



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 23-098

For business meeting on: May 12, 2023

Title

Appellate Procedure: Reporters' Transcripts

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rules 8.130, 8.144, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919

Effective Date

January 1, 2024

Date of Report

April 5, 2023

Recommended by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

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Executive Summary

The Appellate Advisory Committee recommends amending several rules relating to the format of reporters' transcripts and borrowing the record on appeal. Code of Civil Procedure section 271 requires that as of January 1, 2023, a reporter's transcript must be delivered in electronic form unless a party or person entitled to the transcript requests it in paper format. In recognition that most reporters' transcripts will be in electronic form, the committee recommends allowing transcripts to be in a single volume in most cases. In addition, the committee recommends clarifying that, to be accepted in lieu of depositing the estimated cost of the transcript with the court, a certified transcript submitted by a party must comply with specified format requirements. The committee also recommends creating an exception to the requirement that the page numbering in an electronic format reporter's transcript match the electronic page counter in PDF view in certain cases involving multiple-reporter cases. This proposal originated with suggestions from the California Court Reporters Association.

Recommendation

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

1. Amend rules 8.130, 8.834, 8.866, and 8.919 of the California Rules of Court to state that a certified transcript submitted by a party in lieu of depositing the cost of preparing a reporter's transcript must not be accepted unless it complies with the applicable format requirements.
2. Amend the advisory committee comments accompanying rules 8.130, 8.866, and 8.919 to:
 - a. Provide examples of the types of changes that would need to be made to comply with the applicable format requirements;
 - b. State that parties submitting certified transcripts in lieu of a deposit are responsible for ensuring that such transcripts are in the proper format; and
 - c. Indicate that the parties may arrange with a court reporter to do the necessary formatting of the transcript or may do the formatting themselves.
3. Add an advisory committee comment, modeled on the comments accompanying rules 8.130, 8.866, and 8.919, to rule 8.834 to address the use of certified transcripts in lieu of a deposit for a reporter's transcript.
4. Amend rule 8.144 to:
 - a. Provide that, if a clerk's or reporter's transcript is being delivered in electronic form to all courts, parties, and persons entitled to the transcript, it may be produced in a single volume but must comply with the requirements of rule 8.74(a)(5);
 - b. Provide an exception for reporters' transcripts in multiple-reporter cases in which a segment of the reporter's transcript is either longer or shorter than the number of pages assigned by the primary reporter from the requirement that, in transcripts in electronic form, the electronic page counter in the PDF file viewer must match the transcript page numbering.
5. Further amend rule 8.144 and amend rules 8.204 and 8.622 to replace references to reporters' transcripts or the record on appeal being in "electronic format" with "electronic form."
6. Amend rules 8.452 and 8.456 to modify the requirements for augmentation motions in the juvenile proceedings addressed by these rules by:
 - a. Providing an exception for reporters' transcripts in multiple-reporter cases from the requirement that documents attached to such motions be consecutively paginated; and
 - b. Adding references to the specific subdivisions of rules 8.122 and 8.130 that explain how to identify documents or transcripts that are not attached to such motions.
7. Further amend rule 8.838 to:

- a. Add a cross-reference to rule 8.144(a); and
 - b. Replace the provision relating to the 300-page volume limit with a cross-reference to the relevant subdivision of rule 8.144.
8. Amend rule 8.866 and further amend rule 8.919 to replace references to the format requirements of rule 8.144 with references to the format requirements of rule 8.834.

The proposed amended rules are attached at pages 15-24.

Relevant Previous Council Action

The predecessor to rule 8.130, relating to reporters' transcripts in civil appeals to the Court of Appeal, was adopted by the Judicial Council as part of the Rules on Appeal effective July 1, 1943. The predecessor to rule 8.834, relating to reporters' transcripts in civil appeals to the superior court appellate division, was adopted by the Judicial Council effective September 15, 1945. As adopted, both rules (1) required appellants who wished to use a reporter's transcript to file a notice with the trial court designating the oral proceedings to be included in the transcript, (2) allowed respondents to designate additional proceedings for inclusion in the transcript, and (3) required appellants to deposit with the trial court either the estimated cost of transcribing the designated proceedings or a waiver of this deposit signed by the court reporter. These rules have been amended and renumbered many times since their adoption.

Effective January 1, 1993, the Judicial Council amended rule 8.130 to permit as substitute for a required deposit an original transcript of proceedings specified in the designation notice. Effective January 1, 2014, the Judicial Council amended rule 8.130 to, among other things, limit the use of transcripts in lieu of a deposit to situations in which the transcripts include all of the designated proceedings and to require that these transcripts meet the format requirements for reporters' transcripts under rule 8.144. The council also amended rules 8.834, 8.866, and 8.919 effective January 1, 2014, to, among other things, allow the same procedure for submitting certified transcripts in lieu of a deposit for a reporter's transcript as permitted under rule 8.130.

The Judicial Council adopted the predecessor to rule 8.144, regarding the format of the record on appeal, effective July 1, 1943. This rule has been amended and renumbered many times since its adoption. Effective January 1, 2018, to make the rules regarding reporters' transcripts consistent with amendments to Code of Civil Procedure section 271¹ taking effect on that date, the Judicial Council amended rule 8.144 to incorporate format requirements for transcripts that are delivered in electronic form, including the requirement that the pagination of a transcript be the same as the pagination that appears in the PDF viewer. At the same time, the council also amended rules 8.130, 8.834, 8.838, 8.866, and 8.919 (among others) to make them consistent with the amended section 271.

¹ All further unspecified statutory references are to the Code of Civil Procedure.

Analysis/Rationale

Background

Effective January 1, 2018, Code of Civil Procedure section 271 was amended to change the default format for reporters' transcripts from paper to electronic. The statute generally requires a court reporter to "deliver a transcript in electronic form, in compliance with the California Rules of Court, to any court, party, or person entitled to the transcript." (§ 271(a).) As amended, the statute contains three exceptions allowing for paper transcripts, two of which expired at the end of 2022:

- The party or person entitled to the transcript requests the reporter's transcript in paper form;
- Prior to January 1, 2023, the court lacks the technical ability to use or store a transcript in electronic form and provides advance notice to the court reporter; and
- Prior to January 1, 2023, the court reporter lacks the technical ability to deliver a transcript in electronic form and provides advance notice of this fact to the court, party, or person entitled to the transcript. (*Ibid.*)

Thus, effective January 1, 2023, court reporters must deliver reporters' transcripts in electronic form unless a party or person entitled to the transcript requests it in paper format. Based primarily on suggestions received from the California Court Reporters Association, the committee is recommending rule amendments that reflect the fact that most reporters' transcripts will now be delivered in electronic form, as well as other changes to the rules regarding the format of transcripts.

Transcript volume page limit

Rule 8.144 of the California Rules of Court establishes the general requirements for the format of clerks' and reporters' transcripts in civil appeals to the Court of Appeal. Through cross-references in rules 8.336(f), 8.395(g), 8.409(b), 8.610(d), 8.838(a), 8.862(b), 8.866(b), 8.913(b), and 8.919(b), these format requirements also apply to transcripts in criminal appeals to the Court of Appeal, appeals from superior court decisions in death penalty-related habeas corpus proceedings, in juvenile appeals, in capital appeals to the Supreme Court, and in superior court appellate division appeals, respectively.

Rule 8.144(b)(6) currently requires that clerks' and reporters' transcripts must be produced in volumes of no more than 300 pages. As noted above, most reporters' transcripts will now be in electronic form. Rule 8.74, relating to the format of electronic documents filed in the appellate courts, also acknowledges that clerks' transcripts may be in electronic form.² The current 300-page volume limit does not appear to be necessary for transcripts in electronic form. A single electronic volume would also have one set of indexes and may be easier for courts and parties to navigate and cite. The committee is therefore recommending that rule 8.144 be amended to allow

² Rule 8.74(c)(5) states, "The format for an electronic clerk's transcript must comply with this rule and rule 8.144."

clerks' and reporters' transcripts that are in electronic form be produced in a single volume, with two limitations.

First, to avoid the potential confusion that would be caused by differences in page numbering and citation if a transcript in a case were delivered in both paper and electronic form, the committee recommends the amendments to rule 8.144 provide that a single-volume transcript only be permitted when that transcript is being delivered in electronic form to all courts, parties, and persons entitled to the transcript. Thus the 300-page volume limit would be retained in cases in which a party or person entitled to a reporter's transcript requests that the transcript be provided in paper form.

Second, the committee recommends that the amendments to rule 8.144 require that electronic transcripts produced in a single volume comply with the requirements of rule 8.74(a)(5). Rule 8.74(a)(5), relating to the format of electronic documents for purposes of e-filing in the appellate courts, provides that electronic documents may not be larger than 25 megabytes and specifies what must be done if documents exceed this size. This megabyte limit is important for functionality of documents within the appellate case management system and the appellate courts.

References to “electronic format”

Code of Civil Procedure section 271 refers to reporters' transcripts being delivered in “electronic form.” Rules 8.144(d), 8.204(a), and 8.622(a) currently have references to reporters' transcripts or the record on appeal being in “electronic format.” To ensure consistency of language between section 271 and the appellate rules, the committee recommends changing these references to “electronic form.”

Pagination of reporters' transcripts in cases in which there are multiple reporters

Background

Rule 8.144(f) addresses the pagination of reporters' transcripts in cases in which more than one court reporter reported portions of the proceedings. Subdivision (1) of this provision requires that each reporter estimate the number of pages in each segment reported and inform the designated primary reporter of the estimate. The primary reporter must then assign beginning and ending page numbers for each segment of the transcript.

Current rule 8.144(f)(2) and (3) address what a court reporter in a multiple-reporter case should do if a segment is either longer or shorter than the assigned number of pages. If the segment exceeds the assigned number of pages, the rule currently requires that the reporter number the additional pages with the ending page number, a hyphen, and a new number, starting with 1 and continuing consecutively. For example, if the last page number assigned to a segment was 300, additional pages in this segment would be numbered 300-1, 300-2, 300-3, etc.

