



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 20-116

For business meeting on: September 25, 2020

Title

Appellate Procedure: Use of an Appendix in Limited Civil Cases

Agenda Item Type

Action Required

Effective Date

January 1, 2021

Rules, Forms, Standards, or Statutes Affected

Adopt Cal. Rules of Court, rule 8.845; amend rules 8.830, 8.840, 8.843, and 8.882; approve form APP-111; revise forms APP-101-INFO and APP-103

Date of Report

August 13, 2020

Recommended by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

Contact

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Executive Summary

The Appellate Advisory Committee recommends adopting a new rule and amending four current rules to allow litigants in limited civil appeals to use an appendix in lieu of a clerk's transcript as the record of documents filed in the trial court. The California Rules of Court contain a rule for use of an appendix in the Court of Appeal but do not include such a rule for civil appeals in the appellate division. The proposed rule is based on the existing rule and closely follows its structure and content. To assist litigants in using an appendix, the committee also proposes approving a new form and revising an information sheet and a form for designating the record in limited civil cases.

Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2021:

1. Adopt California Rules of Court, rule 8.845 to allow litigants in limited civil appeals to use an appendix in lieu of a clerk's transcript as the record of documents in the trial court;
2. Amend rules 8.830, 8.840, 8.843, and 8.882 to add provisions and procedures related to use of an appendix;
3. Approve *Respondent's Notice Electing to Use an Appendix (Limited Civil Case)* (form APP-111) to facilitate the respondent's choosing an appendix as the form of the documents filed in the trial court; and
4. Revise *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to include information on an appendix and *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to include an appendix as a form of the record of documents the appellant may designate.

The text of the new and amended rules and the new and revised forms are attached at pages 7 through 39.

Relevant Previous Council Action

Rule 8.124 of the California Rules of Court, governing the use of an appendix in unlimited civil appeals, was adopted as rule 5.1 in 2002, renumbered in 2007, and has been amended several times, but the amendments are not relevant to this proposal. Rules 8.830, 8.840, 8.843, and 8.882, governing the record and briefs in limited civil cases, were adopted in 2009 as part of a large project to comprehensively review and update the rules for appellate division proceedings.¹ None of the amendments is relevant to this proposal.

Analysis/Rationale

Background

As noted above, under rule 8.124, litigants in unlimited civil appeals have long had the option of choosing to use an appendix. The appellant may elect to use an appendix when designating the record on appeal. Even if the appellant does not elect to use an appendix, the respondent may be able to do so if the appellant has not been granted a fee waiver for the cost of a clerk's transcript. The parties may prepare separate appendixes or may stipulate to a joint appendix. (Cal. Rules of Court, rule 8.124(a).)

Rule 8.124(b) specifies the contents of an appendix, including items that must be included, items that may be included, and items that must not be included. Much of the content is specified by cross-references to other rules. The rule also sets forth a procedure for including in an appendix a copy of a document or exhibit in the possession of another party and returning documents or exhibits that were sent nonelectronically when the remittitur issues. (See rule 8.124(c).)

¹ See Judicial Council of Cal., Appellate Advisory Com. Rep., *Appellate Procedure: Rules and Forms for the Superior Court Appellate Divisions* (Dec. 21, 2007, date of report) (Feb. 22, 2008, date of council meeting) (Judicial Council of Cal. binder, Feb. 22, 2008, tab 7).

In addition, the rule includes provisions regarding the form of an appendix, service and filing, the cost of an appendix, and sanctions for an inaccurate or noncomplying appendix. (See rule 8.124(d)–(g).) There are several detailed advisory committee comments explaining and clarifying various subdivisions of the rule.

New rule 8.845

The new rule would allow litigants in limited civil appeals to elect to use an appendix in lieu of a clerk’s transcript as the record of documents in the trial court. A principal benefit of electing to use an appendix is saving the cost of paying the court to prepare and copy the clerk’s transcript. Thus, adoption of this rule would help litigants reduce the cost of appeals in cases involving \$25,000 or less. It would also benefit the superior courts by reducing staff time in preparing the record.

The new rule is modeled on rule 8.124 governing appendixes in unlimited civil appeals. Where that rule contains cross-references to other rules of court for unlimited civil appeals, the new rule cross-references the parallel rules for limited civil appeals, thus maintaining the same structure as the existing rule and consistency between the rules for the Court of Appeal and the appellate division.

As in unlimited civil appeals, the new rule would allow the appellant in a limited civil appeal to elect to use an appendix when designating the record on appeal. It would also allow the respondent to elect an appendix if the appellant has not been granted a fee waiver for the cost of a clerk’s transcript. The parties may prepare separate appendixes or may stipulate to a joint appendix. (Cal. Rules of Court, rule 8.845(a).)

New rule 8.845 would mirror rule 8.124 in specifying the contents of an appendix in subdivision (b) and procedures for including a copy of a document or exhibit in the possession of another party, and returning documents or exhibits that were sent nonelectronically when the remittitur issues in subdivision (c). Rule 8.845 would also include provisions regarding form, service and filing, cost, and sanctions for an inaccurate or noncomplying appendix in subdivisions (d) through (g), as well as advisory committee comments explaining and clarifying various subdivisions of the rule.

