



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on September 24, 2019

Title

Rules and Forms: Miscellaneous Technical
Changes

Agenda Item Type

Action Required

Effective Date

January 1, 2020

Date of Report

August 21, 2019

Contact

Susan R. McMullan, 415-865-7990
susan.mcmullan@jud.ca.gov

Rules, Forms, Standards, or Statutes Affected
Amend rules 8.380, 8.384, 8.851, 8.866,
8.868, 8.917, and 8.919; and revise forms
APP-013, CIV-100, CIV-105, CR-131-
INFO, CR-132, CR-133, CR-134, CR-141-
INFO, CR-142, GC-363, GC-366 and POS-
040

Recommended by

Judicial Council staff

Susan R. McMullan, Supervising Attorney
Legal Services

Executive Summary

Various members of the judicial branch, members of the public, and Judicial Council staff have identified errors in the California Rules of Court and Judicial Council forms resulting from typographical errors and changes resulting from legislation, and previous rule amendments and form revisions. Judicial Council staff recommend making the necessary corrections to avoid causing confusion for court users, clerks, and judicial officers.

Recommendation

Judicial Council staff recommend that the council, effective January 1, 2020:

1. Amend rule 8.380(a) to update the reference to *Petition for Writ of Habeas Corpus* (form MC-275), which was relettered and renumbered as form HC-001;
2. Amend rule 8.384(a)(1) to update the reference to form MC-275 to form HC-001;

3. Amend the Advisory Committee Comments to rules 8.851, 8.866(a), 8.868, 8.917, and 8.919 to update the reference to *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210), which was relettered and renumbered as form CR-105;
4. Revise form APP-013 to refer to the correct rule of court in the footer;
5. Revise Request for Entry of Default (form CIV-100) and Request for Entry of Default (Fair Debt Buying Practices Act) (form CIV-105) to update to update the statutory;
6. Revise form CR-131-INFO, items 14a and 14b, to update the references to form MC-210 to form CR-105 citation in the declaration of nonmilitary status on each form. This revision will implement the changes enacted in Assembly Bill 3212, which amended Military and Veterans Code section 400 et seq.
7. Revise form CR-132, item 4b, to update the reference to form MC-210 to form CR-105;
8. Revise form CR-133, item 2b, to update the references to form MC-210 to form CR-105;
9. Revise form CR-134, items 5a(3)(b), 5b(2)(b), and 5c(2)(b), to update the reference to form MC-210 to form CR-105;
10. Revise form CR-141-INFO, items 13b and 13c, to update the references to form MC-210 to form CR-105;
11. Revise form CR-142, items 5b(2), 5c(2), and 5d(4), to update the references to form MC-210 to form CR-105;
12. Revise *Petition for Transfer Orders* (form GC-363) to add a box below the case number box in the form header to indicate the date, time, and place of the initial hearing on the petition;
13. Revise *Petition for Orders Accepting Transfer* (form GC-366) to add a box below the case number box in the form header to indicate the date, time, and place of the initial hearing on the petition; and
14. Revise *Proof of Service-Civil* (form POS-040), to correct the time frame in the Declaration of Messenger on page 2, to conform to the recently-amended time frame for leaving documents at a party's residence permitted in Code of Civil Procedure section 1011.

The text of the amended rules and the revised forms are attached at pages 4–50.

Relevant Previous Council Action

Although the Judicial Council has acted on these rules and forms, this proposal recommends only minor corrections unrelated to any prior action.

Analysis/Rationale

The changes to these rules and forms are technical in nature and necessary to correct inadvertent omissions and incorrect references.

Policy implications

None.

Comments

These proposals were not circulated for public comment because they are noncontroversial, involve technical revisions, and are therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Alternatives considered

None.

Fiscal and Operational Impacts

Operational impacts are expected to be minor. The proposed revisions may result in reproduction costs if courts provide hard copies of any of the forms recommended for revision. Because the proposed changes are technical corrections, case management systems are unlikely to need updating to implement them.

Attachments and Links

1. Cal. Rules of Court, rules 8.380, 8.384, 8.851, 8.866, 8.868, 8.917, and 8.919, at pages 4–6
2. Forms APP-013, CIV-100, CIV-105, CR-131-INFO, CR-132, CR-133, CR-134, CR-141-INFO, CR-142, GC-363, GC-366 and POS-040, at pages 7–47

Rules 8.380, 8.384, 8.851, 8.866, 8.868, 8.917, and 8.919 of the California Rules of Court would be adopted, effective January 1, 2020, to read:

Rule 8.380. Petition for writ of habeas corpus filed by petitioner not represented by an attorney

(a) Required Judicial Council form

A person who is not represented by an attorney and who petitions a reviewing court for writ of habeas corpus seeking release from, or modification of the conditions of, custody of a person confined in a state or local penal institution, hospital, narcotics treatment facility, or other institution must file the petition on *Petition for Writ of Habeas Corpus* (form ~~MC-275~~ HC-001). For good cause the court may permit the filing of a petition that is not on that form, but the petition must be verified.

(b)-Subdivision (b) ***

Rule 8.384. Petition for writ of habeas corpus filed by an attorney for a party

(a) Form and content of petition and memorandum

(1) A petition for habeas corpus filed by an attorney need not be filed on *Petition for Writ of Habeas Corpus* (form ~~MC-275~~ HC-001) but must contain the information requested in that form and must be verified. All petitions filed by attorneys, whether or not on form ~~MC-275~~ HC-001, must be either typewritten or produced on a computer, and must comply with this rule and rule 8.40(b)-(c) relating to document covers and rule 8.204(a)(1)(A) relating to tables of contents and authorities. A petition that is not on form ~~MC-275~~ HC-001 must also comply with the remainder of rule 8.204(a)(b).

(a)(2)-Subdivision (b)(4) ***

Rule 8.851. Appointment of appellate counsel

(a)-(c) ***

Advisory Committee Comment

Request for Court-Appointed Lawyer in Misdemeanor Appeal (form CR-133) may be used to request that appellate counsel be appointed in a misdemeanor case. 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 ~~MC-210~~ CR-105) to show

1 indigency. These forms are available at any courthouse or county law library or online at
2 www.courts.ca.gov/forms.

3
4
5 **Rule 8.866. Preparation of reporter's transcript**

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7 **(a)-(f) *****

8
9 **Advisory Committee Comment**

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11 Subdivision (a). If the appellant was not represented by the public defender or other appointed
12 counsel in the trial court, the appellant must use *Defendant's Financial Statement on Eligibility*
13 *for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form
14 ~~MC-210~~ CR-105) to show indigency. This form is available at any courthouse or county law
15 library or online at www.courts.ca.gov/forms.

16
17 Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii) ***

18
19
20 **Rule 8.868. Record when trial proceedings were officially electronically recorded**

21
22 **(a)-(f) *****

23
24 **Advisory Committee Comment**

25
26 Subdivision (d). If the appellant was not represented by the public defender or other appointed
27 counsel in the trial court, the appellant must use *Defendant's Financial Statement on Eligibility*
28 *for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form
29 ~~MC-210~~ CR-105) to show indigency. This form is available at any courthouse or county law
30 library or online at www.courts.ca.gov/forms.

31
32
33 **Rule 8.917. Record when trial proceedings were officially electronically recorded**

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35 **(a)-(f) *****

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37
38 **Advisory Committee Comment**

39
40 Subdivision (d). The appellant must use *Defendant's Financial Statement on Eligibility for*
41 *Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form ~~MC-~~
42 240 CR-105) to show indigency. This form is available at any courthouse or county law library or
43 online at www.courts.ca.gov/forms.

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

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3 **(a)-(f) *****

4
5 **Advisory Committee Comment**

6 Subdivision (a). The appellant must use *Defendant's Financial Statement on Eligibility for*
7 *Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form ~~MC-~~
8 ~~240~~ CR-105) to show indigency. This form is available at any courthouse or county law library or
9 online at www.courts.ca.gov/forms.

10
11 Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii). ***

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
Plaintiff: _____ Defendant: _____	
MEMORANDUM OF COSTS ON APPEAL	CASE NUMBER: _____
NOTE: You must file a proof of service of this document. For this purpose, Judicial Council proof of service forms are available. (See www.courts.ca.gov/forms.htm?filter=POS.) An appropriate form may be completed and filed to show proof of service.	

Prevailing party (name): _____

claims from (name): _____

the following costs on appeal:

TOTALS

- | | | |
|---|-------|--|
| 1. Filing fees | 1. \$ | <input style="width: 90%;" type="text"/> |
| 2. Preparation of the original and copies of clerk's transcript or appendix | 2. \$ | <input style="width: 90%;" type="text"/> |
| 3. Preparation of reporter's transcript | 3. \$ | <input style="width: 90%;" type="text"/> |
| 4. Printing and copying of briefs | 4. \$ | <input style="width: 90%;" type="text"/> |
| 5. Production of additional evidence | 5. \$ | <input style="width: 90%;" type="text"/> |
| 6. Transmitting, filing, and serving of record, briefs, and other papers | 6. \$ | <input style="width: 90%;" type="text"/> |
| 7. Premium on any surety bond on appeal | 7. \$ | <input style="width: 90%;" type="text"/> |
| 8. Other expenses reasonably necessary to secure surety bond | 8. \$ | <input style="width: 90%;" type="text"/> |
| 9. Other: _____ (specify authority): _____ | 9. \$ | <input style="width: 90%;" type="text"/> |

TOTAL COSTS:

\$

I am ☐ the party ☐ counsel for the party ☐ agent for the party who claims the costs listed above.

