented litigants for whom the settled statement process is the only way to create a record of the oral proceedings, the committees concluded that it would be best to propose all of these new forms and modifications to existing forms in an effort to make the process less burdensome.

The Family and Juvenile Law Advisory Committee considered proposing to amend rule 8.137 to delete the requirement that a settled statement contain a statement of the points the appellant is raising on appeal (rule 8.137(d)(1)). However, in light of the potential far-reaching effects of amending the rule, and to allow sufficient time to consider this and any other potential amendments, the committees decided to include review of the rule in a future rules cycle as part of ongoing work to improve the settled statement process.

The committees also considered keeping form APP-014 in plain-language format, but determined that the standard format was preferable, given that other unlimited civil appellate forms are in that format, and the format presented better options for organizing and presenting streamlined and simplified content.

Finally, the Family and Juvenile Law Advisory Committee considered creating a separate series of settled statement forms for use in family law proceedings. The committees agreed that it was preferable to have one set of forms for settled statements, if possible, because all unlimited civil appeals forms are in the APP series, a separate set of forms for one process in one case type is generally disfavored, and separate forms could create confusion. The Family and Juvenile Law Advisory Committee concluded that separate forms for family law proceedings were unnecessary; the general unlimited civil forms could be modified to work for family law cases as well as for the other unlimited civil case types.

## **Fiscal and Operational Impacts**

The committees anticipate that courts may incur costs to revise forms, add a new order into the case management system, and train staff regarding the new and revised forms. In addition, as discussed above under general comments, the committees received a comment that this proposal could significantly impact the workload of court self-help staff. However, the committees expect that the new and revised forms will save resources by making the settled statement process easier for parties to understand and access and less burdensome for the courts.

## **Attachments and Links**

1. Forms APP-001-INFO, APP-003, APP-010, APP-014, APP-014A, APP-014-INFO, APP-020, APP-022, and APP-025, at pages 11–53
2. Chart of comments, at pages 54–80

**APP-001-INFO Information on Appeal Procedures for Unlimited Civil Cases****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/courtsofappeal.htm](http://www.courts.ca.gov/courtsofappeal.htm).
- Visit the California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-appeals.htm](http://www.courts.ca.gov/selfhelp-appeals.htm).
- 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](http://leginfo.ca.gov/faces/codes.xhtml) using the link below:  
<http://leginfo.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 e-mail 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](http://www.courts.ca.gov/selfhelp-lowcosthelp.htm)), 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 California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-lowcosthelp.htm](http://www.courts.ca.gov/selfhelp-lowcosthelp.htm) in the Getting Started section.



**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 California Courts Online Self-Help Center 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.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 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 California Courts Online Self-Help Center 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 with the appellant's opening brief. See ⑩ 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 California Courts Online Self-Help Center 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 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 California Courts Online Self-Help Center 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 (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 California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-lowcosthelp.htm](http://www.courts.ca.gov/selfhelp-lowcosthelp.htm).

**(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.

## **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 California Courts Online Self-Help Center 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 California Courts Online Self-Help Center 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.: E-MAIL ADDRESS: ATTORNEY FOR (name):		<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>7-18-2018</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>APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)</b>		
RE: Appeal filed on (date):		SUPERIOR COURT CASE NUMBER:  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

I choose to use the following method of providing the Court of Appeal with a record of the documents filed in the superior court (check a, b, c, or d, and fill in any required information):

- a. ☐ A clerk's transcript under rule 8.122. (You must check (1) or (2) and fill out the clerk's transcript section (item 4) on pages 2 and 3 of this form.)
- (1) ☐ I will pay the superior court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.
- (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 rules 3.50–3.58; or
- (b) ☐ An application for a waiver of court fees and costs under rules 3.50–3.58. (Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)
- b. ☐ An appendix under rule 8.124.
- c. ☐ The original superior court file under rule 8.128. (NOTE: Local rules in the Court of Appeal, First, Third, and Fourth Appellate Districts, permit parties to stipulate (agree) to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.)
- d. ☐ An agreed statement under rule 8.134. (You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)

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

I choose to proceed (you must check a or b below):

- a. ☐ WITHOUT a record of the oral proceedings (what was said at the hearing or trial) in the superior court. I understand that without a record of the oral proceedings in the superior court, the Court of Appeal will not be able to consider what was said during those proceedings in deciding whether an error was made in the superior court proceedings.

CASE NAME:	SUPERIOR COURT CASE NUMBER:
------------	-----------------------------

2. b. ☐ WITH the following record of the oral proceedings in the superior court (*you must check (1), (2), or (3) below*):
- (1) ☐ A reporter's transcript under rule 8.130. (*You must fill out the reporter's transcript section (item 5) on pages 3 and 4 of this form.*) I have (*check all that apply*):
- (a) ☐ Deposited with the superior court clerk the approximate cost of preparing the transcript by including the deposit with this notice as provided in rule 8.130(b)(1).
- (b) ☐ Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).
- (c) ☐ Attached the reporter's written waiver of a deposit under 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 rule 8.130(b)(3)(C).
- (2) ☐ An agreed statement. (*Check and complete either (a) or (b) below.*)
- (a) ☐ I have attached an agreed statement to this notice.
- (b) ☐ All the parties have stipulated (agreed) in writing to try to agree on a statement. (*You must attach a copy of this stipulation to this notice.*) I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.
- (3) ☐ A settled statement under rule 8.137. (*You must check (a), (b), or (c) below, and fill out the settled statement section (item 6) on page 4.*)
- (a) ☐ The oral proceedings in the superior court were not reported by a court reporter.
- (b) ☐ The oral proceedings in the superior court were reported by a court reporter, but I have an order waiving fees and costs.
- (c) ☐ I am asking to use a settled statement for reasons other than those listed in (a) or (b). (*You must serve and file the motion required under rule 8.137(b) at the same time that you file this form. You may use form APP-025 to prepare the motion.*)

### 3. RECORD OF AN ADMINISTRATIVE PROCEEDING TO BE TRANSMITTED TO THE COURT OF APPEAL

- ☐ I request that the clerk transmit to the Court of Appeal under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the superior court (*give the title and date or dates of the administrative proceeding*):

Title of Administrative Proceeding	Date or Dates
------------------------------------	---------------

### 4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

(*You must complete this section if you checked item 1a above indicating that you choose to use a clerk's transcript as the record of the documents filed in the superior court.*)

- a. **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed, or if that is not available, the date the document was signed.

Document Title and Description	Date of Filing
--------------------------------	----------------

- (1) Notice of appeal
- (2) Notice designating record on appeal (*this document*)
- (3) Judgment or order appealed from
- (4) Notice of entry of judgment (*if any*)
- (5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (*if any*)
- (6) Ruling on one or more of the items listed in (5)
- (7) Register of actions or docket (*if any*)

CASE NAME:	SUPERIOR COURT CASE NUMBER:
------------	-----------------------------

#### 4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

- b. **Additional documents.** (If you want any documents from the superior court proceeding in addition to the items listed in 4a. above to be included in the clerk's transcript, you must identify those documents here.)

☐ I request that the clerk include in the transcript the following documents that were filed in the superior court proceeding. (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
(8)		
(9)		
(10)		
(11)		

☐ 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 4b," and start with number (12).)

- c. **Exhibits to be included in clerk's transcript**

☐ 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. (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 4c," and start with number (5).)

#### 5. NOTICE DESIGNATING REPORTER'S TRANSCRIPT

You must complete both a and b in this section if you checked item 2b(1) above indicating that you choose to use a reporter's transcript as the record of the oral proceedings in the superior court. Please remember that you must pay for the cost of preparing the reporter's transcript.

- a. **Format of the reporter's transcript**

I request that the reporters provide (check one):

- (1) ☐ My copy of the reporter's transcript in electronic format.
- (2) ☐ My copy of the reporter's transcript in paper format.
- (3) ☐ My copy of the reporter's transcript in electronic format and a second copy in paper format.

(Code Civ. Proc., § 271.)

CASE NAME:	SUPERIOR COURT CASE NUMBER:
------------	-----------------------------

**5. b. Proceedings**

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.)*

Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(2)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(3)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(4)					<input type="checkbox"/> Yes <input type="checkbox"/> No

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

**6. NOTICE DESIGNATING PROCEEDINGS TO BE INCLUDED IN SETTLED STATEMENT**

*(You must complete this section if you checked item 2b(3) above indicating you choose to use a settled statement.)* I request that the following proceedings in the superior court be included in the settled statement. *(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.)*

Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(2)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(3)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(4)					<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 6," and start with number (5).)*

7. a. The proceedings designated in 5b or 6 ☐ include ☐ do not include all of the testimony in the superior court.

b. If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal. *(Rule 8.130(a)(2) and rule 8.137(d)(1) provide that your appeal will be limited to these points unless the Court of Appeal permits otherwise.)* Points are set forth: ☐ Below ☐ On a separate page labeled "Attachment 7."

Date:

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



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

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):		<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>07-31-2018</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>		
Re: Appeal filed on (date):		SUPERIOR COURT CASE NUMBER:  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 rule 8.122.

- a. ☐ **Additional documents.** (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 here.)

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 1(a)," and start with number (8).)

CASE NAME:	SUPERIOR COURT CASE NUMBER:
------------	-----------------------------

1. b. ☐ **Additional exhibits.** (If you want any exhibits from the superior court proceedings in addition to those designated by the appellant to be included in the clerk's transcript, you must identify those exhibits here.)