If a segment has fewer than the assigned number of pages, the rule currently requires that on the certificate page, the reporter must add a hyphen to the last page number used, followed by the segment's assigned ending page number. For example, if the last page number assigned to a

segment was 300, but only 256 pages were used, the certificate would identify the last page in the segment as 256-300. Note that when the pagination methods authorized under rule 8.144(f)(2) and (3) are used, the transcript will not be consecutively paginated and the page numbers on the transcript will not match the page numbers that appear in the PDF viewer.

As discussed further below in the Comments section of this report, courts, court reporters, and attorneys have various concerns about the existing rules relating to pagination of transcripts in multiple-reporter cases. These concerns include delay in the preparation of transcripts when court reporters are unavailable to provide page estimates for their segments and difficulties in navigating within transcripts that are not consecutively paginated and in which the page numbers on the transcript do not match those in the PDF viewer. The committee believes that further research and work should be done to try to address these concerns and develop an overall improved approach to pagination of transcripts in these situations. In the meantime, the committee is recommending rule amendments intended to provide some internal consistency within the rules about transcripts paginated as currently authorized.

Recognizing that transcripts in multiple-reporter cases may not be consecutively numbered

Rule 8.144(b)(2)(D), which generally requires that the pages of clerks' and reporters' transcripts be consecutively numbered, includes an exception for the multiple-reporter situations described above: "The pages must be consecutively numbered, except as provided in (f)." This existing exception recognizes that, because of the possibility of segments being longer or shorter than the assigned number of pages in multiple-reporter cases, the pages of the reporter's transcripts in such cases may not be consecutively numbered. However, there are other rules that do not recognize this. Rules 8.452(e) and 8.456(e), relating to augmenting the record in certain writ proceedings juvenile dependency cases, both require that copies of items to be added to the record, including transcripts, be consecutively numbered. To make these provisions consistent with rule 8.144(f), the committee recommends amending rules 8.452(e)(3) and 8.456(e)(3) to provide an exception to the consecutive pagination requirement, modeled on the language of rule 8.144(b)(2)(D), for reporters' transcripts in multiple-reporter situations.

The committee also recommends additional, clarifying amendments to rules 8.452 and 8.456. Rules 8.452(e)(4) and 8.456(e)(4) use cross-references to rule 8.122 (relating to a clerk's transcripts) and rule 8.130 (relating to a reporter's transcripts) to explain how parties must identify documents and transcripts that they are unable to attach to their augmentation motion. Rules 8.122 and 8.130 both contain many subdivisions, so readers of rules 8.452 and 8.456 may have difficulty identifying the provisions relevant to identifying items for an augmentation motion. The committee therefore recommends that rules 8.452 and 8.456 be amended to provide more specific citations to the particular subdivisions of rules 8.122 and 8.130 that explain how to identify documents to be included in a clerk's transcript and proceedings to be included in a reporter's transcript.

Recognizing that the page numbers on transcripts in electronic form in multiple-reporter cases may not match the page numbers in the PDF viewer

Rule 8.144(d)(1)(C) requires that transcripts in electronic form ensure that the electronic page counter in the PDF file viewer matches the transcript page numbering. Having the pagination match that in the PDF viewer generally makes it easier to navigate to or print particular pages. However, if, as recognized by rule 8.144(f), a segment of a reporter's transcript in a multiple-reporter case is longer or shorter than the number of pages assigned, then the page numbers on the transcript will not match the electronic page counter in the PDF file viewer. In recognition of this existing discrepancy, the committee recommends amending rule 8.144(d)(1)(C) to add an exception to the requirement that the electronic page counter in the PDF file viewer match the transcript page numbering in the circumstance covered by rule 8.144(f)(2) or (3).

Requirement that certified transcripts comply with formatting requirements when submitted in lieu of making a deposit for a reporter's transcript

Background

Rule 8.130 establishes procedures relating to designating and paying for reporters' transcripts in civil appeals to the Court of Appeal. Under this rule, appellants who wish to use a reporter's transcript must file a notice with the trial court that designates which of the oral proceedings from the trial court they want included in the reporter's transcript. Respondents may then designate additional proceedings to be included in the transcript. Rule 8.130(b) requires that, with its notice designating proceedings to be included in a reporter's transcript, each designating party must deposit with the superior court clerk the approximate cost of transcribing the proceedings, or it may substitute one of the items permitted by 8.130(b)(3): a reporter's written waiver of deposit, a copy of a Transcript Reimbursement Fund application, or a certified transcript of all the proceedings designated by the party.

The last of these authorized substitutes is included in recognition of the fact that parties may already have purchased the transcripts that they need for an appeal. Sometimes a party in a trial court proceeding will purchase reporters' transcripts of the proceedings before any appeal is filed, such as when a party needs a transcript as part of a writ petition during the trial court proceedings. Similar provisions allowing the filing of a certified transcript of all the designated proceedings in lieu of a deposit for a reporter's transcript also appear in rules 8.834, 8.866, and 8.919 relating to reporters' transcripts in appeals to the superior court appellate division in civil, misdemeanor, and infraction cases, respectively.

As discussed above, under rule 8.144, there are format requirements for reporters' transcripts used as part of the record on appeal. Rules 8.130, 8.834, 8.866, and 8.919 all require that a certified reporter's transcript submitted in lieu of depositing the cost for transcribing designated proceedings must comply with these format requirements. Among other things, rule 8.144 requires that:

- The pages in reporters' transcripts be consecutively numbered;

- The cover of each volume identify the page numbers within that volume and the case name, number, and appellate counsel contact information; and
- The transcript include chronological and alphabetical indexes to the entire reporter's transcript.

However, transcripts prepared during the trial court proceedings do not comply with some or all of these format requirements. To comply with rules 8.130, 8.834, 8.866, and 8.919, such certified transcripts must typically be repaginated and new covers and indexes created.

The California Court Reporters Association indicates that despite the requirement in these existing rules that transcripts submitted in lieu of a deposit comply with the format requirements of rule 8.144, in some cases some courts have accepted them as a substitute for deposit transcripts that are not in the appropriate format. The association further indicates that when this happens, court reporters have sometimes been tasked with fixing these transcripts to comply with the rule requirements.

The advisory committee comment to rule 8.130 makes clear that the intent of subdivision (b) is that certified transcripts submitted by a party only be accepted by a court as a substitute for a deposit if these transcripts meet the format requirements of rule 8.144:

[S]ubdivision (b) makes clear that the certified transcript may be filed in lieu of a deposit for the transcript only where the certified transcript contains all of the proceedings identified in the notice of designation *and the transcript complies with the format requirements of rule 8.144.* (emphasis added)

Furthermore, the 2013 report to the Judicial Council that recommended adoption of this requirement states that this requirement would “clearly place responsibility on the designating party for ensuring that such transcripts are in the proper format.”³

Clarifying responsibility for compliance with formatting requirements

To further clarify and implement the policy reflected in the 2013 report to the Judicial Council, the committee recommends amending rules 8.130, 8.834, 8.866, and 8.919 to state that a certified transcript submitted by a party must not be accepted as a substitute for a deposit under these rules unless it complies with the applicable format requirements. The committee also recommends amending the advisory committee comments accompanying rules 8.130, 8.866, and 8.919 to:

³ Judicial Council of Cal., Advisory Com. Rep., *Appellate Procedure: Reporter's Transcripts in Civil Appeals* (Aug. 2, 2013), p. 7, www.courts.ca.gov/documents/jc-20131025-itemA7.pdf. See also discussion on page 14 of this report: “The committees note that . . . the proposed amendments would require that transcripts that a party deposits in lieu of depositing funds for a reporter's transcript be in the format required by rule 8.144.”

- Provide examples of the types of formatting changes that would need to be made to comply with the rules—consecutive pagination, required appellate cover information, and indexes;
- State that parties using this alternative to a deposit are responsible for ensuring that such transcripts are in the proper format; and
- Indicate that parties may arrange with a court reporter to do the necessary formatting of the transcript or may do the formatting themselves.

The committee also recommends adding an advisory committee comment modeled on those accompanying the above rules to rule 8.834.

Note that, under rules 8.130(d)(3), 8.140, 8.842, 8.874, and 8.924, if a party fails to submit an authorized substitute for a deposit, the clerk will send the party notice of this default and the party will have an opportunity to correct the problem.

Other clarifications to transcript format requirements in appellate division proceedings

The committee is also recommending several additional clarifying amendments to rules 8.834, 8.838, 8.866, and 8.919 relating to the format of transcripts in appellate division proceedings:

- Amending rule 8.838 to add a cross-reference to rule 8.144(a) to specify section 271’s application in limited civil appeals, and to replace a provision relating to the 300-page volume limit with a cross-reference to the relevant subdivision of rule 8.144; and
- Amending rules 8.834, 8.866, and 8.919 to replace cross-references to rule 8.144 with references to rule 8.834 to ensure consistency of transcript format in appellate division proceedings.

Policy Implications

This proposal furthers the Judicial Council’s mission to improve access to justice by facilitating the use of electronic transcripts and by reducing costs for courts, litigants, and court reporters.

Comments

This proposal was circulated for public comment from December 9, 2022, to January 20, 2023, as part of the regular winter comment cycle. Six comments related to this proposal were received: three from superior courts, one from the Appellate Court Clerk Executive Officers, one from the California Court Reporters Association, and one from the Orange County Bar Association. Two commentors indicated that they agreed with the proposal, two indicated that they did not agree with the proposal, one indicated that they agreed with the proposal if amended, and one did not indicate an overall position on the proposal. The invitation to comment asked for specific input on several questions. Most of the comments received were in response to these questions. A chart with the full text of the comments received, organized by issue, and the committee’s responses is attached at page 27. The principal comments and responses are summarized below.