The only provision that is not retained in the new limited civil rule is subdivision (b)(3)(C) of rule 8.124, which states that an appendix must not contain the record of an administrative proceeding and that any such administrative record must be transmitted to the reviewing court as specified in a separate rule (rule 8.123). The appellate division rules do not contain a rule regarding administrative records, and thus there is no rule for such a provision to cross-reference. The committee requested comments on whether there should be rules regarding administrative records in the appellate division; based on the responses, such rules do not appear to be necessary. These comments are discussed below in the Comments section.

Amend rules 8.830, 8.840, 8.843, and 8.882

To implement the new rule, the committee recommends amending four existing rules of procedure in the appellate division. Rule 8.830 would be amended to add an appendix under rule 8.845 as a form of the record of written documents that must be included in the record on appeal. Rule 8.840, which governs completion and filing of the record, would be amended to add clarifying language and a provision on when the record is complete if the parties are using an appendix and a record of the oral proceedings. Rule 8.843, which governs transmitting exhibits, would be amended to add an appendix as a form of the record of written documents. Finally, provisions would be added to rule 8.882 regarding the time to file an appellant's opening brief if there is an election under rule 8.845 to use an appendix; the proposed language is similar to existing language in rule 8.212(a)(1)(A) for unlimited civil appeals.

New form APP-111

The committee recommends a new optional form—*Respondent's Notice Electing to Use an Appendix (Limited Civil Case)* (form APP-111)—for respondents electing to use an appendix. The form's content is based on the existing form for respondents in unlimited civil appeals, *Respondent's Notice Electing to Use an Appendix (Unlimited Civil Case)* (form APP-011).

The election procedure for use of an appendix differs from all other rules governing designation of the record on appeal. Under the other rules, the appellant designates, or the parties stipulate, to the form of the record. By contrast, under existing rule 8.124(a) and proposed new rule 8.845(a), the respondent may be able to elect to have the appeal proceed by way of an appendix even if the appellant has designated a different form of the record of documents filed in the trial court. Unless the superior court orders otherwise, and if the appellant does not have a waiver of the fee for a clerk's transcript, the respondent may serve and file a timely notice electing to use an appendix. New form APP-111 would provide instructions and information for respondents to assist them in making this election.

Revise forms APP-101-INFO and APP-103

The committee recommends revising *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to include information on an appendix as another form of the record of the documents in the trial court. These revisions are based on the parallel information sheet for litigants in unlimited civil appeals, *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO).

The recommended changes to *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) add the option of choosing an appendix as the form of the documents filed in the trial court.

Policy implications

This proposal furthers the Judicial Council's constitutional mandate to improve the administration of justice and, more specifically, its mission to increase access to justice, by allowing a less expensive form of the record in limited civil appeals. It also, at a time when courts are facing extraordinary challenges, provides an opportunity to reduce court workload.

Comments

The proposed new and amended rules and new and revised forms were circulated for public comment between April 10 and June 9, 2020, as part of the regular spring comment cycle. The committee received five comments on this proposal. Four commenters, the Superior Court of Los Angeles County, the Superior Court of San Diego County, the Committee on Appellate Courts, Litigation Section, of the California Lawyers Association (CLA), and the Orange County Bar Association (OCBA), agreed with the proposal. The fifth commenter, the Superior Court of Orange County, did not take a position but responded to questions in the invitation to comment. A chart with the full text of the comments received and the committee's responses is attached at pages 40 through 43.

The committee requested comments on whether the new rule on appendixes should address administrative records and whether a rule on administrative records in the appellate division should be developed. Both courts supported addressing administrative records in the limited civil rules to maintain consistency with the unlimited civil rules. Taking the opposite position, in support of not addressing administrative records in either the proposed rule or any other new rule, CLA opined, "Designating an appendix saves money and streamlines the appellate process, especially for pro se litigants. Requiring the separate transmittal of an administrative record would undercut these goals."

The committee chose not to include provisions on administrative records or a new rule on administrative records in the proposal that circulated because there was no indication that either was necessary in the appellate division. The committee was unaware of any problems experienced by litigants or courts due to the lack of a rule on administrative records, and was concerned about unwarranted complexity and proposing a solution in need of a problem. The comments support the committee's conclusion that there is no need to add any such provisions to the limited civil rules. Although maintaining consistency between the limited civil and unlimited civil rules on appendixes is important, the committee recommends that the rules for limited civil appeals not address administrative records. If a need to do so comes to light in the future, for example, if a law provides that review of some category of cases involving administrative records is in the appellate division, the committee will revisit this issue.

Alternatives considered

The committee considered not proposing a rule for the use of an appendix in limited civil cases, but decided to move forward with the proposal because there is no apparent reason for not allowing litigants this option. Litigants can save money in the record preparation process, and courts can save time if litigants opt to prepare appendixes rather than request clerks' transcripts.

The committee also considered the complexity of the current rule on use of an appendix in unlimited civil cases and examined whether a parallel rule for limited civil cases should contain fewer provisions. With the exception of provisions for an administrative record, the committee concluded that all provisions in rule 8.124 should be retained in new rule 8.845 because the procedures are similar and the same information and requirements would be helpful in the context of limited civil appeals.

In addition, the committee considered additional revisions to the forms in both unlimited civil and limited civil appeals to provide more information regarding a respondent's option to elect to use an appendix as the record of the documents in the trial court. The committee decided against more revisions to the forms because this option is rarely used, and the committee has received no feedback that the current process for electing to use an appendix in unlimited civil appeals is confusing or otherwise not working well.