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. (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 1(b)," 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 rules 3.50–3.58; or
- (b) ☐ An application for a waiver of court fees and costs under rules 3.50–3.58. (Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)

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

The appellant has chosen to use a reporter's transcript under 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:
------------	-----------------------------

2. 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 2a(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 rule 8.130(b)(1).
- (b) ☐ Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).
- (c) ☐ Attached the reporter's written waiver of a deposit under 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 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)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>01-04-2018</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>APPELLANT'S PROPOSED SETTLED STATEMENT (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. PRELIMINARY INFORMATION

- a. I am appealing (check one): ☐ an order filed on ☐ a judgment entered on (date): \_\_\_\_\_.
- b. On (date): \_\_\_\_\_, I filed a notice of appeal. A copy of the judgment or order I am appealing is attached.
- c. On (date): \_\_\_\_\_, (check the one that applies):
- (1) ☐ I filed a notice designating the record on appeal, choosing to use a settled statement.
- (2) ☐ The court sent me ☐ I was served with an order granting my request to use a settled statement.
- d. ☐ On (date): \_\_\_\_\_, the court ordered me to modify or correct my proposed settled statement.

### 2. REASONS FOR YOUR APPEAL

(Check all that apply and describe the error or errors you believe were made that are the reasons for this appeal.)

- a. ☐ **No substantial evidence.** There was no substantial evidence that supported the judgment or order that I am appealing.  
(Explain why you think the judgment or order was not supported by substantial evidence).

☐ [Attachment 2a](#)

- b. ☐ **Errors.** The following error or errors about either the law or court procedure affected the outcome of the case  
(Describe each error.)

☐ [Attachment 2b](#)

PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	COURT OF APPEAL CASE NUMBER (if known):
OTHER PARENT/PARTY:	

### 3. SUMMARY OF THE PARTIES' TESTIMONY AND OTHER EVIDENCE

- a. Did any of the parties testify at the trial or hearing? ☐ No ☐ Yes

*(Specify the name of the party who testified and the date on which the party testified. Then, write a complete and accurate summary of what each party said that is relevant to the reasons you gave in item 2 for this appeal (for example, what the party said in response to questions asked by his or her own attorney, the other party (or the attorney), and/or the court). Include only what was actually said; do not comment or give your opinion about what was said.)*

(1) Name of party: \_\_\_\_\_ testified on (date): \_\_\_\_\_.

Summary:

☐ [Attachment 3a\(1\)](#)

- (a) Did a party (or attorney) make an objection to this party's testimony? ☐ No ☐ Yes (Specify in item 3b.)
- (b) During this party's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge allowed to be used as evidence to support or disprove this party's testimony? ☐ No ☐ Yes (Specify in item 3c.)
- (c) During this party's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge *did not* allow to be used as evidence to support or disprove this party's testimony? ☐ No ☐ Yes (Specify in item 3d.)

PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	COURT OF APPEAL CASE NUMBER (if known):
OTHER PARENT/PARTY:	

3. a. (2) Name of party: \_\_\_\_\_ testified on (date): \_\_\_\_\_.

Summary:

☐ [Attachment 3a\(2\)](#)

(a) Did a party (or attorney) make an objection to this party's testimony? ☐ No ☐ Yes (Specify in item 3b.)

(b) During this party's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge allowed to be used as evidence to support or disprove this party's testimony? ☐ No ☐ Yes (Specify in item 3c.)

(c) During this party's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge *did not* allow to be used as evidence to support or disprove this party's testimony? ☐ No ☐ Yes (Specify in item 3d.)

(3) Was there testimony from other parties? ☐ No ☐ Yes

(If you answered yes, fill out and attach to this form Other Party and Nonparty Witness Testimony and Evidence Attachment (form APP-014A).)

PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	COURT OF APPEAL CASE NUMBER (if known):
OTHER PARENT/PARTY:	

3. b. **Objections to a party's testimony relevant to the appeal**

*(Indicate which party's testimony was objected to and specify the objection. Also indicate whether the court "sustained the objection" (prevented the party from saying something) or "overruled the objection" (allowed the party to make a statement) and include any explanation given by the court.)*

☐ [Attachment 3b](#)

- c. **Exhibits (documents, records, or other materials) relevant to the appeal allowed to be used as evidence to support or disprove a party's testimony.** *(Write a complete and accurate summary of the exhibits presented by each party. Include any objections and the court's ruling on those objections. Do not comment or give your opinion about the exhibits.)*

☐ [Attachment 3c](#)

- d. **Exhibits (documents, records, or materials) relevant to the appeal *not* allowed to be used as evidence to support or disprove a party's testimony.** *(Write a complete and accurate summary of the exhibits. Include any objections and the court's ruling on those objections. Do not comment or give your opinion about the items.)*

☐ [Attachment 3d](#)

PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	COURT OF APPEAL CASE NUMBER (if known):
OTHER PARENT/PARTY:	

#### 4. SUMMARY OF NONPARTY WITNESS TESTIMONY AND OTHER EVIDENCE

Was there testimony from another party or nonparty witnesses that is relevant to the reasons for the appeal?

☐ No (skip to Item 5)      ☐ Yes (Fill out and attach to this form Other Party and Nonparty Witness Testimony and Evidence Attachment (form APP-014A.))

#### 5. TRIAL COURT'S FINDINGS

a. Did the judge make findings at the hearing or trial in the case?      ☐ No      ☐ Yes (Complete item 5b.)  
(A judge makes a "finding" when he or she decides that something is a fact, is true, or is relevant.)

b. What are the findings that the judge made that are relevant to the reasons for the appeal?

☐ [Attachment 5](#)

#### 6. SUMMARY OF MOTIONS

a. Are any of your reasons for appeal based on your disagreement with the court's ruling on a motion or motions?

☐ Yes (Fill out b.)      ☐ No (Skip to item 7.)

b. Describe the motion. (State which party made the motion. Then, write a complete and accurate summary of what was said (any testimony and arguments) and what the court decided (whether the court granted or denied the motion).)

☐ [Attachment 6](#)

#### 7. SUMMARY OF JURY INSTRUCTIONS

a. Are any of your reasons for appeal based on your disagreement with the court's ruling on a jury instruction or instructions?

☐ Yes (Fill out b.)      ☐ No (Skip to item 8.)

b. Identify the jury instruction and the party that requested it. (Summarize what the parties said (arguments or objections) and what the court decided (whether the court gave the instruction to the jury, refused to give the instruction to the jury, or modified it before giving it to the jury). Describe any modifications the court made to the instruction.)

☐ [Attachment 7](#)

#### 8. ORDER OR JUDGMENT YOU ARE APPEALING

Attach a copy of the order or judgment you are appealing.

Date:

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



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

PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	
OTHER PARENT/PARTY:	COURT OF APPEAL CASE NUMBER (if known):

### OTHER PARTY AND NONPARTY WITNESS TESTIMONY AND OTHER EVIDENCE ATTACHMENT

Use this form as an attachment to *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014) if other parties or non party witnesses provided testimony relevant to the reasons you are appealing the order or judgment in the case.

- Specify the name of any other party or nonparty witnesses who testified at the trial or hearing and other information specified below.
- Write a complete and accurate summary of what each person said that is relevant to the reasons for this appeal (for example, in response to questions asked by any of the parties (or attorneys) or the court). Include only what was actually said; do not comment or give your opinion about what was said.

#### 1. SUMMARY OF TESTIMONY AND EVIDENCE

a. Name: \_\_\_\_\_ ☐ a party ☐ a nonparty witness in the case  
 testified on behalf of (specify): ☐ petitioner/plaintiff ☐ respondent/defendant ☐ other parent/party  
 on (date): \_\_\_\_\_.  
 Summary:

☐ [Attachment 1a](#)

- (1) Did a party (or attorney) make an objection to this person's testimony? ☐ No ☐ Yes (Specify in item 2.)
- (2) During this person's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge allowed to be used as evidence to support or disprove the testimony? ☐ No ☐ Yes (Specify in item 3.)
- (3) During this person's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge *did not* allow to be used as evidence to support or disprove the testimony? ☐ No ☐ Yes (Specify in item 4.)

PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	
OTHER PARENT/PARTY:	COURT OF APPEAL CASE NUMBER (if known):

- b. Name: \_\_\_\_\_ ☐ a party ☐ a nonparty witness in the case  
 testified on behalf of (specify): ☐ petitioner/plaintiff ☐ respondent/defendant ☐ other parent/party  
 on (date): \_\_\_\_\_.  
 Summary:

☐ [Attachment 1a](#)

- (1) Did a party (or attorney) make an objection to this person's testimony? ☐ No ☐ Yes (Specify in item 2.)
- (2) During this person's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge allowed to be used as evidence to support or disprove the testimony? ☐ No ☐ Yes (Specify in item 3.)
- (3) During this person's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge *did not* allow to be used as evidence to support or disprove the testimony? ☐ No ☐ Yes (Specify in item 4.)

- c. Was there testimony from other parties or other nonparty witnesses? ☐ No ☐ Yes

(If you answered yes, fill out and attach to this form another Other Party and Nonparty Witness Testimony and Evidence Attachment (form APP-014A) or provide information in another document, such as Attachment to Judicial Council Form [\(form MC-025\)](#), labeled as Attachment 1c.)



PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	
OTHER PARENT/PARTY:	COURT OF APPEAL CASE NUMBER (if known):

**2. Objections to the other party's or nonparty witness's testimony relevant to the appeal**

*(Indicate which person's testimony was objected to and specify the objection. Also indicate whether the court "sustained the objection" (prevented the party from saying something) or "overruled the objection" (allowed the party to make a statement) and include any explanation given by the court.)*

☐ [Attachment 2](#)

**3. Exhibits (documents, records, or other materials) relevant to the appeal allowed to be used as evidence to support or disprove the testimony.** *(Write a complete and accurate summary of the exhibits. Include any objections and the court's ruling on those objections. Do not comment or give your opinion about the exhibits.)*

☐ [Attachment 3](#)

**4. Exhibits (documents, records, other materials) relevant to the appeal not allowed to be used as evidence to support or disprove the testimony.** *(Write a complete and accurate summary of the exhibits. Include any objections and the court's ruling on those objections. Do not comment or give your opinion about the items.)*

☐ [Attachment 4](#)

# APP-014-INFO Information Sheet for Proposed Settled Statement

## 1 What information does this form provide?

This information tells you how to fill out *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014). It includes:

- Instructions for appellant to complete form APP-014; and
- Definitions of legal terms, deadlines for filing and serving form APP-014, and the process for asking the court to certify your proposed settled statement for use in the Court of Appeal.

This information is also helpful for respondents who are completing *Response to Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-020).

More information for the appellant and respondent about the settled statement process is found in *Information on Appeal Procedures for Unlimited Civil Cases* (form [APP-001-INFO](#)). Read items 14b(3) and 25d.

## 2 Where can I find general information about the appeals process?

For general information about the appeals process, read *Information on Appeal Procedures for Unlimited Civil Cases* (form [APP-001-INFO](#)) (family law cases are one type of unlimited civil case). To learn more, you may also:

- Visit the California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-appeals.htm](http://www.courts.ca.gov/selfhelp-appeals.htm).
- Find out about self-help resources for the district in which you filed your appeal, at [www.courts.ca.gov/courtsofappeal.htm](http://www.courts.ca.gov/courtsofappeal.htm).
- 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).
- Consult with a lawyer. Find a lawyer through your local bar association, the State Bar of California at [www.calbar.ca.gov](http://www.calbar.ca.gov), or the Lawyer Referral Services at 1-866-442-2529.

## 3 What is a settled statement?

A settled statement is a summary of the oral (spoken) trial court proceedings that is approved by the trial court judge who conducted those proceedings. The Court of Appeal will rely on this statement in deciding your case.

The appellant is responsible for preparing a proposed settled statement.

## 4 When can I use a settled statement?

You may use a settled statement as the record of the oral (spoken) trial court proceedings for an appeal if:

- The trial or hearing was not reported by a court reporter; or
- You have an order waiving your court fees and costs; or
- The court orders that you can use a settled statement instead of a court reporter's transcript.

## 5 What must be included in a proposed settled statement?

The proposed settled statement must include all of the following:

- A statement of the reasons for your appeal (see item **(11)**);
- A summary of the evidence and testimony of each witness that relates to the reasons for your appeal; and
- A copy of the judgment or order being appealed (must be attached to the settled statement).

## 6 What is the deadline to file the form?

File the original form in the trial court:

- At the same time you file *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003) or within **30 days** of that date;

**OR**

- Within 30 days of the date that the court sends, or a party serves, an order granting your motion to use a settled statement, if applicable.



**7 Overview for completing form APP-014**

- Review the entire form to become familiar with the categories and what areas apply to the reasons for your appeal. Not all items will apply to your situation.
- Review the judgment or order that you are appealing and make a copy to attach to form APP-014.
- Know why you are appealing the trial court's order or judgment. Describe the reasons in item 2 of form APP-014.

In addition, you will use form APP-014 and any attachments to specify those portions of the record that have evidence relevant to your issues on appeal, such as:

- The testimony of a party or nonparty witness.
- The court's ruling on an objection to a party's or nonparty witness's testimony.
- The court's rulings about allowing (or not allowing) exhibits to be admitted into evidence to support or disprove a party's or a nonparty witness's testimony.
- The trial court's findings at the hearing or trial.
- The court's ruling on a motion or motions.
- The court's rulings on one or several jury instructions (Note: Not all cases have juries.)

Remember, not every item on the form may apply to your situation. Answering yes or no where indicated on form APP-014 will help you and the court focus on the issues that are relevant to your appeal.

**8 What is the meaning of these words that are found in form APP-014 and this information sheet?**

**Evidence:** Any proof legally presented at a hearing or trial through witnesses, records, or exhibits.

**Substantial evidence:** Evidence that is reasonable, believable, and of solid value. It is not just any evidence. The focus is on the quality—not the quantity—of evidence needed to support a legal conclusion.

**Findings:** A decision by a judge that something is a fact or is relevant.

**Judgment:** The final determination of the rights of the parties in an action or proceeding.

**Objection:** A formal protest made by a party about what a party or witness says at the trial or hearing or about any exhibits or other evidence that the other side tries to introduce during a trial or hearing.

**Order:** A decision made by a judicial officer on an issue that is raised by a party in a lawsuit.

**Rulings on objections:** A ruling is a judge's decision on a party's objection to a witness's testimony, exhibits, or other evidence at the trial or hearing. The judge can "sustain" the objection or "overrule" the objection.

*If the judge sustains* the objection, the judge is agreeing with the objection and will not consider that part of the testimony or evidence that is being objected to.

*If the judge overrules* the objection, the judge is disagreeing with the objection, and will allow the evidence to be introduced.

**9 How do I complete the caption (the top part of the form)?**

**Name and contact information.** If you have a lawyer for the appeal, your lawyer will fill out the form. If you do not have a lawyer for the appeal, write your name and provide your contact information in the first part of the caption.

**Court address.** Complete the address for the superior court where your case is filed.

**Party names.** Write the names of the parties in the case.

**Note for Domestic Violence Restraining Order cases:** If you are appealing a Domestic Violence Restraining Order, write your name next to Plaintiff/Petitioner if you are the Protected Person on the restraining order. Write your name next to Defendant/Respondent if you are the Restrained Person on the restraining order.

**Amended statement.** If the court ordered you to amend (make changes to) a proposed settled statement, check the box under the name of the form. Then, on the line that follows the check box, write whether this is the first, second, third, fourth, etc. time you are amending the proposed settled statement.

**Filing date of notice of appeal.** Finally, fill in the date your appeal was filed, as well as the superior court case number and Court of Appeal case number.



# APP-014-INFO Information Sheet for Proposed Settled Statement

## 10 How do I complete item 1, "Preliminary Information"?

In item 1 of form APP-014, check the boxes that apply and provide the dates requested.

## 11 How do I complete item 2, "Reasons for Your Appeal"?

In item 2 of APP-014, describe the errors (mistakes) you believe were made at the hearing or trial. For example:

*No substantial evidence.* You might argue that there was no substantial evidence that supported the judgment or order that you are appealing. (See item 8 of this information sheet for the definition of substantial evidence.)

*Errors.* You might argue that an error or errors about the law or court procedure affected the outcome of the trial or hearing. This can include an argument that the court made a ruling that is based on a mistake about the facts of the case or about the law.

Before you complete this item, you should understand that the Court of Appeal will reverse the order or judgment you are appealing only if the error affected the outcome of the case. ("Reverse" means to change the trial court's decision.)

If you need more space to describe the reasons for your appeal, check the box labeled "Attachment 2a" and/or "Attachment 2b." Then attach a separate page or pages (you can use form MC-025) to continue describing the reasons for your appeal.

YOUR ARGUMENTS/REASONS CAN BE BECAUSE:	
<input checked="" type="checkbox"/>	There was no substantial evidence that supported the judgment or order.
<input checked="" type="checkbox"/>	There was an error or errors about either the law or court procedure.
	Examples are that the court: (1) misinterpreted the law; (2) wrongly ruled on an objection; or (3) gave an incorrect jury instruction.

YOUR ARGUMENTS/REASONS CANNOT BE TO:	
<input checked="" type="checkbox"/>	Present your case all over again to the Court of Appeal;
<input checked="" type="checkbox"/>	Present new evidence or new witnesses to the Court of Appeal;
<input checked="" type="checkbox"/>	Generally complain about the judge or a lawyer; or
<input checked="" type="checkbox"/>	Explain to the Court of Appeal that a witness did not tell the truth at the trial.

## 12 How do I complete item 3, "Summary of the Parties' Testimony and Other Evidence"?

Indicate in item 3 of form APP-014 if a *party* in the case gave testimony at the trial or hearing. Item 3 provides space to summarize the testimony that is relevant to the reasons you gave in item 2 for this appeal.

After summarizing the testimony, indicate if there were any objections to the testimony and exhibits relevant to the appeal that the judge allowed, or did not allow, to be used as evidence to support or disprove the party's testimony. If you answer yes to any of the questions following each party's testimony, complete the corresponding item on page 4.

If you need more space to describe the testimony or evidence, check the box below the summary of the testimony (for example, "Attachment 3a(1)"). Then, attach a separate page or pages (you can use form MC-025) to continue the summary. Label the attachment "APP-014, Attachment 3a(1)" if you are continuing to summarize the testimony of the party named in item 3a(1).

If more than two parties provided testimony, complete *Other Party and Nonparty Witness Testimony and Other Evidence Attachment (Unlimited Civil Case)* (form APP-014A) and attach it to form APP-014.



**13 How do I complete item 4, “Summary of Nonparty Witness Testimony and Other Evidence”?**

If nonparty witnesses (persons other than the parties in the case) provided testimony at the trial or hearing that is relevant to the reasons for your appeal, you will need to provide the information and attach it to form APP-014.

You may use *Other Party and Nonparty Witness Testimony and Other Evidence Attachment (Unlimited Civil Case)* (form APP-014A) for this purpose.

**14 How do I complete item 5, “Trial Court’s Findings”?**

Indicate if the judge made any findings (decisions about the facts or the law) that are relevant to your reasons in item 2 of form APP-014 for this appeal. (See item 8 for the definition of findings.)

