



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 27, 2015

Title

Appellate Procedure: Record on Appeal in Civil Cases

Agenda Item Type

Action Required

Effective Date

January 1, 2016

Rules, Forms, Standards, or Statutes Affected
Revise forms APP-003, APP-010, APP-103,
and APP-110

Date of Report

August 12, 2015

Recommended by

Appellate Advisory Committee
Hon. Raymond J. Ikola, Chair

Contact

Heather Anderson, 415-865-7691
heather.anderson@jud.ca.gov

Executive Summary

The Appellate Advisory Committee recommends revising the forms for designating the record on appeal in unlimited and limited civil cases to (1) state that the fee waiver application is *submitted with* rather than *attached to* the record designation form; and (2) clarify that the respondent must pay for additional proceedings that he or she designates to be included in the record. The first change, which is based on suggestions from a superior court, is intended to avoid the unintentional release of confidential information and reduce court costs associated with identifying and detaching fee waiver applications from record designation forms. The second change is intended to eliminate confusion for litigants and reduce court costs associated with litigant errors caused by that confusion.

Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2016:

1. Revise *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003); *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010); *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103); and *Respondent's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-110) to state that the fee waiver application is *submitted with* rather than *attached to* the record designation form; and
2. Further revise *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010) to move the section of the form regarding the cost of transcribing additional proceedings that the respondent has designated for inclusion in a reporter's transcript so that it follows immediately after the section regarding designation of those proceedings.

The text of the revised forms is attached at pages 5–21.

Previous Council Action

The Judicial Council approved *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003) for optional use effective July 1, 2004, to assist litigants, particularly self-represented litigants, by providing them with a standardized mechanism for requesting the clerk's and court reporter's transcripts in the appeal of an unlimited civil case. The Judicial Council similarly approved *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) for optional use effective January 1, 2010, as part of a set of new forms intended to assist litigants, particularly self-represented litigants, seeking appellate review in the superior court appellate division. The council has revised these forms on several occasions, including effective July 1, 2010, to include spaces for additional information required or permitted by statute or rule.

The Judicial Council approved both *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010) and *Respondent's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-110) for optional use effective January 1, 2010, to assist respondents in appellate proceedings in filing notices relating to the record on appeal.

The Judicial Council revised the forms for unlimited civil appeals effective January 1, 2014, and for limited civil appeals effective March 1, 2014, to reflect changes in the rules relating to reporters' transcripts in civil appeals.

Rationale for Recommendation

In a civil appeal, the appellant is generally responsible for choosing the form of the record on appeal and identifying (designating) items to be included in that record. Depending on the type of record chosen, the respondent then has an opportunity to designate additional items to include in the record. Courts charge fees to prepare or make copies of some forms of the record on appeal, such as a clerk's transcript. If a party who is indigent files an application for an initial fee waiver and the court grants that application, these fees will be waived.

Four Judicial Council optional forms are available for parties to use to designate the record on appeal in unlimited and limited civil cases: *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003); *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010); *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103); and *Respondent's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-110). In one or more places on each of these forms, the designating party may indicate that, in lieu of submitting the required court fee for a particular form of the record, the party is attaching a fee waiver application.

Attaching a fee waiver application to these designation forms may cause problems and create additional work for those courts that are scanning and storing records electronically. While designation forms are public court records, fee waiver applications are confidential (see Cal. Rules of Court, rule 3.54) and must not be disclosed to the public. To prevent inadvertent inclusion of a fee waiver application in scanned records that will be publically available, clerks must check each designation form to ensure that such an application is not attached. Several courts have indicated that it takes additional time and scarce staff resources to identify and detach fee waiver applications from record designation forms before the forms can be scanned. To eliminate these potential problems and thereby reduce court costs, this proposal would modify the designation forms to instead provide that a fee waiver application may be *submitted with*, rather than *attached to*, the designation form.