Fiscal and Operational Impacts

The committee anticipates no significant fiscal or operational impacts from this proposal. Feedback received in the comments indicates that implementation requirements would include training for court staff, adding the new form to the case management system, and updating appeal procedures and any local forms, and that this would require two to three hours of staff time. With respect to cost, the same commenter indicated that the proposal would provide some savings for the court in staff time, paper, copying, and binding. The committee believes that the benefits of the proposal, including savings of money for litigants and time for the courts, outweigh the implementation cost.

Attachments and Links

1. Cal. Rules of Court, rules 8.830, 8.840, 8.843, 8.845, and 8.882, at pages 7–15
2. Forms APP-101-INFO, APP-103, and APP-111, at pages 16–39
3. Chart of comments, at pages 40–43

Rule 8.845 of the California Rules of Court is adopted, and rules 8.830, 8.840, 8.843, and 8.882 are amended, effective January 1, 2021, to read:

Rule 8.830. Record on appeal

(a) Normal record

Except as otherwise provided in this chapter, the record on an appeal to the appellate division in a civil case must contain the following, which constitute the normal record on appeal:

(1) A record of the written documents from the trial court proceedings in the form of one of the following:

(A) A clerk's transcript under rule 8.832;

~~(B)~~ An appendix under rule 8.845;

~~(B)~~ (C) If the court has a local rule for the appellate division electing to use this form of the record, the original trial court file under rule 8.833; or

~~(C)~~ (D) An agreed statement under rule 8.836.

(2) * * *

(b) * * *

Advisory Committee Comment

Subdivision (a). The options of using the original trial court file instead of a clerk's transcript under (1)~~(B)~~(C) or an electronic recording itself, rather than a transcript, under (2)(B) are available only if the court has local rules for the appellate division authorizing these options.

Rule 8.840. Completion and filing of the record

(a) When the record is complete

(1) If the appellant elected under rule 8.831 or 8.834(b) to proceed without a record of the oral proceedings in the trial court and the parties are not proceeding by appendix under rule 8.845, the record is complete:

(A) If a clerk's transcript will be used, when the clerk's transcript is certified under rule 8.832(d);

(B) If the original trial court file will be used instead of the clerk's transcript, when that original file is ready for transmission as provided under rule 8.833(b); or

(C) If an agreed statement will be used instead of the clerk's transcript, when the appellant files the agreed statement under rule 8.836(b).

(2) If the parties are not proceeding by appendix under rule 8.845 and the appellant elected under rule 8.831 to proceed with a record of the oral proceedings in the trial court, the record is complete when the clerk's transcript or other record of the documents from the trial court is complete as provided in (1) and:

(A) If the appellant elected to use a reporter's transcript, when the certified reporter's transcript is delivered to the court under rule 8.834(d);

(B) If the appellant elected to use a transcript prepared from an official electronic recording, when the transcript has been prepared under rule 8.835;

(C) If the parties stipulated to the use of an official electronic recording of the proceedings, when the electronic recording has been prepared under rule 8.835; or

(D) If the appellant elected to use a statement on appeal, when the statement on appeal has been certified by the trial court or a transcript or an official electronic recording has been prepared under rule 8.827(d)(6).

(3) If the parties are proceeding by appendix under rule 8.845 and the appellant elected under rule 8.831 to proceed with a record of the oral proceedings in the trial court, the record is complete when the record of the oral proceedings is complete as provided in (2)(A), (B), (C), or (D).

(b) * * *

Rule 8.843. Transmitting exhibits

(a) Notice of designation

(1) If a party wants the appellate division to consider any original exhibits that were admitted in evidence, refused, or lodged but that were not copied in the

clerk's transcript under rule 8.832 or the appendix under rule 8.845 or included in the original file under rule 8.833, within 10 days after the last respondent's brief is filed or could be filed under rule 8.882 the party must serve and file a notice in the trial court designating such exhibits.

(2) Within 10 days after a notice under (1) is served, any other party wanting the appellate division to consider additional exhibits must serve and file a notice in the trial court designating such exhibits.

(3) A party filing a notice under (1) or (2) must serve a copy on the appellate division.

(b)–(e) * * *

Rule 8.845. Appendixes

(a) Notice of election

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

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

(B) The respondent serves and files a notice in the superior court electing to use an appendix under this rule within 10 days after the notice of appeal is filed, and no waiver of the fee for a clerk's transcript is granted to the appellant.

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

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

(b) Contents of appendix

(1) A joint appendix or an appellant's appendix must contain:

(A) All items required by rule 8.832(a)(1), showing the dates required by rule 8.832(a)(2);

- 1 (B) Any item listed in rule 8.832(a)(3) that is necessary for proper
2 consideration of the issues, including, for an appellant's appendix, any
3 item that the appellant should reasonably assume the respondent will
4 rely on;
5
6 (C) The notice of election; and
7
8 (D) For a joint appendix, the stipulation designating its contents.
9
10 (2) An appendix may incorporate by reference all or part of the record on appeal
11 in another case pending in the reviewing court or in a prior appeal in the same
12 case.
13
14 (A) The other appeal must be identified by its case name and number. If
15 only part of a record is being incorporated by reference, that part must
16 be identified by citation to the volume and page numbers of the record
17 where it appears and either the title of the document or documents or
18 the date of the oral proceedings to be incorporated. The parts of any
19 record incorporated by reference must be identified both in the body of
20 the appendix and in a separate section at the end of the index.
21
22 (B) If the appendix incorporates by reference any such record, the cover of
23 the appendix must prominently display the notice "Record in case
24 number: _____ incorporated by reference," identifying the number of the
25 case from which the record is incorporated.
26
27 (C) On request of the reviewing court or any party, the designating party
28 must provide a copy of the materials incorporated by reference to the
29 court or another party or lend them for copying as provided in (c).
30
31 (3) An appendix must not:
32
33 (A) Contain documents or portions of documents filed in superior court that
34 are unnecessary for proper consideration of the issues.
35
36 (B) Contain transcripts of oral proceedings that may be designated under
37 rule 8.834.
38
39 (C) Incorporate any document by reference except as provided in (2).
40
41 (4) All exhibits admitted in evidence, refused, or lodged are deemed part of the
42 record, whether or not the appendix contains copies of them.
43