To the best of my knowledge, the items of cost are correct and were necessarily incurred in this case on appeal.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____



(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Page 1 of 1

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 06/16/19 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Plaintiff/Petitioner: Defendant/Respondent:	
REQUEST FOR <input type="checkbox"/> Entry of Default <input type="checkbox"/> Clerk's Judgment (Application) <input type="checkbox"/> Court Judgment	CASE NUMBER:
Not for use in actions under the Fair Debt Buying Practices Act (Civ. Code, § 1788.50 et seq.) (see CIV-105)	

1. TO THE CLERK: On the complaint or cross-complaint filed

- a. on (date):
- b. by (name):
- c. ☐ Enter default of defendant (names):
- d. ☐ I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names):

(Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)

- e. ☐ Enter clerk's judgment
- (1) ☐ for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
- ☐ Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The *Prejudgment Claim of Right to Possession* was served in compliance with Code of Civil Procedure section 415.46.
- (2) ☐ under Code of Civil Procedure section 585(a). (Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).)
- (3) ☐ for default previously entered on (date):

2. Judgment to be entered.

	<u>Amount</u>	<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint	\$	\$	\$
b. Statement of damages*			
(1) Special	\$	\$	\$
(2) General	\$	\$	\$
c. Interest	\$	\$	\$
d. Costs (see reverse)	\$	\$	\$
e. Attorney fees	\$	\$	\$
f. TOTALS	\$	\$	\$

g. **Daily damages** were demanded in complaint at the rate of: \$ _____ per day beginning (date): _____

(* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)

3. ☐ (Check if filed in an unlawful detainer case.) **Legal document assistant or unlawful detainer assistant** information is on the reverse (complete item 4).

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

**FOR COURT
USE ONLY**

- (1) ☐ Default entered as requested on (date): _____
- (2) ☐ Default NOT entered as requested (state reason): _____

Clerk, by _____, Deputy

Page 1 of 2

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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4. **Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.).** A legal document assistant or unlawful detainer assistant ☐ did ☐ did **not** for compensation give advice or assistance with this form. If declarant has received **any** help or advice for pay from a legal document assistant or unlawful detainer assistant, state:

- | | |
|--|----------------------------|
| a. Assistant's name: | c. Telephone no.: |
| b. Street address, city, and zip code: | d. County of registration: |
| | e. Registration no.: |
| | f. Expires on (date): |

5. ☐ **Declaration under Code Civ. Proc., § 585.5** (for entry of default under Code Civ. Proc., § 585(a)). This action

- a. ☐ is ☐ is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
b. ☐ is ☐ is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
c. ☐ is ☐ is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

6. **Declaration of mailing (Code Civ. Proc., § 587).** A copy of this *Request for Entry of Default* was

- a. ☐ **not mailed** to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (*names*):
b. ☐ **mailed** first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
(1) Mailed on (date): (2) To (specify names and addresses shown on the envelopes):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

7. **Memorandum of costs** (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- | | | |
|--------------------------|-------|----|
| a. Clerk's filing fees | | \$ |
| b. Process server's fees | | \$ |
| c. Other (specify): | | \$ |
| d. | | \$ |
| e. TOTAL | | \$ |

- f. ☐ Costs and disbursements are waived.
g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

8. **Declaration of nonmilitary status** (required for a judgment). No defendant named in item 1c of the application is in the military service as that term is defined by either the Servicemembers Civil Relief Act, 50 U.S.C. App. § 3911(2), or California Military and Veterans Code sections 400 and 402(f).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT 06/16/19 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Plaintiff/Petitioner: Defendant/Respondent:	
REQUEST FOR (Application) <input type="checkbox"/> Entry of Default <input type="checkbox"/> Judgment	CASE NUMBER:
For use only in actions under the Fair Debt Buying Practices Act (Civ. Code, § 1788.50 et seq.)	

1. On the complaint or cross-complaint filed

- a. on (date):
- b. by (name):
- c. ☐ Enter default of defendant (names):
- d. ☐ I request a judgment under Civil Code section 1788.60 and Code of Civil Procedure section 585 against defendant (names):

(Testimony may be required. Check with the clerk regarding whether a hearing date is needed.)

- e. ☐ Default was previously entered on (date):

2. Judgment to be entered.	<u>Amount</u>	<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint*	\$	\$	\$
b. Interest	\$	\$	\$
c. Costs (see page 3)	\$	\$	\$
d. Attorney fees	\$	\$	\$
e. TOTALS	\$	\$	\$

(* Must be established by business records, authenticated through a sworn declaration, submitted with this application. (Civ. Code, §§ 1788.58(a)(4), 1788.60(a).))

3. This action is not barred by the applicable statute of limitations (Civ. Code, § 1788.56).

4. **Requirements for the complaint.**

- a. The complaint alleges ALL of the following (Civ. Code, §§ 1788.58, 1788.60):
 - (1) That the plaintiff is a debt buyer;
 - (2) A short, plain statement regarding the nature of the underlying debt and the consumer transaction from which it is derived;
 - (3) That the plaintiff is EITHER the sole owner of the debt OR has the authority to assert the rights of all owners of the debt;
 - (4) The debt balance at charge-off and an explanation of the amount and nature of, and reason for, all post-charge-off interest and fees, if any, imposed by the charge-off creditor or any subsequent purchasers of the debt;
 - (5) The date of the default OR the date of the last payment;
 - (6) The name and address of the charge-off creditor at the time of charge-off in sufficient form so as to reasonably identify the charge-off creditor, and the charge-off creditor's account number associated with the debt;

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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4. a. (7) The name and last known address of the debtor as they appeared in the charge-off creditor's records prior to the sale of the debt;
- (8) The names and addresses of all persons or entities that purchased the debt after charge-off, including the plaintiff debt buyer, in sufficient form so as to reasonably identify each such purchaser; and
- (9) That the plaintiff has complied with Civil Code section 1788.52.
- b. A copy of the contract or other document described in Civil Code section 1788.52(b) is attached to the complaint.
5. **Documentation requirements for default judgment.** ALL of the following documents are submitted with this request for default judgment (Civ. Code, § 1788.60(a)–(c)):
- a. A copy of the contract or other document evidencing the debtor's agreement to the debt, authenticated through a sworn declaration. See Civil Code section 1788.52(b) regarding documentation, including for revolving credit accounts.
- b. Business records, authenticated through a sworn declaration, to establish:
- (1) That the plaintiff is EITHER the sole owner of the debt OR has the authority to assert the rights of all owners of the debt;
- (2) The debt balance at charge-off, and an explanation of the amount and nature of, and reason for, all post-charge-off interest and fees, if any, imposed by the charge-off creditor or any subsequent purchasers of the debt;
- (3) The date of the default OR the date of the last payment;
- (4) The name and address of the charge-off creditor at the time of charge-off in sufficient form so as to reasonably identify the charge-off creditor, and the charge-off creditor's account number associated with the debt;
- (5) The name and last known address of the debtor as they appeared in the charge-off creditor's records prior to the sale of the debt; and
- (6) The names and addresses of all persons or entities that purchased the debt after charge-off, including the plaintiff debt buyer, in sufficient form so as to reasonably identify each such purchaser.

Date:



(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

**FOR COURT
USE ONLY**(1) ☐ Default entered as requested on *(date)*:(2) ☐ Default NOT entered as requested *(state reason)*:

Clerk, by _____, Deputy

6. **Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.).** A legal document assistant or unlawful detainer assistant ☐ did ☐ did **not** for compensation give advice or assistance with this form. If declarant has received **any** help or advice for pay from a legal document assistant or unlawful detainer assistant, state:
- a. Assistant's name: c. Telephone no.:
- b. Street address, city, and zip code: d. County of registration:
- e. Registration no.:
- f. Expires on *(date)*:
7. ☐ **Declaration under Code Civ. Proc., § 585.5** (for entry of default under Code Civ. Proc., § 585(a)). This action
- a. ☐ is ☐ is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
- b. ☐ is ☐ is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
- c. ☐ is ☐ is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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8. **Declaration of mailing (Code Civ. Proc., § 587).** A copy of this *Request for Entry of Default* was

- a. ☐ **not mailed** to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (*names*):
- b. ☐ **mailed** first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
- (1) Mailed on (*date*): (2) To (*specify names and addresses shown on the envelopes*):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 6, 7, and 8 are true and correct.

Date:

(TYPE OR PRINT NAME)

▶

(SIGNATURE OF DECLARANT)

9. **Declaration of nonmilitary status (required for a judgment).** No defendant named in item 1c of the application is in the military service as that term is defined by either the Servicemembers Civil Relief Act, 50 U.S.C. App. § 3911(2), or California Military and Veterans Code sections 400 and 402(f).

10. **Memorandum of costs (required if money judgment requested).** Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- a. Clerk's filing fees \$
- b. Process server's fees \$
- c. Other (*specify*): \$
- d. \$
- e. **TOTAL** \$
- f. ☐ Costs and disbursements are waived.
- g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing items 9 and 10 are true and correct.

Date:

(TYPE OR PRINT NAME)

▶

(SIGNATURE OF DECLARANT)

1 What does this information sheet cover?

This information sheet tells you about appeals in misdemeanor cases. It is only meant to give you a general idea of the appeal process, so it does not cover everything you may need to know about appeals in misdemeanor cases. To learn more, you should read rules 8.800–8.816 and 8.850–8.890 of the California Rules of Court, which set out the procedures for misdemeanor appeals. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

2 What is a misdemeanor?

A misdemeanor is a crime that can be punished by jail time of up to one year, but not by time in state prison. (See Penal Code sections 17 and 19.2. You can get a copy of these laws at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.) If you were also charged with or convicted of a felony, then your case is a felony case, not a misdemeanor case.