The committee is also recommending an additional change to *Respondent's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-010). Under rule 8.130, when a respondent designates additional proceedings to be included in a reporter's transcript on appeal, the respondent is responsible for the cost of transcribing those additional proceedings. Currently, however, on form APP-010 the section regarding these costs does not immediately follow the section regarding designation of these proceedings; an intervening section asks whether and in what form the respondent would like a copy of the reporter's transcript. This placement may create confusion. The committee therefore proposes moving the section of the form regarding these costs so that it immediately follows the section regarding designation of additional proceedings to be included in a reporter's transcript. This move should clarify the responsibility for these costs for litigants and thereby reduce court costs associated with correcting litigant errors in connection with deposits for these costs.

Comments, Alternatives Considered, and Policy Implications

External comments

The proposed revisions to these record designation forms were circulated for public comment between April 17 and June 19, 2015, as part of the regular spring comment cycle. Five individuals or organizations submitted comments on this proposal. Four commentators agreed with the proposal, and one agreed with the proposal if amended. A chart with the full text of the comments received and the committee's responses is attached at pages 22–26. Based on these comments, the committee recommends adopting this proposal as circulated.

The Superior Court of San Diego County, which approved the proposal if amended, suggested that the forms be modified to specify that the copy of the fee waiver application or order being submitted to the court with the record designation is a “true and correct copy.” The committee respectfully declined to make this change to the forms. The committee’s view is that the obligation to submit true and correct copies of documents is implicit. The additional language suggested by the court does not appear at other places on this form where attachments are referenced or on other forms that refer to attachments. The committee was concerned that adding this language here when it does not appear in connection with other documents attached to or submitted with forms could create the impression that the obligation to submit true and correct copies does not apply in those other situations.

Alternatives

The committee considered not proposing these form revisions. However, the committee concluded that revising these forms is likely to reduce the risk of inadvertent disclosure of confidential information and result in cost savings to the courts and therefore that it would be beneficial to pursue this proposal.

Implementation Requirements, Costs, and Operational Impacts

No implementation costs should be associated with these form revisions; instead, these revisions should result in cost *savings* for the courts.

Attachments and Links

1. Forms APP-003, APP-010, APP-103, and APP-110, at pages 5–21
2. Chart of comments, at pages 22–26

ATTORNEY (Name, State Bar number, and address): STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO. (if available): E-MAIL ADDRESS (if available): ATTORNEY FOR (name):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)	SUPERIOR COURT CASE NUMBER:
RE: Appeal filed on (date):	COURT OF APPEAL CASE NUMBER (if known):
Notice: Please read form APP-001 before completing this form. This form must be filed in the superior court, not in the Court of Appeal.	

1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

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

- a. ☐ A clerk's transcript under rule 8.122. (You must check (1) or (2) and fill out the clerk's transcript section on page 2 of this form.)
- (1) ☐ I will pay the superior court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.
- (2) ☐ I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (a) or (b)):
- (a) ☐ An order granting a waiver of court fees and costs under rule 3.50 et seq.; or
- (b) ☐ An application for a waiver of court fees and costs under rule 3.50 et seq. (Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)
- b. ☐ An appendix under rule 8.124.
- c. ☐ The original superior court file under rule 8.128. (NOTE: Local rules in the Court of Appeal, First, Third, Fourth, and Fifth Appellate Districts, permit parties to stipulate to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.)
- d. ☐ An agreed statement under rule 8.134. (You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)
- e. ☐ A settled statement under rule 8.137. (You must complete item 2b(3) below and attach to your proposed statement on appeal copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.137(b)(3).)

2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

I elect to proceed:

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

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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2. b. ☐ WITH the following record of the oral proceedings in the superior court:
- (1) ☐ A reporter's transcript under rule 8.130. *(You must fill out the reporter's transcript section on page 3 of this form.)* I have *(check all that apply)*:
- (a) ☐ Deposited the approximate cost of transcribing the designated proceedings with this notice as provided in rule 8.130(b)(1).
- (b) ☐ Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).
- (c) ☐ Attached the reporter's written waiver of a deposit for *(check either (i) or (ii))*:
- (i) ☐ all of the designated proceedings.
- (ii) ☐ part of the designated proceedings.
- (d) ☐ Attached a certified transcript under rule 8.130(b)(3)(C).
- (2) ☐ An agreed statement. *(Check and complete either (a) or (b) below.)*
- (a) ☐ I have attached an agreed statement to this notice.
- (b) ☐ All the parties have agreed in writing (stipulated) to try to agree on a statement. *(You must attach a copy of this stipulation to this notice.)* I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.
- (3) ☐ A settled statement under rule 8.137. *(You must attach the motion required under rule 8.137(a) to this form.)*

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

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

Title of Administrative Proceeding	Date or Dates
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4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

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

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

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

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

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

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

☐ I request that the clerk include the following documents from the superior court proceeding in the transcript. *(You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)*

	Document Title and Description	Date of Filing
(8)		
(9)		
(10)		
(11)		
(12)		

☐ See additional pages.