***Rules 8.130(b)(3)(C), 8.834(b)(2)(D), 8.866(a)(2)(C) and (D), and 8.919(a)(2)(C) and (D)—
Use of certified transcripts as substitute for deposit for reporter’s transcript***

One commentor, the California Court Reporters Association, expressed support for these proposed amendments. Another, the Appellate Court Clerk Executive Officers, expressed concern about amending these rules to clarify that certified transcripts submitted by a party may not be accepted as a substitute for a deposit for the cost of preparing a reporter’s transcript unless they are in the required appellate format for transcripts on appeal. This second commentor’s main concern appears to be that self-represented appellants and smaller firms may not be able to make the necessary format changes themselves and therefore might end up not being able to use a reporter’s transcript in the appeal.

The committee’s view is that it is appropriate to amend this rule to clarify and further implement the policy, reflected in the 2014 amendments adopted by the Judicial Council, that a party wishing to use this substitute is responsible for putting the certified transcripts it submits in the appropriate format. However, the committee notes, as discussed above, that this does not mean that such parties must make the necessary format changes themselves. They can engage a court reporter to make these format changes. To clarify this, the committee has revised its proposed amendments to the advisory committee comments to state that such parties can engage a court reporter to make the changes or make the changes themselves. The committee is also recommending that a similar advisory committee comment addressing the filing of certified transcripts in lieu of a deposit be added for rule 8.834, which did not previously have any advisory committee comment.

Thus, appellants who have previously purchased all the necessary transcripts for an appeal (note that this is likely to be a very small proportion of appellants) have options: They can attempt to put these transcripts in the necessary format themselves, they can engage a court reporter to put the transcripts in the necessary format, or they can deposit funds with the court to cover the costs of a court reporter preparing a new transcript containing all of the required proceedings (at a reduced per page rate that recognizes that the proceedings were previously transcribed by the court reporter). In addition, as noted in the invitation to comment, if an appellant attempts to use the first option and fails to put the transcript in the required format, this does not mean that the litigant will be forced to go forward with an appeal without a reporter’s transcript. The appellant will receive a default notice from the court and be given an opportunity to correct the problem.

Rule 8.144(b)(6)—Allowing a reporter’s transcript in electronic form to be in a single volume

One commentor, the California Court Reporters Association, expressed support for these proposed amendments. Another commentor, the Superior Court of San Diego County, raised concerns about allowing transcripts in multiple-reporter cases to be produced in a single volume. To the extent that this latter comment addressed the proposed amendments to rule 8.144(b)(6), rather than the existing procedures relating specifically to multiple-reporter cases, the committee notes that amendments to rule 8.144(b)(6) would permit, not require, that transcripts in electronic form be in a single volume. Thus, if producing a transcript in a single volume would be

problematic for a court reporter, the reporter could choose to produce the transcript in the historic 300-page volume format.

The invitation to comment asked for comments about whether the 300-page volume limit should also be changed for clerks' transcripts that are in electronic form. Four commentors responded to this question. All four supported changing this limit for clerks' transcripts as well as reporters' transcripts. In response to these comments, the committee is recommending that the changes to rule 8.144(b)(6) allowing single-volume transcripts be applied to both clerks' and reporters' transcripts.

Rule 8.144(f)—Pagination of reporters' transcripts in multiple-reporter cases

The original suggestion considered by the committee included a proposal that the rule regarding pagination of reporters' transcripts in multiple-reporter cases be amended to allow the primary reporter to assign beginning and ending page numbers to each segment of a transcript without getting estimates from the court reporters (block numbering). Although the committee did not propose such an amendment after considering concerns raised on that point, the invitation to comment included several questions regarding pagination of reporters' transcripts in multiple-reporter cases to attempt to gather more information. The specific responses to those questions can be viewed in the comment chart.⁴ Taken as a whole, however, the comments received, as well as the reasons given for the original suggestion, all point to ongoing difficulties with pagination in multiple-reporter cases,⁵ with no consensus as to a solution.

⁴ The comments regarding pagination can be viewed at Issues 4 through 8 of the comment chart.

⁵ This input indicates that:

- Waiting to assign page numbers until estimates for the pages in individual segments have been received from all court reporters in a case, as required by the current rule, can cause delay in the preparation of transcripts because reporters may not be readily accessible due to illness, vacation, or other reasons.
- The current pagination format required by the rules when a segment has either more or fewer pages than assigned by the primary reporter is problematic for several reasons. However, commentors had mixed views about whether the alternative proposed in the invitation to comment would be preferable.
- Allowing any nonconsecutive pagination, regardless of the format used for the nonconsecutive page numbers, creates problems in navigating within transcripts and thus finding and printing specific pages in transcripts. When pages are not consecutively numbered, the page numbers used in the transcript will not match the page number shown in the PDF viewer and thus a user cannot easily use the Adobe reader to navigate to a specific page number.
- Allowing block numbering might address some of the potential delay in the preparation of reporters' transcripts in multiple-reporter cases, although it seems likely that there would still be some delay if individual court reporters were late in submitting their segments of a transcript. However, authorizing block numbering without establishing some method of ensuring consecutive pagination would likely increase the number of cases in which courts and litigants would experience the above-described difficulties in navigating within transcripts.

Based on this input, the committee believes that this issue would benefit from further study and is therefore not recommending at this time that the rules be amended either to authorize block numbering or to alter the current numbering format when a segment has either more or fewer pages than assigned by the primary reporter at this time.

In the meantime, the committee concluded that it would be appropriate to recommend the amendments to rules 8.144(d)(1)(C), 8.452(e), and 8.456(e) that were circulated for public comment. These amendments do not authorize any expansion in the situations, identified as problematic by several commentors, in which the page numbers on the transcript will not match the page numbers shown in the PDF viewer. Instead, these recommended amendments are intended to provide internal consistency within the existing rules by acknowledging that, under these existing rules, the page numbers on a transcript may not match the page numbers shown in the PDF viewer.

Alternatives considered

Rule 8.153. Lending the record

The proposal that was circulated for public comment included a potential amendment to rule 8.153, which permits a party that has not purchased its own copy of the record on appeal to request another party, in writing, to lend it that party's copy of the record. Under this existing rule, after it has prepared its brief, the lending party must send its copy of the record, including any electronic or paper reporter's transcript, to the borrowing party. Based on a suggestion from the California Court Reporters Association, the committee proposed amending rule 8.153(a) to provide lending parties with the additional option of asking the court reporter to provide a read-only electronic copy of the reporter's transcript to the borrowing party.

The invitation to comment included several questions regarding lending the record, and the commenters differed in their responses.⁶ In addition, the California Court Reporters Association

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- Block-numbering might also create problems in accurately identifying the size of the record on appeal because it may inflate the apparent number of pages in the reporter's transcript. This, in turn, may impact the appellate project's ability to identify appointed counsel for such cases.
 - There is not consensus among the commentors about whether, given existing software, transcript segments can easily be repaginated or a single, consecutive pagination applied over the top of existing pagination.

⁶ The invitation to comment asked three specific questions about lending the record. General comments on the lending rule plus the answers to those questions are in the comment chart at Issues 9 through 12. The responses to the questions are summarized below:

- *Whether the option of asking a court reporter to send the borrowing party a copy of the reporter's transcript in read-only electronic form should be available in all cases or only when the lending party's copy of the reporter's transcript is in paper form.* Four commentors responded to this question. Two, the Appellate Court Clerk Executive Officers and the Orange County Bar Association, supported making this option available in all cases. The California Court Reporters Association suggested that this option be mandatory if the lending party received its transcript in electronic form and unavailable if the lending party received its transcript in paper

submitted a suggestion for different language for rule 8.153.⁷ Those suggested amendments would be important substantive changes to the committee's original proposal and they would have to be circulated for public comment before being recommended to the council. To avoid the possibility of amending this rule multiple times, in light of these new suggestions and the split among the comments received in response to the specific questions in the invitation to comment, the committee decided not to recommend amendments to rule 8.153 at this time, but to consider potentially developing a proposal for a later rules cycle.

Other alternatives considered

The committee considered suggestions to add references to Code of Civil Procedure section 271 to several rules that address reporters' transcripts. The stated purpose of these suggestions was to ensure that court reporters follow the requirements of section 271 to send transcripts electronically. The committee concluded that adding references to the statute in these rules was not necessary. As noted above, rule 8.144 establishes the format requirements for reporters' transcripts in appellate proceedings, both directly and through cross-references in other rules.

form. Another commentor objected to having this option in any cases, as well as to the concept of lending reporters' transcripts that are in electronic format.

- *What format requirements should be applied to a transcript sent by a court reporter to a borrowing party?* Three commentors responded. The Orange County Bar Association recommended that the borrowing party should receive the same format as the appellant, not just a read-only copy. The California Court Reporters Association suggested that the borrowing party should receive a transcript in read-only format and that the court reporter should have the option of setting an expiration date for the transcript. Superior Court of San Diego County suggested that the transcript should be read-only with no ability to print, comment, or draft.
- *Whether it is necessary for a party borrowing the record from another party to return an electronic copy of either the clerk's transcript or an administrative record provided by the lending party or a read-only electronic copy of the reporter's transcript provided by the court reporter.* Three commentors responded. The California Court Reporters Association indicated that it would not be necessary to return a reporter's transcript provided to a borrowing party by a court reporter given its suggestion that the court reporter be permitted to give the transcript an expiration date. The Orange County Bar Association expressed the view that the borrowing party should not be required to return the items. Superior Court of San Diego County did not comment on the items but expressed doubt about how or whether an electronic copy of a reporter's transcript would be returned.

