



Judicial Council of California

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Subject Text

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File #: 23-099, Version: 1

Title

Rules and Forms | Appellate Procedure: Costs on Appeal (Action Required)

Summary

The Appellate Advisory Committee recommends amending the rules governing costs on appeal in civil actions to clarify that the general rule for awarding costs to the prevailing party is subject to exception for statutes requiring a different or additional finding, determination, or analysis. The proposal is responsive to a recent Supreme Court decision and the constitutional principle that rules of court may not be inconsistent with statute.

Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective September 1, 2023:

1. Amend rules 8.278 and 8.891 of the California Rules of Court to state that the general rule for awarding costs to the prevailing party is subject to exceptions established by statutes; and
2. Amend the advisory committee comments accompanying rules 8.278 and 8.891 to indicate that subdivision (a)(1) reflects the holding of *Pollock v. Tri-Modal Distribution Services, Inc.* (2021) 11 Cal.5th 918 and the constitutional principle that rules of court may not be inconsistent with statute.