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

☐ I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court *(for each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence):*

	Exhibit Number	Description	Admitted (Yes/No)
(1)			
(2)			
(3)			
(4)			
(5)			

☐ See additional pages.

5. NOTICE DESIGNATING REPORTER'S TRANSCRIPT

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

- a. I request that the reporters provide *(check one)*:

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

(Code Civ. Proc., § 271; Cal. Rules of Court, rule 8.130(f)(4).)

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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5. b. **Proceedings**

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

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

c. The proceedings designated in 5b ☐ include ☐ do not include all of the testimony in the superior court.

If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal (*rule 8.130(a)(2) provides that your appeal will be limited to these points unless, on motion, the reviewing court permits otherwise*).

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF APPELLANT OR ATTORNEY)

ATTORNEY (name, State Bar number, and address): STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO. (if available): E-MAIL ADDRESS (if available): ATTORNEY FOR (name):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
RESPONDENT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)	SUPERIOR COURT CASE NUMBER:
Re: Appeal filed on (date):	COURT OF APPEAL CASE NUMBER (if known):
Notice: Please read Judicial Council form APP-001 before completing this form. This form must be filed in the superior court, not in the Court of Appeal.	

1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

The appellant has elected to use a clerk's transcript under rule 8.122.

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

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

	Document Title and Description	Date of Filing
(1)		
(2)		
(3)		

☐ See additional pages.

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

In addition to the exhibits designated by the appellant, I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. (For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence.)

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

☐ See additional pages.

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

2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

The appellant has elected to use a reporter's transcript under rule 8.130.

- a. ☐ **Designation of additional proceedings.** (*If you want any oral proceedings in addition to the proceedings designated by the appellant to be included in the reporter's transcript, you must identify those proceedings here.*)

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

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

☐ See additional pages.

CASE NAME:

SUPERIOR COURT CASE NUMBER:

2. a. (2) **Deposit for additional proceedings**I have (*check a, b, c, or d*):

- (a) ☐ Deposited the approximate cost of transcribing the designated proceedings with this notice as provided in rule 8.130(b)(1).
- (b) ☐ Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(b)(3)(B).
- (c) ☐ Attached the reporter's written waiver of a deposit for (*check either (i) or (ii)*):
- (i) ☐ All of the designated proceedings.
- (ii) ☐ Part of the designated proceedings.
- (d) ☐ Attached a certified transcript under rule 8.130(b)(3)(C).

b. **Copy of reporter's transcript.**

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

(Code Civ. Proc., § 271; Cal. Rules of Court, rule 8.130(f)(4).)

Date:

(TYPE OR PRINT NAME)


(SIGNATURE OF APPELLANT OR ATTORNEY)

**Appellant's Notice Designating
Record on Appeal
(Limited Civil Case)**

Clerk stamps date here when form is filed.

Instructions

- This form is only for choosing (“designating”) the record on appeal in a **limited civil case**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- This form can be attached to your notice of appeal. If it is not attached to your notice of appeal, you must serve and file this form within 10 days after you file your notice of appeal. **If you do not file this form on time, the court may dismiss your appeal.**
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service on the California Courts Online Self-Help Center site at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the original completed form and proof of service on the other parties to the clerk’s office for the same court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

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

Superior Court of California, County of

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

Trial Court Case Number:

Trial Court Case Name:

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

Appellate Division Case Number:

1 Your Information

- a. Name of Appellant (the party who is filing this appeal):

Name: _____

- b. Appellant’s contact information (*skip this if the appellant has a lawyer for this appeal*):

Street address: _____
Street City State Zip

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

Phone: _____ E-mail (*if available*): _____

- c. Appellant’s lawyer (*skip this if the appellant does not have a lawyer for this appeal*):

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

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

Phone: _____ E-mail (*if available*): _____

Fax (*if available*): _____



Information About Your Appeal

- ② On (fill in the date): _____ I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.