If you need more space to describe the trial court's findings, check the box “Attachment 5.” Then, attach a separate page or pages (you can use form MC-025) to continue the summary. Label the attachment “APP-014, Attachment 5.”

**15 How do I complete item 6, “Summary of Motions”?**

If the trial court’s ruling on a motion is relevant to your reasons in item 2 of form APP-014 for this appeal, describe the motion. Include which party made the motion, what was said by the parties and the court about the motion, whether the trial court granted or denied the motion, and what the court said in ruling on the motion.

**16 How do I complete item 7, “Summary of Jury Instructions”?**

If one of your reasons in item 2 of form APP-014 for this appeal is a challenge to a jury instruction, indicate which instruction you are challenging and which party requested it. Also state whether the court gave the instruction to the jury, refused to give the instruction to the jury, or modified the instruction before giving it to the jury. If an instruction was given orally rather than in writing, provide the language of the oral instruction. And if an instruction was modified, describe how the instruction was modified.

**17 Attach order or judgment and make copies**

When you have finished your proposed settled statement:

- Attach a copy of the order or judgment you are appealing;
- Make one copy of the proposed settled statement and attachments for each party in your case; and
- Keep a copy for your records.

**18 Have all parties in the case served**

Have each party in your case served with a copy of the complete proposed settled statement with attachments.

For information about serving your documents:

- See *Information Sheet for Proof of Service* (form APP-009-INFO); and
- Go to the California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

**19 File the proof of service forms with the court**

You can file the forms in person, by mail, or e-filing (if available) in the court that made the order or judgment you are appealing.

Ask the court clerk to stamp the extra copy for your records to show that the original was filed.

**20 Respondent's options**

The respondent has 20 calendar days from the date you serve your proposed settled statement to serve and file either:

- Proposed amendments (changes) to the proposed settled statement. Use *Response to Appellant’s Proposed Settled Statement (Unlimited Civil Case)* (form APP-020) to request changes; or
- A notice choosing to provide a reporter’s transcript instead of a settled statement. This option is available if the oral proceedings in the trial court were reported by a court reporter.



**21 Review process**

If the respondent proposes changes, the trial court judge then reviews both your proposed settled statement and the respondent's proposed amendments.

If the proposed settled statement does not need any corrections or modifications, the trial court judge will certify the statement as an accurate summary of the testimony and evidence relevant to the reasons for the appeal.

*Changes made to the settled statement*

If corrections or modifications are needed, and the judge makes the amendments to the statement, the amended statement will be sent to you and the respondent for your review.

If the judge orders you (the appellant) to make the corrections or modifications to the statement, you must serve and file an amended proposed settled statement within the time ordered by the judge.

*Resolving disagreements*

If you or the respondent disagree with anything in the amended proposed settled statement, the parties have 10 calendar days from the date the amended statement is sent to serve and file proposed amendments to the amended proposed settled statement.

The judge then reviews any proposed amendments and decides if any further changes to the proposed settled statement are necessary.

If corrections and modifications are needed, the process of review and proposing amendments as described in this section must be repeated.

**22 Certification**

Once the trial court judge decides that no further changes are needed, the judge will certify the statement as an accurate summary of the testimony and evidence relevant to the reasons for the appeal. The trial court clerk will send the settled statement to the Court of Appeal.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</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>RESPONSE TO APPELLANT'S PROPOSED SETTLED STATEMENT (UNLIMITED CIVIL CASE)</b> <input type="checkbox"/> _____ Amended (If applicable, specify 1st, 2nd, 3rd, etc. amended form.)	SUPERIOR COURT CASE NUMBER: _____ COURT OF APPEAL CASE NUMBER (if known): _____
<b>Notice: Use this form to prepare a response to <i>Appellant's Proposed Settled Statement</i> (form APP-014). For more information, read <i>Information on Appeals Procedures for Unlimited Civil Cases</i> (form APP-001-INFO) and <i>Information Sheet for Proposed Settled Statement</i> (form APP-014-INFO).</b>	
<b>Important! Do not use this form if you elect to provide a reporter's transcript instead of proceeding with a settled statement.</b>	

**1. SUMMARY OF THE PARTIES' TESTIMONY AND OTHER EVIDENCE**

- a. ☐ I do not request changes to item 3 of *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014).
- b. ☐ I request the following changes to item 3 of *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014) (specify):

- c. ☐ I request the above changes for the following reasons (specify):

☐ [Attachment 1](#)

PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	
OTHER PARENT/PARTY:	COURT OF APPEAL CASE NUMBER (if known):

## 2. SUMMARY OF NONPARTY WITNESS TESTIMONY AND OTHER EVIDENCE

- a. ☐ I do not request changes to item 4 of *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014).
- b. ☐ I request the following changes to item 4 of *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014) (*specify*):

- c. ☐ I request the above changes for the following reasons (*specify*):

## 3. TRIAL COURT'S FINDINGS

☐ [Attachment 2](#)

- a. ☐ I do not request changes to item 5 of *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014).
- b. ☐ I request the following changes to item 5 of *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014) (*specify*):

- c. ☐ I request the above changes for the following reasons (*specify*):

☐ [Attachment 3](#)



PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	
OTHER PARENT/PARTY:	COURT OF APPEAL CASE NUMBER (if known):

#### 4. SUMMARY OF MOTIONS

- a. ☐ I do not request changes to item 6 of *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014).
- b. ☐ I request the following changes to item 6 of *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014) (*specify*):

- c. ☐ I request the above changes for the following reasons (*specify*):

☐ [Attachment 4](#)

#### 5. SUMMARY OF JURY INSTRUCTIONS

- a. ☐ I do not request changes to item 7 of *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014).
- b. ☐ I request the following changes to item 7 of *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014) (*specify*):

- c. ☐ I request the above changes for the following reasons (*specify*):

Date:

☐ [Attachment 5](#)

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

\_\_\_\_\_  
(SIGNATURE)

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</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>ORDER ON APPELLANT'S PROPOSED SETTLED STATEMENT (UNLIMITED CIVIL CASE)</b> <input type="checkbox"/> _____ Amended (If applicable, specify 1st, 2nd, 3rd, etc. amended form.)	SUPERIOR COURT CASE NUMBER: _____  COURT OF APPEAL CASE NUMBER (if known): _____

**1. The court has received and reviewed the following:**

- a. ☐ Appellant's Proposed Settled Statement (Unlimited Civil Case) (form APP-014) ☐ \_\_\_\_\_ Amended  
filed by the appellant on (date):
- b. ☐ Response to Appellant's Proposed Settled Statement (Unlimited Civil Case) (form APP-020) ☐ \_\_\_\_\_ Amended  
filed by the respondent on (date):
- c. ☐ Other (specify):

**2. The court makes the following order:**

- a. ☐ *Certification.* The court certifies that the statement proposed by the appellant in item 1a is an accurate summary of the testimony and other evidence that is relevant to the appellant's reasons for the appeal. The court settles the statement and certifies that it is ready to be sent to the Court of Appeal.
- b. ☐ *Court reporter transcript required.* The trial court proceedings in this case were reported by a court reporter. Instead of correcting the settled statement, the court orders under rule 8.137(f)(2) of the California Rules of Court that a transcript be prepared as the record of these proceedings. (Check the court's local rules to make sure the court has a rule providing that this option is available.)
- c. ☐ *Corrections required.* Corrections are needed for the settled statement proposed by the appellant to be an accurate summary of the evidence and testimony for the issues the court addressed in the order or judgment being appealed.
- (1) ☐ A modified settled statement is attached to this order.
- (2) ☐ The appellant is ordered to prepare a settled statement incorporating the modifications listed below and to serve and file the modified statement:

(a)

(b)

PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	
OTHER PARENT/PARTY:	COURT OF APPEAL CASE NUMBER (if known):

2. c. (2) Court orders (*continued*):

(c)

(d)

(e)

- (3) ☐ *Additional corrections required.* More corrections than could be listed above were needed in order for the settled statement proposed by the appellant to be an accurate summary of the testimony and other evidence that is relevant to the issues the appellant indicated are the reasons for this appeal. A list of required modifications is attached. The appellant is ordered to prepare a statement incorporating these modifications and serve and file the modified statement.

- d. ☐ *Material required for the proposed settled statement to comply with rule 8.137.*

- (1) ☐ The proposed settled statement does not contain the following material required by rule 8.137.

- (2) The appellant is ordered to prepare a new proposed settled statement that includes this material.

- e. ☐ The new or modified proposed settled statement must be served and filed by (*date*):

- f. ☐ Other orders are specified below:

Date:

(TYPE OR PRINT NAME)

SIGNATURE OF TRIAL COURT JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	<b>FOR COURT USE ONLY</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: _____	SUPERIOR COURT CASE NUMBER: _____
<b>APPELLANT'S MOTION TO USE A SETTLED STATEMENT (UNLIMITED CIVIL CASE)</b>  RE: Appeal filed on (date): _____	COURT OF APPEAL CASE NUMBER (if known): _____

### INSTRUCTIONS TO APPELLANT

- Use this form to request a court order to use a settled statement instead of a reporter's transcript of the trial court oral proceedings for an appeal.
- Serve and file this motion at the same time that you file your notice designating the record on appeal.
- File both forms in the superior court, not the Court of Appeal.