3 What is an appeal?

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

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

- **Prejudicial error:** The party that appeals (called the “appellant”) may ask the appellate division to determine if an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called “prejudicial error”). Prejudicial error can include things like errors made by the judge about the law, errors or misconduct by the lawyers, incorrect

For information about appeal procedures in other cases, see:

- *Information on Appeal Procedures for Infractions* (form CR-141-INFO)
- *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO)

You can get these forms at any courthouse or county law library or online at www.courts.ca.gov/forms.

instructions given to the jury, and misconduct by the jury that harmed the appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. It is the responsibility of the appellant to show the appellate division that an error was made and that the error was harmful.

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

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

4 Do I need a lawyer to appeal?

You do not *have* to have a lawyer; you are allowed to represent yourself in an appeal in a misdemeanor case. But appeals can be complicated, and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you are representing yourself, you must put your address, telephone number, fax number, and e-mail address (if available) on the cover of every document



you file with the court and let the court know if this contact information changes so that the court can contact you if needed.

5 How do I get a lawyer to represent me?

The court is required to appoint a lawyer to represent you if you are indigent (you cannot afford to pay for a lawyer) and:

- Your punishment includes going to jail or paying a fine of more than \$500 (including penalty and other assessments) or
- You are likely to suffer other significant harm as a result of being convicted.

The court may, but is not required to, appoint a lawyer to represent you on appeal in other circumstances if you are indigent. You are automatically considered indigent if you were represented by the public defender or other court-appointed lawyer in the trial court. You will also be considered indigent if you can show that your income and assets are too low to pay for a lawyer.

If you think you are indigent, you can ask the court to appoint a lawyer to represent you for your appeal. You may use *Request for Court-Appointed Lawyer in Misdemeanor Appeal* (form CR-133) to ask the court to appoint a lawyer to represent you on appeal in a misdemeanor case. You can get form CR-133 at any courthouse or county law library or online at www.courts.ca.gov/forms.

If you want a lawyer and you are not indigent or if the court turns down your request to appoint a lawyer, you must hire a lawyer at your own expense. You can get information about finding a lawyer on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp.htm at the “Getting Started” tab.

6 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative.

The party that is appealing is called the APPELLANT; in a misdemeanor case, this is usually the party

convicted of committing the misdemeanor. The other party is called the RESPONDENT; in a misdemeanor case, this is usually the government agency that filed the criminal charges (on court papers, this party is called the People of the State of California).

7 Can I appeal any decision that the trial court made?

No. Generally, you may appeal only the final judgment—the decision at the end that decides the whole case. The final judgment includes the punishment that the court imposed. With the exception listed below, rulings made by the trial court before final judgment generally cannot be separately appealed, but can be reviewed only later as part of an appeal of the final judgment. In a misdemeanor case, the party convicted of committing a misdemeanor usually appeals that conviction or the sentence (punishment) ordered by the trial court. In a misdemeanor case, a party can also appeal:

- Before the trial court issues a final judgment in the case, from an order granting or denying a motion to suppress evidence (Penal Code section 1538.5(j))
- From an order made by the trial court after judgment that affects a substantial right of the appellant (Penal Code section 1466(2)(B))

You can get a copy of these laws at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

8 How do I start my appeal?

First, you must file a notice of appeal. The notice of appeal tells the other party in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal (Misdemeanor)* (form CR-132) to prepare and file a notice of appeal in a misdemeanor case. You can get form CR-132 at any courthouse or county law library or online at www.courts.ca.gov/forms.

9 Is there a deadline for filing my notice of appeal?

Yes. Except in the very limited circumstances listed in rule 8.853(b), in a misdemeanor case, you must file your notice of appeal within **30 days** after the trial court



makes (“renders”) its final judgment in your case or issues the order you are appealing. (You can get a copy of rule 8.853 at any courthouse or county law library or online at www.courts.ca.gov/rules) The date the trial court makes its judgment is normally the date the trial court issues its order saying what your punishment is (sentences you). **This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.**

10 How do I file my notice of appeal?

To file the notice of appeal in a misdemeanor case, you must bring or mail the original notice of appeal to the clerk of the trial court that made the judgment or issued the order you are appealing. It is a good idea to bring or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

There is no fee for filing the notice of appeal in a misdemeanor case. You can ask the clerk of that court if there are any other requirements for filing your notice of appeal.

After you file your notice of appeal, the clerk will send a copy of your notice of appeal to the office of the prosecuting attorney (for example, the district attorney, county counsel, city attorney, or state Attorney General).

11 If I file a notice of appeal, do I still have to go to jail or complete other parts of my punishment?

Filing the notice of appeal does NOT automatically postpone your punishment, such as serving time in jail, paying fines, or probation conditions.

If you have been sentenced to jail in a misdemeanor case, you have a right to be released either with or without bail while your appeal is waiting to be decided, but you must ask the court to set bail or release you. If the trial court has not set bail or released you after your notice of appeal has been filed, you must ask the trial court to set bail or release you. If the trial court denies your release or sets the bail amount higher than you think it should be, you can apply to the appellate division for release or for lower bail.

Other parts of your punishment, such as fines or probation conditions, will be postponed (“stayed”) only if you request a stay and the court grants your request. If you want a stay, you must first ask the trial court for a stay. You can also apply to the appellate division for a stay, but you must show in your application to the appellate division that you first asked the trial court for a stay and that the trial court unjustifiably denied your request. If you do not get a stay and you do not pay your fine or complete another part of your punishment by the date ordered by the court, a warrant may be issued for your arrest or a civil collections process may be started against you, which could result in a civil penalty being added to your fine.

12 What do I need to do after I file my appeal?

You must tell the trial court (1) whether you have agreed with the respondent (“stipulated”) that you do not need parts of the normal record on appeal, and (2) whether you want a record of what was said in the trial court (this is called a record of the “oral proceedings”) sent to the appellate division and, if so, what form of that record you want to use. You may use *Notice Regarding Record on Appeal (Misdemeanor)* (form CR-134) for this notice. (You can get form CR-134 at any courthouse or county law library or online at www.courts.ca.gov/forms) You must file this notice either:

- (1) within 20 days after you file your notice of appeal, or, if it is later
- (2) within 10 days after the court decides whether to appoint a lawyer to represent you (if you ask the court to appoint a lawyer within 20 days after you file your notice of appeal).

13 In what cases does the appellate division need a record of what was said in the trial court?

You do not *have* to send the appellate division a record of what was said in the trial court. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of these oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the



judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings. Since the appellate division judges were not there for the proceedings in the trial court, an official record of these oral proceedings must be prepared and sent to the appellate division for its review.

Depending on what form of the record you choose to use, you will be responsible for paying to have the official record of the oral proceedings prepared (unless you are indigent) or for preparing an initial draft of this record yourself. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. If the appellate division does not receive this record, it will not be able to consider what was said in the trial court in deciding whether a legal error was made and it may dismiss your appeal.

14 What are the different forms of the record?

There are three ways a record of the oral proceedings in the trial court can be prepared and provided to the appellate division in a misdemeanor case:

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

Read below for more information about these options.

a. Reporter’s transcript

When available: In some misdemeanor cases, a court reporter is there in the trial court and makes a record of the oral proceedings. If a court reporter made a record of your case, you can ask to have the court reporter prepare a transcript of those oral

proceedings, called a “reporter’s transcript.” You should check with the trial court to see if a court reporter made a record of your case before you choose this option. Some courts also have local rules that establish procedures for deciding whether a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising on appeal. You should check whether the court has such a local rule.

Cost: Ordinarily, the appellant must pay for preparing a reporter’s transcript. The court reporter will provide the clerk of the trial court with an estimate of the cost of preparing the transcript and the clerk will notify you of this estimate. If you want the reporter to prepare a transcript, you must deposit this estimated amount or one of the substitutes allowed under rule 8.866 with the clerk within 10 days after the clerk sends you the estimate. However, under rule 8.866 you can decide to use a different form of the record or take other action instead of proceeding with a reporter’s transcript.

If, however, you are indigent (you cannot afford to pay the cost of a reporter’s transcript), you may be able to get a free transcript. If you were represented by the public defender or another court-appointed lawyer in the trial court, you are automatically considered indigent. If you were not represented by a court-appointed lawyer in the trial court, you can complete and file *Defendant’s Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105), to show that you are indigent. You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide whether you are indigent.

If the court finds that you are indigent, a court reporter made a record of your case, and you show that you need a transcript, the court must provide you with a free transcript. Whether you need a transcript depends on the issues you are raising on appeal. If the issues you are raising on appeal include that there was not substantial evidence supporting the judgment, order, or other decision

you are appealing or that there was misconduct in your case that harmed you, that is generally enough to show that you need a transcript. If you ask for a reporter's transcript, the court may ask you what issues you are raising on appeal and may decide that a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising.

If the court finds that you are not indigent, it will send you a notice and you will have a chance to pick another form of the record or take other actions listed in rule 8.866.

Completion and delivery: Once you deposit the estimated cost of the transcript or one of the substitutes allowed under rule 8.866 or show the court you are indigent and need a transcript, the clerk will notify the reporter to prepare the transcript. When the reporter completes the transcript, the clerk will send the reporter's transcript to the appellate division along with the clerk's transcript.

b. Official electronic recording or transcript from an official recording

When available: In some misdemeanor cases, the trial court proceedings are officially recorded on approved electronic recording equipment. If your case was officially recorded, you can ask to have a transcript prepared from that official electronic recording. You should check with the trial court to see if your case was officially electronically recorded before you choose this option. As with reporter's transcripts, some courts also have local rules that establish procedures for deciding whether a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising on appeal. You should check whether the court has such a local rule.