Record of the Documents Filed in the Trial Court

- ③ I elect (choose)/My client elects to use the following record of the documents filed in the trial court (check a or b and fill in any required information):

- a. ☐ **Clerk's Transcript.** (Fill out (1)–(4).) Note that, if the appellate division has adopted a local rule permitting this, the clerk may prepare and send the original court file to the appellate division instead of a clerk's transcript.
- (1) **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed or, if that is not available, the date the document was signed.

Document Title and Description	Date of Filing
(a) Notice of appeal	
(b) Notice designating record on appeal (this document)	
(c) Judgment or order appealed from	
(d) Notice of entry of judgment (if any)	
(e) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (if any)	
(f) Ruling on any item included under (e)	
(g) Register of actions or docket	

- (2) **Additional documents.** If you want any documents in addition to the required documents listed in (1) above to be included in the clerk's transcript, you must identify those documents here.

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

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

- ☐ Check here if you need more space to list other documents and attach a separate page or pages listing those documents. At the top of each page, write "APP-103, item 3a(2)."



3 a. (continued)

(3) **Exhibits.**

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

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

- ☐ Check here if you need more space to list other exhibits and attach a separate page or pages listing those exhibits. At the top of each page, write "APP-103, item 3a(3)."

(4) **Payment for clerk's transcript.** *(Check a or b.)*

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

OR

- b. ☐ **Agreed statement.** *(You must complete item ⑤d, below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in 3a(1) above and in rule 8.832 of the California Rules of Court.)*

Record of Oral Proceedings in the Trial Court

You do not have to provide the appellate division with a record of what was said in the trial court (this is called a record of the "oral proceedings"). But, if you do not, the appellate division will not be able to consider what was said during the trial court proceedings in deciding whether a legal error was made in those proceedings.

4 I elect (choose)/My client elects to proceed *(check a or b)*:

- a. ☐ **WITHOUT** a record of the oral proceedings in the trial court *(skip item ⑤; sign and date this form)*. I understand that if I proceed without a record of the oral proceedings, the appellate division will not be able to consider what was said in the trial court during those proceedings in deciding whether a legal error was made.

(Write initials here): _____



Trial Court Case Name:

Trial Court Case Number:

4 (continued)

- b. ☐ WITH a record of the oral proceedings in the trial court (*complete item 5 below*). I understand that if I elect (choose) to proceed WITH a record of the oral proceedings in the trial court, I have to choose the record I want to use and take the actions described below to make sure this record is provided to the appellate division. I understand that if I do not take the actions described below and the appellate division does not receive this record, I am not likely to succeed in my appeal.

(Write initials here): _____

5 I want to use the following record of what was said in the trial court proceedings in my case (*check and complete only one of the following below—a, b, c, d, or e*):

- a. ☐ **Reporter's Transcript.** *This option is available only if there was a court reporter in the trial court who made a record of what was said in court. Check with the trial court to see if there was a court reporter in your case before choosing this option. (Complete (1) and (2).):*

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

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

- ☐ Check here if you need more space to list other proceedings and attach a separate page or pages listing those proceedings. At the top of each page, write "APP-103, item 5a."

- (2) The proceedings designated in (1) ☐ include ☐ do not include all of the testimony in the trial court. If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal. (*Rule 8.834(a)(2) provides that your appeal will be limited to these points unless, on motion, the appellate division permits otherwise.*)

- ☐ Check here if you need more space to list other points and attach a separate page or pages listing those points. At the top of each page, write "APP-103, item 5a(2)."



5 a. (continued)

- (3) **Payment for reporter's transcript.** I will pay for this transcript myself or request payment from the Transcript Reimbursement Fund when I receive the court reporter's estimate of the costs of this transcript. I understand that if I do not pay the trial court clerk's office for this transcript, file with the court a written waiver of this deposit signed by the reporter, or receive approval of my Transcript Reimbursement Fund application, the transcript will not be prepared and provided to the appellate division.