1 (5) A respondent's appendix may contain any document that could have been
2 included in the appellant's appendix or a joint appendix.

3
4 (6) An appellant's reply appendix may contain any document that could have
5 been included in the respondent's appendix.

6
7 **(c) Document or exhibit held by other party**

8
9 If a party preparing an appendix wants it to contain a copy of a document or an
10 exhibit in the possession of another party:

11
12 (1) The party must first ask the party possessing the document or exhibit to
13 provide a copy or lend it for copying. All parties should reasonably cooperate
14 with such requests.

15
16 (2) If the request under (1) is unsuccessful, the party may serve and file in the
17 reviewing court a notice identifying the document or specifying the exhibit's
18 trial court designation and requesting the party possessing the document or
19 exhibit to deliver it to the requesting party or, if the possessing party prefers,
20 to the reviewing court. The possessing party must comply with the request
21 within 10 days after the notice was served.

22
23 (3) If the party possessing the document or exhibit sends it to the requesting
24 party nonelectronically, that party must copy and return it to the possessing
25 party within 10 days after receiving it.

26
27 (4) If the party possessing the document or exhibit sends it to the reviewing
28 court, that party must:

29
30 (A) Accompany the document or exhibit with a copy of the notice served
31 by the requesting party; and

32
33 (B) Immediately notify the requesting party that it has sent the document or
34 exhibit to the reviewing court.

35
36 (5) On request, the reviewing court may return a document or an exhibit to the
37 party that sent it nonelectronically. When the remittitur issues, the reviewing
38 court must return all documents or exhibits to the party that sent them, if they
39 were sent nonelectronically.

40
41 **(d) Form of appendix**

- 1 (1) An appendix must comply with the requirements of rule 8.838 for a clerk's
2 transcript.
- 3
- 4 (2) In addition to the information required on the cover of a brief by rule
5 8.883(c)(8), the cover of an appendix must prominently display the title
6 "Joint Appendix" or "Appellant's Appendix" or "Respondent's Appendix" or
7 "Appellant's Reply Appendix."
- 8
- 9 (3) An appendix must not be bound with or transmitted electronically with a
10 brief as one document.

11

12 **(e) Service and filing**

13

- 14 (1) A party preparing an appendix must:
- 15
- 16 (A) Serve the appendix on each party, unless otherwise agreed by the
17 parties or ordered by the reviewing court; and
- 18
- 19 (B) File the appendix in the reviewing court.
- 20
- 21 (2) A joint appendix or an appellant's appendix must be served and filed with the
22 appellant's opening brief.
- 23
- 24 (3) A respondent's appendix, if any, must be served and filed with the
25 respondent's brief.
- 26
- 27 (4) An appellant's reply appendix, if any, must be served and filed with the
28 appellant's reply brief.
- 29

30 **(f) Cost of appendix**

31

- 32 (1) Each party must pay for its own appendix.
- 33
- 34 (2) The cost of a joint appendix must be paid:
- 35
- 36 (A) By the appellant;
- 37
- 38 (B) If there is more than one appellant, by the appellants equally; or
- 39
- 40 (C) As the parties may agree.
- 41

42 **(g) Inaccurate or noncomplying appendix**

43

1 Filing an appendix constitutes a representation that the appendix consists of
2 accurate copies of documents in the superior court file. The reviewing court may
3 impose monetary or other sanctions for filing an appendix that contains inaccurate
4 copies or otherwise violates this rule.

5
6 **Advisory Committee Comment**
7

8 **Subdivision (a).** Under this provision, either party may elect to have the appeal proceed by way
9 of an appendix. If the appellant’s fees for a clerk’s transcript are not waived and the respondent
10 timely elects to use an appendix, that election will govern unless the superior court orders
11 otherwise. This election procedure differs from all other appellate rules governing designation of
12 a record on appeal. In those rules, the appellant’s designation, or the stipulation of the parties,
13 determines the type of record on appeal. Before making this election, respondents should check
14 whether the appellant has been granted a fee waiver that is still in effect. If the trial court has
15 granted the appellant a fee waiver for the clerk’s transcript, or grants such a waiver after the
16 notice of appeal is filed, the respondent cannot elect to proceed by way of an appendix.
17

18 Subdivision (a)(2) is intended to assist appellate counsel in preparing an appendix by providing
19 counsel with the list of pleadings and other filings found in the register of actions or “docket
20 sheet” in those counties that maintain such registers. (See Gov. Code, § 69845.) The provision is
21 derived from rule 10-1 of the United States Circuit Rules (9th Cir.).
22