If the court has a local rule for the appellate division permitting this and all the parties agree ("stipulate"), a copy of the official electronic recording itself can be used as the record of the oral proceedings instead of preparing a transcript. You should check with the trial court to see if your

case was officially electronically recorded and check to make sure there is a local rule permitting the use of the recording itself before choosing this option. If you choose this option, you must attach a copy of your agreement with the other parties (called a "stipulation") to your notice regarding the oral proceedings.

Cost: Ordinarily, the appellant must pay for preparing a transcript or making a copy of the official electronic recording. The court will send you an estimate of the cost for this transcript or the copy of the electronic recording. If you still want this transcript or recording, you must deposit this amount with the court. However, you can also choose to use a statement on appeal instead, or take one of the other actions listed in rule 8.868.

If, however, you are indigent (you cannot afford to pay the cost of the transcript or recording), you may be able to get a free transcript or recording. If you were represented by the public defender or another court-appointed attorney in the trial court, you are automatically considered indigent. If you were not represented by a court-appointed lawyer in the trial court, you can complete and file *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105) to show that you are indigent. You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide whether you are indigent.

If you are indigent, an official electronic recording of your case was made, and you show that you need a transcript, the court must provide you with a free transcript. As with reporter's transcripts, whether you need a transcript depends on the issues you are raising on appeal. If the issues you are raising on appeal include that there was not substantial evidence supporting the judgment, order, or other decision you are appealing or that there was misconduct in your case that harmed you, that is generally enough to show that you need a transcript. If you ask for a transcript, the court may ask you what issues you are raising on appeal and may decide that a statement on appeal or a transcript of only some of the oral

proceedings will be a good enough record to consider the issues you are raising.

If the court finds that you are not indigent, it will send you a notice and you will have a chance to use a statement on appeal instead or take one of the other actions listed in rule 8.868.

Completion and delivery: Once you deposit the estimated cost of the transcript or the official electronic recording with the clerk or show the court you are indigent and need a transcript, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared, the clerk will send the transcript or recording to the appellate division along with the clerk's transcript.

c. Statement on appeal

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

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

Contents: A statement on appeal must include:

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

(See rule 8.869 of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.htm)

Preparing a proposed statement: If you choose to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use *Proposed Statement on Appeal (Misdemeanor)* (form CR-135) to prepare your proposed statement. You can get form CR-135 at any courthouse or county law library or online at www.courts.ca.gov/forms.

Serving and filing a proposed statement: You must serve and file your proposed statement in the trial court within 20 days after you file your notice regarding the record of the oral proceedings. "Serve and file" means that you must:

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



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

Review and modifications: The prosecuting attorney and any other party have 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial court judge then reviews both your proposed statement and any proposed amendments filed by the prosecuting attorney and any other party. The judge will then make or order you to make any corrections or modifications to the statement needed to make sure that the statement provides a complete and accurate summary of the relevant testimony and other evidence.

Completion and certification: If the judge makes or orders you to make any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you, the prosecuting attorney, and any other party for your review. If you disagree with anything in the judge’s statement, you will have 10 days from the date the statement is sent you to serve and file objections to the statement. The judge then reviews any objections, makes any additional corrections to the statement, and certifies the statement as a complete and accurate summary of the relevant testimony and other evidence.

Sending the statement to appellate division: Once the trial court judge certifies the statement on appeal, the trial court clerk will send the statement to the appellate division along with the clerk’s transcript.

15 Is there any other part of the record that needs to be sent to the appellate division?

Yes. There are two other parts of the official record that need to be sent to the appellate division:

- **Documents filed in the trial court:** The trial court clerk is responsible for preparing a record of the

written documents filed in your case, called a “clerk’s transcript,” and sending this to the appellate division. (The documents the clerk must include in this transcript are listed in rule 8.861 of the California Rules of Court. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules)

- **Exhibits submitted during trial:** Exhibits, such as photographs, that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court are considered part of the record on appeal. If you want the appellate division to consider such an exhibit, however, you must ask the trial court clerk to send the original exhibit to the appellate division within 10 days after the last respondent’s brief is filed in the appellate division. (See rule 8.870 of the California Rules of Court for more information about this procedure. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.) Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for the exhibit to be sent to the appellate division, the party who has the exhibit must deliver that exhibit to the appellate division as soon as possible.

16 What happens after the record is prepared?

As soon as the record of the oral proceeding is ready, the clerk of the trial court will send it to the appellate division along with the clerk’s transcript. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

17 What is a brief?

A brief is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to prepare your brief yourself. You should read rules 8.880–8.891 of the California Rules of Court, which set out the requirements for preparing,

serving, and filing briefs in misdemeanor appeals, including requirements for the format and length of those briefs. You can get copies of these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

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

Serving and filing: You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division. “Serve and file” means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver (“serve”) the brief to the respondent (the prosecuting agency) and any other party in the way required by law.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail or in person), and the date the brief was served.
- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and at www.courts.ca.gov/selfhelp-serving.htm.

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

18 What happens after I file my brief?

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

If the respondent serves and files a brief, within 20 days after the respondent’s brief was served, you may, but are not required to, serve and file another brief replying to the respondent’s brief. This is called a “reply brief.”

19 What happens after all the briefs have been filed?

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

20 What is oral argument?

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

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



21 What happens after oral argument?

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

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

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called “abandoning”) your appeal. You can use *Abandonment of Appeal (Misdemeanor)* (form CR-137) to file this notice in a misdemeanor case. You can get form CR-137 at any courthouse or county law library or online at www.courts.ca.gov/forms.

If you decide not to continue your appeal and it is dismissed, you will (with only very rare exceptions) permanently give up the chance to raise any objections to your conviction, sentence, or other matter that you could have raised on the appeal. If you were released from custody with or without bail or your sentence or any probation conditions were stayed during the appeal, you may be required to start serving your sentence or complying with your probation conditions immediately after your appeal is dismissed.

Clerk stamps date here when form is filed.

Instructions

- This form is only for appealing in a **misdemeanor case**. You can get other forms for appealing in a civil or infraction case at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- **You must file this form no later than 30 days after the trial court issued the judgment or order you are appealing** (see rule 8.853(b) of the California Rules of Court for very limited exceptions). **If your notice of appeal is late, the court will not take your appeal.**
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the clerk's office for the same trial 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 (required):

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

- c. Appellant's lawyer in the trial court proceedings:

The lawyer filling out this form ☐ is ☐ is not representing the appellant in this appeal.

If a court-appointed lawyer on appeal is being requested, see item **4**.

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

2 Judgment or Order You Are Appealing

I am/My client is appealing (*check one*):

- a. ☐ The final judgment of conviction in this case (Pen. Code, § 1466(b)(1)).
☐ I am/My client is contesting only the conditions of the probation.
- b. ☐ The following order made after the judgment in this case that affects an important right of mine/my client (for example, an order after a probation violation) (Pen. Code, § 1466(b)(1)).
☐ An order modifying the conditions of probation.
☐ Other (*describe the action you are appealing and give the date the trial court took the action*):

- c. ☐ The trial court has not yet issued a final judgment in this case. I am appealing before final judgment an order that denied a motion to suppress evidence in this case (Pen. Code, § 1538.5(j)).
- d. ☐ Other action (*describe the action you are appealing and give the date the trial court took the action*):

3 Record on Appeal

(*See form CR-131-INFO for information about the record on appeal.*)

- a. ☐ I have attached a completed *Notice Regarding Record on Appeal (Misdemeanor)* (form CR-134).
- b. ☐ I have **not** attached a *Notice Regarding Record on Appeal (Misdemeanor)* (form CR-134). I understand that I must file this notice in the trial court within either (1) 20 days after I file this notice of appeal or, if it is later, (2) 10 days after the court appoints a lawyer for me (if I file a request for a court-appointed lawyer within 20 days after I file my notice of appeal). I also understand that if I do not file the notice on time, the court will not be able to consider what was said in the trial court in deciding whether an error was made in the trial court proceedings. In addition, I understand that if I am represented by a court-appointed lawyer and I do not file the notice regarding the record on time, the court may appoint a new lawyer. If I represent myself or hire a lawyer to represent me, and I do not file the notice regarding the record on time, the court may dismiss my appeal.

4 Court-Appointed Lawyer

- a. Do you/Does your client want to be represented by a court-appointed lawyer in this appeal? (*Answer yes or no.*)
☐ Yes. Complete and attach *Request for Court-Appointed Lawyer in Misdemeanor Appeal* (form CR-133).
☐ No.
- b. Were you/Was your client represented by the public defender or other court-appointed lawyer in the trial court? (*Answer yes or no.*)
☐ Yes.
☐ No. If you answered yes to 4a, complete and attach *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105).

REMINDER—Except in the very limited circumstances listed in rule 8.853, you must file this form no later than 30 days after the trial court issued the judgment or order you are appealing in your case. If your notice of appeal is late, the court will not take your appeal.

Date: _____

Type or print your name



Signature of appellant or attorney

Request for Court-Appointed Lawyer in Misdemeanor Appeal

Clerk stamps date here when form is filed.

Instructions

- This form is only for requesting that the court appoint a lawyer to represent a person appealing in a **misdemeanor** case.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- The court is required to appoint a lawyer to represent you on appeal only if you cannot afford to hire a lawyer and
 - (1) your punishment includes going to jail or paying a fine of more than \$500 (including penalty and other assessments), or
 - (2) you are likely to suffer other significant harm as a result of being convicted.
- This form can be filed at the same time as your notice of appeal.
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the clerk's office for the same trial court where you filed your notice of appeal. 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: _____

Street address: _____

<i>Street</i>	<i>City</i>	<i>State</i>	<i>Zip</i>
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Mailing address (if different): _____
 Street City State Zip

Phone: _____ E-mail: _____

- b. Appellant's lawyer (*skip this if the appellant is filling out this form*):

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

Fax:

Trial Court Case Name: _____

Trial Court Case Number: _____

Information About Your Case


- 2 Were you/was your client represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case? (Check a or b.)
- a. ☐ Yes
- b. ☐ No (Complete and attach Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense (form CR-105) showing that you/your client cannot afford to hire a lawyer. You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms.)
- 3 Describe the punishment the trial court gave you/your client in this case (check all that apply and fill in any required information):
- a. ☐ Jail time
- b. ☐ A fine (including penalty and other assessments) (fill in the amount of the fine): \$ _____
- c. ☐ Restitution (fill in the amount of the restitution): \$ _____
- d. ☐ Probation (fill in the amount of time on probation): _____
- e. ☐ Other punishment (describe any other punishment that the trial court gave you/your client in this case):

- 4 Describe any significant harm that you are/your client is likely to suffer because of this conviction:

Notice to Appellant: If you were represented by appointed counsel in the trial court and the trial court finds that you are able to pay all or part of the cost of that counsel, at the conclusion of the proceedings, the court may also determine after a hearing whether you are able to pay all or a portion of the cost of any attorney appointed to represent you in this appeal. If the court determines that you are at that time able to pay, the court will order you to pay all or part of such cost. Such orders will have the same force and effect as a judgment in a civil action and will be subject to enforcement.

Date: _____

Type or print name

 _____
Signature of appellant or attorney

Instructions

- This form is only for giving the court notice about the record on appeal in a **misdemeanor case**.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- This form can be filed with your notice of appeal. If it is not filed with your notice of appeal, this form must be filed within either:
 - (1) 20 days after you file your notice of appeal, or, if it is later
 - (2) 10 days after the court appoints a lawyer to represent you on appeal (if you file a request for a court-appointed lawyer within 20 days after you file your notice of appeal).
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the clerk's office for the same trial court where you filed your notice of appeal. 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 (required):

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

- c. Appellant's lawyer in the trial court proceedings:

The lawyer filling out this form ☐ is ☐ is not representing the appellant in this appeal.

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

Fax: _____

Trial Court Case Name: _____

Trial Court Case Number: _____

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.

Your Choices About the Record on Appeal

Stipulation for Limited Record

- ③ ☐ The respondent and I/my client have agreed (“stipulated”) under rule 8.860 that parts of the normal record on appeal are not required for proper determination of this appeal. A copy of our stipulation identifying those parts of the record that are not required is attached.

Record of Oral Proceedings

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): _____
- 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 proceeding 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— a, b, c, or d*):

- 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. Some courts also have local rules that establish procedures for determining whether only a portion of a reporter's transcript or a different form of the record will be sufficient for an effective appeal. Check with the trial court to see if it has such a local rule. (Check and complete (1), (2) or (3).)*
- (1) ☐ Within 10 days of when I receive the court reporter's estimate of the cost of this transcript, I will file a certified transcript of all the proceedings required by rule 8.865 that complies with rule 8.144.
- (2) ☐ I will pay the trial court clerk's office for the reporter's transcript myself within 10 days of when I receive the court reporter's estimate of the costs of this transcript. Alternatively, I will pay the reporter directly and file with the trial court a written waiver of deposit signed by the reporter. I understand that if I do not pay for this transcript, it will not be prepared and provided to the appellate division.
- (3) ☐ I am asking that the reporter's transcript be prepared at no cost to me because I cannot afford to pay this cost.
- (a) ☐ I was represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case.
- (b) ☐ I was not represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case, but I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105). (*You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a reporter's transcript at no cost to you.*)

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. Some courts also have local rules that establish procedures for determining whether only a portion of a transcript or a different form of the record will be sufficient for an effective appeal. Check with the trial court to see if it has such a local rule. (Check and complete (1) or (2).)*
- (1) ☐ I will pay the trial court clerk's office for this transcript myself. I understand that if I do not pay for this transcript, it will not be prepared and provided to the appellate division.
- (2) ☐ I am asking that this transcript be provided at no cost to me because I cannot afford to pay this cost.
- (a) ☐ I was represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case.
- (b) ☐ I was not represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case, but I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105). (*You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a transcript at no cost to you.*)

5 (continued)

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 court proceedings, and you and the respondent (the prosecuting agency) have agreed (stipulated) that you want to use the recording itself as the record of what was said in your 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 respondent to this notice. (Check and complete (1) or (2).)*

- (1) ☐ I will pay the trial court clerk's office for this official electronic recording myself. I understand that if I do not pay for this recording, it will not be prepared and provided to the appellate division.
- (2) ☐ I am asking that this official electronic recording be provided at no cost to me because I cannot afford to pay this cost.
- (a) ☐ I was represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case.
- (b) ☐ I was not represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case, but I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105). (You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a copy of the official electronic recording at no cost to you.)

OR

- d. ☐ **Statement on Appeal.** A statement on appeal is a summary of the trial court proceedings approved by the trial court. See form CR-131-INFO for information about preparing a proposed statement. (Check and complete (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 (Misdemeanor) (form CR-135) to prepare and file this proposed statement. You can get form CR-135 at any courthouse or county law library or online at www.courts.ca.gov/forms.)
- (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. I understand that if I do not serve and file the proposed statement on time, and if I am represented by a court-appointed lawyer, the court may appoint a new lawyer. If I represent myself or hire a lawyer to represent me, and I do not serve and file the proposed statement on time, the court may dismiss my appeal.

Date: _____

Type or print your name_____
Signature of appellant or attorney

1 What does this information sheet cover?

This information sheet tells you about appeals in infraction cases. It is only meant to give you a general idea of the appeal process, so it does not cover everything you may need to know about appeals in infraction cases. To learn more, you should read rules 8.900–8.929 of the California Rules of Court, which set out the procedures for infraction appeals. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

2 What is an infraction?

Infractions are crimes that can be punished by a fine, traffic school, or some form of community service but not by time in jail or prison. (See Penal Code sections 17, 19.6, and 19.8. You can get a copy of these laws at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.) Examples of infractions are many traffic violations for which you can get a ticket or violations of some city or county ordinances for which you can get a citation. If you were also charged with or convicted of a misdemeanor, then your case is a misdemeanor case, not an infraction case.

3 What is an appeal?

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

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

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

For information about appeal procedures in other cases, see:

- *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO)
- *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO)

You can get these forms at any courthouse or county law library or online at www.courts.ca.gov/forms.

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

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

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

4 Do I need a lawyer to appeal?

You do not *have* to have a lawyer; you are allowed to represent yourself in an appeal in an infraction case. But appeals can be complicated, and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer. You will need to hire a lawyer yourself if you want one. You can get information about finding a lawyer on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm.



If you are representing yourself, you must put your address, telephone number, fax number (if available), and e-mail address (if available) on the cover of every document you file with the court and let the court know if this contact information changes so that the court can contact you if needed.

5 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative.

The party that is appealing is called the APPELLANT; in an infraction case, this is usually the party convicted of committing the infraction. The other party is called the RESPONDENT; in an infraction case, this is usually the government agency that filed the criminal charges (on court papers, this party is called the People of the State of California).

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

No. Generally, you may appeal only a final judgment of the trial court—the decision at the end that decides the whole case. The final judgment includes the punishment that the court imposed. Other rulings made by the trial court before final judgment cannot be separately appealed, but can be reviewed only later as part of an appeal of the final judgment. In an infraction case, the party that was convicted of committing an infraction usually appeals that conviction or the sentence (the fine or other punishment) ordered by the trial court. In an infraction case, a party can also appeal from an order made by the trial court after judgment that affects a substantial right of the appellant (Penal Code section 1466(2)(B). You can get a copy of this law at <http://leginfo.ca.gov/faces/codes.xhtml>.)

7 How do I start my appeal?

First, you must file a notice of appeal. The notice of appeal tells the other party in the case and the trial court that you are appealing the trial court's decision. You may use *Notice of Appeal and Record on Appeal (Infraction)* (form CR-142) to prepare and file a notice of appeal in an infraction case. You can get

form CR-142 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm.

8 Is there a deadline for filing my notice of appeal?

Yes. In an infraction case, you must file your notice of appeal within **30 days** after the trial court makes (“renders”) its judgment in your case or issues the order you are appealing. The date the trial court makes its judgment is normally the date the trial court orders you to pay a fine or orders other punishment in your case (sentences you). **This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.**

9 How do I file my notice of appeal?

To file the notice of appeal in an infraction case, you must bring or mail the original notice of appeal to the clerk of the trial court in which you were convicted of the infraction. It is a good idea to bring or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

There is no fee for filing the notice of appeal in an infraction case. You can ask the clerk of that court if there are any other requirements for filing your notice of appeal.

After you file your notice of appeal, the clerk will send a copy of your notice to the office of the prosecuting attorney (for example, the district attorney, county counsel, city attorney, or state Attorney General).

10 If I file a notice of appeal, do I still have to pay my fine or complete other parts of my punishment?

Filing the notice of appeal does NOT automatically postpone the deadline for paying your fine or completing any other part of your sentence. To postpone your sentence, you must ask the trial court for a “stay” of the judgment. If you want a stay, you must first ask the trial court for a stay. You can also apply to the appellate division for a stay, but you must show in your application to the appellate division that you first asked the trial court for a stay and that the trial court

unjustifiably denied your request. Your fine or other parts of your punishment will not be postponed unless the trial court or appellate division grants a stay. If you do not get a stay and you do not pay your fine or satisfy another part of your sentence by the date ordered by the court, a warrant may be issued for your arrest or a civil collections process may be started against you, which could result in a civil penalty being added to your fine.

11 Is there anything else I need to do when I file my notice of appeal?

Yes. When you file your notice of appeal, you must tell the trial court (1) whether you have agreed with the respondent (“stipulated”) that you do not need parts of the normal record on appeal, and (2) whether you want a record of what was said in the trial court (this is called a record of the “oral proceedings”) sent to the appellate division and, if so, what form of that record you want to use. *Notice of Appeal and Record on Appeal (Infraction)* (form CR-142) includes boxes you can check to tell the court whether and how you want to provide this record.

12 In what cases does the appellate division need a record of the oral proceedings?

You do not *have* to send the appellate division a record of what was said in the trial court. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of these oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings. Since the appellate division judges were not there for the proceedings in the trial court, an official record of these proceedings must be prepared and sent to the appellate court for its review.

Depending on what form of the record you choose to use, you will be responsible for paying to have the official record of the oral proceedings prepared (unless you are indigent) or for preparing an initial draft of the record yourself. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. If the appellate division does not receive the

record, it will not be able to consider what was said in the trial court in deciding whether a legal error was made and it may dismiss your appeal.

13 What are the different forms of the record?

There are three ways a record of the oral proceedings in a trial court can be prepared and provided to the appellate division in an infraction case:

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

Read below for more information about these options.

a. Statement on appeal

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

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

Contents: A statement on appeal must include:

- A statement of the points you (the appellant) are raising on appeal;
- A summary of the trial court’s rulings and judgment; and

- A summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal.

(See rule 8.916 of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)

Preparing a proposed statement: If you choose to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use *Proposed Statement on Appeal (Infraction)* (form CR-143) to prepare your proposed statement. You can get form CR-143 at any courthouse or county law library or online at www.courts.ca.gov/forms.

Serving and filing a proposed statement: You must serve and file your proposed statement within 20 days after you file your notice of appeal. “Serve and file” means that you must:

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

clerk to stamp this copy to show that the original has been filed.

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

Review and modifications: The prosecuting attorney and any other party have 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial judge then reviews both your proposed statement and any proposed amendments filed by the prosecuting attorney and any other party. The judge will then make or order you to make any corrections or modifications to the proposed statement that are needed to make sure that the statement provides a complete and accurate summary of the relevant testimony and other evidence.

Completion and certification: If the judge makes or orders you to make any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you, the prosecuting attorney, and any other party for your review. If you disagree with anything in the judge’s statement, you will have 10 days from the date the statement is sent to you to serve and file objections to the statement. The judge then reviews any objections, makes any additional corrections to the statement, and certifies the statement as a complete and accurate summary of the relevant testimony and other evidence.

Sending the statement to the appellate division:

Once the trial judge certifies the statement on appeal, the trial court clerk will send the statement to the appellate division along with the clerk’s transcript.

b. Official electronic recording or transcript from official recording

When available: In some infraction cases, the trial court proceedings are officially recorded on approved electronic recording equipment. If your case was officially recorded, you can ask to have a transcript prepared for the appellate division from the official electronic recording of the proceedings. You should check with the trial court to see if your case was officially electronically recorded before you choose this option. Some courts also have local



rules that establish procedures for deciding whether a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising on appeal. You should check whether the court has such a local rule.

If the court has a local rule for the appellate division permitting this and all the parties agree (“stipulate”), a copy of the official electronic recording itself can be used as the record of these oral proceedings instead of preparing a transcript. You should check with the trial court to see if your case was officially electronically recorded and check to make sure that there is a local rule permitting the use of the recording itself before choosing this option. If you choose this option, you must attach a copy of your agreement with the other parties (called a “stipulation”) to your notice regarding the oral proceedings.

Cost: Ordinarily, the appellant must pay for preparing the transcript or making a copy of the official electronic recording. The court will send you an estimate of the cost for this transcript or the copy of the electronic recording. If you still want this transcript or recording, you must deposit this amount with the court. However, you can also choose to use a statement on appeal instead, or take one of the other actions listed in rule 8.917.

If, however, you are indigent (you cannot afford to pay the cost of the transcript or electronic recording), you may be able to get a free transcript or official electronic recording. You can complete and file *Defendant’s Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105) to show that you are indigent. You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide whether you are indigent.

If you are indigent, an official electronic recording of your case was made, and you show that you need a transcript, the court must provide you with a free transcript. Whether you need a transcript depends on the issues you are raising on appeal. If the issues you are raising on appeal include that there was not substantial evidence supporting the judgment, order, or other decision you are appealing or that there was

misconduct in your case that harmed you, that is generally enough to show that you need a transcript. If you ask for a transcript, the court may ask you what issues you are raising on appeal and may decide that a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising.

If the court finds that you are not indigent, it will send you a notice and you will have a chance to use a statement on appeal instead or take one of the other actions listed in rule 8.917.

Completion and delivery: Once you deposit the estimated cost of the transcript or official electronic recording with the clerk or show the court you are indigent and need a transcript, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared, the clerk will send the transcript or recording to the appellate division along with the clerk’s transcript.

c. Reporter’s transcript

When available: In some infraction cases, a court reporter is there in the trial court and makes a record of the oral proceedings. If a court reporter made a record of your case, you can ask to have the court reporter prepare a transcript of those oral proceedings, called a “reporter’s transcript.” You should check with the trial court to see if a court reporter made a record of your case before you choose this option. Some courts also have local rules that establish procedures for deciding whether a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising on appeal. You should check whether the court has such a local rule.

Cost: Ordinarily, the appellant must pay for preparing a reporter’s transcript. The court reporter will provide the clerk of the trial court with an estimate of the cost of preparing the transcript, and the clerk will notify you of this estimate. If you want the reporter to prepare a transcript, you must deposit this estimated amount or one of the substitutes allowed under rule 8.919 with the clerk within 10 days after the clerk sends you the estimate. However, under rule 8.919 you can decide to use a different form of the record or take other action instead of proceeding with a reporter’s transcript.



If, however, you are indigent (you cannot afford to pay the cost of the reporter's transcript), you may be able to get a free transcript. You can complete and file *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105) to show that you are indigent. You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide whether you are indigent.

If the court finds that you are indigent, a court reporter made a record of your case, and you show that you need a transcript, the court must provide you with a free transcript. Whether you need a transcript depends on the issues you are raising on appeal. If the issues you are raising on appeal include that there was not substantial evidence supporting the judgment, order, or other decision you are appealing or that there was misconduct in your case that harmed you, that is generally enough to show that you need a transcript. If you ask for a reporter's transcript, the court may ask you what issues you are raising on appeal and may decide that a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising.

If the court finds that you are not indigent, it will send you a notice and you will have a chance to pick another form of the record or take other actions listed in rule 8.919.

Completion and delivery: Once you deposit the estimated cost of the transcript or one of the substitutes allowed under rule 8.919 or show the court you are indigent and need a transcript, the clerk will notify the reporter to prepare the transcript. When the reporter completes the transcript, the clerk will send both the reporter's transcript and clerk's transcript to the appellate division.

14 Is there any other part of the record that needs to be sent to the appellate division?

Yes. There are two other parts of the official record that need to be sent to the appellate division:

- **Documents filed in the trial court:** The trial court clerk is responsible for preparing a record of the written documents filed in your case, called a "clerk's transcript," and sending this to the appellate division. (The documents the clerk must include in this transcript are listed in rule 8.912 of the California Rules of Court. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)
- **Exhibits submitted during trial:** Exhibits, such as photographs or maps, that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court are considered part of the record on appeal. If you want the appellate division to consider an exhibit, however, you must ask the trial court clerk to send the original exhibit to the appellate division within 10 days after the last respondent's brief is filed in the appellate division. (See rule 8.921 of the California Rules of Court for more information about this procedure. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)

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

15 What happens after the record is prepared?

As soon as the record of the oral proceeding is ready, the clerk of the trial court will send it to the appellate division along with the clerk's transcript. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

16 What is a brief?

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

should read rules 8.927–8.928 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in infraction appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

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

Serving and filing: You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division. **If you do not file your brief by the deadline set by the appellate division, the court may dismiss your appeal.**

“Serve and file” means that you must:

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

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and at www.courts.ca.gov/selfhelp-serving.htm.

17 What happens after I file my brief?

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

If the respondent serves and files a brief, within 20 days after the respondent’s brief was served, you may, but are not required to, serve and file another brief replying to the respondent’s brief. This is called a “reply brief.”

18 What happens after all the briefs have been filed?

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

19 What is oral argument?

“Oral argument” is the parties’ chance to explain their arguments to the appellate division judges in person.

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

If you do choose to participate in oral argument, you will have up to five minutes for your argument, unless the court orders otherwise. Remember that the judges will already have read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in your appeal.



or ask the judges if they have any questions you could answer.

20 What happens after oral argument?

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

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

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called “abandoning”) your appeal. You can use *Abandonment of Appeal (Infraction)* (form CR-145) to file this notice in an infraction case. You can get form CR-145 at any courthouse or county law library or online at www.courts.ca.gov/forms.

If you decide not to continue your appeal and it is dismissed, you will (with only very rare exceptions) permanently give up the chance to raise any objections to your conviction, sentence, or other matter that you could have raised in the appeal. If your punishment was stayed during the appeal, you may be required to start complying with your punishment immediately after your appeal is dismissed.

Clerk stamps date here when form is filed.

Instructions

- This form is only for appealing in an **infraction** case, such as a case about a traffic ticket. You can get other forms for appealing in a civil or misdemeanor case at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Before you fill out this form, read *Information on Appeal Procedures for Infractions* (form CR-141-INFO) to know your rights and responsibilities. You can get form CR-141-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- You must file this form **no later than 30 days after the trial court issued the judgment or order you are appealing** (see rule 8.902(b) of the California Rules of Court for very limited exceptions). **If your notice of appeal is late, the court will not take your appeal.**
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the clerk's office for the same trial 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:

The clerk will fill in the number below:

Appellate Division Case Number:

1 Your Information

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

Name: _____

- b. Appellant's contact information (required):

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

- c. Appellant's lawyer in the trial court proceedings:

The lawyer filling out this form ☐ is ☐ is not representing the appellant in this appeal.

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

Fax: _____

2 Judgment or Order You Are Appealing

I am/My client is appealing (*check a, b, or c*):

- a. ☐ the final judgment of conviction in the case (Pen. Code, § 1466(b)(1)).

The trial court issued (rendered) this judgment on (*fill in the date*): _____

- b. ☐ an order made by the trial court after judgment that affects an important (substantial) right of mine/my client (Pen. Code, § 1466(b)(2)).

The trial court issued (rendered) this order on (*fill in the date*): _____

- c. ☐ Other (describe the action you are appealing and indicate the date the trial court took the action):

Your Choices About the Record on Appeal**Stipulation for Limited Record**

- 3** ☐ The respondent and I/my client have agreed (“stipulated”) under rule 8.910 that parts of the normal record on appeal are not required for proper determination of this appeal. A copy of our stipulation identifying those parts of the record that are not required is attached. (*At the top of each page write “CR-142, item 3.”*)

Record of Oral Proceedings

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 an 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*): _____

- 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—a, b, c, or d*):

- a. ☐ **Statement on Appeal.** *A statement on appeal is a summary of the trial court proceedings approved by the trial court. See form CR-141-INFO for information about preparing a proposed statement. (Check and complete (1) or (2).)*



5 (continued)

- (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 (Infraction) (form CR-143) to prepare and file this proposed statement. You can get form CR-143 at any courthouse or county law library or online at www.courts.ca.gov/forms.)*
- (2) ☐ I have NOT attached my proposed statement on appeal to this notice. I understand that I must serve the prosecuting attorney if the prosecuting attorney appeared in the case 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 proceed on the clerk's transcript only.

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. Some courts also have local rules that establish procedures for determining whether only a portion of a transcript or a different form of the record will be sufficient for an effective appeal. Check with the trial court to see if it has such a local rule. (Check and complete (1) or (2).)*
- (1) ☐ I will pay the trial court clerk's office for this transcript myself. I understand that if I do not pay for this transcript, it will not be prepared and provided to the appellate division.
- (2) ☐ I am asking that this transcript be provided at no cost to me because I cannot afford to pay this cost. I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105). *(You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a free transcript.)*

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 court proceedings, and you and the respondent (the prosecuting agency) have agreed (stipulated) that you want to use the recording itself as the record of what was said in your 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 respondent to this notice. (Check and complete (1) or (2).)*
- (1) ☐ I will pay the trial court clerk's office for this official electronic recording myself. I understand that if I do not pay for this recording, it will not be provided to the appellate division.
- (2) ☐ I am asking that this official electronic recording be provided at no cost to me because I cannot afford to pay this cost. I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105). *(You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a free copy of the official electronic recording.)*

Trial Court Case Name: _____

Trial Court Case Number: _____

5 (continued)

OR

- d. ☐ **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. Some courts also have local rules that establish procedures for determining whether only a portion of the reporter's transcript or a different form of the record will be sufficient for an effective appeal. Check with the trial court to see if it has such a local rule.*

Within 10 days of receiving the court reporter's estimate of the cost of preparing the reporter's transcript, I will (*check and complete one of the following*):

- (1) ☐ File with the trial court a certified transcript of all the proceedings required by rule 8.918.
- (2) ☐ Pay for the transcript myself by depositing with the trial court an amount equal to the estimated cost of the transcript.
- (3) ☐ Pay the reporter directly and file with the trial court a written waiver of the deposit that is signed by the reporter.
- (4) ☐ Request a reporter's transcript at no cost. I am asking that this transcript be provided at no cost to me because I cannot afford to pay this cost. I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-105). (*You can get form CR-105 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a reporter's transcript at no cost to you.*)

I understand that if I do not pay for this transcript and I am not eligible for a reporter's transcript at no cost, the reporter's transcript will not be prepared and provided to the appellate division.

Date: _____

Type or print your name



Signature of appellant or attorney

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (name): CONSERVATEE	CASE NUMBER:
PETITION FOR TRANSFER ORDERS (California Conservatorship Jurisdiction Act)	HEARING DATE AND TIME: DEPT.:

1. I, (name):
(address):

(telephone):

(e-mail):

the conservator of the ☐ person ☐ estate in California for the person identified in 2, request that the court order this proceeding transferred to (name of state): (the receiving state).

2. Conservatee's personal information

Name:

Residence address:

(telephone):

(e-mail):

☐ The conservatee is not developmentally disabled.

☐ The conservatee is not receiving involuntary mental health care or treatment.

3. For a conservatorship of the person:

a. Conservatee's relationship to receiving state. Note: Establishment of the conservatee's residence outside California requires a prior court order. (See Prob. Code, § 2352(c) & (d)(2).)

(1) ☐ The conservatee is physically present in the receiving state (describe circumstances):

(2) ☐ The conservatee plans to move permanently to the receiving state on (date):
Conservatee's planned residence address in receiving state (if different from address in 2):

b. I have made, or plan to make, the following arrangements for the conservatee's care in the receiving state (describe):

☐ Continued on attachment 3b. (Attach a separate sheet of paper or form MC-025.)

c. I have arranged for the provision of the following services to the conservatee in the receiving state (describe services):

☐ Continued on attachment 3c. (Attach a separate sheet of paper or form MC-025.)

CONSERVATORSHIP OF <i>(name):</i>	CASE NUMBER:
CONSERVATEE	

4. For a conservatorship of the estate:

a. Conservatee's relationship to the receiving state:

- (1) ☐ The conservatee is physically present in or plans to move permanently to the receiving state. *(Give address in 3a.)*
- (2) ☐ The conservatee has the following connection(s) to the receiving state *(describe all connections):*
- (a) The following family members and other persons entitled to notice of the proceedings live in the receiving state *(name and address of each):*

☐ Continued on Attachment 4a(2)(a). *(Use a blank sheet of paper or form MC-025.)*

- (b) The conservatee has been present in the receiving state for a total of _____ months from *(date first arrived):* _____ to *(date last departed):* _____. During that time, the conservatee was absent from the receiving state for a total of _____ months.
- (c) The conservatee holds a legal or beneficial interest in the following property located in the receiving state *(describe each piece of property and give street address of real property or location of personal property):*

☐ Continued on Attachment 4a(2)(c). *(Use a blank sheet of paper or form MC-025.)*

- (d) ☐ The conservatee has the following friends and social ties in the receiving state *(name and address of each):*

☐ Continued on Attachment 4a(2)(d). *(Use a blank sheet of paper or form MC-025.)*

- (e) ☐ The conservatee receives public benefits or services in or from the receiving state *(list each):*

☐ Continued on Attachment 4a(2)(e). *(Use a blank sheet of paper or form MC-025.)*

- (f) The conservatee has the following additional connections to the receiving state *(if a social security number or other account number is needed to document a connection, list only the last 4 digits (Cal. Rules of Court, rule 1.201(a).)):*

- ☐ Registered to vote in the receiving state
- ☐ Filed state tax return in receiving state *(year(s) filed):*
- ☐ Filed local tax return in receiving state *(year(s) filed):*
- ☐ Registered vehicle in receiving state *(description of vehicle):*

☐ Driver's license issued by receiving state

☐ Other ties *(describe each):*

☐ Continued on Attachment 4a(2)(f). *(Use a blank sheet of paper or form MC-025.)*

- b. The petitioner has made the following arrangements for management of the conservatee's property in the receiving state *(describe all arrangements):*

☐ Continued on Attachment 4b. *(Attach a separate sheet of paper or form MC-025.)*

(If you have been appointed conservator of both the person and estate for the person named in 2, complete both 3 and 4, above.)

CONSERVATORSHIP OF <i>(name):</i> CONSERVATEE	CASE NUMBER:
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5. Objections *(complete a or b):*

- a. ☐ The petitioner is not aware of any objection to the proposed transfer.
- b. ☐ The petitioner knows of or anticipates objections to the proposed transfer.

6. The proposed transfer would be in the best interests of the conservatee for the following reasons *(give reasons):*

☐ Continued on Attachment 6. *(Use a blank sheet of paper or form MC-025.)*

7. The conservatorship is likely to be accepted by the court in the receiving state because *(give reasons):*

☐ Continued on Attachment 7. *(Use a blank sheet of paper or form MC-025.)*

8. Status of reports, accountings, or other documents, if any, required to terminate the California conservatorship:

- ☐ Includes documentation of payment of all fees and costs, including attorney's fees.
- ☐ Continued on Attachment 8. *(Use a blank sheet of paper or form MC-025.)*

Date filed:

If not yet filed, date expected:

Date:

 (TYPE OR PRINT NAME)

 (SIGNATURE OF ATTORNEY)

(All petitioners must also sign this form.) (Prob. Code, § 1020.)

I declare under penalty of perjury under the laws of the State of California that the information stated on this form and any attachments is true and correct.

Date:

 (TYPE OR PRINT NAME)

 (SIGNATURE OF PETITIONER)

 (TYPE OR PRINT NAME)

 (SIGNATURE OF PETITIONER)

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):		FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CONSERVATORSHIP OF (name):		
CONSERVATEE		CASE NUMBER:
PETITION FOR ORDERS ACCEPTING TRANSFER (California Conservatorship Jurisdiction Act)		HEARING DATE AND TIME: DEPT.:

1. Protected person's (e.g., conservatee's or ward's) personal information:

Name:

Residence Address:

Telephone:

E-mail:

2. I, (name):

was appointed the conservator or guardian for the person named in 1 by a court of record of the state of

(specify): (the transferring state) on (date): . My appointment remains in effect.

3. ☐ The California Conservatorship Jurisdiction Act (CCJA; Prob. Code, §§ 1981–2033), applies to this proceeding because the protected person:

- Is 18 years of age or older;
- Is NOT involuntarily committed to a mental health facility or receiving any other involuntary mental health care or treatment; and
- Has NOT been been diagnosed or assessed with a developmental disability.

4. ☐ A certified copy of the provisional order of transfer issued by a court of record in the transferring state is attached to this form.

The existing protective proceeding is best described under California law as (check all that apply):

- a. ☐ A conservatorship of the person (The court order gives me powers and duties to manage the protected person's needs for food, clothing, shelter, or health care.)
- b. ☐ A conservatorship of the estate (The court order gives me powers and duties to manage the protected person's finances and property.)

CONSERVATORSHIP OF (name):	CASE NUMBER:
CONSERVATEE	

5. Factors relevant to determining the jurisdiction of the California court:

- a. ☐ The conservatee has been physically present in California since (date): _____ and remains present in California.
- b. ☐ The conservatee was physically present in California from (date): _____ to (date): _____, ending within six months of the date this petition is filed.
- c. ☐ The conservatee has the following connections to California (list all that apply):
- (1) ☐ The following relatives and other persons required to receive notice of the proceeding reside in California:
- ☐ Continued on Attachment 5c(1). (Use a blank sheet of paper or form MC-025.)
- (2) ☐ The conservatee was physically present in California during the following periods:
- From (date): _____ to (date): _____
- From (date): _____ to (date): _____
- From (date): _____ to (date): _____
- From (date): _____ to (date): _____
- ☐ Continued on Attachment 5c(2). (Use a blank sheet of paper or form MC-025.)
- (3) ☐ The conservatee will move permanently to California and reside at the following address (provide if known):
- (4) ☐ The conservatee holds a legal or beneficial interest in the following property located in California (describe each piece of property; give the street address of real property or the location of personal property):
- ☐ Additional property is described on Attachment 5c(4). (Use a blank sheet of paper or form MC-025.)
- (A) Estimated value of real property in California: \$
- (B) Estimated value of personal property in California: \$
- (C) Annual gross income from
- (i) Real property: \$
- (ii) Personal property: \$
- (iii) Pensions: \$
- (iv) Wages: \$
- (v) Public assistance benefits: \$
- (vi) Other: \$
- Subtotal of (C): \$
- (D) Total of (A), (B), and (C): \$
- (5) ☐ The conservatee has the following other ties to California (for example, voter registration, driver's license, tax filing):

☐ Continued on Attachment 5c(5). (Use a blank sheet of paper or form MC-025.)

CONSERVATORSHIP OF (name):	CASE NUMBER:
CONSERVATEE	

6. I request that the court:

a. Accept transfer of this proceeding and recognize the transferring state's conservatorship order.

b. (1) ☐ Appoint me as conservator of the ☐ person ☐ estate under California law for the person named in 1, or

(2) ☐ Appoint (name):
(mailing address):

(telephone number):

(e-mail):

(relationship to conservatee):

, who is eligible for appointment under California law,
as conservator of the ☐ person ☐ estate for the person named in 1.

c. (1) ☐ Adopt the transferring state's conservatorship order, which needs no modification to conform to California law.

(2) ☐ Issue a new conservatorship order, as proposed on the attached *Order Appointing Probate Conservator* (form GC-340), which modifies the terms of the conservatorship as follows to conform to California law:

(A) Powers modified:

(B) Duties modified:

(C) Bond modified:

(D) Other information needed:

☐ Additional modifications are included on Attachment 6c(2). (Attach a blank sheet of paper or form MC-025.)

d. Issue *Letters of Conservatorship* (form GC-350) on the appointee's qualification.

7. ☐ A *Petition for Appointment of Temporary Conservator* (form GC-111) is filed with this petition.

8. ☐ The conservatee ☐ has ☐ has not been diagnosed with a major neurocognitive disorder (major NCD, such as dementia).

a. ☐ A completed *Petition for Exclusive Authority to Give Consent for Medical Treatment* (form GC-380), with *Attachment Requesting Special Orders Regarding a Major Neurocognitive Disorder* (form GC-313), is filed with this petition.

b. ☐ I intend to petition the court for major NCD/dementia powers under section 2356.5 of the Probate Code as soon as the court issues a final order accepting transfer of this conservatorship.

I declare under penalty of perjury under the laws of the State of California that the information stated on this form and any attachments is true and correct.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE)

See *USE OF THIS FORM* on page 3.

1. At the time of service I was over 18 years of age **and not a party to this action.**
2. My residence or business address is:
3. ☐ The fax number from which I served the documents is *(complete if service was by fax):*
4. On *(date):* I served the following **documents** *(specify):*

☐ The documents are listed in the *Attachment to Proof of Service—Civil (Documents Served)* (form POS-040(D)).

5. I served the documents on the **person or persons** below, as follows:

a. Name of person served:

b. ☐ (Complete if service was by personal service, mail, overnight delivery, or messenger service.)

Business or residential address where person was served:

c. ☐ (Complete if service was by fax.)

Fax number where person was served:

☐ The names, addresses, and other applicable information about persons served is on the *Attachment to Proof of Service—Civil (Persons Served)* (form POS-040(P)).

6. The documents were served by the following means (*specify*):

a. ☐ **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and eight in the evening.

CASE NAME:	CASE NUMBER:
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6. b. ☐ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 5 and (*specify one*):
- (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
- I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (*city and state*):
- c. ☐ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 5. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d. ☐ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 5 and providing them to a professional messenger service for service. (*A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.*)
- e. ☐ **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 5. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

<hr/> (TYPE OR PRINT NAME OF DECLARANT)		<hr/> (SIGNATURE OF DECLARANT)
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(If item 6d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)

DECLARATION OF MESSENGER

- ☐ **By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and eight in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on (*date*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

<hr/> (NAME OF DECLARANT)		<hr/> (SIGNATURE OF DECLARANT)
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INFORMATION SHEET FOR PROOF OF SERVICE—CIVIL

(This information sheet is not part of the official proof of service form and does not need to be copied, served, or filed.)

USE OF THIS FORM

This form is designed to be used to show proof of service of documents by (1) personal service, (2) mail, (3) overnight delivery, (4) messenger service, or (5) fax.

This proof of service form should **not** be used to show proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

Also, this proof of service form should **not** be used to show proof of electronic service. For that purpose, use *Proof of Electronic Service* (form POS-050).

Certain documents must be personally served. For example, an order to show cause and temporary restraining order generally must be served by personal delivery. You must determine whether a document must be personally delivered or can be served by mail or another method.

GENERAL INSTRUCTIONS

A person must be over 18 years of age to serve the documents. The person who served the documents must complete the Proof of Service. **A party to the action cannot serve the documents.**

The Proof of Service should be typed or printed. If you have Internet access, a fillable version of this proof of service form is available at www.courts.ca.gov/forms.htm.

Complete the top section of the proof of service form as follows:

First box, left side: In this box print the name, address, and telephone number of the person for whom you served the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as the address on the documents that you served.

Third box, left side: Print the names of the plaintiff/petitioner and defendant/respondent in this box. Use the same names as are on the documents that you served.

Fourth box, left side: Check the method of service that was used. You should check only one method of service and should show proof of only one method on the form. If you served a party by several methods, use a separate form to show each method of service.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. The case number should be the same as the case number on the documents that you served.

Third box, right side: State the judge and department assigned to the case, if known.

Complete items 1–6:

1. You are stating that you are over the age of 18.
2. Print your home or business address.
3. If service was by fax service, print the fax number from which service was made.
4. List each document that you served. If you need more space, check the box in item 4, complete the *Attachment to Proof of Service—Civil (Documents Served)* (form POS-040(D)), and attach it to form POS-040.
5. Provide the names, addresses, and other applicable information about the persons served. If more than one person was served, check the box on item 5, complete the *Attachment to Proof of Service—Civil (Persons Served)* (form POS-040(P)), and attach it to form POS-040.
6. Check the box before the method of service that was used, and provide any additional information that is required. The law may require that documents be served in a particular manner (such as by personal delivery) for certain purposes. Service by fax generally requires the prior agreement of the parties.

You must sign and date the proof of service form. By signing, you are stating under penalty of perjury that the information that you have provided on form POS-040 is true and correct.