(Write initials here): _____

☐ I request that the reporters provide (check one):

- (i) ☐ My copy of the reporter's transcript in paper format.
 (ii) ☐ My copy of the reporter's transcript in computer-readable format.
 (iii) ☐ My copy of the reporter's transcript in paper format and a second copy of the reporter's transcript in computer-readable format.

OR

- b. ☐ **Transcript From Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. (Check and complete (1) or (2).):*

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

OR

- c. ☐ **Copy of Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court, the court has a local rule for the appellate division permitting the use of the official electronic recording itself as the record of the proceedings, and all of the parties have agreed (stipulated) that they want to use the recording itself as the record of what was said in the case. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. You must attach a copy of your agreement (stipulation) with the other parties to this notice. (Check and complete (1) or (2).):*

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



5 (continued)

OR

- d. ☐ **Agreed Statement.** *An agreed statement is a summary of the trial court proceedings agreed to by the parties. See form APP-101-INFO for information about preparing an agreed statement. (Check (1) or (2).):*


- (1) ☐ I have attached an agreed statement to this notice.
- (2) ☐ All the parties have agreed in writing (stipulated) to try to agree on a statement (*you must attach a copy of this agreement (stipulation) to this notice*). I understand that, within 30 days after I file this notice, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.

OR

- e. ☐ **Statement on Appeal.** *A statement on appeal is a summary of the trial court proceedings approved by the trial court. See form APP-101-INFO for information about preparing a proposed statement. (Check (1) or (2).):*

- (1) ☐ I have attached my proposed statement on appeal to this notice. (*If you are not represented by a lawyer in this appeal, you must use Proposed Statement on Appeal (Limited Civil Case) (form APP-104) to prepare and file this proposed statement. You can get a copy of form APP-104 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm.*)
- (2) ☐ I have NOT attached my proposed statement on appeal to this notice. I understand that I must serve and file this proposed statement in the trial court within 20 days of the date I file this notice and that if I do not file the proposed statement on time, the court may dismiss my appeal.

Date: _____

Type or print your name_____
Signature of appellant or attorney

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

Clerk stamps date here when form is filed.

Instructions

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

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

Superior Court of California, County of

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

Trial Court Case Number:

Trial Court Case Name:

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

Appellate Division Case Number:

1 Your Information

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

Name: _____

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

Street address: _____
Street City State Zip

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

Phone: _____ E-mail (*if available*): _____

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

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

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

Phone: _____ E-mail (*if available*): _____

Fax (*if available*): _____



Information About the Appeal

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

Record of the Documents Filed in the Trial Court

- ④ The appellant elected (chose) to use a clerk's transcript under rule 8.832 as the record of the documents filed in the trial court.
- a. ☐ **Additional documents or exhibits.** *If you want any documents or exhibits in addition to those designated by the appellant to be included in the clerk's transcript, you must identify those documents here.*

(1) Documents

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

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

- ☐ Check here if you need more space to list other documents and attach a separate page or pages listing those documents. At the top of each page, write "APP-110, item 4a(1)."

(2) Exhibits

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

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

- ☐ Check here if you need more space to list other exhibits and attach a separate page or pages listing those exhibits. At the top of each page, write "APP-110, item 4a(2)."



4 (continued)

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

Record of Oral Proceedings in the Trial Court

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

- a. ☐ **Reporter's Transcript.** The appellant elected to use a reporter's transcript under rule 8.834 as the record of the oral proceedings in the trial court.

- (1) ☐ **Designation of additional proceedings to be included in the reporter's transcript.** (*If you want any proceedings in addition to the proceedings designated by the appellant to be included in the reporter's transcript, you must identify those proceedings here.*)

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

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

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



5

a. (continued)

(2) **Copy of reporter's transcript.**

- (a) ☐ I request a copy of the reporter's transcript. I will pay for this transcript myself or request payment from the Transcript Reimbursement Fund when I receive the court reporter's estimate of the costs of this transcript. I understand that if I do not pay the trial court clerk's office for this transcript or file with the court a waiver of this deposit signed by the court reporter or receive approval of my Transcript Reimbursement Fund application, I will not receive a copy.
- (b) ☐ I request that the court reporter provide (*check one*):
- (i) ☐ My copy of the reporter's transcript in paper format.
 - (ii) ☐ My copy of the reporter's transcript in computer-readable format.
 - (iii) ☐ My copy of the reporter's transcript in paper format and a second copy of the reporter's transcript in computer-readable format.