23 **Subdivision (b).** Under subdivision (b)(1)(A), a joint appendix or an appellant’s appendix must
24 contain any register of actions that the clerk sent to the parties under subdivision (a)(2). This
25 provision is intended to assist the reviewing court in determining the accuracy of the appendix.
26 The provision is derived from rule 30-1.3(a)(ii) of the United States Circuit Rules (9th Cir.).
27

28 In support of or opposition to pleadings or motions, the parties may have filed a number of
29 lengthy documents in the proceedings in superior court, including, for example, declarations,
30 memorandums, trial briefs, documentary exhibits (e.g., insurance policies, contracts, deeds), and
31 photocopies of judicial opinions or other publications. Subdivision (b)(3)(A) prohibits the
32 inclusion of such documents in an appendix when they are not necessary for proper consideration
33 of the issues raised in the appeal. Even if a document is otherwise includable in an appendix, the
34 rule prohibits the inclusion of any substantial portion of the document that is not necessary for
35 proper consideration of the issues raised in the appeal. The prohibition is intended to simplify and
36 therefore expedite the preparation of the appendix, to reduce its cost to the parties, and to relieve
37 the courts of the burden of reviewing a record containing redundant, irrelevant, or immaterial
38 documents. The provision is adapted from rule 30-1.4 of the United States Circuit Rules (9th
39 Cir.).
40

41 Subdivision (b)(3)(B) prohibits the inclusion in an appendix of transcripts of oral proceedings that
42 may be made part of a reporter’s transcript. (Compare rule 8.834(c)(4) [the reporter must not
43 copy into the reporter’s transcript any document includable in the clerk’s transcript under rule

1 8.832].) The prohibition is intended to prevent a party filing an appendix from evading the
2 requirements and safeguards imposed by rule 8.834 on the process of designating and preparing a
3 reporter's transcript. In addition, if an appellant were to include in its appendix a transcript of less
4 than all the proceedings, the respondent would not learn of any need to designate additional
5 proceedings (under rule 8.834(a)(3)) until the appellant had served its appendix with its brief,
6 when it would be too late to designate them. Note also that a party may file a certified transcript
7 of designated proceedings instead of a deposit for the reporter's fee (Cal. Rules of Court, rule
8 8.834(b)(2)(D)).

10 **Subdivision (d).** In current practice, served copies of filed documents often bear no clerk's date
11 stamp and are not conformed by the parties serving them. Consistent with this practice,
12 subdivision (d) does not require such documents to be conformed. The provision thereby relieves
13 the parties of the burden of obtaining conformed copies at the cost of considerable time and
14 expense, and expedites the preparation of the appendix and the processing of the appeal. It is to
15 be noted, however, that under subdivision (b)(1)(A) each document necessary to determine the
16 timeliness of the appeal must show the date required under rule 8.822 or 8.823. Note also that
17 subdivision (g) of rule 8.845 provides that a party filing an appendix represents under penalty of
18 sanctions that its copies of documents are accurate.

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

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

32 **Subdivision (g).** Under subdivision (g), sanctions do not depend on the degree of culpability of
33 the filing party—i.e., on whether the party's conduct was willful or negligent—but on the nature
34 of the inaccuracies and the importance of the documents they affect.

36 **Rule 8.882. Briefs by parties and amici curiae**

38 **(a) Briefs by parties**

40 (1) The appellant must serve and file an appellant's opening brief within:

42 (A) 30 days after the record—or the reporter's transcript, after a rule 8.845
43 election in a civil case—is filed in the appellate division; or

1 (B) 60 days after the filing of a rule 8.845 election in a civil case, if the
2 appeal proceeds without a reporter's transcript.

3
4 (2)-(5) * * *

5
6 (b)-(e) * * *

7

GENERAL INFORMATION**1 What does this information sheet cover?**

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

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

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

2 What is an appeal?

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

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

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

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

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

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

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

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

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

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

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

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

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

You have to hire your own attorney if you want one. You can get information about finding an attorney on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm in the Getting Started section.

INFORMATION FOR THE APPELLANT

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

5 Who can appeal?

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

6 Can I appeal any decision the trial court made?

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

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

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

7 How do I start my appeal?

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

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

“Serve and file” means that you must:

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

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

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

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

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

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

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

10 Do I have to pay to file an appeal?

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

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

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

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

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

Since the appellate division judges were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the

appellate division for its review. You can use *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to ask the trial court to prepare this record. You can get form APP-103 at any courthouse or county law library or online at www.courts.ca.gov/forms.

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

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

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

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

There are three parts of the official record:

- A record of what was said in the trial court (this is called the "oral proceedings")

- A record of the documents filed in the trial court (other than exhibits)
- Exhibits that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court

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

a. Record of what was said in the trial court (the "oral proceedings")

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

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

In a limited civil case, you can use *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to tell the court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get form APP-103 at any courthouse or county law library or online at www.courts.ca.gov/forms.

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

- If you or the other party arranged to have a court reporter there during the trial court proceedings, the

reporter can prepare a record, called a “reporter’s transcript.”

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

Read below for more information about these options.

(1) Reporter’s transcript

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

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

Contents: If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—*Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this. If you elect to use a reporter’s transcript, the respondent also has the right to designate additional proceedings to be included in the reporter’s transcript. If you elect to proceed without a reporter’s transcript, however, the respondent may not designate a reporter’s transcript without first getting an order from the appellate division.