### NOTICE OF HEARING

1. TO (name(s)): \_\_\_\_\_

☐ Petitioner  
 ☐ Repondent  
 ☐ Other parent/party  
 ☐ Other (specify): \_\_\_\_\_

2. **A COURT HEARING WILL BE HELD AS FOLLOWS:**

a. Date: \_\_\_\_\_ Time: \_\_\_\_\_ ☐ Dept.: \_\_\_\_\_ ☐ Room: \_\_\_\_\_  
 b. Address of court ☐ same as noted above ☐ other (specify): \_\_\_\_\_

3. **WARNING to the person served with this motion:** The court may make the requested order without you if you do not file a response opposing the motion, serve a copy on the other party or parties at least nine court days before the hearing, and appear at the hearing.

4. **PROCEEDINGS**

I request that the following proceedings in the trial court be included in the settled statement. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceeding (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 reported the proceedings (if any and if known), and whether a certified transcript of the designated proceeding was previously prepared.)

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 |

☐ Additional proceedings are listed on a separate page or pages. (At the top of each page, write "Attachment 4" and begin with letter e.)

PLAINTIFF/PETITIONER:	SUPERIOR COURT CASE NUMBER:
DEFENDANT/RESPONDENT:	
OTHER PARENT/PARTY:	COURT OF APPEAL CASE NUMBER (if known):

**5. REASON FOR ALLOWING USE OF SETTLED STATEMENT**

*You must support your motion to use a settled statement by showing one or more of the following:*

- a. ☐ A substantial cost saving will result and the statement can be settled without significantly burdening opposing parties or the court (*explain*):
- b. ☐ The oral proceedings requested in item 4 cannot be transcribed because:
- c. ☐ I do not have a fee waiver, but I am unable to pay for the reporter's transcript and funds are not available from the Transcript Reimbursement Fund (see rule 8.130(c)) (*explain*):

Date:

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



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

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
1.	California Department of Child Support Services by Kristen Donadee, Assistant Chief Counsel	AM	<p>The California Department of Child Support Services (Department) has reviewed the proposal identified above for potential impacts to the child support program, the local child support agencies, and our case participants. Specific feedback related to the provisions of the forms with potential impacts to the Department and its stakeholders is set forth below.</p> <p>...</p> <p>Thank you for the opportunity to provide input, express our ideas, experiences and concerns with respect to the proposed rules and form changes.</p> <p><i>[See comments on specific provisions below.]</i></p>	The committees note the commenter's support for the proposal if modified. See below for responses to specific comments.
2.	California Lawyers Association, Family Law Section, Executive Committee	A	The Executive Committee of the Family Law Section of the California Lawyers Association agrees with the proposed changes.	The committees note the commenter's support for the proposal.
3.	California Lawyers Association, Litigation Section, Committee on Appellate Courts	AM	<p>The Committee on Appellate Courts of the Litigation Section of the California Lawyers Association supports this proposal but suggests some modifications, as noted below in response to the Invitation to Comment's request for specific comments.</p> <p>Yes, the new and revised forms make the complex settled statement process more understandable for litigants, especially self-represented litigants. In particular, we believe that domestic violence survivors, a population</p>	<p>The committees note the commenter's support for the proposal if modified. See below for responses to specific comments.</p> <p>No response required.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			<p>that is overwhelmingly self-represented in family court, will be able to navigate the settled statement forms, given the new layout, questions, and structure of the documents.</p> <p>However, there is a concern that these forms may mislead self-represented litigants into thinking that the alternatives to a reporter's transcript may lead to greater success in their appeal. Thus, as suggested below, we encourage the Judicial Council to make two changes to avoid this potential problem.</p> <p>...</p> <p>• <b>Would the forms work well in all types of unlimited civil cases?</b> APP-014, APP-020, APP-014A, and APP-022 will work in family law cases, including domestic violence restraining order cases.</p> <p><i>[See comments on specific provisions below.]</i></p>	<p>See below for responses to specific comments.</p> <p>No response required.</p>
4.	California Judges Association by Lexi Howard, Legislative Director	A	<p>CJA supports the proposed new and revised forms and thinks will make the settled statement process less burdensome for court participants, especially considering, as indicated in the Invitation to Comment, "(1) the complexity and difficulty of the settled statement process for litigants and the courts, (2) the increasing number of civil proceedings that are not reported by a court reporter, and (3) the increasing number of self-represented litigants for whom the settled statement process is the</p>	<p>The committees note the commenter's support for the proposal and appreciate this feedback.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			only way to create a record of the oral proceedings.”	
			By providing detailed guidance to litigants and courts, the new and revised forms appear to fulfill these goals. The invitation to comment includes the following proposed forms: 1. Information on Appeal Procedures for Unlimited Civil Cases (APP-001-INFO) (the settled statement discussion is on pages 13-15) 2. Appellant’s Notice Designating Record on Appeal (APP-003) 3. Respondent’s Notice Designating the Record on Appeal (APP-010) 4. Appellant’s Proposed Settled Statement (APP-014) 5. Information Sheet for Proposed Settled Statement (APP-014-INFO) 6. Response to Appellant’s Proposed Settled Statement (APP-020) 7. Order on Appellant’s Proposed Settled Statement (APP-022) 8. Appellant’s Motion to Use A Settled Statement (APP-025)	No response required.
			Creating a settled statement is not an ideal way of preparing the record of the oral proceedings. Even with the assistance of the new and revised forms, settled statements are burdensome, time-consuming, and vulnerable to error. The need for a settled statement often signals a litigant’s lack of representation, sophistication, or funds –	No response required.



## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			<p>otherwise, the litigant would have arranged for a court reporter to record the proceedings.</p> <p>Many self-represented litigants will likely have difficulty completing the new and revised forms because, as the forms become more comprehensive and provide more guidance, they necessarily become more complicated. Given the complexity of rule 8.137 and the lack of other options such as court-provided court reporters or electronic recording of court proceedings, however, the new and revised forms for preparing settled statements can only improve the process for the courts and litigants.</p>	No response required.
5.	Child Support Directors Association of California, Judicial Council Forms Committee, by Ronald Ladage, Chair	AM	<p>The Child Support Directors Association’s Judicial Council Forms Committee (Committee) has reviewed the proposal identified above. The Committee’s feedback is set forth below.</p> <p>...</p> <p>Thank you for the opportunity to provide input, express our ideas, experiences and concerns with respect to the proposed rules and form changes.</p> <p><i>[See comments on specific provisions below.]</i></p>	The committees note the commenter’s support for the proposal if modified. See below for responses to specific comments.
6.	Family Violence Appellate Project by Shuray Ghorishi, Senior Attorney	A	Family Violence Appellate Project (“FVAP”) greatly appreciates the opportunity to comment on the above-listed rules. FVAP was founded in 2012 to ensure the safety and well-being of domestic abuse survivors and their children by helping them obtain effective appellate	The committees note the commenter’s support for the proposal.

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			<p>representation. FVAP is the only organization in California dedicated to appealing cases on behalf of low-and moderate-income domestic abuse survivors and their children. Since its inception, FVAP has screened over 1,000 requests for assistance, has represented appellants and respondents in 42 appeals and writs, and has filed amicus curiae briefs in 12 cases that raised significant issues of statewide concern for domestic abuse survivors. Our work has, to date, resulted in 31 published appellate decisions interpreting the Domestic Violence Prevention Act and other California Family Code sections designed to protect survivors of domestic abuse and their children.</p> <p>FVAP supports the letter submitted by the Committee on Appellate Courts of the California Lawyers Association, Litigation Section.</p>	<p>See below for responses to specific comments submitted by the Committee on Appellate Courts of the California Lawyers Association, Litigation Section.</p>
7.	Orange County Bar Association by Nikki P. Miliband, President	A	<i>[No specific comments submitted.]</i>	The committees note the commenter's support for the proposal.
8.	San Diego County Bar Association, Appellate Practice Section by Robert M. Shaughnessy, Chair	AM	The Appellate Practice Section of the San Diego County Bar Association ("APS") appreciates the opportunity to comment on the Appellate Advisory Committee's proposed new and changed forms. As your Committee may know, the APS has long supported measures that provide greater access to justice for unrepresented litigants. Through participation in the San Diego Appellate Self-Help Workshop--a	The committees note the commenter's support for the proposal if modified. See below for responses to specific comments.

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			<p>program that uses volunteer appellate practitioners to educate <i>pro se</i> litigants on appellate rules and procedures-our members witness firsthand that efforts to demystify the appellate process yield positive results for the unrepresented parties, the courts, and practitioners.</p> <p>From our experience, we offer the following with the hope that it will assist the Committee in achieving its stated purpose of helping parties-in particular self-represented litigants better understand the settled statement procedure.</p> <p>...</p> <p>In conclusion, the APS commends the Appellate Advisory Committee for their dedication to the goal of simplifying the settled statement process. We appreciate the opportunity to comment and hope that the thoughts we provide will further assist the Committee in its work.</p> <p><i>[See comments on specific provisions below.]</i></p>	<p>No response required.</p> <p>No response required.</p>
9.	Superior Court of California, County of Los Angeles	AM	<p><b>Suggested Modifications:</b></p> <p><b>Remove all references to family law.</b> The forms included in SPR18-04 should be used for unlimited civil and NOT for family law. Family law has unique statutory requirement for</p>	<p>The committees note the commenter's support for the proposal if modified.</p> <p>The committees do not recommend the changes suggested by the commenter. The committees believe that the new and revised forms serve the needs of all unlimited civil law litigants, including family law litigants. However, as part of ongoing work to improve the settled statement</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			<p>findings. There are no juries in a family law case so the references to juries are extraneous. These forms are not adequately tailored to meet the needs of the family law discipline. No action should be taken to implement for family until the Judicial Council refines the forms and tailors them for family law.</p> <p><b>Request for Specific Comments:</b></p> <p><b>Does the proposal appropriately address the stated purpose?</b> For unlimited civil, yes, very clear for litigant and easier for staff. No for family law.</p> <p><b>Would the forms work well in all types of unlimited civil cases?</b> Yes, but not for family law.</p> <p><b>Does moving nonparty testimony and evidence to an attachment improve the form APP-014?</b> Yes, it would be helpful.</p> <p><b>Would the proposal provide cost savings? If so, please quantify?</b> In the long run it may save time, but we do not see any cost savings.</p> <p><b>What would the implementation requirements be for courts? For example, training staff (please</b></p>	<p>process and forms, the committees may decide to review the forms in the future should any feedback indicate that the forms require further revision to serve the specific needs of family law litigants.</p> <p>Same as above response.</p> <p>Same as above response.</p> <p>No response required.</p> <p>No response required.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			<p><b>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></p> <p>Minimal training will be required, employees will need to become familiar with the new forms.</p> <p>The addition of new forms will require coding in the case management systems and can be accomplished within a 3 month period, except for the processing of Form APP-022, Order on Appellant's Proposed Settled Statement (Unlimited Civil Cases) which is a mandatory use form. This court will authorize proposed orders to be submitted electronically via e-filing applications and will route the form electronically to judicial officers for review. This form will likely require additional time to implement through automated processes and may require training for processing through electronic workflows.</p> <p><b>Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation.</b></p> <p>Yes, except for APP-022, Order on Appellant's Proposed Settled Statement (Unlimited Civil Case). See comment above.</p>	<p>No response required.</p> <p>The committees appreciate this input and thank the commenter for pointing out that proposed new form APP-022 circulated for comment as a mandatory use form. This designation was in error; the form is for optional use. The error has been corrected.</p> <p>See response above.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
10.	Superior Court of California, County of San Diego by Mike Roddy, Executive Officer	A	<p>Q: Does the proposal appropriately address the stated purpose? Yes.</p> <p>Q: Would the forms work well in all types of unlimited civil cases? Yes.</p> <p>Q: Does moving nonparty testimony and evidence to an attachment improve form APP-014? Yes.</p> <p>Q: Would the proposal provide cost savings? If so, please quantify. No.</p> <p>Q: 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. Updating internal procedures, modifying/creating filings in case management system, and training staff.</p>	<p>The committees note the commenter's support for the proposal and appreciate the responses to questions presented in the invitation to comment.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p> <p>No response required.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			Q: Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.  <i>[See comments on specific provisions below.]</i>	No response required.
11.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee, Joint Rules Subcommittee	AM	<p>The following comments are submitted by the TCPJAC/CEAC Joint Rules Subcommittee (JRS), on behalf of the Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC).</p> <p>The JRS notes the following impact to court operations:</p> <ul style="list-style-type: none"> <li>Results in additional training, which requires the commitment of staff time and court resources. Courtroom and counter clerks will need to be trained on the forms, but this can be done in the normal course of training.</li> <li>Increases court staff workload. There would be a significant impact to self-help staff, which typically does not assist self-represented litigants on appellate procedures. In addition to training, self-help staff would likely have to develop long-term services and use existing resources to help self-represented litigants with appellate processes, particularly in family law cases.</li> </ul>	<p>The committees note the commenter's support for the proposal if modified and appreciate this input regarding the impact of the proposal on court operations.</p> <p>The committees acknowledge courts will incur some costs in implementing the new and revised forms, including potential impacts to self-help staff when more self-represented litigants undertake the settled statement process. However, the committees expect that the new and revised forms will save resources by making the settled statement process easier for parties to understand and access and less burdensome for the courts.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commenters, Overall Positions on the Proposal, and General Comments				
	Commenter	Position	Comment	Committee Response
			Suggested Modifications: Include a “glossary of terms” used in the proposed forms.	A glossary of terms is included in <i>Information Sheet for Proposed Settled Statement</i> (form APP-014-INFO).



## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-001-INFO		
Commenter	Comment	Committee Response
California Lawyers Association, Litigation Section, Committee on Appellate Courts	<p>As APP-001-INFO correctly identifies, a general principle of appellate law is that an appellate court will presume that the judgment or order is correct and imply any findings in favor of the prevailing party at trial to uphold the order. Yet, this form does not explain the general exception to this rule that appellate courts will not make this presumption if a statement of decision has been prepared and the record shows that any omission or ambiguity in that decision was brought to the attention of the trial court by the appealing party. The form further does not explain that some appellate districts may still make this presumption even if the settled statement has been prepared. (Compare <i>A.G. v. C.S.</i> (2016) 246 Cal.App.4th 1269, 1282 [“[T]he use of a settled statement in lieu of a reporter’s transcript does not negate the doctrine of implied findings where the parties waived a statement of decision.”] with <i>In re Marriage of Condon</i> (1998) 62 Cal.App.4th 533, 550, fn. 11 [doctrine of implied findings does not apply where statement of decision is waived, and a settled statement including the court’s factual and legal basis is used in place of a reporter’s transcript]; <i>In re Marriage of Seaman &amp; Menjou</i> (1991) 1 Cal.App.4th 1489, 1494, fn. 3 [same]; <i>In re Marriage of Fingert</i> (1990) 221 Cal.App.3d 1575, 1580 [same].)</p> <p>As a result, while the new and revised forms make it easier for self-represented litigants to navigate the intricate settled statement process, there are nevertheless concerns that many litigants still will not have meaningful access to an appeal because a statement of decision was not prepared in their case. (See <i>A.G. v. C.S.</i>, <i>supra</i>, 246 Cal.App.4th 1269 [applying the doctrine of implied findings to affirm a custody order because the settled statement used by the parties did not “contain an express statement by the trial court that it complied with the</p>	<p>The committees appreciate the commenter’s having raised this issue, but, if the commenter is suggesting including the doctrine of implied findings in this information sheet, the committees do not recommend this addition. The information sheet describes appellate procedure generally and is written to be understandable and accessible. Any discussion of implied findings beyond the general presumption that a judgment or order is presumed correct would involve technical points of law and would likely be confusing to self-represented litigants.</p> <p>See response below.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-001-INFO		
Commenter	Comment	Committee Response
	<p>procedures required for adopting a statement of decision and that the settled statement serves as the court’s statements of decision”].)</p> <p>The appellate court will not apply the doctrine of implied findings when the record clearly demonstrates what the trial court did; and, in our experience, the best way to demonstrate that is with a reporter’s transcript. Because the election of a settled statement, therefore, may have practical consequences for a litigant to obtain meaningful relief on appeal, we encourage the Judicial Council to add the following:</p> <p>1. Inset in APP-001-INFO: <b>“Please note the type of oral record you choose, including a reporter’s transcript or a settled statement, should be carefully considered as it may have effects on your appeal and you may want to consult with an attorney to determine the best option in your case.”</b></p> <p>...</p> <p><i>[See chart for form APP-022 for suggestion 2.]</i></p> <p>However, we encourage the following amendments to APP-001-INFO to make this form more understandable for survivors of domestic violence with proceedings in family court:</p> <p><b>Under #3, “Do I need a lawyer to represent me in an appeal”:</b> It presently states: “you must put an address, telephone number, fax number (if available)....” Due to safety concerns, survivors of domestic violence may need to keep their information private. Therefore, we suggest adding: “If you want to keep your information private, you may give a different mailing address and telephone number instead, but you should make sure to regularly check the address and telephone number</p>	<p>See response below</p> <p>The committees agree with this suggestion and have incorporated it into the proposal.</p> <p>The committees agree with this suggestion and have incorporated it, along with an advisement to keep the court informed as to any changes in contact information.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-001-INFO		
Commenter	Comment	Committee Response
	<p>provided to stay informed regarding your appeal.”</p> <p><b>Under #6, “Can I appeal <i>any</i> decision the court made?”:</b> Self-represented litigants may not be able to identify that an “injunction” includes a domestic violence restraining order. We encourage the following addition to the fourth bullet point: “Grant or dissolve an injunction or refuse to grant or dissolve an injunction (<i>including a domestic violence restraining order</i>).” (See <i>Nakamura v. Parker</i> (2007) 156 Cal.App.4th 327, 332 [a domestic violence restraining order is appealable under Code of Civil Procedure section 904.1(a)(6)].)</p> <p>In addition, since family law dissolution matters often include final orders of the court before the dissolution judgment that may be appealed as collateral orders, such as child and spousal support orders, we encourage the following addition at the end of the list of CCP 904.1 exceptions: “<i>In addition, some final orders the court makes before the final judgment may be appealed immediately. You should consult an attorney or a court self-help center to determine if your order is final and appealable.</i>”</p> <p><b>Under #9, “Is there a deadline to serve and file my notice of appeal?”:</b> It presently states that the deadline to file the Notice of Appeal is triggered by the service of a “‘Notice of Entry’ of the trial court judgment or a file-stamped copy of the judgment.” However, the deadline also is triggered by service of file-stamped copies of final orders, e.g., fully adjudicated custody orders. Therefore, we suggest adding “<i>or order</i>” after the word “judgment” both times, it appears in this section.</p> <p><b>Under #11, p. 4, “If I file a notice of appeal, do I still have to</b></p>	<p>The committees agree with this suggestion and have incorporated it, with minor alterations, into the proposal.</p> <p>The committees agree with this suggestion and have incorporated it, with minor alterations, into the proposal.</p> <p>The committees agree with this suggestion and have incorporated it, with minor alterations, into the proposal.</p> <p>The committees agree with this suggestion and have</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-001-INFO		
Commenter	Comment	Committee Response
	<p><b>do what the trial court ordered me to do?”:</b> In addition to stating the examples of payment of money or delivery of property, we encourage the Judicial Council to add custody matters on the list of examples.” (See Code Civ. Proc., § 917.7 [stating that custody matters are not stayed on appeal].)</p> <p><b>Page 7, under “(1) Reporter’s Transcript...when available”:</b> We recommend a change to the following sentence: “A court reporter will not have been present unless you or another party in your case made specific arrangements to have a court reporter present.” The sentence will not be accurate in all cases and may confuse some survivors of domestic violence, as it is the practice of some counties to provide court reporters in family law and/or Domestic Violence Prevention Act (“DVPA”) matters. Further, to the extent, a litigant has a concern about whether a court reporter was present, the sentence that follows provides clear instruction on what the litigant should do; it states: “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.” We suggest the sentence be amended to read: “A court reporter <i>may</i> not have been present unless you or another party in your case made specific arrangements to have a court reporter present, <i>as some counties do not provide court reporters in all cases.</i>”</p> <p>Furthermore, we encourage the following to provide more clarity to APP-001-Info:</p> <p><b>Under #2, “What is an appeal?”:</b> We recommend that a website link be inserted that identifies the counties included in each appellate district.</p>	<p>incorporated it, with minor alterations, into the proposal.</p> <p>See response below.</p> <p>The committees agree with changing the word “will” to “may.” The committees decline to augment the sentence since the change to “may” adequately addresses the point.</p> <p>The committees agree with this suggestion, and have incorporated it into the proposal.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-001-INFO		
Commenter	Comment	Committee Response
	<p><b>#18, p. 12, “What is ‘oral argument’?”:</b> In our experience low-income self-represented litigants do not understand that an appellate “oral argument” is different than a “hearing or trial” such that no new evidence can be considered. In #15 (“what is a brief?”) there is an advisement that an appeal is not a new trial. We also suggest that such advisement be included in the Oral Argument section. The following could be added:  <i>“Remember that an appeal is not a new trial. The Court of Appeal will not consider new evidence, such as new exhibits or testimony of new witness, so you will not be able to present any new evidence at oral argument.”</i></p>	<p>The committees agree with clarifying the scope of oral argument, and have added such language to this item.</p>
<p>San Diego County Bar Association, Appellate Practice Section by Robert M. Shaughnessy, Chair</p>	<p><b><u>I. Information on Appeal Procedures Unlimited Cases (Proposed APP-001-INFO)</u></b></p> <p>Without reservation, we support the new information form. We think it is beneficial and, on the whole, accurately explains the appellate process in plain and clear terms. However, we provide the following comments and suggested modifications to help ensure the form meets the goal of assisting the self-represented litigant.</p> <p><b>A. Page 1, Column 2: Confusing discussion of the requirements necessary for prevailing on appeal</b></p> <p>We find confusing the explanation of the requirements to prevail on an appeal. The two categories-"prejudicial error" and "no substantial evidence"-do not appear to effectively describe the applicable appellate concepts. They also appear to confuse the discreet topics of (I) standard of review; and (2) the general need to establish prejudicial error. Additionally, the description is not written in a simple manner and we believe it would be confusing when read by a self-represented litigant. We suggest</p>	<p>No response required.</p> <p>The committees appreciate this feedback and have made revisions responsive to the comment regarding prejudicial error (see new item 5, “What does the appellant need to prove to win on appeal?”). The committees decline to include a discussion of the standards of review, however, because the topic is complex and any such discussion would likely be confusing to self-represented litigants.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-001-INFO		
Commenter	Comment	Committee Response
	<p>restructuring this discussion into a short, simple, explanation of standards of review, followed by the explanation that a court will not overturn a judgment absent the finding of error that prejudiced the appellant's case in the trial court.</p> <p><b>B. Page 2, Column 1: Confusing wording in section 3 entitled, "Do I need a lawyer to represent me in an appeal?"</b></p> <p>The first sentence of this section states in part, "if you are an individual (rather than a corporation, for example) .... " This phrase may confuse the self-represented party. We suggest changing the language of the first paragraph of this section to read:</p> <p>Individuals may represent themselves in an unlimited civil case. Corporations and similar entities must be represented by a lawyer. Although individuals are allowed to represent themselves, 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.</p>	<p>The committees decided to retain the original language which follows the plain language convention of addressing the reader and avoids any redundancy.</p>
Superior Court of California, County of San Diego by Mike Roddy, Executive Officer	<p><b><u>Additional suggestion:</u></b> <b>Page 2 of the APP-001-INFO form</b> (Item 6) – Our Court suggests adding to the list an order that is appealable that is issued by the Probate or the Family Code as another example. The examples currently listed are generally geared toward a civil case and are not the typical orders that one may appeal from in another case type such as family or probate.</p>	<p>The committees agree with the suggestion and have revised the form to include orders that are appealable under the Family Code and the Probate Code.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-003		
Commenter	Comment	Committee Response
California Department of Child Support Services by Kristen Donadee, Assistant Chief Counsel	The Department recommends an addition to this form. Specifically, parties must check the box Form APP-003, Part 2b(3), to indicate they wish to proceed with a settled statement under rule 8.137 as part of the record of the oral proceedings in the superior court. The Department recommends that Part 2b(3) indicate that Form APP-025, Appellant's Motion to Use a Settled Statement, must be filed simultaneously with Form APP-003. Providing this additional instruction on the form would help ensure that the parties file all the appropriate forms with the court, thereby avoiding any delays in the proceedings.	The committees agree with adding a reference in item 2b(3)(c) to form APP-025, <i>Appellant's Motion to Use a Settled Statement</i> , to inform appellants that they can use this form for the purpose of filing the motion. The instruction cannot require appellants to use this form, however, because the form is optional.
Child Support Directors Association's Judicial Council Forms Committee by Ronald Ladage, Chair	In order to make it easier for self-represented litigants to use this form, along with the correct motion, we suggest adding the form number to the language in item 2.b.(3)(c) such that it should read:  “(You must serve and file the motion (form APP-025) required under rule...)”	See response above.
San Diego County Bar Association, Appellate Practice Section by Robert M. Shaughnessy, Chair	We generally support the idea of a revised form APP-003. This form has long been seen by APS members as overly complicated and unwieldy for both practitioners and unrepresented litigants. We support the Committee's goals of both simplifying and updating the form to assist parties and address recent changes in the law. But we note some areas where the form falls short of these aspirations, and so we offer the following additional constructive comments.	No response required.

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-003		
	<p><b>A. Page 1: The proposed new parenthetical "(what was said)" may be too broad</b></p> <p>The new proposed parenthetical "(what was said)" on Page 1, Section 2 (Record of Oral Proceedings in the Superior Court) might confuse unrepresented parties, who may read far too much into the phrase when trying to ascertain what must be designated as the record of oral proceedings. For example, the term may be misconstrued to include matters discussed with opposing parties or opposing counsel, including "meet and confer" settlement, or informal discussions over tangential and immaterial matters. We believe the parenthetical would offer more guidance if it explained "what was said" means argument and testimony offered at the trial, or the hearing, from which the appeal was taken.</p> <p><b>B. Page 3: Discussion of "Exhibits" should reflect the modern trial court practice, and should accommodate designation of lodged exhibits</b></p> <p>First, the "Exhibits" section should recognize and reflect the modern practice of trial courts routinely returning exhibits to parties following the hearing or trial. For example, the form could include a note that if the exhibits relevant to the appeal were returned to the parties and not kept by the trial court, then the party designating the inclusion of the exhibits must return them to the trial court within 10 days after service of the notice designating the exhibit. (See Cal. Rule of Court, Rule 8.122(a)(3).)</p>	<p>The committees agree with this suggestion and have incorporated it, with minor alterations, into the proposal.</p> <p>The committees agree with this suggestion and have added an instruction regarding designated exhibits that were not kept by the trial court.</p>



## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-003		
	<p>The Notice should also include a note or a box to check if the party seeking the inclusion of a returned exhibit intends to file the exhibit directly with the appellate court. (See e.g., Rule of Court, rule 8.224(b)(2).)</p> <p>Second, the "Description" of exhibits should be revised to accommodate exhibits that are lodged with the trial court as part of a Notice of Lodgment. In other words, they should be identified separate from numbered trial exhibits. It is awkward and difficult to identify lodged exhibits merely by number in the section referring to "Exhibits."</p>	<p>The committees disagree with making this addition because form APP-003 is appellant's notice designating the record at the outset of the appeal. Rule 8.224 applies to exhibits designated later in the appellate process.</p> <p>The committees decline to make this change because the item already refers to and includes lodged records, which may be described as such. Adding instructions tailored for exhibits that are not numbered could be confusing and would further complicate the form.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-014		
Commenter	Comment	Committee Response
California Department of Child Support Services by Kristen Donadee, Assistant Chief Counsel	There is a proposal to remove the requirement on Form APP-014 that an appellant describe how he or she was harmed. The Department recommends keeping this requirement in place as currently contained on Form APP-014, Page 3, Parts 3b.(2)-(3). This information is useful in appellate cases, especially with self-represented parties. It can also alert parties that error alone is not grounds for appeal; rather, there must be harm resulting from the error to form a basis for an appeal.	The committees do not recommend requiring an appellant to describe how he or she was harmed because the information is not necessary for a settled statement and would require the appellant to present a legal analysis. If the description of harm is inartfully drafted, it could result in the forfeiture of arguments on appeal. However, there is an item on prejudicial error (item 5, “What does the appellant need to prove to win on appeal?”) in form APP-001-INFO.
Child Support Directors Association’s Judicial Council Forms Committee by Ronald Ladage, Chair	Regarding the changes to form APP-014, we recommend the form be amended for the appellant to add and describe the harm the errors caused. Although, it may not be required for a settled statement, it will assist the self-represented litigants to identified that there must be an error causing harm to form a basis of an appeal.	See response above.
San Diego County Bar Association, Appellate Practice Section by Robert M. Shaughnessy, Chair	<p>As with the forms discussed above, we support the idea of forms and revisions designed and intended to increase access to justice for unrepresented litigants. Thus, we support the concept of a proposed settled statement form to assist parties and the courts with the preparation of a usable settled statement. Again, we offer the following comments to assist the Committee in meeting its stated purposes.</p> <p>First, we question the requirement (on page 1 of the form) that a party must file a notice of appeal before seeking a settled statement from the trial court. Many times, the process (and result) of obtaining a settled statement helps the self-represented litigant decide whether or not to appeal a trial court decision. Also, the procurement of a settled statement often</p>	<p>No response required.</p> <p>The commenter’s suggestion would require amending rule 8.137, which is beyond the scope of the proposal. In addition, a settled statement is a record of the oral proceedings that are relevant to the reasons for the appeal, and requires time and effort by the respondent and the trial court in addition to the appellant. The</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-014		
Commenter	Comment	Committee Response
	<p>helps an unrepresented litigant obtain paid or pro-bono appellate counsel, who can then assist the party with evaluating the costs, timing, and likely success of the contemplated appeal. However, the current language of California Rule of Court 8.137 states that a party must file a motion in the trial court with a copy of the record designation. (See Cal. R. Court 8.137(a)(1).) This language implies that a motion for a settled statement can only be filed after a notice of appeal is filed. We believe it would be more helpful to the litigants, as well as the trial and reviewing courts, if a notice of appeal was not required, and instead litigants could promptly obtain a settled statement shortly after the challenged ruling or judgment, while memories are fresh, notes are available, and the time for review allows an unrepresented party to seek the advice of appellate counsel before filing a notice of appeal. We therefore suggest that the proposed form need not include a mandatory reference to the date of filing of a notice of appeal. We further suggest that the Committee consider these issues further, in connection with a broader review of the language in Rule 8.137(a).</p> <p>Second, we see significant potential problems with the new format. We have doubts whether it will be helpful to a trial court or to the opposing party. For example, starting with questions about the parties' testimony does not appear to be the most effective way of seeking the relevant "settled statement" because the party's testimony is not necessarily relevant to the potential appellate issues. In many cases the testimony holds very little relevance to the issue giving rise to the appeal. Perhaps of more concern to opposing parties, this proposed format may encourage unrepresented parties to present rambling, argumentative, narrative responses. The proposed structure does not encourage a clear non-argumentative</p>	<p>committees do not believe that it would function well as an aid to a litigant who is deciding whether to appeal or seeking the assistance of counsel.</p> <p>The committees appreciate this input, and, rather than revising form APP-014, have added a new item to form APP-014-INFO entitled "Overview for completing form APP-014" to guide the appellant in providing information relevant to his or her appeal.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-014		
Commenter	Comment	Committee Response
	<p>statement of the oral testimony, nor does it allow the parties to dispassionately identify the factual and legal issues arising from the challenged ruling.</p> <p>We believe it is better to start with a description of the order/judgment appealed ---- from, and what specific ruling is being appealed. Currently, this does not appear until page 5 of the proposed form. The form should then ask directed and specific questions of the party, such as: "Are you appealing based upon your disagreement with a particular ruling on the admissibility of a document? A party's oral testimony? A ruling on a motion? A jury instruction? A jury verdict form? And "If so, describe the motion, ruling, document, testimony, instruction, or verdict form, and the nature of any oral argument or testimony relevant ( or connected to) to the decision that you are challenging." In this way, the form would direct the party requesting the settled statement to focus on the relevant proceedings rather than encourage a potentially rambling and unhelpful submission.</p>	<p>See response above. The new item on form APP-014-INFO indicates that not all categories on form APP-014 (such as the court's ruling on an objection or the court's ruling on a jury instruction) may apply in the appellant's case.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-014A		
Commenter	Comment	Committee Response
California Department of Child Support Services by Kristen Donadee, Assistant Chief Counsel	<p>Proposed Form APP-014, Page 5, Part 4 requires parties to submit Form APP-014A if there was testimony from another party or nonparty witness that is relevant to the reasons for the appeal. Form APP-014A only provides two sections to fill out information regarding such witnesses. At the bottom of Page 2, Part 1c., Form APP-14A indicates if there was additional testimony from other parties or nonparty witnesses, another Form APP-014A should be filled out and attached.</p> <p>This could lead to confusion when parties and/or their attorneys review the record as there is no way to distinguish one Form APP-014A from another Form APP-014A. The Department recommends that Part 1 c. be modified by removing what is stated in parenthesis and instead instructing as follows:</p> <p>If you answered yes:</p> <p>(1) Fill out and attach to this form additional Other Party and Nonparty Witness Testimony and Evidence, Attachment (form APP-014A) as needed.</p> <p>(2) Please indicate the total number of APP-014A forms attached, including this form.</p> <p>This will alert parties that multiple APP-014A will need to be reviewed when the information cannot be provided in a single form.</p>	<p>The committees appreciate the issue, but concluded that asking the appellant for the total number of APP-014A forms could be confusing and likely would not improve this form. Form APP-014A is for optional use; the appellant is free to use it or to draft another document to provide additional testimony. Therefore, any request for the number of APP-014A forms would only apply to appellants who use this form exclusively. The committees will revisit the numbering issue if they receive feedback that this is a problem.</p>
Child Support Directors Association's Judicial Council	<p>In order to clarify that there is additional testimony from other parties or non-party witnesses, the Committee suggest the form</p>	<p>See response above.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-014A		
Commenter	Comment	Committee Response
Forms Committee by Ronald Ladage, Chair	provide for the total number of additional forms attached. Below is sample language:  Please indicate the total number of APP-014A forms attached, including this form.	

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-022		
Commenter	Comment	Committee Response
California Lawyers Association, Litigation Section, Committee on Appellate Courts	<p>As APP-001-INFO correctly identifies, a general principle of appellate law is that an appellate court will presume that the judgment or order is correct and imply any findings in favor of the prevailing party at trial to uphold the order. Yet, this form does not explain the general exception to this rule that appellate courts will not make this presumption if a statement of decision has been prepared and the record shows that any omission or ambiguity in that decision was brought to the attention of the trial court by the appealing party. The form further does not explain that some appellate districts may still make this presumption even if the settled statement has been prepared. (Compare <i>A.G. v. C.S.</i> (2016) 246 Cal.App.4th 1269, 1282 [“[T]he use of a settled statement in lieu of a reporter’s transcript does not negate the doctrine of implied findings where the parties waived a statement of decision.”] with <i>In re Marriage of Condon</i> (1998) 62 Cal.App.4th 533, 550, fn. 11 [doctrine of implied findings does not apply where statement of decision is waived, and a settled statement including the court’s factual and legal basis is used in place of a reporter’s transcript]; <i>In re Marriage of Seaman &amp; Menjou</i> (1991) 1 Cal.App.4th 1489, 1494, fn. 3 [same]; <i>In re Marriage of Fingert</i> (1990) 221 Cal.App.3d 1575, 1580 [same].)</p> <p>As a result, while the new and revised forms make it easier for self-represented litigants to navigate the intricate settled statement process, there are nevertheless concerns that many litigants still will not have meaningful access to an appeal because a statement of decision was not prepared in their case. (See <i>A.G. v. C.S.</i>, <i>supra</i>, 246 Cal.App.4th 1269 [applying the doctrine of implied findings to affirm a custody order because the settled statement used by the parties did not “contain an</p>	<p>No response required. This comment also appears in the chart for form APP-001-INFO. It is reproduced here to provide context for the suggestion regarding form APP-022.</p> <p>See above.</p>

## SPR18-04

**Appellate Procedure and Family Law: Settled Statements in Unlimited Civil Cases** (Approve forms APP-014A, APP-014-INFO, APP-020, APP-022, APP-025; revise forms APP-003, APP-010; revoke form APP-001 and replace with APP-001-INFO; revoke and replace form APP-014)

All comments are verbatim unless indicated by an asterisk (\*).

Form APP-022		
Commenter	Comment	Committee Response
	<p>express statement by the trial court that it complied with the procedures required for adopting a statement of decision and that the settled statement serves as the court's statements of decision"].)</p> <p>The appellate court will not apply the doctrine of implied findings when the record clearly demonstrates what the trial court did; and, in our experience, the best way to demonstrate that is with a reporter's transcript. Because the election of a settled statement, therefore, may have practical consequences for a litigant to obtain meaningful relief on appeal, we encourage the Judicial Council to add the following:</p> <p><i>[See chart for form APP-001-INFO, above, for suggestion 1.]</i></p> <p>...</p> <p>2. Adding a checked box on APP-022 stating: <b>“This settled statement contains the court’s decision and the court’s factual and legal basis for its decision.”</b></p>	<p>See above.</p> <p>The committees decline to make this change. Adding a checkbox to allow the court to order that the settled statement is also the court's statement of decision would be a substantive change that is beyond the scope of this proposal. Moreover, a statement of decision and a settled statement involve different procedures and serve two different functions. Nothing seems to preclude the court so ordering, but adding a checkbox to indicate that “this settled statement contains the court’s decision and the court’s factual and legal basis for its decision” would seem to suggest that this is the norm or the preferred practice. In addition, notice to the respondent and an opportunity to have input are implicated if the court certifies the settled statement and, at the same time, declares that it constitutes the court's statement of decision.</p>