⁷ This suggested language from the reporters' association included three main substantive changes from the language circulated for public comment:

- It would establish separate procedures for lending parties who received their reporters' transcripts in electronic form and paper form:
 - Those with reporters' transcripts in electronic form would be required to ask the court reporter to send the borrowing party a read-only electronic transcript. In contrast, the rule proposed in the invitation to comment would have allowed, but not required, lending parties to do this.
 - Those with reporters' transcripts in paper form would be required to send their copy of the transcript to the borrowing party. In contrast, the rule proposed in the invitation to comment would have also allowed lending parties with transcripts in paper format to ask the court reporter to send the borrowing party a read-only electronic transcript.
- It would authorize a court reporter sending a transcript to a borrowing party to put an expiration date on the transcript.

Subdivision (a) of this rule already provides that its provisions must be applied in a manner consistent with Code of Civil Procedure section 271.

The committee also considered suggestions to amend several rules that address sending the record to, or filing it with, the reviewing court, to provide that if the trial court lacks the technical ability to deliver the reporter's transcript in electronic form to the reviewing court and all the parties, the court reporter may send the reporter's transcript. The stated purpose of these suggested amendments was to allow reviewing courts to receive electronic transcripts while trial courts were working on changes to their document management systems that would allow them to receive, use, store, and transmit a transcript in electronic form. It is the committee's understanding that trial courts now have tools available to them to handle reporters' transcripts delivered to them in electronic form. Given this, the committee determined that these suggested rule amendments were not necessary at this time.

The committee considered the alternative of not taking any action but concluded that the proposed amendments relating to the use of a single volume for reporters' transcripts in electronic form and format requirements for certified transcripts submitted in lieu of a deposit for a reporter's transcript would be helpful to courts, litigants, and court reporters.

Fiscal and Operational Impacts

The committee anticipates that fiscal and operational impacts of this proposal on courts will be minimal. The comments received suggest that there may be some additional education required for court staff related to not accepting a certified transcript in lieu of a deposit if the transcript is not in the appropriate format. The committee also anticipates that reviewing courts may find single-volume electronic clerks' or reporters' transcripts more efficient to use, and the other proposed changes may reduce errors and questions regarding transcript format.

Two commentors suggested that four months would not be sufficient time to implement these rule amendments. One of these commentors, the Superior Court of Los Angeles County, suggested that the rule amendments not take effect until January 1, 2024. In response to these comments, the committee is recommending that the recommended rule amendments take effect January 1, 2024, rather than September 1, 2023, as proposed in the invitation to comment.

Attachments and Links

1. Cal. Rules of Court, rules 8.130, 8.144, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919, at pages 15-24
2. Chart of Comments, at pages 25-46

Rules 8.130, 8.144, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919 of the California Rules of Court are amended, effective January 1, 2024, to read:

Rule 8.130. Reporter’s transcript

(a) * * *

(b) Deposit or substitute for cost of transcript

(1)–(2) * * *

(3) Instead of a deposit under (1), the party may substitute:

(A) The reporter’s written waiver of a deposit. A reporter may waive the deposit for a part of the designated proceedings, but such a waiver replaces the deposit for only that part.

(B) A copy of a Transcript Reimbursement Fund application filed under (c)(1).

(C) A certified transcript of all of the proceedings designated by the party. The transcript submitted by the party must not be accepted as a substitute for a deposit under (1) unless it complies ~~must comply~~ with the format requirements of rule 8.144.

(c)–(h) * * *

Advisory Committee Comment

Subdivision (a). * * *

Subdivision (b). Where a certified transcript has been previously prepared, subdivision (b) makes clear that the certified transcript may be filed in lieu of a deposit for the transcript only where the certified transcript contains all of the proceedings identified in the notice of designation and the transcript complies with the format requirements of rule 8.144 (e.g., cover information, renumbered pages, required indexes). Parties using this alternative to a deposit are responsible for ensuring that such transcripts are in the proper format. Parties may arrange with a court reporter to do the necessary formatting of the transcript or may do the formatting themselves. Otherwise, where a certified transcript has been previously prepared for only some of the designated proceedings, subdivision (b)(1) authorizes a reduced fee to be deposited for those proceedings. This reduced deposit amount was established in recognition of the holding in *Hendrix v. Superior Court of San Bernardino County* (2011) 191 Cal.App.4th 889 that the statutory rate for an original transcript only applies to the first transcription of the reporter’s notes. The amount of the deposit is based on the rate established by Government Code section 69950(b) for a first copy of

1 a reporter's transcript purchased by any court, party, or other person who does not simultaneously
2 purchase the original.

3
4 * * *

5
6
7 **Rule 8.144. Form of the record**

8
9 **(a) * * ***

10
11 **(b) Format**

12
13 (1)–(5) * * *

14
15 (6) *Volumes*

16
17 (A) Except as provided in (B), clerks' and reporters' transcripts must be
18 produced in volumes of no more than 300 pages.

19
20 (B) If a clerk's or reporter's transcript is being delivered in electronic form
21 to all courts, parties, and persons entitled to the transcript, it may be
22 produced in a single volume but must comply with the requirements of
23 rule 8.74(a)(5).

24
25 (7) * * *

26
27 **(c) * * ***

28
29 **(d) Additional requirements for reporter's transcript delivered in electronic form**

30
31 (1) *General*

32
33 In addition to complying with (b), a reporter's transcript delivered in
34 electronic ~~format~~ form must:

35
36 (A)–(B) * * *

37
38 (C) Ensure that the electronic page counter in the PDF file viewer matches
39 the transcript page numbering except as provided in (f)(2) or (3).

40
41 (D)–(G) * * *

1 (2) *Multivolume or multireporter transcripts*

2
3 In addition to the requirements in (1), for multivolume or multireporter
4 transcripts delivered in electronic ~~format~~ form, each individual reporter must
5 provide a digitally and electronically signed certificate with his or her
6 respective portion of the transcript. If the court reporter lacks the technical
7 ability to provide a digital signature, then only an electronic signature is
8 required.

9
10 (3) * * *

11
12 (e) * * *

13
14 (f) **Pagination in multiple reporter cases**

15
16 (1) In a multiple reporter case, each reporter must promptly estimate the number
17 of pages in each segment reported and inform the designated primary reporter
18 of the estimate. The primary reporter must then assign beginning and ending
19 page numbers for each segment.

20
21 (2) If a segment exceeds the assigned number of pages, the reporter must number
22 the additional pages with the ending page number, a hyphen, and a new
23 number, starting with 1 and continuing consecutively.

24
25 (3) If a segment has fewer than the assigned number of pages, on the last page of
26 the segment, before the certificate page, the reporter must state in parentheses
27 “(next volume and page number is ____),” and on the certificate page, the
28 reporter must add a hyphen to the last page number used, followed by the
29 segment’s assigned ending page number.

30
31 (g) * * *

32
33
34 **Rule 8.204. Contents and format of briefs**

35
36 (a) **Contents**

37
38 (1) Each brief must:

39
40 (A)–(B) * * *

41
42 (C) Support any reference to a matter in the record by a citation to the
43 volume and page number of the record where the matter appears. If any

part of the record is submitted in an electronic ~~format~~ form, citations to that part must identify, with the same specificity required for the printed record, the place in the record where the matter appears.

(2) * * *

(b)–(e) * * *

Rule 8.452. Writ petition to review order setting hearing under Welfare and Institutions Code section 366.26

(a)–(d) * * *

(e) **Augmenting or correcting the record in the reviewing court**

(1)–(2) * * *

(3) A party must attach to its motion a copy, if available, of any document or transcript that it wants added to the record. Except as provided in rule 8.144(f) for reporters’ transcripts in multiple reporter cases, the pages of the attachment must be consecutively numbered, beginning with the number one. If the reviewing court grants the motion, it may augment the record with the copy.

(4) If the party cannot attach a copy of the matter to be added, the party must identify it as required under rules 8.122(a)(1) and 8.130(a)(1).

(5)–(6) * * *

(f)–(i) * * *

Rule 8.456. Writ petition under Welfare and Institutions Code section 366.28 to review order designating or denying specific placement of a dependent child after termination of parental rights

(a)–(d) * * *

(e) **Augmenting or correcting the record in the reviewing court**

(1)–(2) * * *

(3) A party must attach to its motion a copy, if available, of any document or transcript that it wants added to the record. Except as provided in rule 8.144(f) for reporters' transcripts in multiple reporter cases, the pages of the attachment must be consecutively numbered, beginning with the number one. If the reviewing court grants the motion, it may augment the record with the copy.

(4) If the party cannot attach a copy of the matter to be added, the party must identify it as required under rules 8.122(a)(1) and 8.130(a)(1).

(5)–(6) * * *

(f)–(i) * * *

Rule 8.622. Certifying the trial record for accuracy

(a) Request for corrections or additions

(1) Within 90 days after the clerk delivers the record to defendant's appellate counsel:

(A) Any party may serve and file a request for corrections or additions to the record. Immaterial typographical errors that cannot conceivably cause confusion are not required to be brought to the court's attention. Items that a party may request to be added to the clerk's transcript include a copy of any exhibit admitted in evidence, refused, or lodged that is a document in paper or electronic ~~format~~ form. The requesting party must state the reason that the exhibit needs to be included in the clerk's transcript. Parties may file a joint request for corrections or additions.