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

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

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

(2) Official electronic recording or transcript

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

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

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

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

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

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

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

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

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

(3) Agreed statement

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

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

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

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

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

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

(4) Statement on appeal

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

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

Contents: A statement on appeal must include:

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

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

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

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

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

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

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

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

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

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

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

b. Record of the documents filed in the trial court

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

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

Read below for more information about these options.

(1) Clerk’s transcript or appendix

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

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

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

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

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

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

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

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

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

parties can agree on how the cost of preparing the appendix will be paid or the appellant will pay the cost.

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

(2) Trial court file

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

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

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

Completion and delivery: After the cost of preparing the trial court file has been paid or waived and the record on appeal is complete, the trial court clerk will send the file and a list of the documents in the file to the appellate division. The trial court clerk will also send a copy of the

list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order.

(3) Agreed statement

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

c. Exhibits

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

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

14 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives the record, it will send

you a notice telling you when you must file your brief in the appellate division.

15 What is a brief?

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

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

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

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

mail, in person, or electronically), and the date the brief was served.

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

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

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

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

16 What happens after I file my brief?

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

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

17 What happens after all the briefs have been filed?

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

18 What is "oral argument"?

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

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

19 What happens after oral argument?

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

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

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

can get form APP-107 at any courthouse or county law library or online at www.courts.ca.gov/forms.

INFORMATION FOR THE RESPONDENT

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

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

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

If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm.

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

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

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

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

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

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

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

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

(a) Reporter's transcript

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

Whether or not you ask for additional proceedings to be included in the reporter's transcript, you must generally pay a fee if you want a copy of the reporter's transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter's transcript. If you want a copy of the reporter's transcript, you must deposit this amount (and a fee for the trial court) or one of the substitutes allowed by rule 8.834 with the trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information)

about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at

www.courtreportersboard.ca.gov/consumers/index.shtml#trf. The reporter will not prepare a copy of the reporter's transcript for you unless you deposit the cost of the transcript, or one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

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

(b) Agreed statement

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

(c) Statement on appeal

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

- Have somebody over 18 years old mail, deliver, or electronically send ("serve") the proposed amendments to the appellant in the way required by law. If the proposed amendments are mailed or personally

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

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

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

(d) Clerk's transcript or appendix

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

To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk's transcript. You may use *Respondent's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-110) for this purpose.

Whether or not you ask for additional documents to be included in the clerk's transcript, you must pay a fee if you want a copy of the clerk's

transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk's transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk's notice was sent.

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

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

25 What happens after the official record has been prepared?

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

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

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

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

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

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

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

26 What happens after all the briefs have been filed?

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

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

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

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

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

Clerk stamps date here when form is filed.

DRAFT

01-24-20

**Not approved by
the Judicial Council**

Instructions

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

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

Superior Court of California, County of

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

Trial Court Case Number:

Trial Court Case Name:

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

Appellate Division Case Number:

1 Your Information

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

Name: _____

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

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

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

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

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.

Record of Oral Proceedings in the Trial Court

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

- 3** 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 **4**; go to item **5**). I understand that if I elect to proceed without providing a record of the oral proceedings, the appellate division will not be able to review any issues I might want to raise about what was said in the trial court during those proceedings or any claim that there was not evidence to support the judgment, order, or decision I am appealing.
(Write initials here): _____
- b. ☐ **WITH** a record of the oral proceedings in the trial court (complete item **4** 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): _____
- 4** I want to use the following record of what was said in the trial court proceedings in my case (check and complete **only one** of the following below—a, b, c, d, or e):

- a. ☐ **Reporter’s Transcript.** This option is available only if there was a court reporter in the trial court who made a record of what was said in court. Check with the trial court to see if there was a court reporter in your case before choosing this option. Complete (1) and (2).
- (1) **Designation of proceedings to be included in reporter’s transcript.** I request that the following proceedings in the trial court be included in the reporter’s transcript. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings [for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions], the name of the court reporter who recorded the proceedings, and whether a certified transcript of the designated proceeding was previously prepared.)

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

- ☐ Check here if you need to list other proceedings and attach a separate page or pages listing those proceedings. At the top of each page, write “APP-103, item 4a.”



Trial Court Case Name: _____

Trial Court Case Number: _____

4 a. (continued)

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

☐ Check here if you need more space to list other points and attach a separate page or pages listing those points. At the top of each page, write "APP-103, item 4a(2)."

- (3) ☐ **Certified transcripts.** I have attached to this Appellant's Notice Designating Record on Appeal an original certified transcript of *all the proceedings I have designated* in (1). The transcript complies with the format requirements in rule 8.144 of the California Rules of Court. Under rule 8.834, no payment is due for this transcript (skip the rest of **4** and go to **5**).

(4) **Payment for reporter's transcript.**

- (a) ☐ I will pay for the reporter's transcript I have designated in (1). Within 10 days of getting the reporter's estimate of the cost of the transcript, I will:
- ☐ Deposit an amount equal to the estimated cost of the transcript with the trial court, and a fee of \$50 for the superior court to hold this deposit in trust. I understand that if I do not comply with this requirement, my appeal may be dismissed.
 - ☐ File with the trial court a copy of the written waiver of deposit signed by the reporter. I understand that if I do not comply with this, my appeal may be dismissed.
- (b) ☐ I am unable to afford the cost of the reporter's transcript I have designated in (1) and am therefore applying to the Transcript Reimbursement Fund to pay for this transcript. Within 10 days of receipt of the court reporter's estimate of the costs for this transcript, I will file with the trial court a copy of my application to the Court Reporters Board for payment or reimbursement from the Transcript Reimbursement Fund.