OR

- b. ☐ **Transcript From Official Electronic Recording.** The appellant elected to use the transcript from an official electronic recording as the record of the oral proceedings in the trial court under rule 8.835(b). I request a copy of this transcript. (*Check and complete (1) or (2).*):

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

OR

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

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

Date: _____

Type or print your name_____
Signature of respondent or attorney

SPR15-01**Appellate Procedure: Record on Appeal-Civil Cases** (revise forms App-003, app-010, App-103, and form App-110)

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

	Commentator	Position	Comment	<i>Suggested Committee Response</i>
1.	Law Offices of Azar Elihu by Azar Elihu, Attorney Los Angeles	A	No narrative comments submitted.	The committee notes the commentator's support for the proposal; no response required.
2.	Orange County Bar Association By Ashleigh Aitken, President	A	No narrative comments submitted.	The committee notes the commentator's support for the proposal; no response required.
3.	San Diego County Bar Association Appellate Practice Section By Victoria E. Fuller	A	<p>The Appellate Practice Section (formerly the Appellate Court Committee) of the San Diego County Bar Association appreciates the opportunity to comment on the latest proposed revisions to the California Rules of Court and, in particular, changes to the rules regulating civil appellate practice. We continue to support the Appellate Advisory Committee's ongoing effort to refine the Rules for the benefit of judges, appellate practitioners, and unrepresented litigants. In our comments below, we suggest modest modifications and identify a few issues for further consideration.</p> <p>Our section supports the proposed revisions to forms APP-003, APP-010, APP-103, and APP-110. We believe the proposed changes adequately address the dual purposes stated in the proposal: (1) to avoid clerical problems arising from the submission of confidential fee waiver applications that are physically attached to public court records; and (2) to clarify that under Rule 8.130, a respondent designating additional proceedings is responsible for the costs of preparing the additional transcripts.</p> <p>We suggest one modest change to the proposed</p>	<p>The committee notes the commentator's support for the proposal.</p> <p>The committee respectfully declines to make this</p>

SPR15-01**Appellate Procedure: Record on Appeal-Civil Cases** (revise forms App-003, app-010, App-103, and form App-110)

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

	Commentator	Position	Comment	<i>Suggested Committee Response</i>
			<p>language to further address the first purpose stated above. We propose the revised forms state that the applicant has submitted a "separate" document with the notice designating the record, to further guide the applicant that his or her fee waiver application or order should not be attached to the form being submitted. For example, on page 1 of Form APP-003, the proposed language in bold, with our modest change in brackets, would state:</p> <p>(2) I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following [separate] document with this notice designating the record (check (a) or (b)):</p> <p>We believe this slight modification would further the stated purpose of reducing submissions that contain confidential fee applications attached to the public judicial counsel form documents.</p>	change to the forms. The committee's view is that it will be clear from the proposed language of the form regarding submitting the fee waiver application with the notice designating the record that the fee waiver application is a separate document.
4.	State Bar of California Committee on Appellate Courts By John Derrick, Chair	A	The Committee supports this proposal.	The committee notes the commentator's support for the proposal; no response required.
5.	Superior Court of San Diego County By Michael M. Roddy, Executive Officer	AM	<ul style="list-style-type: none"> • Would the proposal provide cost savings? There will be a time savings for the imaging unit who will not need to detach the fee waiver (FW-001) form from the designation. Also, the appeals clerks will not need to review the designation to ensure that the confidential fee waiver is not attached and may spend less time 	The committee appreciates these responses to the specific questions in the invitation to comment

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Appellate Procedure: Record on Appeal-Civil Cases (revise forms App-003, app-010, App-103, and form App-110)

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

	Commentator	Position	Comment	Suggested Committee Response
			<p>explaining the forms.</p> <ul style="list-style-type: none">• What would the implementation requirements be for courts? For example, training staff. Minimal time to train staff. No need to change codes or procedures.• Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes• How well would this proposal work in courts of different sizes? The size of the court would not impact implementation. <p><u>Comments regarding Forms APP-003 and APP-010:</u> See separately attached PDF of annotations of suggested revisions to forms.</p> <p><u>Additional comments relative to forms -- Form APP-103 Appellant's Notice Designating Record on Appeal and Form APP-110 Respondent's Notice Designating Record on Appeal:</u></p> <p>Since the proposed revision contemplates that, going forward, the appellant will be <i>submitting</i> the relevant document, revise all relevant checkboxes, which currently state "<input type="checkbox"/> An order granting a waiver of the cost under 3.50-3.58" to read:</p>	<p>The committee appreciates these suggestions for additional changes to these forms. However, these changes are beyond the scope of the current proposal. The committee will consider these suggestions during a later rules cycle.</p> <p>The committee respectfully declines to make this change to the forms. The committee's view is that that the obligation to submit true and correct copies is implicit. The suggested additional language does not appear at other places on this form where attachments are referenced or on other forms that refer to attachments (see, for example,</p>

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Appellate Procedure: Record on Appeal-Civil Cases (revise forms App-003, app-010, App-103, and form App-110)

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

	Commentator	Position	Comment	Suggested Committee Response
			<p>“<input type="checkbox"/> A true and correct copy of the order granting waiver of the cost under 3.50-3.58.”</p> <p>Same revision in multiple locations of relevant text box in APP-103, including 3(a)(4)(b)(i), 5(b)(2)(a), 5(c)(2)(a) and in APP-110, including 4(b)(2)(a), 5(b)(2)(a) and 5(c)(2)(a).</p> <p><u>Additional Comment relative to Form APP-103 Appellant’s Notice Designating Record on Appeal:</u></p> <p>Introductory section entitled “Record of Oral Proceedings in the Trial Court” and/or the election to proceed WITHOUT a record of the oral proceedings should be revised to more specifically inform appellant of the limited scope of the appeal if he or she elects to proceed without an oral record. Currently, section 4(a) states in part: “I understand that if I proceed without a record of the oral proceedings, the appellate division will not be able to consider what was said in the trial court during those proceedings in deciding whether legal error was made.”</p> <p>The following possible revision is suggested: “I understand that if I elect to proceed without a record of the oral proceedings, the appeal will be strictly limited to legal error, and I will not be able to claim that the evidence was insufficient to support the judgment or to raise any other evidentiary issues.”</p>	<p>forms CM-110, DE-111, and GC-210). Adding this language here when it does not appear in connection with other documents submitted with or attached to forms could create the impression that the obligation to submit true and correct copies does not apply in these other situations.</p> <p>The committee appreciates this suggestion for additional changes to this form. However, these changes are beyond the scope of the current proposal. The committee will consider this suggestion during a later rules cycle.</p>

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Appellate Procedure: Record on Appeal-Civil Cases (revise forms App-003, app-010, App-103, and form App-110)

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

	Commentator	Position	Comment	Suggested Committee Response
			<p>As explained by <i>Rutter, Civil Appeals and Writs</i>, §4:45</p> <p>Absence of a record of the oral proceedings (a) bars appellant from claiming the evidence was insufficient to support the judgment or raising any other evidentiary issues and (b) also precludes a determination that the trial court abused its discretion. [<i>Aguilar v. Avis Rent A Car System, Inc.</i> (1999) 21 C4th 121, 132, 87 CR2d 132, 140; <i>Nielsen v. Gibson</i> (2009) 178 CA4th 318, 324, 100 CR3d 335, 339–340; <i>Barak v. Quisenberry Law Firm</i> (2006) 135 CA4th 654, 660, 37 CR3d 688, 692; see also ¶ 4:3]</p> <p>Many self-represented appellants, who elect to proceed without an oral record, do not understand this limitation on appellate review and only learn of it at the end of the appellate process during oral argument or when they receive a written decision affirming the trial court on that basis.</p>	