(B) * * *

(2)–(4) * * *

(b)–(e) * * *

Rule 8.834. Reporter's transcript

(a) * * *

1 **(b) Deposit or substitute for cost of transcript**

2
3 (1) * * *

4
5 (2) Within 10 days after the clerk notifies the appellant of the estimated cost of
6 preparing the reporter's transcript—or within 10 days after the reporter
7 notifies the appellant directly—the appellant must do one of the following:

8
9 (A) Deposit with the clerk an amount equal to the estimated cost and a fee
10 of \$50 for the superior court to hold this deposit in trust;

11
12 (B)–(C) * * *

13
14 (D) File a certified transcript of all of the designated proceedings. The
15 transcript submitted by the party must not be accepted as a substitute
16 for a deposit under (A) unless it complies ~~must comply~~ with the format
17 requirements of rule ~~8.144~~ 8.838; or

18
19 (E) * * *

20
21 (3) * * *

22
23 **(c)–(f) * * ***

24
25 **Advisory Committee Comment**

26
27 **Subdivision (b).** Sometimes a party in a trial court proceeding will purchase a reporter's
28 transcript of all or part of the proceedings before any appeal is filed. In recognition of the fact that
29 such transcripts may already have been purchased, this rule allows an appellant, in lieu of
30 depositing funds for a reporter's transcript, to deposit with the trial court a certified transcript of
31 the proceedings necessary for the appeal. Subdivision (b)(2)(D) makes clear that the certified
32 transcript may be filed in lieu of a deposit for a reporter's transcript only where the certified
33 transcript contains all of the proceedings designated, and the transcript complies with the format
34 requirements of rule 8.838 (e.g., cover information, renumbered pages, required indexes). Parties
35 using this alternative to a deposit are responsible for ensuring that such transcripts are in the
36 proper format. Parties may arrange with a court reporter to do the necessary formatting of the
37 transcript or may do the formatting themselves.

38
39
40 **Rule 8.838. Form of the record**

41
42 **(a) Paper and format**

1 Except as otherwise provided in this rule, ~~clerk's~~ clerks' and ~~reporter's~~ reporters'
2 transcripts must comply with the requirements of rule 8.144(a), (b)(1)–(4) and (6),
3 (c), and (d).

4
5 (b) * * *

6
7 (c) **Binding and cover**

8
9 (1) If filed in paper form, clerks' and reporters' transcripts must be
10 bound on the left margin ~~in volumes of no more than 300 sheets~~, except that
11 transcripts may be bound at the top if required by a local rule of the appellate
12 division.

13
14 (2)–(3) * * *

15
16
17 **Rule 8.866. Preparation of reporter's transcript**

18
19 (a) **When preparation begins**

20
21 (1) * * *

22
23 (2) If the notice sent to the reporter by the clerk under rule 8.864(a)(1) indicates
24 that the appellant is the defendant and that the defendant was not represented
25 by appointed counsel at trial:

26
27 (A) * * *

28
29 (B) The clerk must promptly notify the appellant and his or her counsel of
30 the estimated cost of preparing the reporter's transcript. The
31 notification must show the date it was sent.

32
33 (C) Within 10 days after the date the clerk sent the notice under (B), the
34 appellant must do one of the following:

35
36 (i) Deposit with the clerk an amount equal to the estimated cost of
37 preparing the transcript;

38
39 (ii)–(iii) * * *

40
41 (iv) File a certified transcript of all of the proceedings required to be
42 included in the reporter's transcript under rule 8.865. The
43 transcript submitted by the appellant must not be accepted as a

substitute for a deposit under (i) unless it complies ~~must comply~~
with the format requirements of rule ~~8.144~~ 8.838;

(v)–(vii) * * *

(D) If the trial court determines that the appellant is not indigent, within 10 days after the date the clerk sends notice of this determination to the appellant, the appellant must do one of the following:

(i) Deposit with the clerk an amount equal to the estimated cost of preparing the transcript;

(ii) * * *

(iii) File a certified transcript of all of the proceedings required to be included in the reporter's transcript under rule 8.865. The transcript submitted by the appellant must not be accepted as a substitute for a deposit under (i) unless it complies ~~must comply~~ with the format requirements of rule ~~8.144~~ 8.838;

(iv)–(vi) * * *

(E) * * *

(b) Format of transcript

The reporter's transcript must comply with rule ~~8.144~~ 8.838.

(c)–(f) * * *

Advisory Committee Comment

Subdivision (a). If the appellant was not represented by the public defender or other appointed counsel in the trial court, the appellant must use *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105) to show indigency. This form is available at any courthouse or county law library or online at www.courts.ca.gov/forms.

Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii). Sometimes a party in a trial court proceeding will purchase a reporter's ~~transcripts~~ transcript of all or part of the proceedings before any appeal is filed. In recognition of the fact that such transcripts may already have been purchased, this rule allows an appellant, in lieu of depositing funds for a reporter's transcript, to deposit with the trial court a certified transcript of the proceedings necessary for the appeal. Subdivisions (a)(2)(C)(iv)

1 and (a)(2)(D)(iii) make clear that the certified transcript may be filed in lieu of a deposit for a
2 reporter's transcript only where the certified transcript contains all of the proceedings required
3 under rule 8.865 and the transcript complies with the format requirements of rule ~~8.144~~ 8.838
4 (e.g., cover information, renumbered pages, required indexes). Parties using this alternative to a
5 deposit are responsible for ensuring that such transcripts are in the proper format. Parties may
6 arrange with a court reporter to do the necessary formatting of the transcript or may do the
7 formatting themselves.
8
9

10 **Rule 8.919. Preparation of reporter's transcript**

11 **(a) When preparation begins**

12 (1) * * *

13
14
15
16 (2) If the notice sent to the reporter by the clerk under rule 8.915(a)(3) indicates
17 that the appellant is the defendant:

18
19 (A) * * *

20
21 (B) The clerk must promptly notify the appellant and his or her counsel of
22 the estimated cost of preparing the reporter's transcript. The
23 notification must show the date it was sent.

24
25 (C) Within 10 days after the date the clerk sent the notice under (B), the
26 appellant must do one of the following:

27
28 (i) Deposit with the clerk an amount equal to the estimated cost of
29 preparing the transcript;

30
31 (ii)–(iii) * * *

32
33 (iv) File a certified transcript of all of the proceedings required to be
34 included in the reporter's transcript under rule 8.918. The
35 transcript submitted by the appellant must not be accepted as a
36 substitute for a deposit under (i) unless it complies ~~must comply~~
37 with the format requirements of rule ~~8.144~~ 8.838;
38

39 (v)–(vii) * * *

40
41 (D) If the trial court determines that the appellant is not indigent, within 10
42 days after the date the clerk sends notice of this determination to the
43 appellant, the appellant must do one of the following:

(i) Deposit with the clerk an amount equal to the estimated cost of preparing the transcript;

(ii) * * *

(iii) File a certified transcript of all of the proceedings required to be included in the reporter's transcript under rule 8.918. The transcript submitted by the appellant must not be accepted as a substitute for a deposit under (i) unless it complies ~~must comply~~ with the format requirements of rule ~~8.144~~ 8.838;

(iv)–(vi) * * *

(E) * * *

(b) Format of transcript

The reporter's transcript must comply with rule ~~8.144~~ 8.838.

(c)–(f) * * *

Advisory Committee Comment

Subdivision (a). The appellant must use *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105) to show indigency. This form is available at any courthouse or county law library or online at www.courts.ca.gov/forms.

Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii). Sometimes a party in a trial court proceeding will purchase a reporter's ~~transcripts~~ transcript of all or part of the proceedings before any appeal is filed. In recognition of the fact that such transcripts may already have been purchased, this rule allows an appellant, in lieu of depositing funds for a reporter's transcript, to deposit with the trial court a certified transcript of the proceedings necessary for the appeal. Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii) make clear that the certified transcript may be filed in lieu of a deposit for a reporter's transcript only where the certified transcript contains all of the proceedings required under rule 8.865 and the transcript complies with the format requirements of rule ~~8.144~~ 8.838 (e.g., cover information, renumbered pages, required indexes). Parties using this alternative to a deposit are responsible for ensuring that such transcripts are in the proper format. Parties may arrange with a court reporter to do the necessary formatting of the transcript or may do the formatting themselves.

W23-02

Appellate Procedure: Reporter's transcripts (amend Cal. Rules of Court, rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919)

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

List of All Commenters, Overall Positions on the Proposal, and General Comments			
	Commenter	Position	Comment
1.	Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	N	Does the proposal appropriately address the stated purpose? It shifts much of the burden relating to the format of electronic transcripts from Court Reporters to courts or filers. See comments on specific issues below
2.	California Court Reporters Association	NI	Does the proposal appropriately address the stated purpose? Yes. See comments on specific issues below
3.	Orange County Bar Association By Michael A. Gregg, President Newport Beach	A	Does the proposal appropriately address the stated purpose? Yes. See comments on specific issues below
4.	Susan L. Rocha		Comments not related to proposal.
5.	Superior Court of Los Angeles County By Bryan Borys, Director of Research and Data Management	A	See comments on specific issues below
6.	Superior Court of Orange County By Elizabeth Flores, Operations Analyst	AM	Does the proposal appropriately address the stated purpose? Yes. See comments on specific issues below
7.	Superior Court of San Diego County By Michael Roddy, Executive Officer	N	Does the proposal appropriately address the stated purpose? No See comments on specific issues below

W23-02

Appellate Procedure: Reporter's transcripts (amend Cal. Rules of Court, rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919)

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

Issue 1. Rules 8.130(b)(3)(C), 8.834(b)(2)(D), 8.866(a)(2)(C) and (D), and 8.919(a)(2)(C) and (D) – Use of Transcripts as Substitute for Deposit for Reporter's Transcript		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	The other area of concern is with the change to the requirement that certified transcripts submitted in lieu of making a deposit for the reporter's transcript must not be filed by the trial court unless they are in the proper format. Currently, rule 8.144(e) allows daily or other certified transcripts to be used for all or part of the reporter's transcript, but the pages must be renumbered consecutively, and the required indexes and covers must be added. The amendment makes it clear that the trial court is not to accept these transcripts unless they comply with rule 8.144. These are civil transcripts, and besides the training the trial court appeals clerks would be required to have to assess whether a transcript complies with the rules, there is potentially an access to justice component that needs to be considered. Up to 25% of civil filers are in pro. per., and their ability to comply with this rule is limited. A large law firm with a well-trained staff may be able to reformat a daily transcript so it contains a proper cover sheet, indexes that comply with the formatting rules, and consecutive pagination beginning with page one and ending with the page certifying the daily transcript. However, a pro. per. litigant or even a solo practitioner with limited legal staff will have difficulty complying. An appeal may proceed without the reporter's transcript, but at the appellant's risk of failure to provide an adequate record. A professional court reporter is in the best position to provide a properly formatted transcript to the appellate courts. In addition, determining whether to accept a reporter's transcript not in compliance with the appellate rules is best	The committee appreciates this comment. The committee's view is that the recommended amendments to rule 8.130(b)(3)(C) (and similar rules) are clarifying and implementing the intent of amendments to this rule that were adopted by the Judicial Council effective January 1, 2014. In response to this comment, the committee has revised its recommended amendment to the advisory committee comments to these rules to make this existing intent clearer and to further clarify that parties who wish to use this substitute for a deposit may either arrange with a court reporter to put the previously purchased transcripts in the required format or may reformat the transcripts themselves. The committee also recommends that a similar advisory committee comment addressing the filing of certified transcripts in lieu of a deposit be added for rule 8.834, which did not previously have any advisory committee comment. As recognized by both the commentator and the organization that suggested amending this rule, the California Court Reporters Association, there are challenges associated with using previously purchased certified transcripts as a substitute for depositing funds to purchase a new transcript. This provision is designed to benefit litigants by giving them a way to use already purchased transcripts and thus lowering their litigation costs. But the appellate courts and litigants need transcripts to be formatted so that they are navigable and contain necessary information and court reporters (who

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Appellate Procedure: Reporter's transcripts (amend Cal. Rules of Court, rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919)

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

Issue 1. Rules 8.130(b)(3)(C), 8.834(b)(2)(D), 8.866(a)(2)(C) and (D), and 8.919(a)(2)(C) and (D) – Use of Transcripts as Substitute for Depositor's Transcript		
Commenter	Comment	Committee Response
	left to the discretion of the appellate court. The reporter's transcript is an appellate court filing, but if the trial court is not to accept a noncompliant transcript, then the appellate court is deprived of its discretion to determine whether it will accept a noncompliant daily reporter's transcript in the interests of justice.	are acting as independent contractors when preparing transcripts) should not be asked to work on transcripts without appropriate compensation. When the committee recommended adoption of the existing rule language in 2013, it tried to find the appropriate balance for all of these interests. As noted in this invitation to comment, the 2013 report to the Judicial Council noted that the current rule language specifically stated that this rule language is intended to “clearly place responsibility on the designating party for ensuring that such transcripts are in the proper format.” The amendments to rule 8.130 and related rules and advisory committee comments now being recommended by the committee are meant to further implement this existing policy in light of continuing challenges with this procedure. The committee agrees with the commentator that some parties who have previously purchased all of the necessary transcripts for an appeal (note that this is likely to be a very small proportion of litigants) may have difficulty putting these transcripts in the appropriate format themselves. But these parties have options beyond reformatting the transcripts themselves. In addressing public comments similar to these in 2013, the report to the Judicial Council notes that depositing parties who wish to use this procedure can either engage court reporters to do the necessary reformatting or reformat the transcripts themselves: “[I]t is the committees’ understanding that under the current rules some parties have successfully repaginated and prepared

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Appellate Procedure: Reporter's transcripts (amend Cal. Rules of Court, rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919)

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

Issue 1. Rules 8.130(b)(3)(C), 8.834(b)(2)(D), 8.866(a)(2)(C) and (D), and 8.919(a)(2)(C) and (D) – Use of Transcripts as Substitute for Depositor's Transcript		
Commenter	Comment	Committee Response
		indices for previously purchased transcripts and submitted these in lieu of a deposit for a reporter's transcript. The committees' view is that the amendments to these rules should not take this option away from parties, particularly since this is the lowest-cost option available to parties who have the necessary transcripts for the appeal.” Thus, litigants who have previously purchased all the necessary transcripts for an appeal have options – they can attempt to put these transcripts in the necessary format themselves, they can engage a court reporter to put the transcripts in the necessary format, or they can deposit funds with the court to cover the costs of a court reporter preparing a new transcript containing all of the required proceedings (at a reduced per page rate that recognizes that the proceedings were previously transcribed by the court reporter). As noted in this invitation to comment, if a litigant attempts to use the first option and fails to put the transcript in the required format, this does not mean that the litigant will be forced to go forward with an appeal without a reporter's transcript. The litigant will receive a default notice from the trial court (as they do with other errors relating to deposits for reporter's transcripts) and will have an opportunity to correct the formatting issues using any of the three options identified above.
California Court Reporters Association	Rule 8.130 - CCRA concurs with the changes proposed by the committee.	The committee appreciates these comments.

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Appellate Procedure: Reporter's transcripts (amend Cal. Rules of Court, rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919)

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

Issue 1. Rules 8.130(b)(3)(C), 8.834(b)(2)(D), 8.866(a)(2)(C) and (D), and 8.919(a)(2)(C) and (D) – Use of Transcripts as Substitute for Reporter's Transcript		
Commenter	Comment	Committee Response
	Rule 8.834 - CCRA concurs with the changes proposed by the committee. Rule 8.866 - CCRA concurs with the changes proposed by the committee. Rule 8.919 - CCRA concurs with the changes proposed by the committee.	

Issue 2. Rule 8.144(b)(6) – Allowing a Reporter's Transcripts in Electronic Form to Be in a Single Volume		
Commenter	Comment	Committee Response
California Court Reporters Association	CCRA concurs with the changes proposed by the committee.	The committee appreciates this comment.
Superior Court of San Diego County By Michael Roddy, Executive Officer	Other Comments: Having multiple reporters merge their transcripts into one single electronic volume is concerning because, in this court, a primary reporter is able to “block number,” meaning the primary reporter can assign each reporter a certain number of pages and a volume number. All of the reporters are then able to work on their transcripts immediately. In the proposal, if block numbering is not allowed, the primary reporter needs to contact every reporter on the case to find out how many pages each reporter has. Some reporters are quick to respond; for a variety of reasons, some aren't. This will delay reporters in being able to get their transcripts out timely.	To the extent that this comment is addressing the proposal to amend rule 8.144(b)(6) allow reporter's transcripts in electronic form to be in a single volume, rather than in volumes of 300 pages, the committee notes that amendment being recommended would make use of a single volume optional; a court reporter—including reporters in a multiple-reporter case—could choose to produce the transcript in separate volumes not exceeding 300 pages.

W23-02

Appellate Procedure: Reporter's transcripts (amend Cal. Rules of Court, rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919)

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

Issue 2. Rule 8.144(b)(6) – Allowing a Reporter's Transcripts in Electronic Form to Be in a Single Volume		
Commenter	Comment	Committee Response
	In addition, under a one-volume rule, if one reporter requested and received an extension of time from the Court of Appeal, every reporter involved would then be delayed. Extensions are requested for a variety of reasons, such as workload, illness, or computer issues. Extensions of time would also then raise questions as to who is responsible for the master index and merging of all transcripts. Similarly, some reporters start working on appeal transcripts immediately after receiving a Notice to Prepare and turn them in well before the due date. Other reporters consistently turn their transcripts in on the due date. The primary reporter needs time to comply with the requirements, whatever they may be. Which reporter will be responsible in these situations for the merging? Another issue is that reporters use many different software systems which will make it difficult, if not impossible, to run an index once all transcripts are merged. Finally (on having one volume), if a reporter makes a mistake in his/her portion, every reporter would possibly have to redo page numbering on their volume. If that were to happen, it may cause delay and it is unclear who is responsible for paying for all of the other reporters' time.	

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Appellate Procedure: Reporter's transcripts (amend Cal. Rules of Court, rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919)

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

Issue 3. Should the 300-page volume limit be changed for clerk's transcripts that are in electronic form?		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	We currently get many transcripts containing multiple volumes combined in a single filing as long as it meets the requirement of less than 25 MB and 300 pages. Lifting the 300-page volume limit while keeping the 25 MB limit for a filing would not pose a problem. However, if the filing contains more than one volume, the separate volumes must be electronically bookmarked accordingly.	The committee appreciates this comment. The recommended amendment does not alter requirements regarding bookmarking.
California Court Reporters Association	Does not pertain to reporter's transcripts; no comment.	No response required.
Orange County Bar Association By Michael A. Gregg, President	Yes	In response to this and other comments, the committee is recommending that the 300-page volume limit be changed for clerk's, as well as reporter's, transcripts that are in electronic form.
Superior Court of Los Angeles County By Bryan Borys, Director of Research and Data Management	The Court agrees that the 300-page volume limit should also be eliminated for electronic clerk's transcripts, to conform with the proposed rule change for electronic reporter's transcripts.	Please see response to the comments of the Orange County Bar Association above.
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	Yes, to comply with rule stating that electronic transcripts should be in a single electronic volume that may not be larger than 25 megabytes.	Please see response to the comments of the Orange County Bar Association above.
Superior Court of San Diego County By Michael Roddy, Executive Officer	No opinion	No response required.

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

Issue 4. Rule 8.144(d) and (f) – Pagination of transcripts in multiple reporter cases		
Commenter	Comment	Committee Response
California Court Reporters Association	(d) - CCRA concurs with the changes proposed by the committee so long as CCRA's proposed change to (f)(3) is accepted by the committee, as described below: (f)(1) - CCRA concurs with the changes proposed by the committee (f)(2) - CCRA concurs with the changes proposed by the committee (f)(3) CCRA concurs with the changes proposed by the committee except that in (f)(3), instead of again using the "plus" sign here, a "greater than sign" (>) should be used. CCRA has determined that the a "greater than sign" (>) is best compatible with submitting transcripts in electronic form when a segment of a transcript has fewer than the assigned number of pages. For example, as the committee proposes in (f)(2), if a segment is assigned through page 300 and exceeds that range, the following page numbers would read 300+1, 300+2, etc., and the next page would start on page 301. In CCRA's proposal, if the segment is assigned through pages 300 and the last page actually ended on page 296, the last page number would be 296>300, and the next page would be 301. CCRA anticipates that PDF viewer would be able to "jump" to either symbol for purposes of viewing or printing pages.	Based on the totality of the comments received regarding pagination of transcripts in multiple reporter cases (see additional comments in Issues 5 through 7 below), the committee concluded that additional study of this topic is needed and is therefore not recommending changes to rule 8.144(f)(2) and (3) at this time.

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

Issue 5. Do transcript users anticipate any difficulties printing, or navigating to, pages numbered using the plus-sign format?		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	Yes. Of particular import to the appellate courts is the issue of pagination in multiple-reporter transcripts. For an electronic reporters' transcript to be fully navigable by the court, the first page must begin with the number one and pages numbered consecutively to the end. This allows the court to use the Adobe page finder to easily navigate to the transcript page cited by the attorney. The transcript filed with the court should neither have a hyphen nor a plus sign in the pagination. Rather, the lead reporter should repaginate the transcript, so it is numbered consecutively from page one to the end. The Adobe page counter converts both the hyphen and the plus sign to the beginning number, so 4-1 becomes 4 and 4+1 becomes 4. If an attorney cites to a record with a page number using either a hyphen or a plus sign, e.g., 4+1, the page finder will take you to page four, when, the page number is 5. This leads to the page finder being obsolete, resulting in additional scrolling to find the actual page the cite is on. In other words, if the cite is to page 4+10, the page finder would take you to page 4 but you would have to continue searching for the citation until you got to the actual page of the citation, which in this instance is page 14. This then puts the remainder of the pages out of order as well. Our recommendation is that you change rule 8.144(b)(2)(D) to remove "except as provided in (f)," and have the transcript repaginated by the lead reporter, which is easily done in Adobe by using the Bates stamp functionality. The original page numbers submitted by the certifying reporter remains, and a Bates number is applied, allowing the filer to	The comments received regarding pagination in multiple reporter cases suggest that there are ongoing concerns about how best to address these situations in general and commentors had mixed views about whether the alternative pagination format proposed in the invitation to comment when a segment has either more or fewer pages than assigned by the primary reporter would be preferable to the current format. The committee believes that this issue would benefit from further study and is therefore not recommending that the rules be amended to alter the current page numbering format at this time. In the meantime, the committee concluded that it would be appropriate to recommend the amendments to rules 8.144(d)(1)(C), 8.452(e), and 8.456(e) that were circulated for public comment. These amendments do not authorize any expansion in the situations, identified as problematic by several commentors, in which the page numbers on the transcript will not match the page numbers shown in the PDF viewer. Instead, these recommended amendments are intended to provide internal consistency within the existing rules by acknowledging when, under these existing rules, the page numbers on a transcript may not match the page numbers shown in the PDF viewer.

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

Issue 5. Do transcript users anticipate any difficulties printing, or navigating to, pages numbered using the plus-sign format?		
Commenter	Comment	Committee Response
	cite to the Bates number and the Adobe page finder to work correctly.	
California Court Reporters Association	CCRA anticipates that the PDF viewer will detect the usage of the plus sign (+) and the greater than sign (>) and allow the PDF viewer to “jump” to a page containing those symbols for viewing and/or printing and therefore anticipates no difficulties with the use of such symbols.	Please see response to the comments of the Appellate Court Clerk Executive Officers above.
Orange County Bar Association By Michael A. Gregg, President	Yes, it will be more difficult to navigate within a PDF if the page numbers don't match the page counter in the PDF file viewer. We would encourage the reporters and rules committee come up with a more creative solution to this problem. E.g., perhaps the reporter on the first hearing can be designated to renumber all the pages so that they are consecutive.	Please see response to the comments of the Appellate Court Clerk Executive Officers above.
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	No	Please see response to the comments of the Appellate Court Clerk Executive Officers above.
Superior Court of San Diego County By Michael Roddy, Executive	Unknown. It is untested in this court whether using the plus sign will cause problems with any of the different software programs used by the reporters. However, some might find it confusing for the plus sign to mean one thing for additional pages, yet mean another thing for a remaining block of pages.	Please see response to the comments of the Appellate Court Clerk Executive Officers above.

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

Issue 6. Should the rules permit block numbering?		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	No. The Court Reporter in a multi-reporter transcript has sufficient technology to provide an accurate estimate to the lead reporter about the number of pages needed to transcribe their portion of the transcript. Block numbering wreaks havoc on the navigability of electronic transcripts. For example, using the 300-page volume limit as an example, block numbering allows the lead reporter to assign pages 1-300 to reporter one, 301-600 to reporter two, 601-900 to reporter three and so on. None of the reporters is required to estimate the number of pages they actually need for their portion of the transcript, and reporter one may only need 25 pages. Thus, this transcript, which may only have 100 pages of actual transcript, is filed as three volumes, 900 pages, when the actual transcript is three volumes, 100 pages. The Clerk's Office is required to put the page numbers of the record on the docket for purposes of assignment. A 100-page transcript is a small record, while a 900-page transcript along with the size of the clerk's transcript may be either a medium or large record. In some districts, court appointed counsel may be willing to accept a small-record case but not a large-record case, so this type of transcript is misleading. In addition, block number eliminates the usefulness of the Adobe page finder. If court reporters want to use block number, the lead reporter must be required to renumber the pages to maintain the navigability of the transcript. Programs such as YesLaw already have this functionality. Adobe also would allow renumbering using the Bates numbering functionality.	The comments received regarding pagination in multiple reporter cases (see comments in Issues 4 through 7 in this chart) suggest that there are ongoing concerns about how best to address these situations. The committee believes that this issue would benefit from further study and is therefore not recommending that the rules be amended to authorize block numbering at this time.
California Court Reporters Association	If by "block numbering," the committee means that the primary reporter will assign each reporter in a multiple reporter case a block of numbers (for example, 1-300) even before the individual reporter has replied to the primary reporter with their	Please see response to the comments of the Appellate Court Clerk Executive Officers above.

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Issue 6. Should the rules permit block numbering?		
Commenter	Comment	Committee Response
	estimated page court, then, yes, this should be allowed for in the rules. There are some circumstances where block numbering is necessary because a reporter has moved or retired or is otherwise unavailable in a timely manner and the primary may need to "block" that reporter.	
Orange County Bar Association By Michael A. Gregg, President	A single numbering system should be chosen and used consistently.	Please see response to the comments of the Appellate Court Clerk Executive Officers above.
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	No	Please see response to the comments of the Appellate Court Clerk Executive Officers above.
Superior Court of San Diego County By Michael Roddy, Executive	Yes.	Please see response to the comments of the Appellate Court Clerk Executive Officers above.

Issue 7. Can transcripts in multiple reporter cases easily include the equivalent of Bates-stamped page numbers or easily be repaginated to avoid the navigational problems that occur when the pagination of such transcripts is not consecutive and does not match the page number shown in the PDF viewer?

Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	Yes, and this is preferable to either the hyphen or plus sign or block numbering.	The comments received regarding pagination in multiple reporter cases suggest that there are ongoing concerns about how best to address these situations. The committee believes that this issue would benefit from further study.
California Court Reporters Association	If CCRA understands this question correctly, i.e., can an electronic Bates-stamp be placed in the transcript by the primary reporter in addition to the page numbering system	Please see response to the comments of the Appellate Court Clerk Executive Officers above.

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

Issue 7. Can transcripts in multiple reporter cases easily include the equivalent of Bates-stamped page numbers or easily be repaginated to avoid the navigational problems that occur when the pagination of such transcripts is not consecutive and does not match the page number shown in the PDF viewer?		
Commenter	Comment	Committee Response
	described and proposed in item 3 above, then the answer is no. CCRA welcomes clarification to the question if we have misunderstood the intent of this question.	
Orange County Bar Association By Michael A. Gregg, President	See comment above [A single numbering system should be chosen and used consistently]	Please see response to the comments of the Appellate Court Clerk Executive Officers above.
Superior Court of Los Angeles County By Bryan Borys, Director of Research and Data Management	Regarding the discrepancies in consecutive paginations exhibited across multiple-reporter cases and PDF viewer, the Court does not believe these navigational issues can be resolved via repagination or by including a Bates stamped page equivalent.	Please see response to the comments of the Appellate Court Clerk Executive Officers above.
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	Yes	Please see response to the comments of the Appellate Court Clerk Executive Officers above.
Superior Court of San Diego County By Michael Roddy, Executive	Repagination would not be easy.	Please see response to the comments of the Appellate Court Clerk Executive Officers above.

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

Issue 8. Rules 8.144(d), 8.204(a), and 8.622(a) - Changing references to the "electronic format" of reporter's transcripts or the record on appeal		
Commenter	Comment	Committee Response
California Court Reporters Association	Rule 8.204 - CCRA concurs with the changes proposed by the committee.	The committee appreciates these comments.
	Rule 8.622 - CCRA concurs with the changes proposed by the committee.	

Issue 9. Rule 8.153 - Lending the Record - General		
Commenter	Comment	Committee Response
California Court Reporters Association	Alternative rule language suggested: Rule 8.153. Lending the Record (a) Request Within 20 days after the record is filed in the reviewing court, a party that has not purchased its own copy of the record may request another party, in writing, to lend it that party's copy of the record. (1) If the lending party has received their copy of the reporter's transcript in electronic form, in lieu of lending its copy of the reporter's transcript to the borrowing party, within 5 days of receiving a request to borrow the record, the lending party shall ask the court reporter, in writing, to send an electronic read-only copy of the reporter's transcript to the borrowing party. The court reporter must promptly send the copy to the borrowing party. The court reporter may set an	This alternative rule proposal includes important substantive changes to the proposal that was circulated for public comment. Under the rule that governs the Judicial Council rule-making process, California Rules of Court, rule 10.22, only a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy may be recommended for adoption by the Judicial Council without first being circulating it for comment. Therefore, the committee cannot recommend adoption of this alternative rule regarding lending the record at this time; any such proposal must first be circulated for public comment. Based on this and the other comments received regarding the proposed amendments to this rule, the committee has decided not to recommend any changes to rule 8.153 at this time. Possible amendments will be considered for a later rules cycle.

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

Issue 9. Rule 8.153 - Lending the Record - General		
Commenter	Comment	Committee Response
	expiration date to the viewing of the read-only copy to a time after the borrowing party serves its brief or the time to file its brief has expired. (2) If the lending party has received their copy of the reporter's transcript in paper form, the lending party must then lend its copy of the reporter's transcript when it serves its brief to the borrowing party. The borrowing party must return the copy of the record to the lending party when it serves its brief or the time to file its brief has expired. The borrowing party must bear the cost of sending the copy of the record to and from the borrowing party. CCRA believes that the above proposal addresses the committee's concern about whether the lend/borrow option should be available in all cases or only when the lending party's copy of the reporter's transcript is in paper form (by proposing options for both paper and electronic transcripts) and the committee's concern about what format requirements should be applied to a transcript sent to a borrowing party in read-only format. CCRA offers the above proposal as clear direction to the reporter and clear direction to the lending and borrowing party in such instances where this rule is utilized. The above proposal also addresses the committee's concern regarding whether it is necessary for the borrowing party to return an electronic copy of the reporter's transcript by allowing for an expiration date, which is currently common practice for reporter's transcripts for depositions when the deponent does not wish to purchase a copy of the transcript, but	

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Issue 9. Rule 8.153 - Lending the Record - General		
Commenter	Comment	Committee Response
	receives an electronic read-only copy to view and sign their deposition without retaining a copy they did not pay for. CCRA believes the above proposal encourages compliance with Government Code section 69954(d) regarding not providing copies of reporter's transcripts to those who have not paid for a copy while balancing the need for a party to reference a reporter's transcript in order to serve a responsive brief.	
Superior Court of San Diego County By Michael Roddy, Executive Officer	On lending copies generally, Government Code section 69954(d) states: "Any court, party, or person who has purchased a transcript may, without paying a further fee to the reporter, reproduce a copy or portion thereof as an exhibit pursuant to court order or rule, or for internal use, <i>but shall not otherwise provide</i> or sell a copy or copies to any other party or person." (Emphasis added.)	Based on this and the other comments received on the committee has decided not to recommend any changes to rule 8.153 at this time. Possible amendments will be considered for a later rules cycle.

Issue 10. Lending the Record - Should the option of asking a court reporter to send the borrowing party a copy of the reporter's transcript in electronic form be available in all cases or only when the lending party's copy of the reporter's transcript is in paper form?		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	It makes sense to have it available in all cases.	Based on this and the other comments received on the committee has decided not to recommend any changes to rule 8.153 at this time. Possible amendments will be considered for a later rules cycle.
California Court Reporters Association	In all cases, both electronic and paper, as proposed in item 3 above [please see comments in preceding table "Rule 8.153 - Lending the Record – General"]	Please see the response to the comments of the Appellate Court Clerk Executive Officers above.

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

Issue 10. Lending the Record - Should the option of asking a court reporter to send the borrowing party a copy of the reporter's transcript in electronic form be available in all cases or only when the lending party's copy of the reporter's transcript is in paper form?		
Commenter	Comment	Committee Response
Orange County Bar Association By Michael A. Gregg, President	All cases	Please see the response to the comments of the Appellate Court Clerk Executive Officers above.
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	Case Processing does not believe we have the jurisdiction to request this.	No response required.
Superior Court of San Diego County By Michael Roddy, Executive Officer	No, the additional option should not be added, and lending of electronic copies should not be allowed at all. Once an electronic copy is sent, the receiver could keep it in perpetuity. In addition, requiring court reporters to respond "promptly," or to respond at all, to requests for electronic copies would place an additional burden on an already strained workpool.	Please see the response to the comments of the Appellate Court Clerk Executive Officers above.

Issue 11. Lending the Record – What format requirements should be applied to a transcript sent by a court reporter to a borrowing party?		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	No comment.	Based on this and the other comments received on the committee has decided not to recommend any changes to rule 8.153 at this time. Possible amendments will be considered for a later rules cycle.
California Court Reporters Association	Read-only format with expiration date, as proposed in item 3 above [please see comments in preceding table "Rule 8.153 - Lending the Record – General"]	Please see the response to the comments of the Appellate Court Clerk Executive Officers above.

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

Issue 11. Lending the Record – What format requirements should be applied to a transcript sent by a court reporter to a borrowing party?		
Commenter	Comment	Committee Response
Orange County Bar Association By Michael A. Gregg, President	The borrowing respondent should receive the same format as the appellant, not just a read-only copy.	Please see the response to the comments of the Appellate Court Clerk Executive Officers above.
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	N/A	No response required.
Superior Court of San Diego County By Michael Roddy, Executive	Read-only; no ability to print, comment, or highlight.	Please see the response to the comments of the Appellate Court Clerk Executive Officers above.

Issue 12. Lending the Record – Is it necessary for a party borrowing the record from another party to return an electronic copy of either the clerk's transcript or an administrative record provided by the lending party or a read-only electronic copy of the reporter's transcript provided by the court reporter?		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	No comment.	No response required.
California Court Reporters Association	No, because the read-only format with expiration date, as proposed in item 3, addresses this issue [please see comments in preceding table "Rule 8.153 - Lending the Record – General"]	Based on this and the other comments received on the committee has decided not to recommend any changes to rule 8.153 at this time. Possible amendments will be considered for a later rules cycle.
Orange County Bar Association By Michael A. Gregg, President	No.	Please see response to comments of the California Court Reporters Association above.

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

Issue 12. Lending the Record – Is it necessary for a party borrowing the record from another party to return an electronic copy of either the clerk's transcript or an administrative record provided by the lending party or a read-only electronic copy of the reporter's transcript provided by the court reporter?		
Commenter	Comment	Committee Response
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	Case Processing does not believe we have the jurisdiction to request this.	No response required.
Superior Court San Diego County By Michael Roddy, Executive	It is unclear how "returning" an electronic copy would be accomplished. If it is allowed to be lent, there's nothing preventing the borrower from keeping the email with the electronic copy.	Please see response to comments of the California Court Reporters Association above.

Issue 13. Rules 8.452 and 8.456		
Commenter	Comment	Committee Response
California Court Reporters Association	Rule 8.452 - CCRA concurs with the changes proposed by the committee.	The committee appreciates these comments.
	Rule 8.456 - CCRA concurs with the changes proposed by the committee.	

Issue 14. Rules 8.834, 8.838, 8.866 and 8.919		
Commenter	Comment	Committee Response
California Court Reporters Association	Rule 8.834 - CCRA concurs with the changes proposed by the committee	The committee appreciates these comments.
	Rule 8.838 - CCRA concurs with the changes proposed by the committee.	

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

Issue 14. Rules 8.834, 8.838, 8.866 and 8.919		
Commenter	Comment	Committee Response
	Rule 8.866 - CCRA concurs with the changes proposed by the committee.	
	Rule 8.919 - CCRA concurs with the changes proposed by the committee.	

Issue 15. Would the proposal provide cost savings?		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	No	The committee appreciates this input.
Superior Court of Los Angeles County By Bryan Borys, Director of Research and Data Management	With respect to implementation, the Court does not see any cost savings from this proposal.	The committee appreciates this input.
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	Yes, the process would be more efficient as it has the potential to reduce errors and processing time for staff.	The committee appreciates this input.

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

Issue 16. 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?		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	If the trial court clerk is not to accept a daily transcript that does not comply with the formatting requirements of rule 8.144, it would require training for the trial courts.	The committee appreciates this input.
Superior Court of Los Angeles County By Bryan Borys, Director of Research and Data Management	Instead, it anticipates there will be implementation costs associated with staff training and with resources required to update reference materials.	The committee appreciates this input.
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	Minimal training for staff on updated procedures.	The committee appreciates this input.
Superior Court of San Diego County By Michael Roddy, Executive	Fiscal impact: while the fiscal impact on the court may be minimal, the impact on the reporters may be more substantive.	The committee appreciates this input.

Issue 17. Would 4 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	No, it would depend on the ability to get proper training developed and out to the trial courts, and the trial courts' ability to have staff attend training and the technology and resources to implement the changes.	Based on this comment and the comment of the Superior Court of Los Angeles County, the committee is recommending that the recommended rule amendments take effect January 1, 2024, rather than September 1, 2023, as proposed in the invitation to comment.

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

Issue 17. Would 4 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?		
Commenter	Comment	Committee Response
Superior Court of Los Angeles County By Bryan Borys, Director of Research and Data Management	For those reasons [in the previous two charts], the Court requests an effective date of January 1, 2024 to allow for staff training and to allow eCART time to implement the proposed changes.	Please see the response to the comments of the Appellate Court Clerk Executive Officers above.
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	Yes	Please see the response to the comments of the Appellate Court Clerk Executive Officers above.

Issue 18. How well would this proposal work in courts of different sizes?		
Commenter	Comment	Committee Response
Appellate Court Clerk Executive Officers By Colette M. Bruggman Sacramento	It is less about the size of the court and more about the size of the staff assigned to appeals and the quality of their training.	The committee appreciates this input.
Superior Court of Orange County By Elizabeth Flores, Operations Analyst	The proposal will have minimal impact to courts of different sizes.	The committee appreciates this input.