(5) **Format of reporter's transcript.** I request that the reporter provide my copy of the transcript in:

- (a) ☐ Paper format only.
(b) ☐ Electronic format only.
(c) ☐ Both paper and electronic format.

OR

- b. ☐ **Transcript From Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. Identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings, and if you know it, the name of the electronic recording monitor who recorded the proceedings:*

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

☐ Check here if you need more space to describe any proceeding or to list more proceedings and attach a separate page describing or listing those proceedings. At the top of each page, write "APP-103, item 4b."



4 b. (continued)

Check and complete (1) or (2).

- (1) ☐ I will pay the trial court clerk for this transcript myself. I understand that if I do not pay for the transcript, my appeal may be dismissed.
- (a) ☐ With this notice designating the record on appeal, I have deposited with the trial court clerk the approximate cost of transcribing the proceedings I designated above, calculated as provided in rule 8.130(b)(1)(B).
- (b) ☐ Within 10 days of receipt of the clerk's estimate of the cost of the transcript, I will deposit that amount with the trial court clerk.
- (2) ☐ I am asking that the transcript be provided at no cost to me because I cannot afford to pay this cost. I have attached (*check (a) or (b) and attach the appropriate document*):
- (a) ☐ An order granting a waiver of the cost under rules 3.50–3.58 and 8.818(d).
- (b) ☐ An application for a waiver of court fees and costs under rules 3.50–3.58 and 8.818(d). (*Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.*)

OR

- c. ☐ **Copy of Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court, the court has a local rule for the appellate division permitting the use of the official electronic recording itself as the record of the proceedings, and all of the parties have agreed (stipulated) that they want to use the recording itself as the record of what was said in the case. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. You must attach a copy of your agreement (stipulation) with the other parties to this notice. Check and complete (1) or (2).*
- (1) ☐ I will pay the trial court clerk for this copy of the recording myself when I receive the clerk's estimate of the cost of this copy. I understand that if I do not pay for this copy of the recording, it will not be prepared and provided to the appellate division.
- (2) ☐ I am asking that a copy of the recording be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (*check (a) or (b) and submit the appropriate document*):
- (a) ☐ An order granting a waiver of the cost under rules 3.50–3.58 and 8.818(d).
- (b) ☐ An application for a waiver of court fees and costs under rules 3.50–3.58 and 8.818(d). (*Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.*)

OR

- d. ☐ **Agreed Statement.** *An agreed statement is a summary of the trial court proceedings agreed to by the parties. See form APP-101-INFO for information about preparing an agreed statement. Check (1) or (2).*
- (1) ☐ I have attached an agreed statement to this notice.
- (2) ☐ All the parties have agreed in writing (stipulated) to try to agree on a statement (*you must attach a copy of this agreement (stipulation) to this notice*). I understand that, within 30 days after I file this notice, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal, and if I do not, the court may dismiss my appeal.



4 (continued)

OR

- e. ☐ **Statement on Appeal.** *A statement on appeal is a summary of the trial court proceedings approved by the trial court. See form APP-101-INFO for information about preparing a proposed statement. Check (1) or (2).*
- (1) ☐ I have attached my proposed statement on appeal to this notice. *(If you are not represented by a lawyer in this appeal, you must use Proposed Statement on Appeal (Limited Civil Case) (form APP-104) to prepare and file this proposed statement. You can get a copy of form APP-104 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm.)*
- (2) ☐ I have NOT attached my proposed statement on appeal to this notice. I understand that I must serve and file this proposed statement in the trial court within 20 days of the date I file this notice and that if I do not file the proposed statement on time, the court may dismiss my appeal.

Record of the Documents Filed in the Trial Court

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

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

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



5 a. (continued)

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

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

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

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

(3) **Exhibits.**

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

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

- ☐ Check here if you need to list other exhibits and attach a separate page or pages listing those exhibits. At the top of each page, write "APP-103, item 5a(3)."

Trial Court Case Name: _____

Trial Court Case Number: _____

5 a. (continued)

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

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

OR

b. ☐ **An appendix under rule 8.845.**

OR

c. ☐ **Agreed statement.** *(This option is only available if you have chosen to use an agreed statement as the record of the oral proceedings under item ④ above and you attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in 5a(1) above and in rule 8.832 of the California Rules of Court.)*

Date: _____

Type or print your name

Signature of appellant or attorney

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

Clerk stamps date here when form is filed.

DRAFT

01-28-2020

Not approved by the Judicial Council

Instructions

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

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

Superior Court of California, County of

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

Trial Court Case Number:

Trial Court Case Name:

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

Appellate Division Case Number:

1 Your Information

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

Name: _____

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

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

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

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

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

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Trial Court Case Number:

Information About the Appeal

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

Record of the Documents Filed in the Trial Court

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

Date: _____

Type or print your name



Signature of respondent or attorney



SPR20-02

Appellate Procedure: Use of an Appendix in Limited Civil Cases (Adopt Cal. Rules of Court, rule 8.845; amend rules 8.830, 8.840, 8.843, and 8.882; approve form APP-111; revise forms APP101-INFO and APP-103)

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

| | Commenter | Position | Comment | DRAFT Committee Response |
|----|---|-----------------|---|--|
| 1. | California Lawyers Association Committee on Appellate Courts, Litigation Section By Saul Bercovitch Director of Governmental Affairs, California Lawyers Association Leah Spero, Chair Committee on Appellate Courts | A | <p>The Committee on Appellate Courts supports the entirety of this proposal. The proposal appropriately addresses the stated purpose, and the proposed modifications to Forms APP-101-INFO and APP-103, as well as the addition of Form APP-111, appropriately reflect the rule changes.</p> <p>The Committee on Appellate Courts further supports the decision not to address administrative records in either the proposed rule or any other new rule. Designating an appendix saves money and streamlines the appellate process, especially for pro se litigants. Requiring the separate transmittal of an administrative record would undercut these goals.</p> | <p>The committee notes the commenter's agreement with the proposal.</p> <p>The committee agrees with this approach.</p> |
| 2. | Orange County Bar Association By Scott B. Garner, President | A | No specific comment provided. | The committee notes the commenter's agreement with the proposal. No further response required. |
| 3. | Superior Court of Los Angeles County | A | <p>1. Should the proposed new rule specify that an appendix should not contain the record of an administrative proceeding (see current rule 8.124(b)(3)(C))?</p> <p>Yes, consistency in how the rule is executed across jurisdictions will be helpful to litigants and staff.</p> | <p>The committee notes the commenter's agreement with the proposal and appreciates the responses to questions asked in the invitation to comment.</p> <p>The committee decided not to address administrative records in this rule because it does not appear to be necessary. Limited civil appeals only rarely, if ever, involve administrative records. The added complexity and potential for confusion outweigh any benefit from maintaining</p> |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR20-02

Appellate Procedure: Use of an Appendix in Limited Civil Cases (Adopt Cal. Rules of Court, rule 8.845; amend rules 8.830, 8.840, 8.843, and 8.882; approve form APP-111; revise forms APP101-INFO and APP-103)

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

| | Commenter | Position | Comment | DRAFT Committee Response |
|----|---|----------|--|---|
| | | | <p>2. If so, should the rules for limited civil appeals include a rule on the record of administrative proceedings, similar to rule 8.123 for unlimited civil appeals?</p> <p>Yes.</p> <p>NOTE: This process will likely result in confusion for pro per litigants who will feel compelled to file the appendix as well as requesting a clerk's transcript.</p> | <p>consistency on this point with the rules on unlimited civil appeals.</p> <p>See response above.</p> <p>The committee appreciates the difficulties self represented litigants face in navigating the appeals process. This is one reason the committee opted not to include a rule on administrative records in the appellate division.</p> |
| 4. | Superior Court of Orange County Training and Analyst Group (TAG) Team | NI | <p>Similar to existing unlimited civil rules, this rule allows litigants with limited appeals to also use appendices in lieu of transcripts thus saving litigants money and streamlining the process. This will require trial courts to review local rules to ensure local rules are consistent with these revisions.</p> <p>1. Does the proposal appropriately address the stated purpose? Yes</p> <p>2. Should the proposed new rule specify that an appendix should not contain the record of an administrative proceeding (see current rule 8.124(b)(3)(C))? If so, should the rules for</p> | <p>The committee appreciates receiving these comments.</p> <p>No further response required.</p> |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR20-02

Appellate Procedure: Use of an Appendix in Limited Civil Cases (Adopt Cal. Rules of Court, rule 8.845; amend rules 8.830, 8.840, 8.843, and 8.882; approve form APP-111; revise forms APP101-INFO and APP-103)

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

| | Commenter | Position | Comment | DRAFT Committee Response |
|--|-----------|----------|--|--|
| | | | limited civil appeals include a rule on the record of administrative proceedings, similar to rule 8.123 for unlimited civil appeals? Yes, mirroring the current rule regarding unlimited civil appeals would provide consistency and make implementation easier. 3. Should any provisions in the proposed new and amended rules or forms be changed or eliminated to better reflect appellate division practice and procedure? No 4. Would the proposal provide cost savings? If so, please quantify. Yes, the proposal would provide some cost savings for the court in staff time, paper, copying and binding. It would also benefit litigants. 5. What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? The appeal procedure would need to be updated to reflect the option of an appendix as well as references to the new and revised forms. The case management system would need to be configured to add the new form. Local forms would also require similar updates. Staff will | See response to Superior Court of Los Angeles County, above. For the same reasons, the committee does not recommend a rule on administrative records for limited civil appeals. No further response required. The committee appreciates this feedback. The committee appreciates this feedback. |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated

SPR20-02

Appellate Procedure: Use of an Appendix in Limited Civil Cases (Adopt Cal. Rules of Court, rule 8.845; amend rules 8.830, 8.840, 8.843, and 8.882; approve form APP-111; revise forms APP101-INFO and APP-103)

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

| | Commenter | Position | Comment | DRAFT Committee Response |
|----|--|----------|---|--|
| | | | need to be informed and/or trained. But this would require only 2-3 hours of training staff time to make the needed procedural updates and to configure the case management system. 6. Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes 7. How well would this proposal work in courts of different sizes? The proposal should work well in all courts regardless of the size. | No further response required. No further response required. |
| 5. | Superior Court of San Diego County By Mike Roddy Court Executive Officer | A | No specific comment provided. | The committee notes the commenter's agreement with the proposal. No further response required. |

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated