



Judicial Council of California  
Appellate Advisory Committee

[www.courts.ca.gov/aac.htm](http://www.courts.ca.gov/aac.htm)  
[aac@jud.ca.gov](mailto:aac@jud.ca.gov)

## APPELLATE ADVISORY COMMITTEE OPEN MEETING AGENDA

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1))  
THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS  
THIS MEETING IS BEING RECORDED

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**Date:** June 13, 2024  
**Time:** 3:00 P.M.  
**Public Call-in Number:** Enter public call-in number

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Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

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### I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

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#### Call to Order and Roll Call

#### Approval of Minutes

Approve minutes of the February 5, 2024, and March 27, 2024, Appellate Advisory Committee meetings.

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### II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1))

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#### Written Comment

This meeting will be conducted by electronic means with a listen only conference line available for the public. As such, the public may submit comments for this meeting in writing. In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to [aac@jud.ca.gov](mailto:aac@jud.ca.gov). Only written comments received by June 11, 2024, by 12:00 p.m. will be provided to advisory body members prior to the start of the meeting.

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### III. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

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#### Info 1

#### Chair's Report

Update on items of interest

Presenter: Hon. Louis Mauro

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**IV. DISCUSSION AND POSSIBLE ACTION ITEMS**

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**Item 2**

**Civil Case Information Statement, Calendar Preference, and Extension of Time**

Review public comments on the proposal to amend the rule regarding the deadline for filing the Civil Case Information Statement and to revise the Civil Case Information Statement and extension of time forms.

Presenters: Hon. Louis Mauro, Mr. Kendall W. Hannon

**Item 3**

**Expanded Clerk's Transcripts in Felony Appeals**

Review public comments on the proposal to amend rule 8.320 to permit the Courts of Appeal to require, by local rule, that additional items be included in the clerk's transcript in felony appeals.

Presenters: Hon. Louis Mauro, Mr. Kendall W. Hannon

**Item 4**

**Deadline for Amicus Curiae Briefs**

Review public comments on the proposal to amend rule 8.200 to provide a deadline for filing an amicus curiae application when no respondent's brief is filed.

Presenters: Hon. Louis Mauro, Mr. Kendall W. Hannon

**Item 5**

**Form Briefs for Use in Limited Civil Appeals**

Review public comments on the proposal to approve optional form briefs for use in limited civil appeals.

Presenters: Hon. Louis Mauro, Mr. Kendall W. Hannon

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**V. ADJOURNMENT**

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**Adjourn**



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.:*

For business meeting on September 20, 2024

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**Title**

Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 8.100; revise forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817

**Date of Report**

June 6, 2024

**Contact**

Kendall W. Hannon, 415-865-7653  
[kendall.hannon@jud.ca.gov](mailto:kendall.hannon@jud.ca.gov)

**Recommended by**

Appellate Advisory Committee  
Hon. Louis Mauro, Chair

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### Executive Summary

The Appellate Advisory Committee recommends amending California Rules of Court, rule 8.100 to require appellants to file the *Civil Case Information Statement* (APP-004) within 15 days after the reviewing court assigns the appeal a case number and revising form APP-004 to allow the appellant to provide a nonstatutory reason why the appeal is eligible for calendar preference. The committee also recommends revising the forms used by parties to request extensions of time to file briefs to make slight substantive and formatting improvements.

### Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2025:

1. Amend California Rules of Court, rule 8.100 to require the appellant to file the *Civil Case Information Statement* (form APP-004) within 15 days after the reviewing court assigns the appeal a case number.

2. Revise the following forms:

- *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO)
- *Civil Case Information Statement* (form APP-004)
- *Application for Extension of Time to File Brief—Unlimited Civil Case* (form APP-006)
- *Application for Extension of Time to File Brief—Limited Civil Case* (form APP-106)
- *Application for Extension of Time to File Brief—Criminal Case* (form CR-126)
- *Application for Extension of Time to File Brief—Juvenile Justice Case* (form JV-816)
- *Application for Extension of Time to File Brief—Juvenile Dependency Case* (form JV-817)

The proposed amended rule and revised forms are attached at pages 9-39.

### **Relevant Previous Council Action**

The predecessor to California Rules of Court,<sup>1</sup> rule 8.100(g), governing the filing of the Civil Case Information Statement, was adopted by the Judicial Council effective January 1, 2003. Effective January 1, 2014, rule 8.100(g) was amended to remove a requirement that the Court of Appeal clerk mail the appellant a notice of the requirement to file the *Civil Case Information Statement* (form APP-004) along with a copy of form APP-004. This requirement was replaced with the current requirement that the appellant file form APP-004 within 15 days after the superior court mails the required notification of the filing of the notice of appeal.

The Judicial Council adopted the *Civil Case Information Statement* (originally as form APP-001) for mandatory use in October 2002. It was renumbered to APP-004 effective January 1, 2004.

The *Application for Extension to File Brief* forms were approved for optional use at various times. Form APP-006, for unlimited civil cases, was approved effective January 1, 2004. Form APP-106, for limited civil cases, was approved effective January 1, 2010. Form CR-126, for felony criminal cases, form JV-816, for juvenile delinquency cases, and form JV-817, for juvenile dependency cases, were approved effective January 1, 2025. Each of these forms has been previously revised, but these prior revisions are not relevant to this proposal.

### **Analysis/Rationale**

#### **Civil Case Information Statement rule and form revisions**

Rule 8.100(g)(1) currently requires an appellant, within 15 days after the superior court sends notification that a notice of appeal has been filed, to serve and file in the reviewing court a completed *Civil Case Information Statement* (form APP-004). This proposal recommends amending the due date in rule 8.100(g)(1) and revising form APP-004.

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<sup>1</sup> All further rule references are to the California Rules of Court.

### ***Deadline for filing Civil Case Information Statement***

The committee received feedback that appellants are, in practice, often unable to comply with rule 8.100(g)(1)'s current deadline because the reviewing court has not docketed and assigned the appeal a case number within 15 days after the notice of appeal has been filed. When this happens, there is no case in which the appellant can file the *Civil Case Information Statement*.

To prevent this situation, this proposal recommends amending rule 8.100(g)(1) to require the appellant to serve and file a completed *Civil Case Information Statement* (form APP-004) within "15 days after the reviewing court assigns the appeal a case number." Tying the deadline to the date the reviewing court assigns a case number will ensure that there is a case in the reviewing court where the appellant can file form APP-004, thus preventing confusion among appellants.

This proposal recommends revising *Information on Appeal Procedures for Unlimited Civil Appeals* (form APP-001-INFO) and form APP-004 to reflect rule 8.100(g)(1)'s new deadline. This proposal would also revise APP-001-INFO to advise appellants that they can use the Appellate Courts Case Information website to check whether their appeal has been assigned a case number.

### ***Civil Case Information Statement item regarding calendar preference or priority***

Last December, the Appellate Caseflow Workgroup<sup>2</sup> made a number of recommendations on ways to improve the efficiency of the appellate process. Among recommendations referred to the Appellate Advisory Committee by the workgroup via the Executive and Planning Committee was for the advisory committee to propose revisions to form APP-004 to "allow litigants or counsel to identify an alternative, non-statutory ground for an appeal to be given priority."

For civil cases in the Court of Appeal, rule 8.240 governs calendar preference and requires a party seeking preference to promptly serve and file a motion for preference in the reviewing court. "Calendar preference" can mean an expedited appeal schedule, including expedited briefing and preference in setting the date of oral argument. The advisory committee comment to this rule advises that the rule covers motions for preference based on statute<sup>3</sup> as well as situations where the court should exercise its discretion to grant preference on a nonstatutory ground.<sup>4</sup>

Currently, item 2 of part II of form APP-004 reads: "This appeal is entitled to calendar preference/priority on appeal (*cite authority*)."<sup>5</sup> The use of the word "entitled" and the direction to "cite authority" could be construed as narrowing the item only to cases where a statute expressly

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<sup>2</sup> The Appellate Caseflow Workgroup was appointed by former Chief Justice Tani G. Cantil-Sakauye in June 2022 and made its report to her in December 2022. The report is accessible at [https://newsroom.courts.ca.gov/sites/default/files/newsroom/2022-12/Appellate%20Caseflow%20Workgroup%20Report\\_Final.pdf](https://newsroom.courts.ca.gov/sites/default/files/newsroom/2022-12/Appellate%20Caseflow%20Workgroup%20Report_Final.pdf).

<sup>3</sup> For example, Code Civ. Proc., § 44 (probate proceedings, contested elections, libel by public official) or § 45 (judgments freeing minors from parental custody).

<sup>4</sup> See, e.g., *Warren v. Schechter* (1997) 57 Cal.App.4th 1189, 1199-1200 (finding court had discretion to grant appellate calendar preference where one of the parties was elderly and ailing).

grants a type of case calendar preference or priority. To avoid such a narrow reading, this proposal would revise this item on the *Civil Case Information Statement* to read “This appeal is eligible for calendar preference/priority on appeal (*cite authority or explain*).”

A commenter expressed the view that litigants may erroneously conclude that filling out this item would satisfy rule 8.240’s requirement that a party seeking calendar preference or priority promptly serve and file a motion to this effect. To prevent such an error, this proposal would add the following advisement to the item: “*(A party seeking calendar preference or priority on a non-statutory or discretionary ground must promptly serve and file in the Court of Appeal a motion for preference, see Cal. Rules of Court, rule 8.240.)*”

The committee believes that these revisions will help flag for the Courts of Appeal at an early stage that a case may be eligible for case preference or priority. It will also ensure that litigants are aware of the need to promptly file a motion if they believe their case should be given calendar preference or priority. In these ways, the committee believes the revisions will aid appellate efficiency.

### **Revisions to extension of time forms**

This proposal recommends revising the various forms for requesting an extension of time to file a brief to make the following improvements:

- Revising item 1(a) on forms APP-006, CR-126, JV-816, and JV-817 to allow the user to describe the “supplemental or other brief” for which an extension is being sought. The committee believes this will allow the reviewing court to easily identify the brief for which an extension is requested.
- Revising item 1(c) on forms APP-006, CR-126, JV-816, and JV-817 to require the user to indicate how many total days are being sought for the extension. The committee believes this will allow the reviewing court to quickly determine the length of the requested extension.
- Revising the language in item 3 on forms APP-006, CR-126, JV-816, and JV-817 to ask “Did the court use the words ‘no further’ in a prior order or directive granting an extension?” The committee believes this revised language improves the clarity of this item.
- Revising the items on forms APP-006, CR-126, JV-816, and JV-817 to provide more space for a party seeking an extension to state the length of the record and the date the record was filed.
- Revising the items on forms APP-006, CR-126, JV-816, and JV-817 to increase the size of the text box where a party states the reason why an extension is needed. Revising form APP-106 to provide a check box where the party seeking the extension can indicate that additional space is needed and that their reasons are provided on a separate attachment.

- Revising item 10 on form CR-126 and item 9 on form JV-816 so that the parentheticals direct the party seeking the extension to “possible prejudice to the parties,” not just the defendant or juvenile.

### **Policy implications**

The recommended rule amendment and form revisions will help avoid litigant confusion and avoid unnecessary, time-consuming defaults before the Court of Appeal. These revisions are therefore consistent with the *Strategic Plan for California’s Judicial Branch*, specifically the goals of Modernization of Management and Administration (Goal III) and Quality of Justice and Service to the Public (Goal IV).

### **Comments**

This proposal circulated for public comment from March 29 to May 3, 2024, as part of the regular spring comment cycle. Seven responsive comments were received: one from Division 1 of the Fourth District Court of Appeal; one from the Superior Court of Los Angeles; three from legal organizations; and two from practicing attorneys. The commenters were supportive of the recommended changes to the Civil Case Information Statement form and rule. Commenters, however, were split on the circulated proposal’s suggestion that the Council’s extension of time forms be made mandatory. A chart with the full text of the comments received and the committee’s responses is attached at pages 40-72. The principal comments and responses are summarized below.

#### ***Mandatory Judicial Council extension of time forms***

As circulated, this proposal contained a recommendation that the Judicial Council’s extension of time forms (APP-006, APP-106, CR-126, JV-816, and JV-817) be made mandatory. The purpose behind this recommendation was to help ensure that all extension of time requests contain the information the reviewing court needs to determine whether the requested extension is supported by good cause. Requiring use of the Council’s forms would also ensure that this information is provided in a consistent, easy to read format.

Conflicting comments were received on this part of the circulated proposal. On the one hand, the Family Violence Appellate Project supported the recommended change. On the other hand, the California Lawyers Association Committee on Appellate Courts (CAC), the California Appellate Defense Counsel (CADC), and a practicing attorney submitted comments opposing the change.

CAC recognized that while the Council’s extension of time forms might help focus the applicant on the relevant factors, making the forms mandatory could “trap” unwary litigants who are unaware of the requirement to use the form. It stated that this could cause valid extension of time applications to be rejected simply because of the form of the document, resulting in appeals going into default. CADC noted that its members frequently encounter technical issues with the Council’s extension of time forms. It also notes limitations with the programs used to fill out PDF forms require time consuming work arounds to finalize and file the extension of time form.

In light of the above comments, the committee has decided to no longer recommend that the Council's extension of time forms be made mandatory at this time. The committee concludes that leaving these forms optional will help ensure that all parties are able to efficiently access the courts to request an extension of time to file a brief without encountering technology-based problems or inconveniences.

At the same time, the committee is committed to constantly improving the usability of the appellate forms. The commenters made a number of suggestions on how to improve the extension of time forms, most of which the committee has, as discussed above, included in this proposal. In addition, staff has reviewed the concerns raised by the commenters regarding the usability of the existing forms and have fixed certain formatting errors identified by the commenters.

***Adoption of a new extension of time form for use in misdemeanor appeals***

As circulated, the proposal included a recommendation that the Council adopt a new extension of time form that would be used in misdemeanor appeals before the appellate division. While no commenters opposed this change, the committee has removed this proposed form from this proposal to allow it to potentially be considered at a future date as part of a larger proposal.

The Superior Court of Los Angeles County commented that if the proposal was going to make the Judicial Council's extension of time forms mandatory, rule 8.927 may need to be amended to require appellants in infraction appeals to use the mandatory form. Although the committee is no longer recommending that the Council's extension of time forms be made mandatory, the superior court's comment highlights a gap in the coverage of these forms; namely, that there is no extension of time form that can be used in infraction appeals.

The committee believes this gap can likely be filled by taking the misdemeanor extension of time form that was included in this proposal as circulated and expanding it to be used in infraction appeals as well. The committee notes there is significant overlap in the procedures in misdemeanor and infraction appeals, and that both proceed before the appellate division.

At the same time, however, expanding the proposed misdemeanor extension of time form to include infraction appeals is outside the scope of the instant proposal as the public has not been given the opportunity to comment on such a change. The committee has therefore removed the proposed misdemeanor extension of time form from the proposal. This will allow the committee to consider in a future proposal whether a single misdemeanor/infraction form is appropriate or whether separate forms are necessary.<sup>5</sup>

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<sup>5</sup> The committee believes such a proposal would allow the committee to also explore whether additional extension of time forms are needed for other classes of cases. For instance, as noted in the invitation to comment, additional extension of time forms may be useful in the civil commitment/conservatorship contexts in light of the First District Court of Appeal's recent opinion in *Public Guardian of Contra Costa v. K.Y.*, No. A166825.



### ***Civil Case Information Statement deadline and forms***

The commenters were supportive of the recommended amendment to rule 8.100(g) and the revision to form APP-004. In light of the comments received, two substantive changes were made to the proposal.

First, as circulated, the proposal suggested that rule 8.100(g)(1) be amended to make the Civil Case Information Statement due within “15 days after the reviewing court lodges the notice of appeal and assigns the appeal a case number.” CAC commented that it appeared unnecessary to have the deadline be tied to both “lodgment” and assignment of a case number, since a case number will only be assigned after the notice of appeal is lodged. The committee agrees, and has revised the proposal to recommend that the Civil Case Information Statement be due within “15 days after the reviewing court assigns the appeal a case number.”

Second, the Fourth District Court of Appeal, Division 1 expressed concern that the revised item 2 in Part II of the Civil Case Information Statement that allows the litigant to identify a non-statutory ground for calendar preference or priority could cause confusion. It noted that a litigant may erroneously conclude that listing this information is sufficient to request calendar preference or priority without having to comply with rule 8.240’s notice requirement. As discussed above, the committee has revised the proposed item to advise the party of the need to file a motion.

CAC also suggested that the proposal be revised to require appellate clerks to notify the parties when an appeal is docketed, and to tie the deadline for filing the Civil Case Information Statement to the service of this notice. The committee has declined to recommend this change at this time. The recommended change is outside the scope of the proposal as circulated. Additionally, the committee has been informed that the majority of the Courts of Appeal send out some form of notice to the parties when their appeal is docketed.<sup>6</sup>

### **Alternatives considered**

The committee considered the alternative of taking no action, but concluded that amending rule 8.100(g)(1) was appropriate as the current rule has proven unworkable in practice. The committee further concluded that revising the form APP-004 would help improve appellate efficiency by helping ensure that cases are given calendar preference or priority where appropriate. Finally, the committee believes that the proposed changes to the extension of time forms will improve the usability of the forms.

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<sup>6</sup> The committee notes that this may signal a shift in practice. As discussed above, rule 8.100(g)(1) used to require appellate court clerks to “promptly mail the appellant a copy of the *Civil Case Information Statement* (form APP-004) and a notice that the statement must be filed within 10 days.” The Council replaced this requirement with the current rule effective January 1, 2014, to eliminate what it deemed “atypical copying, mailing, and staff costs on the Court of Appeal.” If experience with this proposal’s amendment to rule 8.100(g)(1) suggests that requiring appellate clerks to send docketing notices to the parties would be beneficial, the committee may revisit this question in the future.

The committee considered recommending that the Judicial Council's extension of time forms be made mandatory. For the reasons discussed above, the committee decided against this course of action.

### **Fiscal and Operational Impacts**

Other than training for court staff to advise them of the rule change, the committee anticipates no fiscal or operational impacts.

### **Attachments and Links**

1. Cal. Rules of Court, rule 8.100, at page 9
2. Forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817, at pages 10-39
3. Chart of comments, at pages 40-72

Rules 8.100 of the California Rules of Court is amended, effective January 1, 2025, to read:

1 **Rule 8.100. Filing the appeal**

2

3 **(a)–(f)** \* \* \*

4

5 **(g) Civil case information statement**

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7 (1) Within 15 days after ~~the reviewing court superior court clerk sends the~~  
8 ~~notification of the filing of the notice of appeal required by (e)(1)~~ assigns the  
9 appeal a case number, the appellant must serve and file in the reviewing court  
10 a completed *Civil Case Information Statement* (form APP-004), attaching a  
11 copy of the judgment or appealed order that shows the date it was entered.

12

13 (2) \* \* \*

DRAFT

## GENERAL INFORMATION

### 1 What does this information sheet cover?

This information sheet tells you about appeals in unlimited civil cases. These are civil cases in which the amount of money claimed is more than \$35,000, as well as other types of cases, such as those filed in family court, probate court, and juvenile court.

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 3. 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 13.

This information sheet does not cover everything you may need to know about appeals in unlimited civil cases. It gives you a general idea of the appeal process. To learn more:

- Read rules [8.100–8.278](#) of the California Rules of Court, which set out the procedures for unlimited civil appeals. You can get these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).
- Read the local rules and find out about self-help resources for the district in which you filed your appeal at [www.courts.ca.gov/courtsofappeal.htm](http://www.courts.ca.gov/courtsofappeal.htm).
- Visit the Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/](http://selfhelp.courts.ca.gov/).
- Review the counties included in each appellate district at [www.courts.ca.gov/documents/appdistmap.pdf](http://www.courts.ca.gov/documents/appdistmap.pdf).

### 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 the superior court. In an unlimited civil case, the court hearing the appeal is the Court of Appeal for the district in which the superior court is located. 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 Court of Appeal will not consider new evidence, such as the testimony of new witnesses or new exhibits.

The appellate court'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 Limited Civil Cases* (form [APP-101-INFO](#))
- *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](http://www.courts.ca.gov/forms).

### 3 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).

### 4 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 904.1](#) lists a few types of orders in an unlimited civil case that can be appealed right away. These include orders that:

- 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. Note: Injunctions include restraining orders.
- Appoint a receiver.
- Are made after final judgment in the case.



- Are made appealable by the Family Code or the Probate Code.

You should consult with a lawyer or a court self-help center to determine if your order is final and appealable. Go to [www.courts.ca.gov/selfhelp-selfhelpcenters.htm](http://www.courts.ca.gov/selfhelp-selfhelpcenters.htm) to find information about the self-help center in your county.

(You can view Code of Civil Procedure section 904.1 using the link below:

[leginfo.legislature.ca.gov/faces/codes.xhtml](http://leginfo.legislature.ca.gov/faces/codes.xhtml).)

## 5 What does the appellant need to prove to win on appeal?

The appellant must prove that an error in the trial court proceedings was made and that the error affected the outcome of the court's or jury's decision. An error that affected the outcome of the case is called a "prejudicial error."

An error can include things like errors made by the judge about the law, errors or misconduct by the lawyers or by the jury, incorrect instructions given to the jury, or insufficient evidence to support the judgment, order, or other decision being appealed. Note: This is not a complete list of all possible errors.

When the appellant argues that the error was based on insufficient evidence to support the judgment or other decision being appealed, the Court of Appeal will determine whether there was "substantial evidence" to support the judgment, order, or other decision being appealed. But in conducting its review, the Court of Appeal only looks to see if there was evidence that reasonably supports the decision.

The Court of Appeal generally will not reconsider the jury's or the trial court's conclusions about which side had more or stronger evidence or whether witnesses were believable. It only determines whether the evidence is sufficient to support the judgment, order, or other decision.

The Court of Appeal will generally not overturn the judgment, order, or other decision being appealed unless the record shows a prejudicial error was made. The winning party does not have to prove that the judgment, order, or other decision was correct. Instead, it is up to the appellant to prove that the error was made and that the error affected the outcome of the case.

## 6 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 an unlimited 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 email address (if available) on the first page of every document you file with the court.

However, if you need to keep your contact information private (for instance, in an appeal involving a domestic violence restraining order), you may give a different mailing address instead. But if you use a different address, be sure to check it regularly to stay informed about your case and about your obligations regarding your case.

You must keep the Court of Appeal, the trial court (if the trial court proceedings continue or are expected to continue), and the other parties in your case informed of any change in your contact information for service of notices and other documents relating to the appeal.

For your trial court case, you may complete *Notice of Change of Address or Other Contact Information* (form [MC-040](#)), file it in the trial court, and have it served on the parties in the case.

For your case in the Court of Appeal, you may refer to form MC-040 as an example of the information that you need to include in a notice regarding the change in your contact information. That notice must be filed in the Court of Appeal and served on the parties in the appellate case.

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

You have to hire your own lawyer if you want one. You can get information about finding a lawyer on the Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help](http://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help).



**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 an unlimited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 13 of this information sheet.

**8 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—Unlimited Civil Case* (form [APP-002](#)) to prepare a notice of appeal in an unlimited civil case. You can get form APP-002 at any courthouse or county law library or online at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm).

**9 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 (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) 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 send (by mail or electronically) 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.

Unless you are filing electronically, 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 *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

**10 Is there a deadline to serve and file my notice of appeal?**

Yes. Generally, in an unlimited civil case, the notice of appeal must be served on the other party or parties in the case and filed with the clerk of the superior court within **60 days** after the trial court clerk or a party serves either (1) a document called a “Notice of Entry” of the trial court judgment or appealable order or (2) a file-stamped copy of the judgment or appealable order.

If the clerk or a party served neither of these documents, the notice of appeal must be filed within 180 days after entry of judgment or appealable order (generally, the date the judgment or appealable order is file-stamped).

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

If a notice of appeal has been filed in a case, any other party to the case may file its own appeal from the same judgment or order. This is called a “cross-appeal.”

To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal or within 20 days after the clerk of the superior court mails notice of the first appeal, whichever is later. A party that wishes to cross-appeal may use *Notice of Appeal/Cross-Appeal—Unlimited Civil Case* (form APP-002) to file this notice in an unlimited civil case.

**11 Do I have to pay a fee to file a notice of 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 an unlimited civil case in the current Statewide Civil Fee Schedule at [www.courts.ca.gov/7646.htm](http://www.courts.ca.gov/7646.htm) (see the “Appeal and Writ Related Fees” section near the end of the schedule).



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](http://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.

## 12 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, deliver property to another party, or comply with child custody or visitation orders (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at [www.leginfo.legislature.ca.gov/faces/codes.xhtml](http://www.leginfo.legislature.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 or some other procedure authorizes a stay (such as filing a bond in appropriate cases).

In most cases, if the trial court denies your request for a stay, you can apply to the Court of Appeal 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.

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

Within 15 days after the Court of Appeal assigns the appeal a case number, the appellant must serve and file in the Court of Appeal a completed *Civil Case Information Statement* (form [APP-004](#)), attaching a copy of the judgment or appealed order that shows the date it was entered. See rules [8.100](#) and [8.104](#) of the California Rules of Court. You may check to see if the Court of Appeal has assigned your appeal a case number by going to the Appellate Courts Case Information website located at [appellatecases.courtinfo.ca.gov/index.cfm](http://appellatecases.courtinfo.ca.gov/index.cfm).

In addition, since the Court of Appeal justices were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the Court of Appeal for its review.

Within 10 days of filing the notice of appeal, the appellant must tell the trial court in writing (designate) what documents and oral proceedings, if any, to include in the record that will be sent to the Court of Appeal. You will need to designate all parts of the record that the Court of Appeal will need to decide the issues you raised in the appeal.

You can use *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) to designate the record in an unlimited civil case. You can get form APP-003 at any courthouse or county law library or online at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm).

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 (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) 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 send (by mail or electronically) 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. Unless you are filing electronically, 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 *Information Sheet for Proof of Service* (form APP-009-INFO) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

## 14 What is the official record of the trial court proceedings?

There are three parts of the official record:

- A record of the documents filed in the trial court (other than exhibits);
- A record of what was said in the trial court (this is called the “oral proceedings”); and
- 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 the documents filed in the trial court

The first 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 Court of Appeal:

- 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 compilation of the documents filed in the trial court that is prepared by the trial court clerk. An appendix is a compilation of these documents prepared by a party. (Cal. Rules of Court, rule [8.124](#).)

**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 [8.122\(b\)](#) and rule [8.124\(b\)](#) of the California Rules of Court and in Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case) (form [APP-003](#)).

**Clerk’s transcript.** If you want any documents other than those listed in rule [8.122\(b\)](#) 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-003 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 three things within 10 days after the clerk sends this bill or the Court of Appeal may dismiss your appeal:

- Pay the bill.
- Ask the trial 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.htm](http://www.courts.ca.gov/forms.htm). The trial court will review this application to determine if you are eligible for a fee waiver.
- Give the trial 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 Court of Appeal 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 8.124 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 Court of Appeal has ordered otherwise) and file the appendix in the Court of Appeal. The appellant’s appendix or a joint appendix must be served and filed before or together with the appellant’s opening brief. See (16) for information about the brief.

## (2) Trial court file

**When available:** If the Court of Appeal has a local rule allowing this, and the parties agree, the clerk can send the Court of Appeal the original trial court file instead of a clerk’s transcript as a record of documents filed in the trial court (see rule 8.128 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 Court of Appeal may dismiss your appeal:

- Pay the bill.
- Ask the trial 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.court.ca.gov/forms](http://www.court.ca.gov/forms). The trial court will review this application to determine if you are eligible for a fee waiver.
- Give the trial 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 number the pages and send the file and a list of the documents in the file to the Court of Appeal. 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 and number the pages.

## (3) Agreed statement

**Description:** An agreed statement is a summary of the trial court proceedings agreed to by the parties. (See rule 8.134 of the California Rules of Court.)

**When available:** If the trial court proceedings were not recorded by a court reporter or if you do not want to use that option, 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 a reporter’s transcript, if it is available.

**Contents:** An agreed statement must explain what the trial court case was about, describe why the Court of Appeal is the right court to consider an appeal in this case (why the Court of Appeal 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 either (1) an agreed statement or (2) a written agreement (called a “stipulation”) that the parties are trying to agree on a statement, along with your notice designating the record on appeal. If you file the stipulation and the parties agree on a statement, you must file the statement within 40 days after filing the notice of appeal. If you file the stipulation and the parties cannot agree on the statement, you must file a new notice designating the record within 50 days after filing the notice of appeal.



**b. Record of what was said in the trial court (the “oral proceedings”)**

***Important!*** The type of record of the oral proceedings that you choose, including a reporter’s transcript or a settled statement, should be carefully considered, as it may affect your appeal. You should consult with a lawyer to determine the best option in your case.

The second 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 Court of Appeal a record of the oral proceedings. But if you want to raise any issue in your appeal that would require the Court of Appeal to consider what was said in the trial court, the Court of Appeal will need a record of those oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the judgment, order, or other decision you are appealing, the Court of Appeal will presume there was substantial evidence unless it has 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 Court of Appeal. **If the Court of Appeal does not receive this record, you may forfeit your arguments on appeal, or the Court of Appeal may make presumptions in favor of the judgment or order.**

In an unlimited civil case, you can use *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003) to tell the trial 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-003 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

There are three ways in which a record of the oral proceedings can be prepared for the Court of Appeal:

- If you or the other party arranged to have a court reporter present during the trial court proceedings, the reporter can prepare a record, called a “*reporter’s transcript*.”
- You can use an *agreed statement*.
- You can use a *settled statement*.

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 [8.130](#) of the California Rules of Court establishes the requirements for reporter’s transcripts.

**When available:** If a court reporter was present 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 Court of Appeal. But a court reporter might not have been present unless you or another party in your case had made specific arrangements to have a court reporter present. If you are unsure, check with the trial 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 to be 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 (Unlimited Civil Case)* (form APP-003)—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 Court of Appeal.

**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 8.130 with the trial court clerk within 10 days after this notice is sent. (See rule 8.130 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. Money from a special fund, called the Transcript Reimbursement Fund, may be available to help you pay for the transcript. You can get information about this fund at [www.courtreportersboard.ca.gov/consumers/index.shtml#rtf](http://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 settled statement, 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 Court of Appeal 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) Agreed statement

**Description:** An agreed statement is a written summary of the trial court proceedings agreed to by all the parties. See rule 8.134 of the California Rules of Court.

**When available:** If the trial court proceedings were not recorded by a court reporter or if you do not want to use that option, 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 a reporter's transcript, if it is available.

**Contents:** An agreed statement must explain what the trial court case was about, describe why the Court of Appeal is the right court to consider an appeal in this case (why the Court of Appeal 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 either (1) an agreed statement or (2) a written agreement (called a "stipulation") that the parties are trying to agree on a statement, along with your notice designating the record on appeal. If you file the stipulation and the parties agree on a statement, you must file the statement within 40 days after filing the notice of appeal. If you file the stipulation and the parties cannot agree on the statement, you must file a new notice designating the record within 50 days after filing the notice of appeal.

## (3) Settled statement

**Description:** A settled statement 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, referees, hearing officers, and temporary judges).

**When available:** Under rule [8.137](#) of the California Rules of Court, you can choose (elect) to use a settled statement as the record of the oral



proceedings if (1) the trial court proceedings were not recorded by a court reporter or (2) if you have an order waiving your court fees and costs. Please note that it may take more of your time to prepare a settled statement than to use a reporter's transcript, if it is available.

If you want to use a settled statement as the record of the oral proceedings for reasons other than the two previously mentioned, you must file a motion to ask the trial court for an order. You may use *Appellant's Motion to Use a Settled Statement (Unlimited Civil Case)* (form APP-025) for this purpose. Read rule 8.137 about the requirements of your motion or request for order.

**Contents:** A settled statement must include:

- A statement of the points you (the appellant) are raising on appeal;
- A condensed narrative of the oral proceedings that you specified in the notice designating the record on appeal or motion. The condensed narrative is a summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal; and
- A copy of the judgment or order you are appealing attached to the settled statement.

**Preparing a proposed settled statement:** If you elect to use a settled statement, you must prepare a proposed settled statement. You may use *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form [APP-014](#)) to prepare your proposed statement. You can get the form at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

(See rule 8.137 of the California Rules of Court for more information about what must be included in a settled statement 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](http://www.courts.ca.gov/rules).)

***Serving and filing a proposed settled statement:***

You must serve and file the proposed statement within 30 days after filing your notice electing to use a settled statement or within 30 days after the trial court clerk sends, or a party serves, the order granting the motion to use a settled statement.

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (serve) the proposed settled 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 settled statement has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) 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 settled 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. Unless you are filing electronically, 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 *Information Sheet for Proof of Service* (form APP-009-INFO) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).



**Respondent's review:** The respondent has 20 days from the date you serve your proposed settled statement to serve and file either:

- Proposed changes (called “amendments”) to the proposed statement; or
- If the oral proceedings in the trial court were reported by a court reporter, a notice indicating that the respondent is electing to provide a reporter’s transcript instead of proceeding with a settled statement.

**Review of appellant’s proposed settled statement:** If the respondent proposes changes, the trial court judge then reviews both your proposed statement and the respondent’s proposed amendments. 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. For more information, see rule 8.137(f) of the California Rules of Court. See also rule [8.140](#), which explains the consequences for a party’s failure to make corrections that are ordered to be made to the proposed statement.

**Request for hearing to review proposed settled statement:** No later than 10 days after the respondent files proposed amendments, or the time to do so has expired, a party may request a hearing to review and correct the proposed statement. No hearing will be held unless ordered by the trial court judge. A judge will not ordinarily order a hearing unless there is a factual dispute about a material aspect of the trial court proceeding. If there is a hearing, see rule 8.137 for more information.

**Additional review procedures:** If there is no hearing after the respondent proposes changes to the settled statement, and 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. See rule 8.140, which explains the consequences for a party’s failure to make corrections to the proposed statement.

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 proposed amendments or objections to the statement. The judge then reviews the modified or corrected statement and any proposed modifications. If the judge decides that further corrections or modifications are necessary, the review process described above takes place again.

**Completion and certification:** If the judge does not order any corrections or modifications to the proposed statement, the judge must promptly certify the statement as an accurate summary of the evidence and testimony of each witness relevant to the issues you indicated you are raising on appeal.

Alternatively, the parties may serve and file a stipulation (agreement) that the statement as originally served or corrected or modified is correct. Such a stipulation is equivalent to the judge’s certification of the statement.

**Sending settled statement to the Court of Appeal:** Once the trial court judge certifies the statement or the trial court receives the parties’ stipulation, the trial court clerk will send the statement to the Court of Appeal as required under rule [8.150](#) of the California Rules of Court.



**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 (Unlimited Civil Case)* (form APP-003) includes a space for you to make this request.

You also can ask the trial court to send original exhibits to the Court of Appeal at the time briefs are filed. (See rule [8.224](#) 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 Court of Appeal, the party who has the exhibit must deliver that exhibit to the trial court clerk as soon as possible.

You should read rules 8.200–8.224 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in unlimited 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](http://www.courts.ca.gov/rules).

**Contents and format of briefs:** If you are the appellant, your brief, called an “appellant’s opening brief,” must clearly explain the legal errors you believe were 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. Each brief must be no longer than 14,000 words if produced on a computer, including footnotes. A brief produced on a typewriter must not be longer than 50 pages. The brief must contain a table of contents and a table of authorities. The cover of appellant’s opening brief filed in paper form must be green. For other content and formatting requirements for the brief, read rules [8.40](#) and [8.204](#) of the California Rules of Court.

Remember that an appeal is not a new trial. The Court of Appeal will not consider new evidence, such as new exhibits or the testimony of new witnesses, so do not include any new evidence in your brief.

**Serving and filing:** You must serve and file your opening brief within 40 days after the record is filed in the Court of Appeal or 70 days from the date the appellant chooses to proceed with no reporter’s transcript under rule [8.124](#). “Serve and file” means that you must:

- Have somebody over 18 years old mail, personally 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 (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) 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.

**15 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 Court of Appeal for the district in which the trial court is located. When the Court of Appeal receives the record, it will send you a notice telling you when you must file your brief in the Court of Appeal.

**16 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.



- File the original brief and the proof of service with the Court of Appeal. You should make a copy of the brief you are planning to file for your own records before you file it with the court. Unless you are filing electronically, 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 before or together with the appellant’s opening brief.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form APP-009-INFO) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://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 60 days (see rule [8.212\(b\)](#) for requirements for these agreements). You can also apply to the presiding justice of the Court of Appeal to extend the time for filing this brief if you can show good cause for an extension (see rule [8.63](#) for information about extensions of time). You may use *Application for Extension of Time to File Brief—Unlimited Civil Case* (form [APP-006](#)) to ask the court for an extension.

**If you do not file your brief by the deadline set by the Court of Appeal, the court may dismiss your appeal.**

## 17 What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent must respond by serving and filing a respondent’s 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.”

## 18 What happens after all the briefs have been filed?

After all the briefs have been filed or the time to file them has passed, the Court of Appeal will contact you to tell you the date for oral argument in your case or ask if you want to participate in oral argument.

## 19 What is “oral argument”?

“Oral argument” is not a chance to present new evidence. Instead, it is a chance to orally explain the arguments you made in your brief to the Court of Appeal justices. You do not have to participate in oral argument if you do not want to; you can notify the Court of Appeal that you want to “waive” oral argument. If all parties waive oral argument, the justices will decide your appeal based on the briefs and the appellate record. But if any party requests oral argument, the Court of Appeal will hold oral argument.

If you choose to participate in oral argument, you will have a limited amount of time as set by the court.

Remember that the justices will have already read the briefs, so you do not need to read your brief to the justices or merely repeat the information in it. It is more helpful to tell the justices what you think is most important in your appeal or ask the justices if they have any questions you could answer.

You can find more information about oral argument in appeals cases in rule [8.256](#) of the California Rules of Court and online at [www.courts.ca.gov/12421.htm](http://www.courts.ca.gov/12421.htm).

## 20 What happens after oral argument?

After oral argument is held or waived, the justices of the Court of Appeal will make a decision about your appeal. The clerk of the court will mail you a notice of the Court of Appeal’s decision.

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

If you do not want to continue with your appeal, you must notify the court. If the record has not yet been filed in the Court of Appeal, file *Abandonment of Appeal (Unlimited Civil Case)* (form [APP-005](#)) in the superior court.

If the record has already been filed in the Court of Appeal, file *Request for Dismissal of Appeal (Civil Case)* (form [APP-007](#)) in the Court of Appeal.



**INFORMATION FOR THE RESPONDENT**

This part 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 an unlimited civil case. The information may also be helpful to the appellant.

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

You do not *have* to do anything, but there may be consequences if you do nothing. 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 an unlimited 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 Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help](http://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help).

**23 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—Unlimited Civil Case* (form [APP-002](#)) to file this notice in an unlimited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 3 of this information sheet, if you are considering filing a cross-appeal.

**24 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 60 days after service of Notice of Entry of the judgment or a file-stamped copy of the judgment) or within 20 days after the clerk of the trial court serves notice of the first appeal, whichever is later.

**25 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, but there may be consequences if you do nothing. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the Court of Appeal. 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 14 above. Then read below for what your options are when the appellant has chosen that form of the record.

**a. 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—Unlimited Civil Case* (form [APP-010](#)) 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 trial 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](http://www.courts.ca.gov/forms). The trial 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 5–6 for more information about preparing an appendix.

If the appellant chooses a clerk's transcript but does not have a waiver of the fee for a clerk's transcript, you can choose an appendix instead of a clerk's transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent's Notice Designating Record on Appeal—Unlimited Civil Case* (form APP-010) within 10 days after the appellant's notice designating the record on appeal is filed.

#### **b. 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. You may use *Respondent's Notice Designating Record on Appeal—Unlimited Civil Case* (form APP-010) for this purpose.

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 payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule [8.130](#) with the trial court clerk within 10 calendar days after this notice is sent. (See rule 8.130 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. Money from a special fund, called the Transcript Reimbursement Fund, may be available to help you pay for the transcript. You can get information about this fund at [www.courtreportersboard.ca.gov/consumers/index.shtml#trf](http://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 provide one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

#### **c. 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 40 days after the appellant files its notice of appeal. See rule [8.134](#) of the California Rules of Court.

#### **d. Settled statement**

If the appellant elects to use a settled statement (a summary of the trial court proceedings that is approved by the trial court), the appellant will send you a proposed settled statement to review. You will have 20 days from the date the appellant served you this proposed statement to serve and file either:



- Suggested changes (called “amendments”) that you think are needed to make sure that the settled statement provides an accurate summary of the evidence and testimony of each witness relevant to the issues the appellant is raising on appeal (see page 10 of this form and rule [8.137\(e\)–\(h\)](#) for more information about the amendment process); or
- If the oral proceedings in the trial court were reported by a court reporter, a notice indicating that you are choosing to provide a reporter’s transcript, at your expense, instead of proceeding with a settled statement (see rule 8.137(e)(2) for the requirements for choosing to provide a reporter’s transcript).

Have somebody over 18 years old mail, personally 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 (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) 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. Unless you are filing electronically, 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 *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

## 26 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 Court of Appeal. When the Court of Appeal receives this record, it will send you a notice telling you when you must file your brief in the Court of Appeal.

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 [8.200–8.224](#) of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in unlimited 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](http://www.courts.ca.gov/rules).

The appellant serves and files the first brief, called an “appellant’s opening brief.” You must 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, personally 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 (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) 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 Court of Appeal. You should make a copy of the brief you are planning to file for your own records before you file it with the court. Unless you are filing electronically, 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 *Information Sheet for Proof of Service (Court of Appeal)* (form APP-009-INFO) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://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 60 days (see rule 8.212(b) for requirements for these agreements). You can also apply to the presiding justice of the Court of Appeal to extend the time for filing this brief if you can show good cause for an extension. You may use *Application for Extension of Time to File Brief—Unlimited Civil Case* (form [APP-006](#)) 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 Court of Appeal will not consider new evidence, such as new exhibits or the testimony of new witnesses, 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 to reply to your brief.

## 27 What happens after all the briefs have been filed?

After all the briefs have been filed or the time to file them has passed, the Court of Appeal will contact you to tell you the date for oral argument in your case or ask if you want to participate in oral argument.

## 28 What is “oral argument”?

“Oral argument” is not a chance to present new evidence. Instead, it is a chance to orally explain the arguments you made in your brief to the Court of Appeal justices. You do not have to participate in oral argument if you do not want to; you can notify the Court of Appeal that you want to “waive” oral argument. If all parties waive oral argument, the justices will decide your appeal based on the briefs and the appellate record. But if any party requests oral argument, the Court of Appeal will hold oral argument.

If you choose to participate in oral argument, you will have a limited amount of time as set by the court.

Remember that the justices will have already read the briefs, so you do not need to read your brief to the justices or merely repeat the information in it. It is more helpful to tell the justices what you think is most important in your appeal or ask the justices if they have any questions you could answer.

You can find more information about oral argument in appeals cases in rule [8.256](#) of the California Rules of Court and online at [www.courts.ca.gov/12421.htm](http://www.courts.ca.gov/12421.htm).

## 29 What happens after oral argument?

After oral argument is held or waived, the justices of the Court of Appeal will make a decision about your appeal. The clerk of the court will mail you a notice of the Court of Appeal’s decision.

<p><b>COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____</b></p>	<p>COURT OF APPEAL CASE NUMBER (if known):</p>
<p>ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____</p> <p>NAME: _____</p> <p>FIRM NAME: _____</p> <p>STREET ADDRESS: _____</p> <p>CITY: _____ STATE: _____ ZIP CODE: _____</p> <p>TELEPHONE NO.: _____ FAX NO.: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ATTORNEY FOR (name): _____</p>	<p><i>FOR COURT USE ONLY</i></p> <p style="font-size: 24pt; font-weight: bold;">DRAFT</p> <p style="font-size: 24pt; font-weight: bold;">05.20.2024</p> <p style="font-size: 24pt; font-weight: bold;">Not approved by Judicial Council</p>
<p>APPELLANT: _____</p> <p>RESPONDENT: _____</p>	
<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b></p> <p>STREET ADDRESS: _____</p> <p>MAILING ADDRESS: _____</p> <p>CITY AND ZIP CODE: _____</p> <p>BRANCH NAME: _____</p>	
<p>JUDGES (all who participated in case): _____</p>	<p>SUPERIOR COURT CASE NUMBER: _____</p>
<p><b>CIVIL CASE INFORMATION STATEMENT</b></p>	
<p><b>NOTE TO APPELLANT:</b> You must file this form with the clerk of the Court of Appeal <b>within 15 days after the Court of Appeal assigns the appeal a case number.</b> You must attach to this form a copy of the judgment or order being appealed that shows the date it was entered (see Cal. Rules of Court, rule 8.104 for definition of "entered"). A copy of this form must also be served on the other party or parties to this appeal. (CAUTION: An appeal in a limited civil case (Code Civ. Proc., § 85) may be taken <b>ONLY</b> to the appellate division of the superior court (Code Civ. Proc., § 904.2) or to the superior court (Code Civ. Proc., § 116.710 [small claims cases]).</p>	

**PART I – APPEAL INFORMATION**

1. APPEALABILITY

a. Appeal is from:

- judgment after jury trial.
- judgment after court trial.
- default judgment.
- judgment after an order granting a summary judgment motion.
- judgment of dismissal under Code Civ. Proc., § 581d, 583.250, 583.360, or 583.430.
- judgment of dismissal after an order sustaining a demurrer.
- an order after judgment under Code Civ. Proc., § 904.1(a)(2).
- an order or judgment under Code Civ. Proc., § 904.1(a)(3)–(13).
- Other (describe and specify code section that authorizes this appeal):

b. Does the judgment appealed from dispose of all causes of action, including all cross-actions between the parties?

- Yes  No (If no, please explain why the judgment is appealable):

2. TIMELINESS OF APPEAL (Provide all applicable dates.)

- a. Date of entry of judgment or order appealed from:
- b. Date that notice of entry of judgment or a copy of the judgment was served by the clerk or by a party under California Rules of Court, rule 8.104:
- c. Was a motion for new trial, for judgment notwithstanding the verdict, for reconsideration, or to vacate the judgment made and denied?

- Yes  No (If yes, please specify the type of motion):

Date notice of intention to move for new trial (if any) filed:

Date motion filed:

Date motion denied:

Date denial served:

d. Date notice of  appeal or  cross-appeal filed:

3. BANKRUPTCY OR OTHER STAY

Is there a related bankruptcy case or a court-ordered stay that affects this appeal?  Yes  No  
(If yes, please attach a copy of the bankruptcy petition [without attachments] and any stay order.)

APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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4. APPELLATE CASE HISTORY (*Provide additional information, if necessary, on attachment 4.*) Is there now, or has there previously been, any appeal, writ, or other proceeding related to this case pending in any California appellate court?

Yes  No (If yes, insert name of appellate court):

Appellate court case no.:

Title of case:

Name of trial court:

Trial court case no.:

#### 5. SERVICE REQUIREMENTS

Is service of documents in this matter, including a notice of appeal, petition, or brief, required on the Attorney General or other nonparty public officer or agency under California Rules of Court, rule 8.29 or a statute?

Yes  No (*If yes, please indicate the rule or statute that applies*)

Rule 8.29 (e.g., constitutional challenge; state or county party)  Code Civ. Proc., § 1355 (Escheat)

Bus. & Prof. Code, §16750.2 (Antitrust)

Gov. Code, § 946.6(d) (Actions against public entities)

Bus. & Prof. Code, § 17209 (Unfair Competition Act)

Gov. Code, § 4461 (Disabled access to public buildings)

Bus. & Prof. Code, § 17536.5 (False advertising)

Gov. Code, § 12656(a) (False Claims Act)

Civ. Code, § 51.1 (Unruh, Ralph, or Bane Civil Rights Acts; antiboycott cause of action; sexual harassment in business or professional relations; civil rights action by district attorney)

Health & Saf. Code, § 19954.5 (Accessible seating and accommodations)

Health & Saf. Code, § 19959.5 (Disabled access to privately funded public accommodations)

Civ. Code, § 55.2 (Disabled access to public conveyances, accommodations, and housing)

Pub. Resources Code, § 21167.7 (CEQA)

Other (*specify statute*):

**NOTE: The rule and statutory provisions listed above require service of a copy of a party's notice of appeal, petition, or brief on the Attorney General or other public officer or agency. Other statutes requiring service on the Attorney General or other public officers or agencies may also apply.**

### PART II – NATURE OF ACTION

1. Nature of action (*check all that apply*):

a.  Conservatorship

b.  Contract

c.  Eminent domain

d.  Equitable action (1)  Declaratory relief (2)  Other (*describe*):

e.  Family law

f.  Guardianship

g.  Probate

h.  Real property rights (1)  Title of real property (2)  Other (*describe*):

i.  Tort

(1)  Medical malpractice

(2)  Product liability

(3)  Other personal injury

(4)  Personal property

(5)  Other tort (*describe*):

j.  Trust proceedings

k.  Writ proceedings in superior court

(1)  Mandate (Code Civ. Proc., § 1085) (2)  Administrative mandate (Code Civ. Proc., § 1094.5)

(3)  Prohibition (Code Civ. Proc., § 1102) (4)  Other (*describe*):

l.  Other action (*describe*):

2.  This appeal is eligible for calendar preference/priority on appeal (*cite authority or explain*):

**(A party seeking calendar preference or priority on a non-statutory or discretionary ground must promptly serve and file in the Court of Appeal a motion for preference, see Cal. Rules of Court, rule 8.240.)**

APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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**PART III – PARTY AND ATTORNEY INFORMATION**

*In the spaces below or on a separate page or pages, list all the parties and all their attorneys of record who will participate in the appeal. For each party, provide all of the information requested on the left side of the page. On the right side of the page, if a party is self-represented please check the appropriate box and provide the party's mailing address, telephone number, fax number, and e-mail address. If a party is represented by an attorney, on the right side of the page, check the appropriate box and provide all of the requested information about that party's attorney.*

Responses to Part III are attached instead of below

Name of Party:  Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other <i>(specify)</i> :	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address:  Telephone no.:                      Fax no: Email address:
Name of Party:  Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other <i>(specify)</i> :	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address:  Telephone no.:                      Fax no: Email address:
Name of Party:  Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other <i>(specify)</i> :	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address:  Telephone no.:                      Fax no: Email address:
Name of Party:  Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other <i>(specify)</i> :	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address:  Telephone no.:                      Fax no: Email address:

Additional pages attached

Date:

This statement is prepared and submitted by:



(SIGNATURE OF ATTORNEY OR SELF-REPRESENTED PARTY)

APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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NOTICE TO PARTIES: A copy of this form must be served on the other party or parties to this appeal. If served by mail or personal delivery, THE MAILING OR DELIVERY MUST BE PERFORMED BY SOMEONE WHO IS NOT A PARTY TO THE APPEAL. Electronic service is authorized only if ordered by the court or if the party served has agreed to accept electronic service. A person who is at least 18 years old must complete the information below and serve all pages of this document. When all pages of this document have been completed and a copy served, the original may then be filed with the court.

**PROOF OF SERVICE**

Mail       Personal Service       Electronic Service

1. At the time of service I was at least 18 years of age.
2. My residence or business address is (*specify*):
  
3. I mailed, personally delivered, or electronically served a copy of the *Civil Case Information Statement (Appellate)* as follows (*complete a, b, or c*):
  - a.  **Mail.** I am a resident of or employed in the county where the mailing occurred and am not a party to this legal action.
    - (1) I enclosed a copy in an envelope **and**
      - (a)  deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
      - (b)  **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
    - (2) The envelope was addressed and mailed as follows:
      - (a) Name of person served:
      - (b) Address on envelope:
  
      - (c) Date of mailing:
      - (d) Place of mailing (*city and state*):
  - b.  **Personal delivery.** I am not a party to this legal action. I personally delivered a copy as follows:
    - (1) Name of person served:
    - (2) Address where delivered:
  
    - (3) Date delivered:
    - (4) Time delivered:
  - c.  **Electronic service.** My electronic service address is (*specify*):  
 I electronically served a copy as follows:
    - (1) Name of person served:
    - (2) Electronic service address of person served:
    - (3) On (*date*):

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

Date: \_\_\_\_\_

\_\_\_\_\_  \_\_\_\_\_

(TYPE OR PRINT NAME) (SIGNATURE OF DECLARANT)

<b>COURT OF APPEAL</b>	<b>APPELLATE DISTRICT, DIVISION</b>	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER:		SUPERIOR COURT CASE NUMBER:
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.:		<b>DRAFT 6.03.2024 Not approved by Judicial Council</b>
EMAIL ADDRESS: ATTORNEY FOR ( <i>name</i> ):		
APPELLANT:  RESPONDENT:		
<b>APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— UNLIMITED CIVIL CASE</b>		
<b>Notice: Please read Judicial Council form <a href="#">APP-001-INFO</a> before completing this form.</b>		

1. a. I (*name*): \_\_\_\_\_ request that the time to file (*check one*)
- appellant's opening brief (AOB)
  - respondent's brief (RB)
  - combined respondent's brief (RB) and appellant's opening brief (AOB) (see Cal. Rules of Court, rule [8.216](#))
  - combined appellant's reply brief (ARB) and respondent's brief (RB) (see Cal. Rules of Court, rule [8.216](#))
  - appellant's reply brief (ARB)
  - supplemental or other brief (*describe*): \_\_\_\_\_
- b. now due on (*date*): \_\_\_\_\_
- c. be extended to (*date*): \_\_\_\_\_ for an extension of (*total number of days sought*): \_\_\_\_\_ days.
2. I  have  have not received a Cal. Rules of Court, rule [8.220](#) default notice.
3. I have received
- no previous extensions to file this brief.
  - the following previous extensions:
    - (*number of extensions*): \_\_\_\_\_ extensions by stipulation totaling (*total number of days*): \_\_\_\_\_
    - (*number of extensions*): \_\_\_\_\_ extensions from the court totaling (*total number of days*): \_\_\_\_\_
- Did the court use the words "no further" in a prior order or directive granting an extension?  Yes  No
4. I am unable to file a stipulation to an extension because
- the other party is unwilling to stipulate to an extension.
  - the maximum stipulated time has already been used.
  - other reason (*please specify*): \_\_\_\_\_
5. The last brief filed by any party was  AOB  RB  RB and AOB  ARB and RB  ARB  Other filed on (*date*): \_\_\_\_\_
6. The record in this case is
- |                              | <u>Volumes (#)</u> | <u>Pages (#)</u> | <u>Date filed</u> |
|------------------------------|--------------------|------------------|-------------------|
| Appendix/Clerk's Transcript: | _____              | _____            | _____             |
| Reporter's Transcript:       | _____              | _____            | _____             |
| Augmentation/Other:          | _____              | _____            | _____             |
7.  The trial court has ordered the proceedings in this case stayed until this appeal is decided.



APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
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8.  This appeal is eligible for, or has been granted, calendar preference/priority (*cite authority or explain*):

9. The reasons that I need an extension to file this brief are stated

below

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form [APP-031A](#)) for this purpose. (*Please address the Cal. Rules of Court, rule 8.63 factors, including possible prejudice to the parties*):

10. For attorneys filing application on behalf of client, I certify that I have delivered a copy of this application to my client (Cal. Rules of Court, rule [8.60](#)).

11. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule 8.60(c)). You may use *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) for this purpose.

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

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is  below  on a separate document

**ORDER**

EXTENSION OF TIME IS

granted to (*date*):

denied

Date:

\_\_\_\_\_  
(SIGNATURE OF PRESIDING JUSTICE)

Clerk stamps date here when form is filed.

**DRAFT  
06.03.2024  
Not approved  
by Judicial  
Council****Instructions**

- This form is only for requesting an extension of time to file a brief in an appeal in a **limited civil case**. Note that any rules referenced in this form are from the California Rules of Court.
- 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](http://www.courts.ca.gov/forms).
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. 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 that is being appealed:

**Superior Court of California, County of**

You fill in the number and name of the trial court case in which the judgment or order is being appealed:

**Trial Court Case Number:****Trial Court Case Name:**

You fill in the appellate division case number:

**Appellate Division Case Number:****1 Your Information**

- a. Name of party requesting extension of time to file brief:

\_\_\_\_\_

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

Street address: \_\_\_\_\_

Mailing address (*if different*): \_\_\_\_\_  
Street City State ZipPhone: \_\_\_\_\_ Email: \_\_\_\_\_  
Street City State Zip

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

Name: \_\_\_\_\_ State Bar number: \_\_\_\_\_

Street address: \_\_\_\_\_

Mailing address (*if different*): \_\_\_\_\_  
Street City State ZipPhone: \_\_\_\_\_ Email: \_\_\_\_\_  
Street City State Zip

Fax: \_\_\_\_\_



Case Name: \_\_\_\_\_

- 2 I am requesting an extension on the time to file:
  - Appellant’s opening brief, which is now due on (date): \_\_\_\_\_
  - Respondent’s brief, which is now due on (date): \_\_\_\_\_
  - Appellant’s reply brief, which is now due on (date): \_\_\_\_\_
  - Supplemental or other brief, which is now due on (date): \_\_\_\_\_
- 3 I am requesting that the time to file the brief identified in 2 be extended to (date): \_\_\_\_\_  
For an extension of (total number of days sought): \_\_\_\_\_ days.
- 4 I  have  have not received a default notice under rule 8.882(c) from the clerk that this brief must be filed within 15 days.
- 5 The time to file the brief (check all that apply):
  - Has not been extended before.
  - Has been extended before by the stipulation of the parties. The parties stipulated to (number of extensions) \_\_\_\_\_ totaling (number of days) \_\_\_\_\_
  - Has been extended before by the court. The court granted (number of extensions) \_\_\_\_\_ totaling (number of days) \_\_\_\_\_
- 6 I am not able to stipulate to an extension to file this brief because (check one):
  - The other party is not willing to stipulate to an extension.
  - The maximum stipulated time has already been used.
  - Other reason (please describe the reason):  
\_\_\_\_\_  
\_\_\_\_\_
- 7  This appeal is eligible for calendar preference/priority because (cite authority or explain):  
\_\_\_\_\_
- 8 The reason I need an extension to file this brief is (describe the reason you need an extension; please address the rule 8.811(b) factors, including possible prejudice to the parties):  
\_\_\_\_\_  
\_\_\_\_\_
- Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write “Attachment 8” for a title. You may use form APP-031A.
- 9 The last brief filed by any party in this case was:
  - The appellant’s opening brief, filed on (date): \_\_\_\_\_
  - The respondent’s brief, filed on (date): \_\_\_\_\_
  - The appellant’s reply brief, filed on (date): \_\_\_\_\_
  - A supplemental or other brief, filed on (date): \_\_\_\_\_
- 10 If this extension is being requested by a lawyer on behalf of a client, the lawyer must complete this item.
  - I certify that I have delivered a copy of this application to my client (rule 8.810(e)). I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or print your name

\_\_\_\_\_  
Signature of party or attorney

<b>COURT OF APPEAL</b>	<b>APPELLATE DISTRICT, DIVISION</b>	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER:
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.:		<b>DRAFT 06.03.2024 Not approved by Judicial Council</b>
EMAIL ADDRESS: ATTORNEY FOR (name):		
APPELLANT:  RESPONDENT:		
<b>APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— CRIMINAL CASE</b>		

1. a. I (name): \_\_\_\_\_ request that the time to file (check one)
  - appellant's opening brief (AOB)
  - respondent's brief (RB)
  - appellant's reply brief (ARB)
  - supplemental or other brief (describe): \_\_\_\_\_
- b. now due on (date): \_\_\_\_\_
- c. be extended to (date): \_\_\_\_\_ for an extension of (total number of days sought): \_\_\_\_\_ days.
  
2. I  have  have not received a Cal. Rules of Court, rule [8.360\(c\)\(5\)](#) default notice.
  
3. I have received
  - no previous extensions to file this brief.
  - the following previous extensions:
    - (number of extensions): \_\_\_\_\_ extensions from the court totaling (total number of days): \_\_\_\_\_
    - Did the court use the words "no further" in a prior order or directive granting an extension?  Yes  No
  
4. The last brief filed by any party was  AOB  RB  ARB  Other filed on (date): \_\_\_\_\_
  
5. The record in this case is
 

	Volumes (#)	Pages (#)	Date filed
Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____
  
6. Defendant was convicted of (specify): \_\_\_\_\_
  
7. The conviction is based on a (check one)
  - jury or court trial.
  - plea of guilty or no contest.

APPELLANT:  RESPONDENT:	COURT OF APPEAL CASE NUMBER:
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8. The court imposed the following punishment:

9. The defendant  is  is not on bail pending appeal.

10. The reasons that I need an extension to file this brief are stated

below.

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form [APP-031A](#)) for this purpose.

*(Please address the Cal. Rules of Court, rule [8.63](#) factors, including possible prejudice to the parties):*

11. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). You may use *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) for this purpose.

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

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

 \_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is  below  on a separate document

**ORDER**

EXTENSION OF TIME IS

granted to (date):  
 denied

Date:

\_\_\_\_\_  
(SIGNATURE OF PRESIDING JUSTICE)

<b>COURT OF APPEAL</b>	<b>APPELLATE DISTRICT, DIVISION</b>	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:	SUPERIOR COURT CASE NUMBER(S):	
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.:	DRAFT 06.03.2024 Not approved by Judicial Council	
EMAIL ADDRESS: ATTORNEY FOR ( <i>name</i> ):		
Case Name: In re _____, person(s), coming under the juvenile court law		
APPELLANT: RESPONDENT:		
<b>APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— JUVENILE JUSTICE CASE</b>		

1. a. I (*name*): \_\_\_\_\_ request that the time to file (*check one*)
  - appellant's opening brief (AOB)
  - respondent's brief (RB)
  - combined respondent's brief (RB) and appellant's opening brief (AOB) (see Cal. Rules of Court, rule [8.216](#))
  - combined appellant's reply brief (ARB) and respondent's brief (RB) (see Cal. Rules of Court, rule 8.216)
  - appellant's reply brief (ARB)
  - supplemental or other brief (*describe*): \_\_\_\_\_
- b. now due on (*date*): \_\_\_\_\_
- c. be extended to (*date*): \_\_\_\_\_ for an extension of (*total number of days sought*): \_\_\_\_\_ days.
2. I  have  have not received a Cal. Rules of Court, rule [8.412\(d\)\(1\)](#) default notice.
3. I have received
  - no previous extensions to file this brief.
  - the following previous extensions:
    - (*number of extensions*): \_\_\_\_\_ extensions from the court totaling (*total number of days*): \_\_\_\_\_
    - Did the court use the words "no further" in a prior order or directive granting an extension?  Yes  No
4. The last brief filed by any party was  AOB  RB  RB and AOB  ARB and RB  ARB  Other filed on (*date*): \_\_\_\_\_
5. The record in this case is
 

	<u>Volumes (#)</u>	<u>Pages (#)</u>	<u>Date filed</u>
Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____
6. The juvenile was adjudicated a ward of the court based on commission of the following offense(s): \_\_\_\_\_
7. The disposition followed (*check one*)
  - a contested hearing.
  - an admission.

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
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8. The court imposed the following disposition:

9. The reasons that I need an extension to file this brief are stated

below.

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form [APP-031A](#)) for this purpose.

*(Please address the Cal. Rules of Court, rule [8.63](#) factors, including possible prejudice to the parties. Note that an exceptional showing of good cause is required in cases subject to Cal. Rules of Court, rule [8.417](#).)*

10. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). You may use *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) for this purpose.

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

Date:

\_\_\_\_\_ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is  below  on a separate document

**ORDER**

EXTENSION OF TIME IS

granted to (date):  
 denied

Date:

\_\_\_\_\_  
(SIGNATURE OF PRESIDING JUSTICE)

<b>COURT OF APPEAL</b>	<b>APPELLATE DISTRICT, DIVISION</b>	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER(S):
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.:		DRAFT 06.03.2024 Not approved by Judicial Council
EMAIL ADDRESS: ATTORNEY FOR ( <i>name</i> ):		
Case Name: In re _____, person(s), coming under the juvenile court law		
APPELLANT: RESPONDENT:		
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— JUVENILE DEPENDENCY CASE		

1. a. I (*name*): \_\_\_\_\_ request that the time to file (*check one*)
  - appellant's opening brief (AOB)
  - respondent's brief (RB)
  - combined respondent's brief (RB) and appellant's opening brief (AOB) (see Cal. Rules of Court, rule [8.216](#))
  - combined appellant's reply brief (ARB) and respondent's brief (RB) (see Cal. Rules of Court, rule [8.216](#))
  - appellant's reply brief (ARB)
  - supplemental or other brief (*describe*): \_\_\_\_\_
- b. now due on (*date*): \_\_\_\_\_
- c. be extended to (*date*): \_\_\_\_\_ for an extension of (*total number of days sought*): \_\_\_\_\_ days.
2. I  have  have not received a Cal. Rules of Court, rule [8.412\(d\)\(1\)](#) default notice.
3. I have received
  - no previous extensions to file this brief.
  - the following previous extensions:
    - (*number of extensions*): \_\_\_\_\_ extensions from the court totaling (*total number of days*): \_\_\_\_\_
    - Did the court use the words "no further" in a prior order or directive granting an extension?  Yes  No
4. The last brief filed by any party was  AOB  RB  RB and AOB  ARB and RB  ARB  Other filed on (*date*): \_\_\_\_\_
5. The record in this case is
 

	Volumes (#)	Pages (#)	Date filed
Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____
6. The order appealed from was made under Welfare and Institutions Code (*check all that apply*)
  - a.  section 360 (declaration of dependency)  removal of custody from parent or guardian  other orders
    - with review of section 300 jurisdictional findings
  - b.  section 366.26
    - termination of parental rights  appointment of guardian  planned permanent living arrangement



APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
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6. c.  section 366.28  
 d.  other appealable orders relating to dependency (*specify*):
7. The reasons that I need an extension to file this brief are stated  
 below.  
 on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form [APP-031A](#)) for this purpose.  
*(Please address the Cal. Rules of Court, rule [8.63\(b\)](#) factors, including possible prejudice to the parties. Note that an exceptional showing of good cause is required in cases subject to Cal. Rules of Court, rule [8.416.](#))*

8. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). You may use *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) for this purpose.

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

Date: \_\_\_\_\_

\_\_\_\_\_ \_\_\_\_\_  
 (TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is  below  on a separate document

**ORDER**

EXTENSION OF TIME IS

granted to (*date*):  
 denied

Date: \_\_\_\_\_

\_\_\_\_\_ (SIGNATURE OF PRESIDING JUSTICE)

## SPR24-02

### Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time (amend Cal. Rules of Court, rules 8.100;

revise forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817)

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

	Commenter	Position	Comment	Committee Response
1.	Brendan J. Begley Weintraub Tobin Chediak Coleman	AM	Revising all existing forms for requesting an extension of time to file briefs to make the forms mandatory, and revising the rules to reflect this new mandatory status, is a good idea if the mandatory form(s) allow(s) for supplemental information to be provided. Not frequently but sometimes the circumstances that warrant or pertain to a requested continuance are complicated and require more detail than the space on the declaration section allows. When such information is elaborate, it would be easier for the courts to read it in double-spaced, larger-font format than allowed by the present declaration on APP-006 or even the supplemental declaration on APP-031A. Thank you for considering my point of view.	The committee appreciates the feedback. As currently drafted, the extension of time forms allow the party seeking the extension to explain why the extension is needed either on the form itself or on a separate declaration. If the party wants to use a separate declaration, the instructions state that the party “may” use form APP-031A, but this is not required. A party is free to provide a separate declaration in another format.
2.	California Appellate Defense Counsel by Rebecca Jones, Vice President	AM	<p>On behalf of California Appellate Defense Counsel (“CADC”), I would like to submit the following comments regarding the proposed rule mandating use of Judicial Council Forms for applications for extensions of time in criminal matters.</p> <p>CADC is a nonprofit organization whose members accept appointments at state expense in criminal, juvenile, and dependency appeals. Most of our members are solo practitioners who primarily handle criminal indigent appeals.</p>	The committee appreciates the feedback.

## SPR24-02

**Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time** (amend Cal. Rules of Court, rules 8.100; revise forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817)

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

	Commenter	Position	Comment	Committee Response
			<p>For reasons that I explain <i>post</i>, we oppose the proposed rule change. Our members are not opposed to change per se. Nor are they opposed to rules that ensure that every lawyer complies with the court's rules regarding counsel's duty to explain why an extension of time is necessary and will not prejudice the parties. They are opposed to rules that make their work more difficult, without any discernible improvement in their ability to provide quality representation to their clients.</p>	<p>The committee appreciates the response and notes the commenter's opposition to making the extension of time forms mandatory.</p> <p>The committee has decided to no longer recommend that the Council's extension of time forms be made mandatory. The committee believes that leaving the forms optional will help ensure that all parties and attorneys are able to efficiently access the courts and request an extension of time to file their briefs without encountering technology-based problems or inconveniences. This will also help ensure that otherwise valid requests for extensions of time will not be rejected simply because the form was not used.</p> <p>The committee is continually looking at ways to improve the usability and accessibility of the appellate forms.</p>
			<p>This state is struggling to recruit and retain lawyers to do the constitutionally mandated work that our members do. By imposing unreasonable and unnecessary procedural rules on our members, the state not only runs the risk of incurring greater costs for processing appeals already in the pipeline, it also runs the risk of discouraging new lawyers to join the ranks of those of us already committed to indigent criminal appellate representation.</p>	<p>The committee appreciates the feedback.</p>

**SPR24-02**

**Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time** (amend Cal. Rules of Court, rules 8.100;

revise forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817)

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

	Commenter	Position	Comment	Committee Response
			<p>If this committee ultimately decides it must mandate use of the CR-126 form, it should commit to meeting with members of CADC to ensure that the form is functional for every lawyer who is required to use it, regardless of that lawyer's access to any particular computer software. But this committee should also consider the possibility that mandating use of a particular form would be both counterproductive and expensive, requiring the state to reimburse counsel for hours required to navigate an unusable form rather than reserving state funds for the real reason the state pays us: To ensure that everyone receives constitutionally adequate representation during the litigation of their criminal appeal.</p>	<p>The committee appreciates the feedback and always welcomes feedback or comments on appellate forms.</p>
			<p>To understand our position on this proposed rule change, the committee should understand a few aspects of our practice that have changed in recent years and that have made it inevitable that we will request more extensions of time than in the past.</p>	<p>The committee appreciates the feedback.</p>
			<p>Over the past 10-15 years, our membership, and the number of attorneys willing to take on appointed criminal appeals on behalf of indigent defendants, have dropped precipitously. We, and the courts, attribute this decrease in large part to the extreme financial difficulty in managing a solo practice that must comply with relatively rigid billing rules, including statewide guidelines regarding the performance of tasks that the state</p>	<p>The committee appreciates the feedback.</p>

**SPR24-02**

**Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time** (amend Cal. Rules of Court, rules 8.100;

revise forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817)

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

	Commenter	Position	Comment	Committee Response
			<p>considers to be routine, and a low hourly payment rate, which caps out at \$130 per hour. For comparison purposes, according to U.S. News and World Report, attorneys nationwide averaged a fee of \$327 per hour in August 2023.  <a href="https://law.usnews.com/law-firms/advice/articles/what-does-hiring-a-lawyer-cost">https://law.usnews.com/law-firms/advice/articles/what-does-hiring-a-lawyer-cost</a>. This citation is not intended to complain about pay disparities but is offered to explain why the pool of attorneys willing to handle indigent appointed criminal appeals has shrunk.</p>	
			<p>The nature of our work, and the constraints under which we may bill our time, makes us particularly sensitive to issues that impact our ability to work efficiently. Importantly, for purposes of this committee’s consideration, our ability to work efficiently also affects the state’s coffers. If we have to spend additional time on a court-mandated task, the court needs to pay for that work.</p>	<p>The committee appreciates the feedback.</p>
			<p>Other factors affect our practice and the use of extensions of time also. First, there are now many fewer of us than in the past. The appellate projects that manage our appointments are asking us to take many more appointments than we took previously. This means, if we try to accommodate those requests, we need to take on a larger caseload and are less able to review records and file briefs as quickly as we could in the past. This is not a problem of our own making. We have</p>	<p>The committee appreciates the feedback.</p>

**SPR24-02**

**Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time** (amend Cal. Rules of Court, rules 8.100;

revise forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817)

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

	Commenter	Position	Comment	Committee Response
			been asked to carry a heavier caseload to ensure that appellate litigants do not languish unrepresented for unreasonable periods of time. But it also means we may need to request more extensions of time to complete our work competently.	
			Second, since this nation weathered the COVID-19 pandemic and the cessation of jury trials for an extended period of time, jury trials have finally restarted. Our members are finding that superior court appellate clerks are struggling to provide us with complete appellate records in a timely manner, requiring us to file repeated requests for extensions of time until we have all the materials we need to represent our clients consistent with the mandate of the Sixth Amendment.	The committee appreciates the feedback.
			Against this background, we ask the committee to consider the impact of forcing counsel in criminal appeals (which, for the most part, are all indigent criminal appeals) to use a single Judicial Council form to request extensions of time. Our survey of members regarding the currently available form for extensions of time (EOTs) has revealed that members find the form difficult to use, time-consuming to edit, and a general waste of time.	The committee appreciates the feedback.

**SPR24-02**

**Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time** (amend Cal. Rules of Court, rules 8.100;

revise forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817)

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

	Commenter	Position	Comment	Committee Response
			<p>That is not to say that our members could not adapt to using a state-mandated form. But if they were required to do so, our membership asks that the state find a way to make any such form accessible and usable on a variety of platforms – including MAC and Windows – that it be easily savable and editable for repeat use, and that the court accept applications for extensions of time that contain all of the information included on the mandatory form but that may have been input through non-.pdf software, such as Microsoft Word, that creates a document mirroring the mandated form.</p>	<p>The committee appreciates the feedback. Staff has ensured that the extension of time forms may be downloaded, filled out, saved, and printed, on a variety of platforms.</p> <p>Changing the format of the Judicial Council forms as proposed, or authorizing acceptance of forms created through non-PDF software, is outside the scope of the instant proposal.</p>
			<p>For the committee’s consideration, I have included an appendix of comments from our organization’s membership regarding the difficulties they confront using the current CR-126 form available on the state’s website. For purposes of this committee’s consideration, these difficulties translate into more attorney hours spent on activities that should be routine clerical matters and that will cost the state unnecessary money</p>	<p>The committee appreciates the feedback. See below for responses to specific comments.</p>
			<p>We appreciate the opportunity to share our membership’s views on this proposal and are available for further discussions on the issue</p>	<p>The committee appreciates the feedback.</p>
			<p>APPENDIX TO COMMENT ON PROPOSED RULE CHANGE</p>	<p>The committee appreciates the feedback. Staff has ensured that information can be properly entered</p>

**SPR24-02**

**Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time** (amend Cal. Rules of Court, rules 8.100;

revise forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817)

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

	Commenter	Position	Comment	Committee Response
			<p>* The PDF forms drive me stark raving mad. Sometimes they won't save with the new information, sometimes they won't let you insert information into certain fields. Sometimes you have to print them out and hand write in missing information and scan them back as a PDF. Ridiculous! Waste of time and energy.</p>	<p>into each item, that the answers are properly formatted, and that the information can be saved.</p>
			<p>* The standard supposedly fillable forms have been awful to use. I still use my standard template and can't see any benefit to having to abandon it.</p>	<p>The committee appreciates the feedback.</p>
			<p>* I would only (barely) support this rule if they hire the person at CCAP who made the form usable. Because the one provided by the Judicial Council is (a) hard to use and (b) gets rejected by the courts routinely for flaws that are built into the original. I vastly prefer to use Word or Word Perfect to do things like this since it is easier to use templates and autofill fields (without accidentally overwriting an original), but if I must use a required form it damn well needs to work.</p>	<p>The committee appreciates the feedback.</p>
			<p>* I use the CCAP form (the current version can be used for any district) and I am able to reuse and edit it as long as I save it under a new name. The versions provided by the JCC do not allow this because you have to save them in some funky uneditable format or else the courts can't read them.</p>	<p>The committee appreciates the feedback. Staff has ensured that users can download, fill out, and save the extension of time forms and that these forms can then be reopened and the previously entered information can be edited.</p>



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	Commenter	Position	Comment	Committee Response
			<p>* The online forms don't let you re-use the same filled in form over and over, so you have to look up or at least retype information about the size of the record and the dates things were filed, over and over again. Although I have had a staff attorney tell me it is a tech problem on my end that the form will lock, we risk getting hours cut on any EOT after the first because we have to re-type the information.</p>	<p>The committee appreciates the feedback. Staff has ensured that users can download, fill out, and save the extension of time forms and that these forms can then be reopened and the previously entered information can be edited.</p>
			<p>* I don't like the form because it is not feasible to update it for any subsequent EOT requests, and I have to start from scratch, yet we are not supposed to bill the full time for preparing subsequent EOTs because it has always been assumed that once the original EOT has been filed, repeat ones take less time to prepare.</p>	<p>The committee appreciates the feedback. Staff has ensured that users can download, fill out, and save the extension of time forms and that these forms can then be reopened and the previously entered information can be edited.</p>
			<p>* CR-126 doesn't work for me, so I have had to save CR-126 as a series of tiff files, fill them in with a graphics editor, and then assemble the tiffs into a pdf. This works pretty well for me and I don't have the worry of filled in text disappearing or fields not wanting to be filled in. It was easier to do this than trying to create a form that looks like CR-126. However, I don't think the average person would want to go through the trouble and it produces about six different files per completed extension.</p>	<p>The committee appreciates the feedback. Staff has ensured that users can download, fill out, and save the extension of time forms and that these forms can then be reopened and the previously entered information can be edited.</p>

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	Commenter	Position	Comment	Committee Response
			<p>* I have had great frustration and waste of time with the Judicial Council forms. If they are going to accept only that actual form, I hope they are also going to allow for a lot more flexibility on the compensation guidelines so that we can bill for the actual time it takes to comply with a rule requiring use of the Judicial Council forms. To require use of that form and not compensate us for that would be very unfair. But even with compensation, I would rather spend my time doing substantive law practice than dealing with an unwieldy form.</p>	<p>The committee appreciates the feedback. Adjustment to the compensation guidelines is outside of the committee’s purview.</p>
			<p>This extended comment from a member is particularly insightful:</p> <p>The current version of the form has buttons to print, save and clear but they do not function on the website or after downloading. I also cannot save a copy for my files or print without those boxes appearing. I had to purchase Adobe Acrobat Pro in order to "edit" the form to remove those boxes, and to electronically sign my PDFs. (I was unable to use Apple's Preview or the free standard Adobe Acrobat to fill the form without difficulties). Also, I have found Acrobat Pro necessary to prevent having to print out the proof of service separately. Acrobat Pro allows me to "Combine Files" so I can save my proof of service Word document as a PDF, and then combine the extension form PDF with the proof of service PDF into one document.</p>	<p>The committee appreciates the feedback.</p>

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			<p>Notably, each update of the form has had a new glitch, which tends to be the norm in any electronic update these days, but this is something to consider when requiring a form by law. The past form would not let me fill in my state bar number correctly without editing with Adobe Acrobat Pro. The current version has a similar problem but this time it requires the additional four numbers of my zip code (e.g. 92130-1234), and if I do not type in numbers it will fill in the first four numbers as "0" (e.g. the last example with only five digits would appear as 00009-2130). I use the Edit function on Adobe and fix the numbers later (I do not know the last four of my zip because it is a PMB). In the older version, the calendar link had dates in different styles (e.g. Sept. 12, 2024; September 12, 2024).</p>	<p>The committee appreciates the feedback. The extension of time forms have been revised to correct the formatting of the state bar and ZIP code fields.</p>
			<p>When I first tried using the form, I had to print out a PDF, print out a separate proof of service document, sign both and scan them to save into a PDF for filing purposes.</p>	<p>The committee appreciates the response. Currently, Judicial Council forms do not provide fields allowing for electronic signatures and security features designed to protect form integrity do not permit for modification of the forms (including combining a form with another document). The committee is continually looking at ways to improve usability and accessibility of the appellate forms.</p>
			<p>The spacing for the record page count can be difficult to work with when records get complex-- there is a single line for each of the Clerk's,</p>	<p>The committee appreciates the feedback. CR-126 has been revised to expand the lines on item 5 to provide more space to provide information.</p>

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	Commenter	Position	Comment	Committee Response
			<p>Reporters, and Augment/Other, and a single filing date for each. Thus, I have had to use Adobe Acrobat to Edit and add additional lines if there were parts that were filed on different dates. I have also used the Edit/Add-a-typed-line function for requests for Supplemental Pro Per Briefs when my clients have requested I filed an extension on their behalf (it does not include that in the list of possible briefs, although technically it states "supplemental/other brief" I write in it is the pro per brief, not filed by me, to be clear).</p>	<p>Additionally on each extension of time, item 1’s “supplemental or other brief” item has been revised to say: “supplemental or other brief (<i>describe</i>):” followed by a text box where the user describes the brief for which an extension is being sought.</p>
			<p>The Respondent box sometimes requires me to shorthand the title for the Department/Agency, or if there are multiple respondents (i.e. another parent).</p>	<p>The committee appreciates the feedback.</p>
			<p>If there are errors, I cannot undo any deletions without losing what I wrote (cannot "undo" and have writing reappear) so I usually type up my request in Word then copy/paste into the PDF form. Then I usually find that I am a few characters over the limit in the space available (1131 characters, including spaces and punctuation marks). I often need to include citations to rules and pending cases, etc., and there is the newly added requirement of addressing prejudice (technically not new to address if there was prejudice but now we have to state no prejudice). Also, there was a time period where LA wanted us to use specific verbiage when we were taking</p>	<p>The committee appreciates the feedback and has made Judicial Council staff aware of the specific issues raised. Staff has confirmed that the “undo” function works on downloaded forms.</p> <p>The committee has revised CR-126 to expand the space for users to list why an extension of time is being sought.</p>

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	Commenter	Position	Comment	Committee Response
			package offers 1--in addition to other reasons-- which made the explanation require additional space. Otherwise, an additional page can be used but that somewhat defeats the efficiency purpose of the PDF form. I understand the court will have the ability to see important information on the first page, but it seems awkward to have a third page for explanations, especially when there simply is an extra line or two needed. Perhaps they could make more space for the explanation and move the box for grant/denial to a third page, or at least move line 8 down a little bit because there is some wasted space after line 8 (that just states a proof of service is attached) and the grant/denial box.)	
3.	California Lawyers Association, Litigation Section, Committee on Appellate Courts  by Saul Bercovitch, Associate Executive Director, Governmental Affairs	AM	The Committee on Appellate Courts (CAC) of the California Lawyers Association's Litigation Section submits this response to the Invitation to Comment on SPR24-02. Established in 2018, the California Lawyers Association is a nonprofit, voluntary organization comprising thousands of licensed attorneys that is dedicated to the professional advancement of attorneys practicing in the State of California. The CAC consists of over twenty experienced appellate practitioners and court staff, drawn from a wide range of practice areas. As part of its mission, the CAC frequently shares its views regarding proposals to change rules that govern appellate practice. This new proposed change would change filing procedures for the Civil Case Information Statement (CCIS), update the question regarding	The committee appreciates the feedback. See below for response to specific comments.

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			<p>calendar preference on the CCIS form, and modify procedures for extension requests, including mandating use of the Judicial Council’s extension-application forms. The CAC generally supports some of these changes. However, we also propose modifying the rule regarding the CCIS filing deadline and we have concerns regarding making the extension forms mandatory. Finally, we thank the Advisory Appellate Committee for its work on this issue.</p>	
			<p><b>1. Changing the Deadline for Filing a Civil Case Information Statement</b>                      The CAC supports SPR24-02’s proposed change to Rule 8.100(g), requiring an appellant to file the CCIS within 15 days after an appeal is docketed, but we suggest modifications to prevent an appellant from having the deadline triggered without notice.</p>	<p>The committee appreciates the feedback.</p>
			<p>The current rule requires an appellant to file the CCIS within 15 days after the Superior Court clerk sends the parties notification of the filing of a notice of appeal. The Court of Appeal often does not assign a case number within that timeframe, making it impossible to comply with the current rule because there is no case number in which to file the CCIS. To avoid this problem, most courts treat the CCIS filing deadline as triggered when the clerk sends notification that the appeal has been docketed, but the conflict between this practice and Rule 8.100(g) leads to confusion.</p>	<p>The committee appreciates the feedback.</p>

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			<p>Although we support changing the rule, we recommend modifications to make the new rule easier to follow. The current proposal requires the appellant to file a CCIS within 15 days after the reviewing court “lodges the notice of appeal and assigns the appeal a case number.” It seems unnecessary to hinge the filing deadline on both (1) lodgment and (2) assignment of a case number.</p>	<p>The committee appreciates the feedback. The committee has revised the proposal to remove the reference to the notice of appeal being “lodged.” The proposal now recommends that Rule 8.100(g)(1) be amended to read “Within 15 days after the reviewing court assigns the appeal a case number, the appellant must serve and file in the reviewing court a completed <i>Civil Case Information Statement</i> (form APP-004), attaching a copy of the judgment or appealed order that shows the date it was entered.”</p>
			<p>The appeal is always lodged with the Court of Appeal before a case number is assigned, and it is the assignment of a case number that makes it possible to file the CCIS. We would therefore recommend removing the reference to “lodgment.”</p>	<p>See above response.</p>
			<p>One other concern is that Courts of Appeal do not uniformly notify the parties when a case number is assigned (or the notification can take several days to issue), so under the proposed rule, some appellants may have the CCIS filing deadline triggered without notice. A survey of the clerk’s offices statewide illustrates this lack of uniformity. Every district notifies the parties of the assignment of a case number except for Divisions Two and Three of the Fourth District. Of those that notify the parties, some do so by email and some by Truefiling with mail copy to pro per parties who</p>	<p>The committee appreciates the feedback. Amending the rules to require the clerk to send a notification to the parties when a case number is assigned is outside the scope of the instant proposal.</p> <p>The committee notes that rule 8.100(g)(1) used to require what the commenter is suggesting: that appellate clerks send docketing notices to the parties and that the Civil Case Information Statement deadline be tied to the sending of this notice. The rule was amended effective January 1,</p>

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			<p>do not have Truefiling access. Most districts’ docketing notice letters provide that the CCIS is due within 15 days of the letter, not from when the case number was assigned.</p>	<p>2014 to replace these requirements with the existing rule. The committee is now informed that a majority of the Courts of Appeal do send docketing notices in some form to the parties once a case number is assigned.</p> <p>If experience with this proposal’s recommended amendment to rule 8.100(g)(1) suggests that requiring appellate clerks to send docketing notices to the parties would be beneficial, the committee may revisit this question in the future.</p>
			<p>Given these practices, we suggest requiring the clerk to notify the parties when a case is docketed (if this can be done within the scope of the current rule), and to make the CCIS due within 15 days of the clerk’s docketing notice. This change aligns with common practice and serves the rule’s purpose of requiring the CCIS to be filed promptly. It also protects parties from having the CCIS filing deadline triggered without notice.</p>	<p>See above response.</p>
			<p><b>2. Modifying the Civil Case Information Statement Question Regarding Calendar Preference or Priority</b>                      The CAC supports amending item 2, part II of the CCIS to clarify that the appellant may provide a nonstatutory reason why the appeal is eligible for calendar preference. We agree that the current reference to “authority” may cause some</p>	<p>The committee appreciates the feedback and notes the commenter’s support for revising item 2 on the CCIS.</p>



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			<p>appellants to forego identifying an appeal as a priority matter on the CCIS form.</p>	
			<p><b>3. Mandating Use of Judicial Council Form for “Good Cause” Filing Extensions</b>                      The CAC has concerns about requiring parties to use the Judicial Council forms to request extensions of time. The Appellate Advisory Committee proposes mandatory use of the forms to ensure that applications address the “good cause” factors in Rule 8.63(b)(1)–(11), such as whether the appeal is entitled to priority and whether the requested extension would result in prejudice to opposing parties.</p>	<p>The committee appreciates the feedback and notes the commenter’s opposition to making the Judicial Council’s extension of time forms mandatory.</p> <p>The committee has decided to no longer recommend that the Council’s extension of time forms be made mandatory. The committee believes that leaving the forms optional will help ensure that all parties and attorneys are able to efficiently access the courts and request an extension of time to file their briefs without encountering technology-based problems or inconveniences. This will also help ensure that otherwise valid requests for extensions of time will not be rejected simply because the form was not used.</p>
			<p>Our concern is that, while the form might help focus the applicant on relevant factors, making it mandatory could also trap unwary litigants, causing valid applications to be rejected because of the form of the document. The consequence could be more appeals going into default, creating unnecessary work for the parties and the court.</p>	<p>The committee appreciates the feedback. See above response.</p>
			<p>Making the extension-application form mandatory while the extension-stipulation form remains optional would also likely lead to confusion. As it</p>	<p>The committee appreciates the feedback. See above response.</p>

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			<p>stands, almost all Judicial Council appeal forms are optional, including stipulations for extensions of time. The only mandatory appellate forms consist of the Civil Case Information Statement in civil cases and death-penalty related documents in criminal cases. The optional nature of most forms (including extension stipulations that serve a similar purpose to an extension application) creates a high likelihood that counsel will not remember to submit the mandatory form when applying for, as opposed to stipulating to, an extension.</p>	
			<p>The proposed change would also require changes to local rules and forms, which either do not call for the same information as the Judicial Council’s form or which explicitly state that parties do <i>not</i> need to follow the Judicial Council’s forms exactly. (<i>See, e.g.</i>, Second District Form 2DCA-04, Application for Extension of Time (Brief) available at <a href="https://www.courts.ca.gov/documents/2DCA-04.pdf">https://www.courts.ca.gov/documents/2DCA-04.pdf</a>, Local Rules of the Court of Appeal First Appellate District, Rule 11(b) (requiring extension-of-time applications to be “substantially in the form of” the optional judicial council form).)</p>	<p>The committee appreciates the feedback. See above response.</p>
			<p>Given these potential downsides, we question whether the change will accomplish a significant enough gain in efficiency to merit adoption. The</p>	<p>The committee appreciates the feedback. See above response.</p>

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			<p>mandatory-form proposal springs from concerns of some members of the Appellate Caseflow Workgroup, but it does not appear that the Workgroup reached a consensus to recommend this change specifically. The Workgroup recommended changing the optional form to include more of the Rule 8.63 factors. It also suggested requiring parties that choose not to use the optional form to still include the relevant information in their applications (which we believe is already mandated by Rule 8.63). The Judicial Council modified the forms on January 1, 2024 to include more of the Rule 8.63 factors. With that change in place, making the form mandatory is unnecessary because the court can simply reject any application that fails to address the relevant factors, regardless of how the information is presented.</p>	
			<p>Finally, it appears that some practitioners have identified problems with the forms themselves. These include an inability to input certain fields or to save the completed document for editing. Compiling the PDF form together with extra declaration pages may also prove technologically challenging.</p>	<p>The committee appreciates the feedback. The committee has ensured that the forms items can be filled out and the answers properly formatted. It has also confirmed that the forms may be saved and printed appropriately.</p>
			<p>While we would encourage any applicant for an extension of time to address the Rule 8.63 factors, the downsides of requiring the Judicial Council</p>	<p>The committee appreciates the feedback.</p>

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			forms outweigh potential benefits to be gained from this rule change.	
			<p><b>4. Implementing a Judicial Council Form for Extensions in Misdemeanor Appeals</b>                      The CAC supports adopting a form by which the parties in a misdemeanor appeal can request an extension of time to file briefs. The forms are useful, yet the extension form for criminal appeals is not formatted for use in the appellate division of the Superior Court. As long as the form is adopted for optional use, we believe it will be beneficial.</p>	The committee appreciates the feedback.
4.	Family Violence Appellate Project (FVAP) by Cory Hernandez, Senior Managing Attorney	AM	<p>The following comments are submitted by Family Violence Appellate Project (FVAP) regarding the Judicial Council’s Invitation to Comment number SPR24-02. We greatly appreciate the Council’s continued efforts to make the appellate process more accessible and inclusive, and are grateful to the Council for considering and responding to many of our past suggestions on these issues (and are more than happy to continue working with the Council on further issues as well as other past issues we’ve raised that have not yet been addressed).</p> <p>(1) <b>Support</b> the proposal to clarify on the APP-004 CCIS (civil case information statement) form that the ground for calendar preference can be a nonstatutory reason.</p>	<p>No response necessary.</p> <p>The committee notes the commenter’s support for revising form APP-004.</p>

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			<p>a. However, for what it may be worth, we wanted to note that there arguably is not really a “nonstatutory” ground for calendar preference (or perhaps stated more precisely, not really a need for such nonstatutory ground), given the broad scope covered already by CCP § 36, subd. (e) (“interests of justice”). Indeed, the proposal cites Warren v. Schecter, but in that case, the Court expressly relied on CCP § 36, subd. (e) and former CRC 19.3 (current CRC 8.240), so its ruling was, at least arguably, actually statutory. This technical distinction may, though, be a distinction without much of a difference, especially as related to this proposal.</p>	<p>The committee appreciates the feedback.</p>
			<p>b. At the same time, we do not doubt that a court, including an appellate court, has inherent authority to grant calendar preference—that is, a court could still grant calendar preference in “the interests of justice” even if, say, CCP § 36, subd. (e) were amended or removed.</p>	<p>The committee appreciates the feedback.</p>
			<p>(2) <b>Support</b> the proposal to amend CRC 8.100 to require the CCIS form be filed within 15 days that the Court of Appeal lodges the Notice of Appeal (NOA) and opens an appellate case number.</p>	<p>The committee notes the commenter’s support for amending rule 8.100.</p>
			<p>a. In practice, it has often been unclear when precisely the CCIS would be due, especially since</p>	<p>The committee appreciates the feedback.</p>

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			<p>it can take weeks or months before an appeal gets docketed, after an NOA is filed. So we appreciate this rule’s clarification.</p>	
			<p>i. We also ask the Council consider addressing delays in docketing appeals. We have seen several reasons why appeal docketing gets delayed, from superior courts rejecting NOA forms on improper grounds to clerks not sending/receiving NOAs for weeks after they are filed.</p>	<p>The committee appreciates the feedback. Addressing docketing delays is outside the scope of the instant proposal.</p>
			<p>b. Plus, this amendment to CRC 8.100 seems to make logical sense, since the APP-004 (CCIS), unlike the APP-003 (NDRA), has to be filed in the Court of Appeal instead of the superior court.</p>	<p>The committee appreciates the feedback.</p>
			<p>i. Tying the CCIS deadline to the filing of the NOA (current rule) is problematic because it can take weeks or months, after the NOA is filed, before a Court of Appeal case is opened. So this proposal has a better internal logic by tying the CCIS deadline to the action of the Court of Appeal, i.e., docketing the appeal.</p>	<p>The committee appreciates the feedback.</p>
			<p>(3) <b>Recommend</b> for the proposed amendment to the APP-001-INFO form, there should be added language clarifying that many cases do not have online dockets available on the court’s website, since they’re confidential or masked. In such cases, parties should be directed to contact the</p>	<p>The committee appreciates the feedback. The committee has declined to make the recommended revision. The committee concludes that it will be the rare case where there is no online information for an appeal.</p>

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			<p>Court directly to get an update. Without that clarifying language, pro. per. appellants may not know they need to reach out to the Court of Appeal instead of waiting for an online docket to be created.</p>	
			<p>(4) <b>Recommend</b>, in response to the proposal’s specific question about <i>In re Conservatorship of K.Y.</i>, that California Rules of Court, rule 8.480 (instead of the EOT form as proposed) be amended—or a new rule of court adopted—to require that, in cases of conservatorship and other civil commitments, a party seeking an extension of time (EOT) tell the court, in the application, both (1) whether calendar preference has been granted/is warranted and (2) when the challenged order expires.</p>	<p>The committee appreciates the feedback. Rule or form amendments to address extension of time requests in civil commitment or conservatorship appeals is outside the scope of the instant appeal. The committee may consider this issue in the future as time and resources allow.</p>
			<p>a. <b>OR</b>, we recommend that, instead of amending the EOT form, a new form should be adopted for these cases—separate from APP-006 for the reasons discussed below.</p>	<p>See above response.</p>
			<p>b. We would <b>OPPOSE</b> adding an item for expiration dates on the APP-006 form. That form is used in family law appeals, and many/most family law orders have no expiration date (e.g., custody, child support), so having this item on the form will cause confusion, especially for self-represented</p>	<p>See above response.</p>

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	Commenter	Position	Comment	Committee Response
			litigants. (About one- third of appellants represent themselves, so far as we can see from the data available.)	
			i. Furthermore, even if a challenged family law order <i>may</i> have an expiration date, like a domestic violence restraining order after hearing (Fam. Code, § 6345, subd. (a)), the expiration of the order does not necessarily moot an appeal from or related to that same order. (See, e.g., <i>A.F. v. Jeffrey F.</i> (2023) 90 Cal.App.5th 671, 682; <i>Yost v. Forestiere</i> (2020) 51 Cal.App.5th 509, 515, fn. 2; <i>Harris v. Stampolis</i> (2016) 248 CA4 484, 495-496; <i>Celia S. v. Hugo H.</i> (2016) 3 Cal.App.5th 655, 665-666; <i>Gonzalez v. Munoz</i> (2007) 156 Cal.App.4th 413, 416-417.)	See above response.
			ii. And, even if the expiration of the order, or some other occurrence like death of the respondent, may moot a family law or restraining order appeal, that does not necessarily bar the appeal because a court has discretion to consider an otherwise moot appeal. (See, e.g., <i>IRMO F.M. &amp; M.M.</i> (2021) 65 CA5 106, 110, fn. 1.)	See above response.
			<b>(5) Support, in a LIMITED way as discussed below</b> , the proposal to require the EOT forms (like APP-006) be mandatory instead of optional.	The committee notes the commenter’s support for making the extension of time forms mandatory, subject to the qualifications stated in the comment.



**SPR24-02**

**Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time** (amend Cal. Rules of Court, rules 8.100; revise forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817)  
 All comments are verbatim unless indicated by an asterisk (\*).

	Commenter	Position	Comment	Committee Response
			a. More specifically, we agreed with this recommendation back in our comments to prior proposal SPR23-06.	The committee appreciates the feedback.
			b. However, in those comments, which we repeat here, we want to be clear that we would <b>NOT</b> want these EOT forms (like APP-006) to be mandatory if the forms were amended to require the party to explain what work has been done on the appeal thus far, as that type of requirement would raise serious confidentiality and privilege issues, not to mention practical implementation issues for self-represented parties	The committee appreciates the feedback.
			c. If the EOT forms (like APP-006) <i>are</i> amended to require more of parties, those form changes should only come from statutory or rule changes.	The committee appreciates the feedback.
			(6) <b>Recommend</b> that the EOT forms (e.g., APP-006) be amended to address the following issues, which we had also noted in our comments to proposal SPR23-06:	See below for response to specific comments.
			a. Item 1(a) should have space for amicus to use the form to request an extension. (CRC 8.200(c)(1).) i. Or perhaps better, there should be a separate form for amici to request an EOT to file their brief.	Last year, the extension of time forms were revised to, among other things, include a “supplemental or other brief” option in item 1. The committee has revised this item to include a direction for the party to describe the “supplemental or other brief” with a text box for this description.

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revise forms APP-001-INFO, APP-004, APP-006, APP-106, CR-126, JV-816, and JV-817)

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	Commenter	Position	Comment	Committee Response
			<p>b. Item 8 should be divided into two parts: 8(a) for “The Court granted calendar preference on [ ]”; and then 8(b) for “This appeal is eligible for calendar preference because [ ].” This will help with readability, especially for pro. per. parties.</p>	<p>The committee declines to make the suggested revision due to space constraints.</p>
			<p>c. Item 9 should be amended, in the <i>italicized parenthetical explanation</i>, to remove the phrase “including possible prejudice to the parties.”</p>	<p>The committee declines to make the suggested revision. The committee notes that in its December 2022 report, the Chief Justice’s Appellate Caseflow Workgroup recommended that the extension of time forms specifically request whether an extension would result in prejudice to the parties.</p> <p>Rule 8.63(b)(1) states that a court should consider the “degree of prejudice, if any, to any party from a grant or denial of the extension. A party claiming prejudice must support the claim in detail.” The committee does not read this rule as only requiring a discussion of possible prejudice if one party is claiming prejudice. To the contrary, the committee believes that the absence of prejudice to any party is an important factor that should be considered in determining whether to grant an extension.</p> <p>Given the potential importance of the prejudice factor, the committee believes the parenthetical as drafted is beneficial to reviewing courts.</p>

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	Commenter	Position	Comment	Committee Response
			i. CRC 8.36(b)(1) only requires a party to discuss possible prejudice <i>if they or the other party is claiming prejudice</i> .	See above response.
			ii. By having additional language in the form, the form now requires a party to discuss possible prejudice <i>in every case</i> , whereas CRC 8.36 only requires such discussion <i>in a limited number of cases</i> .	See above response.
			iii. As such, having this language in the form adds to the rule, and is basically thus further rulemaking in the cloak of modifying the form.	See above response.
			iv. If the Council wishes to maintain this language on the form, it seems it would be useful to amend CRC 8.36 to reflect this requirement as well.	See above response. Amending rule 8.63 is outside the scope of the instant proposal.
			(7) Have <b>no comment</b> on whether to adopt a mandatory form for EOTs in misdemeanor appeals. a. We do not practice in misdemeanor appeals.	The committee appreciates the feedback.
			FVAP is a State Bar-funded legal services support center and the only nonprofit organization in California dedicated to representing survivors of domestic violence and other forms of gender-based abuse in civil appeals for free. We are also funded by the California Office of Emergency Services to support domestic violence, sexual	No response necessary.

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	Commenter	Position	Comment	Committee Response
			<p>assault and human trafficking advocates who work directly with self-represented litigants seeking protection or other relief from the court system. FVAP is devoted to ensuring survivors can live in healthy, safe environments, free from abuse. This includes ensuring appellate procedures and rules are straightforward enough to follow for parties without representation, which includes most survivors.</p>	
			<p>In conclusion, we support much of this proposal but have further points for consideration as noted above, and additional suggestions. *[contact information removed]</p>	<p>The committee appreciates the feedback.</p>
5.	<p>Fourth District Court of Appeal, Division One by Karen M. Harkins, Managing Attorney</p>	AM	<p>Thank you for the opportunity to comment on Proposed Rule SPR24-02. Running the due date for the Civil Case Information Statement from the time the Court of Appeal receives and assigns a case number to a new civil notice of appeal would benefit the court because it would improve efficiency by making compliance for appellants easier. This change has minimal impact to court operations, and it can be implemented within three months.</p>	<p>The committee appreciates the feedback and notes the commenter’s support for the proposal’s amendment to the due date for the Civil Case Information Statement.</p>
			<p>This proposed rule also revises item 2 of part II of form APP-004 (the Civil Case Information Statement) by changing language on the form, asking appellants to explain why the appeal is eligible for, rather than entitled to, calendar preference. The executive summary explains the</p>	<p>No response required.</p>

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	Commenter	Position	Comment	Committee Response
			<p>purpose of this change is to allow appellants an opportunity to share situations “where the court should exercise discretion to grant preference on nonstatutory grounds.”</p>	
			<p>While the court is open to receiving this information, it is not clear what benefit this change provides. California Rule of Court, rule 8.240 governs calendar preference. It requires parties seeking calendar preference to “promptly serve and file a motion for preference in the reviewing court.” The associated advisory comment clarifies that the rule is broad in scope, and parties may file a motion based on nonstatutory grounds.</p>	<p>The committee appreciates the feedback.</p>
			<p>The revision to item 2 may create confusion, particularly with parties appearing in propria persona, who may be unaware that simply including this information will not, in itself, allow the court to “exercise discretion to grant preference on nonstatutory grounds.” It is not clear how the court should use the information when an appellant offers a nonstatutory basis for calendar preference, because including the information does not replace the rule 8.240’s requirements. Instead, this change may create confusion: If an appellant indicates a reason for preference on this form, how should the respondent view that information? Would parties treat information the form as triggering the timeline for opposition to calendar preference? If</p>	<p>The committee appreciates the feedback.</p> <p>Item 2 in the Civil Case Information Statement does not replace the requirement that a party seeking calendar preference promptly serve and file a motion seeking such preference. However, as the advisory committee comment to rule 8.240 recognizes, that rule does not “bar the court from ordering preference without a motion when the ground is apparent on the face of the appeal.”</p> <p>In cases where the grounds for preference are clear on the face of the appeal, item 2 helps ensure that the case is properly given case preference or priority. In cases where the litigant believes there is a nonstatutory or discretionary ground for</p>

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	Commenter	Position	Comment	Committee Response
			<p>parties treat the statement as a request for court action, it would require the court to address the requests that do not comply with court rules. That would also potentially require the parties to duplicate their efforts.</p>	<p>calendar preference, item 2 still notifies the Court of Appeal that there may potentially be a basis for calendar preference.</p> <p>To alleviate any confusion, the committee is recommending that item 2 be revised to include the following statement: “A party seeking calendar preference or priority on a non-statutory or discretionary ground must promptly serve and file in the Court of Appeal a motion for preference, see Cal. Rules of Court, rule 8.240.” Amending rule 8.240 or its advisory committee comment are outside the scope of the instant proposal.</p>
			<p>If the proposed language change occurs, we suggest including language on the form clarifying that including such information on the form will not result in calendar preference where the eligibility is not based on nonstatutory grounds, with a reference to California Rules of Court, rule 8.240. It may also be helpful to revise the advisory comment to rule 8.240 to state that parties must file a motion for preference in the reviewing court even if the Civil Case Information Statement includes an explanation for why the appeal is eligible for calendar preference or priority.</p>	<p>See above response.</p>
6.	Rebecca P. Jones Attorney at Law	N	I am attorney licensed to practice in California since 1992. I have been handling indigent	No response necessary.

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	Commenter	Position	Comment	Committee Response
			<p>criminal matters for my entire career and have been specializing in criminal appeals in the state courts since approximately 2002.</p>	
			<p>I received notice that the committee is considering instituting a rule that would require counsel in criminal matters to use a Judicial Council fillable .pdf form to apply for extensions of time to file their briefs. I oppose this rule and would like to explain why.</p>	<p>The committee appreciates the feedback and notes the commenter’s opposition to the part of the proposal that would make the Judicial Council’s extension of time forms mandatory.</p>
			<p>The only court in which I have practiced recently that prefers that we use a fillable .pdf form to request extensions of time is the Fifth Appellate District. I also practice – at least until recently, when I took a nearly full-time job at CAP-SF – in the Second, Fourth, and Third Appellate Districts. Those other districts have allowed me to submit applications for extensions of time in a variety of different formats. Every application I submit has a place for me to include crucial information about the amount of work I have completed on the case and my reasons for needing additional time to file a brief.</p>	<p>The committee appreciates the feedback.</p>
			<p>Every time I have tried to use the fillable form available on the Fifth Appellate District’s website, I have run into problems printing it or saving it so that I can submit it through TrueFiling. Frequently, I end up trying to find an old .pdf that was functional for another case and using my</p>	<p>The committee appreciates the feedback.</p>

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	Commenter	Position	Comment	Committee Response
			<p>editing tools within Acrobat to change the dates, names, and other relevant information. Trying to find work-arounds to deal with the lack of functionality in the online fillable form takes approximately twice the amount of time I normally have to spend writing an application for extension of time and getting it filed.</p>	
			<p>Right now I downloaded the form from the Fifth Appellate District’s website, and I could not fill in the names of the Appellant and Respondent on page 2. Then, when I tried to use the “Print this Form” button and selected “Adobe PDF” as the file format, it turned into an unusable .txt file. These are problems I have had with using this form for a number of years. I have to keep playing around with various options until I get a correctly filled-in form that is saved in the correct .pdf format so I can file it.</p>	<p>The committee appreciates the feedback.</p>
			<p>If the Judicial Council is going to insist on us using a fillable form, rather than any other format for requesting extensions of time, it should provide us with a functional form that can actually print as a .pdf and that allows us to fill in all the relevant fields. Further, I think that the vast majority of attorneys have been able to provide relevant and critical information regarding their requests for extensions of time filed in other formats. The proposed change is also unnecessary</p>	<p>The committee appreciates the feedback. The committee has ensured that the extension of time forms are functional and properly save and print.</p> <p>The committee has decided to no longer recommend that the Council’s extension of time forms be made mandatory. The committee believes that leaving the forms optional will help ensure that all parties and attorneys are able to efficiently access the courts and request an extension of time to file their briefs without</p>



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	Commenter	Position	Comment	Committee Response
				encountering technology-based problems or inconveniences. This will also help ensure that otherwise valid requests for extensions of time will not be rejected simply because the form was not used.
7.	Superior Court of Los Angeles County by Bryan Borys, Director of Research and Data Management	A	<p>The following comments are representative of the Superior Court of California, County of Los Angeles (Court), and do not represent or promote the viewpoint of any particular judicial officer or employee.</p> <p>The Court agrees with proposal SPR24-02, “Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time” and its stated purpose.</p> <p>In addition to this proposal, the Court suggests amendments to rule 8.927 to require infraction appellants to use the mandatory form. Rule 8.925 is authority for infraction litigants to seek an extension of time to file a brief. However, it is not clear that it can authorize the court to require an infraction litigant to use the mandatory form.</p>	<p>No response necessary.</p> <p>The committee appreciates the feedback and notes the commenter’s support for the proposal.</p> <p>Amending rule 8.927 is outside the scope of this proposal. The committee may consider whether to recommend adoption of an extension of time form for use in infraction appeals in the future as time and resources allow.</p> <p>In addition, the committee has decided to no longer recommend that the Council’s extension of time forms be made mandatory. The committee believes that leaving the forms optional will help ensure that all parties and attorneys are able to efficiently access the courts and request an</p>

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
				extension of time to file their briefs without encountering technology-based problems or inconveniences. This will also help ensure that otherwise valid requests for extensions of time will not be rejected simply because the form was not used.
8.	Michael M. Ward Retired Disabled Veteran	AM	*[The comment addresses the details of a specific case and does not address any of the issues in the proposal and is not included in the comment chart.]	No response necessary.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.:*

For business meeting on September 20, 2024

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**Title**

Appellate Procedure: Expanded Clerk's  
Transcripts in Felony Appeals

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 8.320

**Recommended by**

Appellate Advisory Committee  
Hon. Louis Mauro, Chair

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Date of Report**

June 5, 2024

**Contact**

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### Executive Summary

The Appellate Advisory Committee recommends amending California Rules of Court, rule 8.320 to authorize the Courts of Appeal to require, by local rule, that the clerk's transcript in felony appeals include additional court records from the superior court file beyond those currently required in rule 8.320(b) or (d)(1). This amendment is intended to help minimize delays in felony appeals occasioned by the need to cure omissions from, or make augmentations to, the clerk's transcript.

### Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2025, amend California Rules of Court, rule 8.320 to authorize the Courts of Appeal to require, by local rule, that the clerk's transcript in felony appeals include any or all additional court records in the superior court file beyond those required by rule 8.320(b) or (d)(1).

The proposed amended rule is attached as pages 8-12.

## Relevant Previous Council Action

Rule 8.320, governing the normal record on appeal in felony appeals, was adopted as rule 31 in 2004, and renumbered in 2007. Rule 8.320 has previously been amended effective January 1, 2007, January 1, 2010, and January 1, 2013, to require the clerk’s transcript to contain certain materials. The advisory committee comment to rule 8.320 was amended effective January 1, 2014, to state that rules 8.45 and 8.46 address the appropriate handling of sealed and confidential records. Other amendments to the rule are not relevant to this proposal.

## Analysis/Rationale

Under California Rules of Court, rule 8.320,<sup>1</sup> the record on appeal in a felony case consists of both a clerk’s transcript and a reporter’s transcript. Rule 8.320(b) governs the contents of the clerk’s transcript in appeals from a judgment of conviction (or an appeal from an order granting a new trial) while rule 8.320(d)(1) governs the clerk’s transcript when the People appeal from a judgment on a demurrer to the accusatory pleading or either party appeals from an appealable order. Both rules provide a list of filings, orders, and other items from the superior court proceedings that the superior court clerk must include in the clerk’s transcript.<sup>2</sup>

Rule 8.340 provides procedures for (1) correcting omissions from the clerk’s transcript, and (2) requesting that the clerk’s transcript be augmented or corrected.<sup>3</sup> In its December 2022 report, the Appellate Caseflow Workgroup recognized that the “need to cure omissions from and to make augmentations to the standard criminal record are two of the most significant causes for record preparation delay.”<sup>4</sup>

To help reduce the delay that may result from a need to correct omissions from or make augmentations to the clerk’s transcript, this proposal would amend rule 8.320 to add a new subdivision (g) which authorizes the Courts of Appeal to require, by local rule, that the clerk’s transcript include “any or all additional court records contained in the superior court file” in addition to those required by rule 8.320(b) or (d)(1). The new subdivision defines “court records” as having the same meaning used in rule 2.502(3).<sup>5</sup> In addition, the new subdivision would allow

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<sup>1</sup> All further references are to the California Rules of Court.

<sup>2</sup> See Rule 8.320(b)(1)–(13); Rule 8.320(d)(1)(A)–(G); see also Rule 8.336(c), (g) (requiring the superior court clerk to prepare and send the clerk’s transcript to the reviewing court and copies to the parties).

<sup>3</sup> Rule 8.340(b), (c).

<sup>4</sup> Appellate Caseflow Workgroup, Report to the Chief Justice (Dec. 6, 2022), p. 20, [https://newsroom.courts.ca.gov/sites/default/files/newsroom/2022-12/Appellate%20Caseflow%20Workgroup%20Report\\_Final.pdf](https://newsroom.courts.ca.gov/sites/default/files/newsroom/2022-12/Appellate%20Caseflow%20Workgroup%20Report_Final.pdf). The Workgroup was appointed by former Chief Justice Tani G. Cantil-Sakauye in June 2022. The Chief Justice directed the Workgroup to “review policies, procedures, and management and administrative practices of the Courts of Appeal, and to recommend measures to promote transparency, accountability, and efficiency in issuing timely judgments.” (Id. at p. 1.)

<sup>5</sup> Rule 2.502(3) (defining court record as, in relevant part, “any document, paper or exhibit filed in an action or proceeding; any order or judgment of the court; and any item listed in Government Code section 68151(a) – excluding any reporter’s transcript for which the reporter is entitled to receive a fee – that is maintained by the court

these local rules to require the clerk’s transcript to include copies of exhibits admitted into evidence, refused, or lodged.

The committee has concluded that authorizing the Courts of Appeal to adopt local rules in this area is preferable to a statewide rule expanding clerk’s transcripts. An expanded clerk’s transcript might impose burdens on both the Court of Appeal and superior court clerks. A Court of Appeal would receive a larger record on appeal that could include a number of items irrelevant to the issues on appeal, complicating the record review process. Additionally, requiring superior court clerks to compile larger clerk’s transcripts would impose responsibilities and costs that would vary based on staffing levels and technological capabilities. For example, some superior courts maintain paper records. In those courts, the time and expense of copying and scanning additional court records, or all court records in the court file, could be significant. Even in superior courts that maintain electronic records, the case management systems employed may vary in their capabilities such that what is easy to do in one court may be difficult in another.

The Courts of Appeal are in a position to assess the needs and capabilities in their districts and weigh the potential benefits and burdens of preparing or reviewing a larger record on appeal. They could consider a local rule that would require commonly needed records or exhibits to be included in the clerk’s transcript. This could minimize record-preparation related delays.

### **Policy implications**

This proposal strives to balance potential burdens and costs with the possible benefits of requiring an expanded clerk’s transcript in felony appeals. The proposal authorizes Courts of Appeal to enact local rules rather than imposing a statewide rule expanding the contents of the clerk’s transcript. Because this proposal could help improve appellate efficiency, it is consistent with *The Strategic Plan for California’s Judicial Branch*, specifically the goal of Quality of Justice and Service to the Public (Goal IV).

### **Comments**

This proposal circulated for public comment from March 29 to May 3, 2024, as part of the regular spring comment cycle. Eight responsive comments were received: one from Division 1 of the Fourth District Court of Appeal; two from superior courts (for Los Angeles and Orange counties); one from a court supervisor with the Superior Court for Stanislaus County; one from the San Diego County District Attorney’s Office; one from the Orange County Bar Association; one from the California Lawyers Association, Committee on Appellate Courts (“CAC”); and one from the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee (“JRS”). With one exception, the commenters were supportive of the proposal. A chart with the full text of the comments received and the

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in the ordinary course of the judicial process. The term does not include the personal notes or preliminary memoranda of judges or other judicial branch personnel . . .”).

committee's responses is attached at pages 13-33. The principal comments and responses are summarized below.

***Whether the rule text should include reference to rule 2.502(3)***

As circulated for comment, the proposed rule language provided that a reviewing court's local rule could include either "All contents of the superior court file" or "Additional filings, orders, or other documents contained in the superior court file." The advisory committee comment in the rule then stated that, for purposes of the rule, "items excluded from the definition of 'court records' under rule 2.502(3) are not considered part of the superior court file." The committee sought specific comment on whether the rule 2.502(3) definition should be included in the rule text.

The commenters who addressed this question uniformly supported including the definition in the rule text. The commenters noted this would improve clarity and would prevent the definition from being overlooked. JRS recommended that the relevant parts of the rule replace "superior court file" with "superior court file as defined by Rule 2.502(3)."

In light of these comments, the committee recommends modifying the proposed rule to improve clarity and to eliminate potential confusion as to the scope of the rule. The proposed rule now speaks of local rules requiring the clerk's transcript to include "any or all additional court records contained in the superior court file." It then provides that "For purposes of this provision, 'court records' has the meaning provided in rule 2.502(3)."

***Whether the rule should also include exhibits***

The committee sought comment on whether the proposal should include a provision allowing for the reviewing court's local rule to require inclusion of exhibits in the clerk's transcripts. Division 1 of the Fourth District Court of Appeal, the Superior Court of Orange County, CAC, and the San Diego District Attorney's Office, expressed support for such a provision.

CAC noted that an "appellate record without the exhibits does not give the reader the complete picture of what happened at trial." While recognizing that rule 8.224 includes a process for exhibits to be officially transmitted to the reviewing court, CAC noted that appellate attorneys often need access to the exhibits when initially reviewing the record, evaluating the case, and crafting arguments. It also stated that the frequent need to file requests to have exhibits transferred to the reviewing court consumes valuable judicial resources and delays adjudication of the appeal. Similarly, Division 1 of the Fourth District Court of Appeal noted that the rule 8.224 procedure "sometimes delays record completion, particularly in matters where exhibits are essential to a party's argument," and that a local rule directing superior courts to routinely request exhibits would reduce delays.

Additionally, the San Diego County District Attorney's Office encouraged the committee to consider "potential hurdles related to the multitude of forms that evidence can take" and the way these forms of evidence could be transmitted to the reviewing court. The Superior Court of

Orange County recommended that the reviewing courts add to their local rules a provision as to “how” they want the exhibits transmitted and exhibited.

In light of these comments, the committee has decided to keep a provision in the proposed rule authorizing the reviewing court’s local rule to require inclusion in the clerk’s transcript of exhibits admitted, refused, or lodged in the superior court. To implement this provision, the proposal would also amend rule 8.320(e) to provide that exhibits may be transmitted pursuant to the new provision (g)(2) or the existing rule 8.224 procedure.

Finally, for the reasons discussed above as to why the committee believes local rules are preferable in this area, the committee believes that questions of how, and in what form, exhibits should be transmitted are best addressed by the local rules promulgated pursuant to this proposal.

***Whether the rule should include a stipulation requirement***

The committee sought comment on whether the proposed rule should include a requirement that the parties stipulate to the use of an expanded clerk’s transcript. The commenters did not support including such a requirement. CAC noted that such a requirement would essentially nullify the rule, given that attorneys are frequently not appointed until the record is certified, and the Attorney General’s Office does not assign attorneys until the opening brief is filed. The San Diego County District Attorney’s Office felt that such a requirement would impose an unwarranted additional step.

Given these comments, the committee does not recommend such a requirement be included in the proposed rule. First, the committee notes that use of an expanded clerk’s transcript based on local rule would not prejudice the parties, either in a financial sense (since the parties do not pay for preparation of the clerk’s transcript) or in their ability to present their arguments. Second, the committee notes that rules 8.863 and 8.914, which allow the use of the trial court file in lieu of a clerk’s transcript in misdemeanor and infraction appeals, respectively, do not require the parties’ stipulation.

***Whether the proposed rule should encompass appeals covered by rule 8.320(d)***

The committee sought specific comment on whether rule 8.320(d) should be similarly amended to allow the reviewing court’s local rule to expand the clerk’s transcript in appeals governed by that rule. The commenters split on this question.

On the one hand, Division 1 of the Fourth District Court of Appeals, the Superior Court of Los Angeles County, and the San Diego County District Attorney’s Office supported including rule 8.320(d) in the proposal. Division 1 of the Fourth District notes that appeals from postjudgment motions are growing in complexity and frequently require a detailed review of complete records. It suggested that a local rule expanding the clerk’s transcript in those cases would allow for such appeals to proceed more expeditiously. Similarly, the San Diego District Attorney’s Office noted that it frequently encounters issues with obtaining an adequate clerk’s transcript in appeals covered by the rule.

On the other hand, the Superior Court of Orange County opposed including rule 8.320(d) in the proposed rule. Additionally, a court supervisor from the Superior Court of Stanislaus County noted that appeals covered by rule 8.320(d) may frequently involve older case files which may not be digitized and may be housed in off-site storage. She thus cautioned that expanding the clerk's transcript in those cases may impose a significant burden on clerk staff to digitize and build the expanded transcript.

The committee has revised the proposed rule to authorize reviewing courts to adopt local rules which would expand the clerk's transcript in appeals covered by rule 8.320(d). The committee is cognizant of the potential costs and burdens expanded clerk's transcripts may impose on superior courts. It envisions that those burdens will be considered by the Courts of Appeal in determining whether to adopt a local rule authorized by this proposal and, if so, the scope of such a local rule.

***Statewide applicability vs. local rules; burden on superior courts***

A court supervisor from the Superior Court of Stanislaus County disagreed with the proposal authorizing the Courts of Appeal to adopt local rules expanding the clerk's transcript. She felt that a statewide approach would be less confusing for parties and their counsel and more fair to all litigants regardless of where their case is filed.

She also cautioned that expanding the clerk's transcript can have significant costs on superior courts. For example, she noted that in superior courts maintaining paper records, expanded clerk's transcripts could add significant personnel costs due to the additional time needed to scan and index paper files to prepare the record. She also stated it could result in courts having to purchase additional equipment to digitize paper records. Finally, she noted that such burdens would depend largely on the staffing level of each superior court's appeals department and whether the court's records are primarily paper or electronic.

Although a statewide rule might provide certain benefits, the committee does not recommend a statewide rule at the present time, for reasons discussed above. Differences in staffing and record management in the superior courts, referenced by the commenter, make a one-size fits all approach to expanding the clerk's transcript difficult at best. As for the risk of confusion, counsel should be aware of the need to look for, and comply with, local rules.

The committee also concludes that all parties, regardless of where their case is pending, will receive fair process under the proposal. It will not deprive a party of any process to which they were entitled previously: rule 8.320(b) and (d)(1) will continue to require certain materials be automatically included in the clerk's transcript and parties may still utilize rule 8.340 to augment or correct the record. What this proposal does is allow Courts of Appeal to assess their local conditions and craft a local rule in an effort to improve the efficiency of the record preparation process.

**Alternatives considered**

The committee considered the alternative of taking no action but concluded that the proposal could help reduce delays in the appellate process.



The committee also considered recommending a statewide rule which would expand the clerk's transcript in felony appeals but does not recommend such an approach for reasons stated above.

Finally, the Appellate Caseflow Workgroup encouraged the Judicial Council to consider "adopting a rule of court that would allow litigants in criminal cases to stipulate to the use of the superior court file in lieu of a clerk's transcript."<sup>6</sup> As stated in the invitation to comment, the committee concluded that such a rule would add complexity to the rules and record designation process. By contrast, the committee believes this proposal advances the Workgroup's goal of seeking to streamline the record preparation process, and does so within the clerk's transcript procedures.

### **Fiscal and Operational Impacts**

If a Court of Appeal adopts a local rule expanding the clerk's transcript in a felony appeal as authorized by this proposal, superior court clerks might need to take additional time to compile the expanded clerk's transcript, and they may need to purchase additional equipment to digitize paper records. As detailed above, the committee believes these potential impacts will vary among superior courts based on the staffing level and case management system employed in each court. The committee envisions that the Courts of Appeal will consider the potential impact on the superior courts in their district before adopting a local rule authorized by this proposal.

On the other hand, the committee anticipates that local rules expanding the clerk's transcript in felony appeals could reduce appellate delays caused by the need to correct omissions from, or make augmentations to, the clerk's transcript.

### **Attachments and Links**

1. Cal. Rules of Court, rules 8.320, at pages 8-12
2. Chart of comments, at pages 13-33

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<sup>6</sup> Appellate Caseflow Workgroup, *supra*, at p. 2.

Rule 8.320 of the California Rules of Court is amended, effective January 1, 2025, to read:

1 **Rule 8.320. Normal record; exhibits**

2  
3 **(a) Contents**

4  
5 If the defendant appeals from a judgment of conviction, or if the People appeal  
6 from an order granting a new trial, the record must contain a clerk's transcript and a  
7 reporter's transcript, which together constitute the normal record.  
8

9 **(b) Clerk's transcript**

10  
11 The clerk's transcript must contain:

- 12  
13 (1) The accusatory pleading and any amendment;  
14  
15 (2) Any demurrer or other plea;  
16  
17 (3) All court minutes;  
18  
19 (4) All jury instructions that any party submitted in writing and the cover page  
20 required by rule 2.1055(b)(2) indicating the party requesting each instruction,  
21 and any written jury instructions given by the court;  
22  
23 (5) Any written communication between the court and the jury or any individual  
24 juror;  
25  
26 (6) Any verdict;  
27  
28 (7) Any written opinion of the court;  
29  
30 (8) The judgment or order appealed from and any abstract of judgment or  
31 commitment;  
32  
33 (9) Any motion for new trial, with supporting and opposing memoranda and  
34 attachments;  
35  
36 (10) The notice of appeal and any certificate of probable cause filed under rule  
37 8.304(b);  
38  
39 (11) Any transcript of a sound or sound-and-video recording furnished to the jury  
40 or tendered to the court under rule 2.1040;  
41  
42 (12) Any application for additional record and any order on the application;

Rule 8.320 of the California Rules of Court is amended, effective January 1, 2025, to read:

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- (13) And, if the appellant is the defendant:
  - (A) Any written defense motion denied in whole or in part, with supporting and opposing memoranda and attachments;
  - (B) If related to a motion under (A), any search warrant and return and the reporter’s transcript of any preliminary examination or grand jury hearing;
  - (C) Any document admitted in evidence to prove a prior juvenile adjudication, criminal conviction, or prison term;
  - (D) The probation officer’s report; and
  - (E) Any court-ordered diagnostic or psychological report required under Penal Code section 1203.03(b) or 1369.

**(c) Reporter’s transcript**

The reporter’s transcript must contain:

- (1) The oral proceedings on the entry of any plea other than a not guilty plea;
- (2) The oral proceedings on any motion in limine;
- (3) The oral proceedings at trial, but excluding the voir dire examination of jurors and any opening statement;
- (4) All instructions given orally;
- (5) Any oral communication between the court and the jury or any individual juror;
- (6) Any oral opinion of the court;
- (7) The oral proceedings on any motion for new trial;
- (8) The oral proceedings at sentencing, granting or denying of probation, or other dispositional hearing;

Rule 8.320 of the California Rules of Court is amended, effective January 1, 2025, to read:

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(9) And, if the appellant is the defendant:

- (A) The oral proceedings on any defense motion denied in whole or in part except motions for disqualification of a judge and motions under Penal Code section 995;
- (B) The closing arguments; and
- (C) Any comment on the evidence by the court to the jury.

**(d) Limited normal record in certain appeals**

If the People appeal from a judgment on a demurrer to the accusatory pleading, or if the defendant or the People appeal from an appealable order other than a ruling on a motion for new trial, the normal record is composed of:

(1) *Clerk's transcript*

A clerk's transcript containing:

- (A) The accusatory pleading and any amendment;
- (B) Any demurrer or other plea;
- (C) Any written motion or notice of motion granted or denied by the order appealed from, with supporting and opposing memoranda and attachments;
- (D) The judgment or order appealed from and any abstract of judgment or commitment;
- (E) Any court minutes relating to the judgment or order appealed from and:
  - (i) If there was a trial in the case, any court minutes of proceedings at the time the original verdict is rendered and any subsequent proceedings; or
  - (ii) If the original judgment of conviction is based on a guilty plea or nolo contendere plea, any court minutes of the proceedings at the time of entry of such plea and any subsequent proceedings;

Rule 8.320 of the California Rules of Court is amended, effective January 1, 2025, to read:

- 1 (F) The notice of appeal; and  
2  
3 (G) If the appellant is the defendant, all probation officer reports and any  
4 court-ordered diagnostic report required under Penal Code section  
5 1203.03(b).  
6  
7 (2) *Reporter’s transcript*  
8  
9 (A) A reporter’s transcript of any oral proceedings incident to the judgment  
10 or order being appealed; and  
11  
12 (B) If the appeal is from an order after judgment, a reporter’s transcript of:  
13  
14 (i) The original sentencing proceeding; and  
15  
16 (ii) If the original judgment of conviction is based on a guilty plea or  
17 nolo contendere plea, the proceedings at the time of entry of such  
18 plea.  
19  
20  
21 **(e) Exhibits**  
22  
23 Exhibits admitted in evidence, refused, or lodged are deemed part of the record, but  
24 may be transmitted to the reviewing court only as provided in (g)(2) or rule 8.224.  
25  
26  
27 **(f) Stipulation for partial transcript**  
28  
29 If counsel for the defendant and the People stipulate in writing before the record is  
30 certified that any part of the record is not required for proper determination of the  
31 appeal, that part must not be prepared or sent to the reviewing court.  
32  
33 **(g) Additional Clerk’s Transcript Materials Required by Local Rule**  
34  
35 In addition to the items listed in (b) and (d)(1), the reviewing court may, by local  
36 rule, require the clerk’s transcript to include any or all additional court records  
37 contained in the superior court file.  
38  
39 (1) For purposes of this provision, “court records” has the meaning provided in  
40 rule 2.502(3).  
41



**SPR24-03**

**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Sandy Almansa Court Supervisor, Appeals Division Superior Court of Stanislaus County	AM	<p>1. "Does the proposal appropriately address the stated purpose?"</p> <p>Not in my opinion. The proposal aims to address the stated purpose, however, allowing for local rules that might differ in each Court of Appeal could make the appellate process more confusing for parties and their counsel, especially if they are litigating cases in different appellate districts. This may result in additional omissions and/or augment motions, which could also delay perfecting the record.</p> <p>Changes should be the same in all courts, for the sake of clarity and for it to be a fair process to all litigants, regardless of where their case is filed.</p>	<p>The committee appreciates the feedback.</p> <p>The committee believes that such a statewide rule is not feasible at this time. The superior courts differ in case management systems, technological capabilities, and staffing. These differences mean that a rule expanding the clerk’s transcript may impose a significant burden on one superior court, while having a negligible impact on another. The Courts of Appeal are in a better position to determine the capabilities of the superior courts in their districts and weigh the potential time-saving benefits against the potential costs inherent in preparing and reviewing a larger record on appeal. The committee anticipates that the Courts of Appeal would undertake this balancing approach in deciding whether, and if so how, to craft a local rule for their district.</p> <p>The committee believes the risk is low that counsel who appear in different appellate districts will be confused. Presumably, counsel is aware of the need to comply with the local rules of the courts in which they practice. Further, under the proposal, rule 8.320 still requires certain materials to be included in the clerk’s transcript. Thus, regardless of where a case is pending, counsel will know that the clerk’s transcript will include certain documents at a minimum.</p> <p>Finally, the committee does not believe that this proposal undermines litigants’ right to a fair process. The proposal does not authorize a Court</p>

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**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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	Commenter	Position	Comment	Committee Response
				<p>of Appeal to constrict the items required to be included in the clerk’s transcript under rule 8.320. Additionally, litigants retain the ability to move for augmentation of the record to include additional items filed or lodged in the superior court but not included in the clerk’s transcript. This proposal simply allows the Court of Appeal to assess local conditions and consider crafting a local rule to improve the efficiency of the record preparation process.</p>
			<p>2. "Should the rule text define “superior court file” as excluding items not considered “court records” as defined by rule 2.502(3), or is it enough to have this limitation addressed in the advisory committee comment? "</p> <p>Excluded items should be specified, as noted in the comments, otherwise it may be too vague and leave things open to interpretation. The focus should be on clarity.</p>	<p>The committee has revised the proposed rule so it now provides that the “reviewing court may, by local rule, require the clerk’s transcript to include any or all additional court records contained in the superior court file.” It then states that “For purposes of this provision ‘court records’ has the meaning provided in rule 2.502(3).” The committee concludes that rule 2.502(3)’s definition, and the proposed rule text’s reference to that definition, is sufficiently clear.</p>
			<p>3. "Should the proposal include a provision allowing for a Court of Appeal’s local rule to require inclusion of exhibits in the clerk’s transcript?"</p> <p>If it is required in one Court of Appeal, it should be required in all districts, for the same reasons noted in prior question number one.</p>	<p>The committee appreciates the feedback. See previous response to commenter’s first comment.</p>



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**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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	Commenter	Position	Comment	Committee Response
			<p>4. "In addition to authorizing Courts of Appeal to adopt a local rule expanding the contents of the clerk’s transcript, should the proposal include a requirement that the parties stipulate before an expanded clerk’s transcript is used?"</p> <p>My thought is that the California Rules of Court should be changed to require either the entire case file, or in the alternative, to modify the rules of court to define specific additional items that should be included in an expanded case file. It should not be a local rule, and it should not require parties to have to stipulate to an expanded case file.</p> <p>5. "Should rule 8.320(d) be similarly amended to allow the Courts of Appeal to adopt a local rule expanding the contents of the clerk’s transcript in appeals governed by that rule?"</p> <p>While it may be a good idea to expand the contents of the clerk’s transcript in a limited record appeal, I feel the Judicial Council should simply modify the California Rules of Court to include specifics that should be included in a</p>	<p>The committee appreciates the feedback. As to the feasibility of a statewide rule, see previous response to commenter’s first comment.</p> <p>As to a requirement that the parties stipulate, the committee has determined that the proposal should not include a requirement that the parties stipulate to the use of an expanded clerk’s transcript. Use of an expanded clerk’s transcript would not prejudice either party to an appeal, either financially or in their ability to present their case. Unlike in civil cases, where the parties must stipulate before the superior court file can be used in lieu of a clerk’s transcript (see rule 8.128(a)), parties in felony appeals do not pay for preparation of the clerk’s transcript.</p> <p>Additionally, the committee notes that rules 8.863 and 8.914, which allow the use of the trial court file in lieu of a clerk’s transcript in misdemeanor and infraction appeals, respectively, do not require the parties’ stipulation.</p> <p>As to the feasibility of a statewide rule, see previous response to commenter’s first comment.</p> <p>The committee appreciates the feedback about the potential burden an expanded clerk’s transcript could pose to courts in cases covered by rule 8.320(d), particularly in limited record appeals where the underlying criminal record is in paper or in off-site storage.</p>

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**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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

	Commenter	Position	Comment	Committee Response
			<p>limited record appeal, so it may apply in all Courts of Appeal, so it may be implemented statewide.</p> <p>For Courts that do not have all of their records digitized, expanding the definitions of a limited record, or requiring the use of an entire case file for the limited record could be a significant issue because limited record appeals can involve older case files that are not digitized, and may be housed off-site in storage.</p> <p>For example, most of the limited record appeals our court has filed in the last year are appeals after decisions on petitions for resentencing. Most of these cases are paper records, or they are a combination of digital and paper records. This could add a significant impact in the process as to the time required for digitizing and building the transcripts with these older records.</p>	<p>The committee has included in the proposed rule a provision authorizing the Courts of Appeal to adopt a local rule expanding the clerk’s transcript beyond the items identified in 8.320(d)(1). The committee anticipates that the costs and burdens identified by the commenter would be considered by the Courts of Appeal in determining whether, and how, to craft a local rule under the proposed rule.</p>
			<p>The advisory committee also seeks comments from courts on the following cost and implementation matters:</p> <p>1. "Would the proposal provide cost savings? If so, please quantify."</p> <p>It would not provide cost savings. In fact, it has the potential to add significant personnel costs due to additional staff time spent on scanning and indexing paper files to prepare the record. It may even require allocating additional staff in some</p>	<p>The committee appreciates the feedback on the nature of the burden a local rule adopted pursuant to the proposed rule would place on superior courts that maintain paper files. The committee anticipates that the potential costs and burdens identified by the commenter would be considered by the Courts of Appeal in deciding whether, and how, to craft a local rule pursuant to the proposed rule.</p>

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**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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	Commenter	Position	Comment	Committee Response
			<p>Courts as well as purchasing equipment to digitize paper records.</p> <p>2. 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?</p> <p>The following factors would need to be considered if this is implemented as is:</p> <p>a. Additional staff may be required to be added to Appeals Units in some Courts, depending on whether their records are already digitized. That may require recruitment and the hiring process, which takes time.</p> <p>b. Additional costs that may be required for equipment, scanners, etc. Budget-related limitations may impact acquisition of equipment and personnel needed to accomplish the new rules.</p> <p>c. If the "Local Rules" options are approved, then it will take each Court of Appeal some time to determine what they will require - full case file or expanded transcripts, exhibits or not, etc. The timeline for this is unknown and may vary in each Court of Appeal.</p> <p>d. Up to 1 month to review “Local Rules” of the Appellate Court and to revise procedures (if Local Rules are implemented)</p> <p>e. Up to 1 month of training on new procedures.</p>	<p>The committee appreciates the feedback on the potential implementation costs of a local rule adopted pursuant to this proposal. The committee anticipates that the potential costs and burdens identified by the commenter would be considered by the Courts of Appeal in deciding whether, and how, to craft a local rule pursuant to the proposed rule.</p>

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	Commenter	Position	Comment	Committee Response
			<p>3. Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? For our court, it might be sufficient, depending on whether a local rule provision is included for the Courts of Appeal, and what decision is made as to what will be required. A more realistic timeline would be six months.</p>	<p>The committee appreciates the feedback.</p>
			<p>4. How well would this proposal work in courts of different sizes?</p> <p>In some of the larger courts, it might not be as much of an impact, as these courts typically have fully staffed appeals department. If the court’s records are primarily paper, then it could be a significant impact – process development, equipment, a possible need for more staff and additional training.</p> <p>In medium sized courts, it may have a significant impact as well, and may result in increased workload, additional costs, and additional staffing and training. Again, the unknown factors are whether or not all records are digitized and what each local Court of Appeal decides to do with the Local Rule options.</p> <p>In smaller sized courts, it may be a tremendous impact with increased workloads, increase in costs related to staffing, equipment, training, and they have less staff available to apply their time to this</p>	<p>The committee appreciates the feedback regarding the potential impact the proposal may have on courts of different sizes. The committee anticipates that the potential costs and burdens identified by the commenter would be considered by the Courts of Appeal in deciding whether, and how, to craft a local rule pursuant to the proposed rule.</p>

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	Commenter	Position	Comment	Committee Response
			process. The unknown factors again are regarding the digitization of their court’s records, and what the Court of Appeal in their area will require.	
2.	California Lawyers Association by Saul Bercovitch, Associate Executive Director, Governmental Affairs	AM	<p>The Committee on Appellate Courts (CAC) of the California Lawyers Association’s Litigation Section submits this response to the Invitation to Comment on SPR24-03. Established in 2018, the California Lawyers Association is a nonprofit, voluntary organization comprising thousands of licensed attorneys that is dedicated to the professional advancement of attorneys practicing in the State of California. The CAC consists of over twenty experienced appellate practitioners and court staff, drawn from a wide range of practice areas. As part of its mission, the CAC frequently shares its views regarding proposals to change rules that govern appellate practice.</p> <p>In SPR24-03, the Advisory Appellate Committee (AAC) proposes to amend California Rules of Court, rule 8.230 to authorize Courts of Appeal to create local rules requiring that the clerk’s transcript in felony appeals include: (1) all contents of the superior court file or (2) additional items from the superior court file beyond those currently listed in rule 8.320(b). A proposed new paragraph would also authorize local rules to require the clerk’s transcript to include copies of exhibits admitted into evidence, refused, or lodged. The CAC supports these changes. The</p>	<p>No response necessary.</p> <p>The committee notes the commenter’s support for the proposal.</p>

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	Commenter	Position	Comment	Committee Response
			<p>CAC also cautions against requiring a stipulation before an expanded clerk’s transcript is used.</p> <p><b>1. CAC Recognizes the Need for Complete Transcripts</b>                      The CAC recognizes the need for intervention in the criminal appellate record creation process. We frequently see incomplete clerk’s transcripts which require omission letters (Rule 8.340(b)) or motions to augment with documents necessary to competently consider arguable issues. Incomplete clerk transcripts often take months to correct by curing omissions or augmenting the record. These delays extend the timeline of the case, sometimes to the extent that an appellate decision is not issued until after the underlying criminal sentence is served.</p> <p>CAC agrees with the AAC’s proposal to give individual Courts of Appeal the flexibility to decide how best to quickly and accurately prepare the necessary record. As an example, the Second District has a local rule which expands the contents of the clerk’s transcript in criminal and juvenile delinquency appeals. (See Local Rule 1 <a href="https://www.courts.ca.gov/2133.htm">https://www.courts.ca.gov/2133.htm</a>.) Creating local rules in other Courts of Appeal would facilitate more complete records when the clerk’s transcript is initially assembled, requiring fewer omission letters or motions to augment in the Court of Appeal.</p>	<p>The committee appreciates the information regarding the delay caused by incomplete clerk’s transcripts and the need to cure omissions or to augment the record. The committee also appreciates the commenter’s feedback that the proposal will help alleviate these delays. Finally, the committee notes the Second District Court of Appeal’s local rule.</p>

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**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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	Commenter	Position	Comment	Committee Response
			<p><b>2. Requested Feedback Supporting Inclusion of Trial Exhibits</b>                      In response to the AAC’s request for feedback regarding exhibits, the CAC strongly supports giving Courts of Appeal greater flexibility regarding exhibits. As the invitation notes, trial exhibits are technically deemed part of the record on appeal (Rule 8.320(e)), but they traditionally are not included in the clerk’s transcript on appeal and thus not automatically provided to attorneys. An appellate record without the exhibits does not give the reader the complete picture of what happened at trial. In testimony and argument, witnesses and attorneys often reference diagrams, maps, cell phone logs, social media posts or other documentary exhibits that can and should be photocopied/scanned and included in a clerk’s transcript. While it is true that exhibits can be officially transmitted to the reviewing court (Rule 8.224), the appellate attorneys need access to the exhibits when initially reviewing the record, evaluating the case, and crafting arguments. Appellate attorneys do not always live in the county where the trial took place, making it difficult to view exhibits in person at the courthouse where exhibits are stored.</p>	<p>The committee appreciates the feedback. The committee has included in the proposal a provision authorizing the Courts of Appeal to adopt local rules requiring that the clerk’s transcript include exhibits admitted into evidence, refused, or lodged. This provision will allow the Court of Appeal to assess its needs and the capabilities of the superior courts in its district and determine whether including exhibits in the clerk’s transcript will improve appellate efficiency. Additionally, the committee believes that this provision will give the Courts of Appeal flexibility to determine in their local rules how various forms of exhibits included in the clerk’s transcript should be transmitted.</p>
			<p>Similarly, limiting access to a physical location often poses significant challenges to attorneys and clients with mobility impairments.</p>	<p>See above response.</p>

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**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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	Commenter	Position	Comment	Committee Response
			<p>Consequently, a rule including <i>documentary</i> exhibits (relevant marked documents, photos, cell phone call logs, social media posts, maps, etc.) in the clerk’s transcript would provide both parties in the appeal the critical full picture of the trial up front and also minimizes the need for extensions of time for attorneys on both sides to view exhibits in person or prepare motions to augment in the Court of Appeal. Again, the Second District already has a local rule (Local Rule 1(a)(7)) on this subject</p>	<p>See above response.</p>
			<p><b>3. Requested Feedback against Requiring a Stipulation</b>                      The CAC strongly cautions against a requirement that parties must stipulate before an expanded clerk’s transcript is used. Attorneys are not usually appointed until the record on appeal is certified and the Attorney General’s Office does not assign an attorney to a criminal appeal until the opening brief is filed. Thus, an appointed defense attorney and a deputy attorney general are unlikely to be able to stipulate to an expanded record when a case is first initiated.</p>	<p>The committee appreciates the feedback. The committee has determined that the proposal should not include a requirement that the parties stipulate to the use of an expanded clerk’s transcript. Use of an expanded clerk’s transcript would not prejudice either party to an appeal, either financially or in their ability to present their case. Unlike in civil cases, where the parties must stipulate before the superior court file can be used in lieu of a clerk’s transcript (see rule 8.128(a)), parties in felony appeals do not pay for preparation of the clerk’s transcript.</p> <p>Additionally, the committee notes that rules 8.863 and 8.914, which allow the use of the trial court file in lieu of a clerk’s transcript in misdemeanor and infraction appeals, respectively, do not require the parties’ stipulation.</p>
3.	Fourth District Court of Appeal, Division One	A	I write in response to the advisory committee’s invitation to comment on SPR24-03, which	No response necessary.



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**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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	Commenter	Position	Comment	Committee Response
	by Karen M. Harkins, Managing Attorney		<p>proposes amending California Rules of Court, rule 8.320.</p> <p>First, authorizing Courts of Appeal to adopt a local rule to require the transcript to include “[a]dditional filings, orders, or other documents contained in the superior court file,” would permit the Courts of Appeal to specify what additional documents should routinely be included. This would allow courts to explore augmentation requests and identify the types of documents that records from superior courts in their region routinely omit. Courts of Appeal can then craft local rules that meet their unique needs, ultimately saving time while limiting the burden.</p> <p>Second, the proposed rule does not modify rule 8.320(e), which requires exhibits to be transmitted as provided in rule 8.224. The procedure detailed in rule 8.224 sometimes delays record completion, particularly in matters where exhibits are essential to a party’s argument. Allowing a local rule directing superior courts to include routinely requested exhibits would reduce delays in the record gathering process, improving efficiency.</p>	<p>The committee appreciates the feedback.</p> <p>The committee appreciates the information regarding the delay that can result from exhibits being transmitted to the Court of Appeal under rule 8.224.</p> <p>The committee has included in the proposal a provision authorizing the Courts of Appeal to adopt local rules requiring that the clerk’s transcript include exhibits admitted into evidence, refused, or lodged. This provision will allow the Court of Appeal to assess its needs and the capabilities of the superior courts in its district and determine whether including exhibits in the clerk’s transcript will improve appellate efficiency. Additionally, the committee believes that this provision will give the Courts of Appeal flexibility</p>

**SPR24-03**

**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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

	Commenter	Position	Comment	Committee Response
				<p>to determine how various forms of exhibits included in the clerk’s transcript should be transmitted.</p>
			<p>Third, the advisory committee comment to rule 8.320 currently references sealed and confidential records, noting their appropriate handling is addressed in Rules 8.45-8.46. Confidential and sealed records are frequent subjects of requests for augmentation. To improve efficiency, it would be helpful to include a clarification in the advisory committee comments specifying that sealed and confidential records are part of the superior court record and should be transmitted as part of the clerk’s transcript, consistent with rules 8.45-8.46. Authorizing adoption of a local rule, as discussed above, would also permit Courts of Appeal to direct inclusion of specific, routinely requested confidential or sealed documents.</p>	<p>The committee declines to provide any further clarification in the advisory committee comment regarding handling of sealed and confidential records. The committee believes such clarification is unnecessary.</p> <p>The definition of “court record” contained in rule 2.502(3) is incorporated into the proposal. In relevant part, this definition includes “any document, paper, or exhibit filed in an action or proceeding.” Sealed or confidential records fit within this definition. Further, the advisory committee comment states that “Rules 8.45-8.46 address the appropriate handling of sealed and confidential records that must be included in the record on appeal.”</p> <p>Accordingly, the committee concludes that it is sufficiently clear that the proposal authorizes the Courts of Appeal to require, by local rule, that sealed or confidential documents be included in the clerk’s transcript. Such sealed or confidential documents would be handled pursuant to Rules 8.45 and 8.46.</p>
			<p>Finally, given the growing complexity and need for detailed review of complete records of</p>	<p>The committee appreciates the feedback. The committee has included in the proposal a provision</p>

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**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			conviction in appeals from postjudgment motions like those brought pursuant to Penal Code section 1172.6, it makes sense to amend rule 8.320(d) to allow Courts of Appeal to similarly adopt a local rule expanding the contents of the clerk’s transcript in appeals governed by that rule. A local rule expanding the clerk’s transcript in those matters from the outset would permit them to proceed more expeditiously.	allowing the Courts of Appeal to require the clerk’s transcript to include additional items beyond those required by rule 8.320(d)(1). The committee concludes that such a provision will help avoid delays resulting from motions to augment the record in appeals covered by this rule.
4.	Orange County Bar Association By Christina Zabat-Fran, President	A	Expanding the Clerk’s Transcript is appropriate.	The committee notes the commenter’s support for the proposal.
5.	San Diego County District Attorney's Office by Emmaline Campbell, Deputy District Attorney	A	The San Diego County District Attorney’s Office submits this comment in support of SPR-24-03. We thank the Committee for identifying an important issue and drafting an excellent proposal that would reduce confusion and delays in the preparation of records on appeal.  We now turn to the questions posed by the Request for Specific Comments.	The committee appreciates the feedback.
			First, we believe the proposal does appropriately address the stated purpose, though we believe additional provisions would improve the proposal. These are outlined below.	The committee appreciates the feedback.
			Second, we believe that articulating the definition of “superior court file” within the text of the rule is preferable to relegating the issue to the advisory	The committee declines to define “superior court file” because it has revised the proposal. The proposed rule now reads that the “reviewing court

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

	Commenter	Position	Comment	Committee Response
			<p>comments section, as advisory comments can often be inadvertently overlooked.</p>	<p>may, by local rule, require the clerk’s transcript to include any or all additional court records contained in the superior court file.” Instead of defining “superior court file,” the proposed rule provides that “For purposes of this provision ‘court records’ has the meaning provided in rule 2.502(3).” As a result, items that are excluded from rule 2.502(3)’s definition of “court records” (such as notes or preliminary memoranda) are not covered by the proposed rule.</p> <p>With this revision, the committee concludes that the proposed rule is sufficiently clear regarding its scope.</p>
			<p>Third, we strongly agree with including a provision requiring inclusion of exhibits in the record on appeal. Exhibits are often critical evidence for the reviewing court to consider on appeal. The San Diego County District Attorney’s Office regularly must file requests to transmit exhibits in our own appellate work and often must address requests from the Attorney General and other appellate counsel to provide District Attorney working-versions of exhibits, which may not reflect any changes made in court to the admitted exhibit. This current procedure needlessly consumes judicial resources and can result in delays in the adjudication of the appeal.</p>	<p>The committee appreciates the information regarding the delay that can result from exhibits being transmitted to the Court of Appeal pursuant to rule 8.224.</p> <p>The committee has included in the proposal a provision authorizing the Courts of Appeal to adopt local rules requiring that the clerk’s transcript include exhibits admitted into evidence, refused, or lodged. This provision will allow the Court of Appeal to assess its needs and the capabilities of the superior courts in its district and determine whether including exhibits in the clerk’s transcript will improve appellate efficiency.</p>
			<p>Further, as to the exhibits issue, we encourage the Committee to consider potential hurdles related to</p>	<p>The committee appreciates the feedback. The committee believes that the proposal as drafted</p>

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**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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

	Commenter	Position	Comment	Committee Response
			<p>the multitude of forms that evidence can take. Evidence might include: evidence stored in digital form (videos, audio, data, etc.), physical evidence (guns, narcotics, etc.), and color photographs. Additional language clarifying the form of exhibits to be transmitted could be helpful. For example, digital evidence could be shared with the reviewing court by secured upload links; physical evidence could be represented via an accompanying photograph that was marked into evidence by the trial court at the time of the hearing; and color photographs could be copied via a color copier or shared digitally. These may be issues more appropriately handled by each Court of Appeal in formulating their local rule, but we suggest the Committee flag the issue within an advisory comment or other appropriate avenue.</p>	<p>will give the Courts of Appeal flexibility to determine how various forms of exhibits included in the clerk’s transcript should be transmitted.</p>
			<p>Fourth, we believe that requiring a stipulation to the use of an expanded clerk’s transcript would create an unwarranted additional procedural step in the appellate process. Should a party believe that items in the record are not properly before the reviewing court, the onus should remain on that party to seek remediation, rather than a frontloaded stipulation requirement.</p>	<p>The committee appreciates the feedback. The committee has determined that the proposal should not include a requirement that the parties stipulate to the use of an expanded clerk’s transcript. Use of an expanded clerk’s transcript would not prejudice either party to an appeal, either financially or in their ability to present their case. Unlike in civil cases, where the parties must stipulate before the superior court file can be used in lieu of a clerk’s transcript (see rule 8.128(a)), parties in felony appeals do not pay for preparation of the clerk’s transcript.</p> <p>Additionally, the committee notes that rules 8.863 and 8.914, which allow the use of the trial court</p>

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**Appellate Procedure: Expanded Clerk’s Transcript in Criminal Appeals** (amend Cal. Rules of Court, rule 8.320)

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	Commenter	Position	Comment	Committee Response
				file in lieu of a clerk’s transcript in misdemeanor and infraction appeals, respectively, do not require the parties’ stipulation.
			Fifth, we urge the Committee to similarly amend rule 8.320(d)(1). This subdivision governs many of our People’s appeals, where we frequently encounter issues with obtaining an adequate clerk’s transcript for purposes of the appeal, thus causing delay. Amending both subdivisions (b) and (d)(1) would avoid confusion and streamline the preparation of clerk’s transcripts in criminal appeals.	The committee appreciates the feedback. The committee has included in the proposal a provision allowing the Courts of Appeal to require the clerk’s transcript to include additional items beyond those required by rule 8.320(d)(1). The committee concludes that such a provision will help avoid delays resulting from motions to augment the record in appeals covered by this rule.
			Finally, we recommend that the Committee consider a similar amendment to rule 8.861, which governs the record for misdemeanors appeals handled by the Superior Court Appellate Division. Identical concerns to those raised by the Committee vis-à-vis felony appeals are present in the case of misdemeanor appeals; thus, a global amendment to the relevant Rules of Court governing all criminal appeals seems prudent.	Amending rule 8.861 is outside the scope of this proposal. The committee will consider the issue in the future as time and resources allow.  The committee notes that rule 8.863 authorizes superior courts to adopt a local rule utilizing the trial court file in lieu of a clerk’s transcript.
6.	Superior Court of Los Angeles County by Bryan Borys, Director of Research and Data Management	AM	The following comments are representative of the Superior Court of California, County of Los Angeles (Court), and do not represent or promote the viewpoint of any particular judicial officer or employee.	See responses to specific comments below.

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	Commenter	Position	Comment	Committee Response
			In response to SPR24-03, “Appellate Procedure: Expanded Clerk’s Transcript in Felony Appeals,” the Court agrees with the proposal, if modified.	The committee notes the commenter’s general support for the proposal.
			It is insufficient to mention Rule 2.502(3) in the advisory committee comment. It should be referenced in Rule 8.320(b)(2)(A).	The committee has revised the proposed rule to read that the “reviewing court may, by local rule, require the clerk’s transcript to include any or all additional court records contained in the superior court file.” The proposed rule then provides “For purposes of this provision ‘court records’ has the meaning provided in rule 2.502(3).”
			Additionally, the proposal should not include a requirement that parties stipulate before an expanded clerk’s transcript is used. There is currently no such provision for stipulation for augmentation or omission.	The committee appreciates the feedback. The committee has determined that the proposal should not include a requirement that the parties stipulate to the use of an expanded clerk’s transcript. Use of an expanded clerk’s transcript would not prejudice either party to an appeal, either financially or in their ability to present their case. Unlike in civil cases, where the parties must stipulate before the superior court file can be used in lieu of a clerk’s transcript (see rule 8.128(a)), parties in felony appeals do not pay for preparation of the clerk’s transcript.  Additionally, the committee notes that rules 8.863 and 8.914, which allow the use of the trial court file in lieu of a clerk’s transcript in misdemeanor and infraction appeals, respectively, do not require the parties’ stipulation.

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	Commenter	Position	Comment	Committee Response
			Finally, the Court agrees that Rule 8.320(d) should be similarly amended.	The committee appreciates the feedback. The committee has included in the proposal a provision allowing the Courts of Appeal to require the clerk’s transcript to include additional items beyond those required by rule 8.320(d)(1). The committee concludes that such a provision will help avoid delays resulting from motions to augment the record in appeals covered by this rule.
7.	Superior Court of Orange County By Elizabeth Flores, Operations Analyst	A	<p>Does the proposal appropriately address the stated purpose?</p> <p>Yes, the proposal appropriately addresses the stated purpose.</p> <hr/> <p>Should the rule text define “superior court file” as excluding items not considered “court records” as defined by rule 2.502(3), or is it enough to have this limitation addressed in the advisory committee comment?</p> <p>Yes. Additionally, those requirements should be specified.</p> <hr/> <p>Should the proposal include a provision allowing for a Court of Appeal’s local rule to require inclusion of exhibits in the clerk’s transcript?</p> <p>Yes, we recommend that Court of Appeal add their provision as to “how” they want the exhibits</p>	<p>The committee appreciates the feedback.</p> <hr/> <p>The committee has revised the proposed rule to read that the “reviewing court may, by local rule, require the clerk’s transcript to include any or all additional court records contained in the superior court file.” The proposed rule then provides “For purposes of this provision ‘court records’ has the meaning provided in rule 2.502(3).” As a result, items that are excluded from rule 2.502(3)’s definition of “court records” (such as notes or preliminary memoranda) are not covered by the proposed rule.</p> <hr/> <p>The committee has included in the proposal a provision authorizing the Courts of Appeal to adopt local rules requiring that the clerk’s transcript include exhibits admitted into evidence, refused, or lodged. This provision will allow the Court of Appeal to assess its needs and the</p>



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	Commenter	Position	Comment	Committee Response
			<p>transmitted and how it should be indexed. We recommend extending the timeline for the submission of the clerk’s transcript to account for the additional documents and exhibits that will be required.</p>	<p>capabilities of the superior courts in its district and determine whether including exhibits in the clerk’s transcript will improve appellate efficiency. Additionally, the committee believes that this provision will give the Courts of Appeal flexibility to determine how various forms of exhibits included in the clerk’s transcript should be transmitted.</p> <p>Expanding the timeline for submission of the clerk’s transcript is outside the scope of the instant proposal.</p>
			<p>In addition to authorizing Courts of Appeal to adopt a local rule expanding the contents of the clerk’s transcript, should the proposal include a requirement that the parties stipulate before an expanded clerk’s transcript is used?</p> <p>If the intent of the proposal is to streamline the appeal process, requiring a stipulation from the parties would likely cause a delay. Attorneys may request more time to review the records in the clerk’s transcript that would have been defined by the proposed local rule.</p>	<p>The committee appreciates the feedback. The committee has determined that the proposal should not include a requirement that the parties stipulate to the use of an expanded clerk’s transcript. Unlike in the civil context, where the parties must stipulate before the superior court file can be used in lieu of a clerk’s transcript (see rule 8.128(a)), parties in felony appeals do not pay for preparation of the clerk’s transcript. An expanded clerk’s transcript will not impose a financial cost on the parties. The committee notes that rules 8.863 and 8.914, which allow the use of the trial court file in lieu of a clerk’s transcript in misdemeanor and infraction appeals, respectively, do not require the parties’ stipulation.</p>
			<p>Should rule 8.320(d) be similarly amended to allow the Courts of Appeal to adopt a local rule</p>	<p>The committee appreciates the feedback. The committee has included in the proposal a provision allowing the Courts of Appeal to require by local</p>

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	Commenter	Position	Comment	Committee Response
			<p>expanding the contents of the clerk’s transcript in appeals governed by that rule?</p> <p>No.</p>	<p>rule that the clerk’s transcript to include additional items beyond those required by rule 8.320(d)(1). The committee believes that this provision will give the Courts of Appeal the flexibility to assess the relative costs and benefits of requiring additional materials in cases governed by rule 8.320(d)(1) and, if appropriate, adopt a local rule which will improve appellate efficiency in these cases.</p>
			<p>Would the proposal provide cost savings? If so, please quantify.</p> <p>Yes, minimizes delays in felony appeals and eliminates additional work in augmenting transcripts.</p>	<p>The committee appreciates the feedback.</p>
			<p>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?</p> <p>Collaboration with our Records and Exhibit Management Department, update procedure and process.</p>	<p>The committee appreciates the feedback.</p>
			<p>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p>	<p>The committee appreciates the feedback. The committee concludes that three months from Judicial Council approval until the proposal’s effective date is sufficient because the proposal</p>

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			No, recommend 6 months.	does not impose any obligations on parties or the courts. Rather, it simply authorizes the Courts of Appeal to adopt local rules, a process that would necessarily take additional time beyond the proposal’s effective date (see rule 10.1030).
			How well would this proposal work in courts of different sizes?  The impact is not affected by the size of the court.	The committee appreciates the feedback.
8.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) (TCPJAC/CEAC) Joint Rules Subcommittee	AM	It is suggested that Rule 8.320(b)(2)(A) should read “superior court file as defined by Rule 2.502(3).”	The committee appreciates the feedback. The committee has revised the proposed rule to provide that the “reviewing court may, by local rule, require the clerk’s transcript to include any or all additional court records contained in the superior court file.” The revised proposed rule then provides “For purposes of this provision ‘court records’ has the meaning provided in rule 2.502(3).”
9.	Michael M. Ward Retired Disabled Veteran Redding, California	AM	*[The comment addresses the details of a specific case and does not address any of the issues in the proposal and is not included in the comment chart.]	No response is required.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.:*

For business meeting on September 20, 2024

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**Title**

Appellate Procedure: Deadline for Amicus Curiae Briefs

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 8.200

**Recommended by**

Appellate Advisory Committee  
Hon. Louis Mauro, Chair

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Date of Report**

June 5, 2024

**Contact**

Kendall W. Hannon, (415) 865-7653  
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### Executive Summary

The Appellate Advisory Committee recommends amending California Rules of Court, rule 8.200 to provide a deadline for filing an application to file an amicus brief when no respondent's brief has been filed. This proposal is intended to close a gap in the current rule.

### Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2025, amend California Rules of Court, rule 8.200 to require that when no respondent's brief has been filed, an application for permission to file an amicus curiae brief must be filed within 34 days after the respondent's brief could have been filed.

The proposed amended rule is attached at page 4.

### Relevant Previous Council Action

Rule 8.200 of the California Rules of Court,<sup>1</sup> governing briefs by parties and amici curiae, was adopted as rule 13 in 2002, and renumbered in 2007. Effective January 1, 2008, the Judicial

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<sup>1</sup> All further rule references are to the California Rules of Court.

Council amended rule 8.200 to provide that applications to file an amicus brief must be filed no later than 14 days after the last appellant’s reply brief was filed or could have been filed. Other amendments to rule 8.200 are not relevant to this proposal.

### **Analysis/Rationale**

Currently, rule 8.200(c)(1) provides that a person or entity may file an application for permission to file an amicus curiae brief “[w]ithin 14 days after the last appellant’s reply brief is filed or could have been filed under rule 8.212, whichever is earlier.” Under rule 8.212, an appellant’s optional reply brief must be served and filed “within 20 days after the respondent files its brief.”<sup>2</sup> Thus, in the usual case, an amicus curiae application will be due no later than 34 days after the filing of the respondent’s brief.

Rule 8.200, however, does not state when an amicus curiae application is due when no respondent’s brief is filed and, thus, no reply brief can be filed. To close this gap in the rule, and eliminate any potential confusion, this proposal amends rule 8.200(c) to provide that, when no respondent’s brief is filed, amicus curiae applications are due “within 34 days after the respondent’s brief could have been filed.” This proposal also amends the advisory committee comment to rule 8.200 to provide that the time a respondent’s brief “could have been filed” includes any authorized extension of the deadline specified in rule 8.212 and the default notice period specified in rule 8.220(a).

The committee believes this amendment to rule 8.200(c) will ensure that potential amici curiae are not prejudiced by the respondent’s decision to not file a respondent’s brief. The amendment gives amici curiae the same amount of time to file their application as they would have had if a respondent’s brief had been filed. Accordingly, the amendment helps ensure that amici curiae have sufficient time to research the relevant issues in the case and draft their proposed briefs.

### **Policy implications**

There are no direct policy implications. Amending rule 8.200(c) will help ensure that potential amici curiae are able to effectively access the courts. The amendment is therefore consistent with the *Strategic Plan for California’s Judicial Branch*,<sup>3</sup> especially the goals of Access, Fairness, Diversity, and Inclusion (Goal I) and Quality of Justice and Service to the Public (Goal IV).

### **Comments**

This proposal was circulated for public comment from March 29 to May 3, 2024, as part of the regular spring comment cycle. Three comments were received: One from the California Lawyers Association, Committee on Appellate Courts (“CAC”); one from the Family Violence Appellate Project (“FVAP”), and one from the Orange County Bar Association. All commenters agreed

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<sup>2</sup> Rule 8.212(a)(3).

<sup>3</sup> Available at <https://www.courts.ca.gov/3045.htm>.

with the proposal. A chart with the full text of the comments received and the committee's responses is attached at pages 5-11.

The invitation to comment asked whether the deadline for amicus curiae applications should be shorter than the proposed 34 days after the respondent's brief could have been filed. CAC and FVAP both opposed a shorter deadline. CAC noted that drafting and filing amicus curiae briefs require significant planning, coordination, and research and that this work is frequently undertaken by nonprofit organizations with limited resources and capacity. FVAP joined in CAC's comments.

The invitation to comment also asked whether the deadline for amicus curiae applications when no respondent's brief is filed should be based on the date the opening brief was filed, as opposed to the date the respondent's brief could have been filed. CAC opposed this alternative, noting that in cases where a respondent obtains an extension of time to file the respondent's brief, the deadline for filing an amicus curiae brief would fall *before* the respondent's brief was due. This would create a situation where the amicus curiae, not knowing whether the respondent would actually file a brief and thus not knowing which rule 8.200(c)(1) deadline would apply, would have to protect its ability to participate by filing its proposed brief before the respondent's brief. Both CAC and FVAP noted that this result would result in less useful amicus briefs, as the briefs could not address the issues raised in the respondent's brief.

### **Alternatives considered**

The committee considered the alternative of not taking any action but concluded that the amendment would benefit the courts and potential amici curiae. The committee considered recommending adoption of a shorter deadline, or running the deadline from the filing of the appellant's opening brief, but concluded that either alternative would prove unworkable for the reasons identified by the commenters.

### **Fiscal and Operational Impacts**

Other than training for court staff to advise them of the rule change, the committee anticipates no fiscal or operational impacts.

### **Attachments and Links**

1. Cal. Rules of Court, rules 8.200, at page 4
2. Chart of comments, at pages 5-11

Rule 8.200 of the California Rules of Court is amended, effective January 1, 2025, to read:

1 **Rule 8.200. Briefs by parties and amici curiae**

2

3 **(a)–(b) \* \* \***

4

5 **(c) Amicus curiae briefs**

6

7 (1) Within 14 days after the last appellant’s reply brief is filed or could have been filed  
8 under rule 8.212, whichever is earlier, any person or entity may serve and file an  
9 application for permission of the presiding justice to file an amicus curiae brief. If no  
10 respondent’s brief is filed, the application is due within 34 days after the  
11 respondent’s brief could have been filed. For good cause, the presiding justice may  
12 allow later filing.

13

14 **(2)–(6) \* \* \***

15

16 (7) The Attorney General may file an amicus curiae brief without the presiding justice’s  
17 permission, unless the brief is submitted on behalf of another state officer or agency.  
18 The Attorney General must serve and file the brief within 14 days after the last  
19 appellant’s reply brief is filed or could have been filed under rule 8.212, whichever is  
20 earlier, ~~and~~. If no respondent’s brief is filed, the Attorney General must serve and file  
21 the amicus curiae brief within 34 days after the respondent’s brief could have been  
22 filed. The brief must provide the information required by (2) and comply with (5).  
23 Any party may serve and file an answer within 14 days after the brief is filed.

24

25

**Advisory Committee Comment**

26

27 **Subdivision (a)(2). \* \* \***

28

29 **Subdivision (b). \* \* \***

30

31 **Subdivision (c)(1).** The time within which a reply brief “could have been filed under rule 8.212” includes  
32 any authorized extension of the deadline specified in rule 8.212. The time within which a respondent’s  
33 brief “could have been filed” includes any authorized extension of the deadline specified in rule 8.212 and  
34 the 15-day default notice period specified in rule 8.220(a).

## SPR24-04

### Appellate Procedure: Deadline for Amicus Curiae Briefs (amend Cal. Rules of Court, rule 8.200)

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

	Commenter	Position	Comment	Committee Response
1.	California Lawyers Association by Saul Bercovitch, Associate Executive Director, Governmental Affairs	AM	<p>The Committee on Appellate Courts (CAC) of the California Lawyers Association’s Litigation Section submits this response to the Invitation to Comment on SPR24-04. Established in 2018, the California Lawyers Association is a nonprofit, voluntary organization comprising thousands of licensed attorneys that is dedicated to the professional advancement of attorneys practicing in the State of California. The CAC consists of over twenty experienced appellate practitioners and court staff, drawn from a wide range of practice areas. As part of its mission, the CAC frequently shares its views regarding proposals to change rules that govern appellate practice.</p> <p>In SPR24-04, the Advisory Appellate Committee proposes 1) amending California Rules of Court, rules 8.200(c)(1) and (c)(7) to clarify that “[i]f no respondent’s brief is filed, the [amicus curiae] application is due within 34 days after the respondent’s brief could have been filed,” and 2) amending the Advisory Committee Comment to clarify that the 15-day default notice period contained in rule 8.220(a) (Default Letter) should be counted in determining when the respondent’s brief or reply brief “could have been filed.” The CAC supports these changes. The CAC opposes the alternative approach, which would amend rules 8.200(c)(1) and (c)(7) to require amicus “applications to be filed 79 days after the appellant’s opening brief was actually filed.”</p>	<p>No response necessary.</p> <p>The committee appreciates the feedback and notes the commenter’s support for making the amicus curiae application due within 34 days after the respondent’s brief could have been filed. To ensure that potential amici curiae have sufficient time to conduct research, draft their proposed brief, and file their applications, the committee has decided not to recommend the alternative approach that would base the amicus curiae application deadline on the date the opening brief has been filed.</p>



**SPR24-04**

**Appellate Procedure: Deadline for Amicus Curiae Briefs** (amend Cal. Rules of Court, rule 8.200)

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

	Commenter	Position	Comment	Committee Response
			<p><b>1. CAC supports the proposed 34-day deadline after the respondent’s brief could have been filed</b></p> <p>The CAC supports the proposal, as it addresses a genuine problem for parties and appellate courts in determining the amicus curiae brief deadline in appeals where no respondent’s brief is filed. We caution against the alternative approach.</p>	See above response.
			<p>The deadline should not be shorter than 34 days. Many amicus curiae briefs are submitted by nonprofit organizations (e.g., legal aid organizations) and institutions with limited resources and capacity, and they need the 34-day period to prepare the amicus brief in addition to their direct services work (which already far exceeds their capacity) or to secure pro bono counsel to assist them with it. The process can take longer when pro bono counsel is involved, as pro bono counsel may be unfamiliar with the topic before they become involved. Also, amicus curiae briefs often involve extensive legal and academic research, which can be time-consuming for counsel. They can also involve numerous interested parties, either that are directly involved in the drafting of the brief (or their own related briefs) or are contributing behind the scenes on broader public policy aspects of the case. In many cases, the amicus brief needs to be reviewed by multiple individuals before it can be filed. For these reasons, we do not recommend shortening the timeframe.</p>	See above response.

**SPR24-04**

**Appellate Procedure: Deadline for Amicus Curiae Briefs** (amend Cal. Rules of Court, rule 8.200)

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

	Commenter	Position	Comment	Committee Response
			<p><b>2. CAC cautions against the alternative approach of a 79-day deadline after the appellant’s opening brief is filed</b></p> <p>The alternative approach could significantly prejudice and frustrate the purpose of amicus curiae if the respondent is granted an extension and amicus curiae’s deadline precedes the respondent’s brief. As such, the amicus curiae will not be able to address the issues raised in the respondent’s brief, depriving the court of a full briefing of the issues from broader interested parties and public policy arguments. A hypothetical may help elucidate the problem.</p> <p>The opening brief is filed on May 1, 2024. On May 30, the respondent requests and is granted a 30-day extension, making July 1 the deadline for the respondent’s brief (because the deadline falls on Saturday, June 29). The appellate court then sends the Default Letter on July 5.[See Footnote 1]. The respondent’s new deadline is July 22 (because the deadline falls on Saturday, July 20). The respondent files its brief on July 22, which is 82 days after the opening brief was filed. The amicus curiae brief is due on July 19—79 days after the opening brief is filed.</p> <p>Under the alternative approach, amicus curiae would have to guess whether respondent files a brief because its deadline (79 days) would be before the respondent files its brief (82 days). That creates problems for amicus curiae regardless of whether respondent files a brief. If the amicus</p>	<p>See above response.</p>

**SPR24-04**

**Appellate Procedure: Deadline for Amicus Curiae Briefs** (amend Cal. Rules of Court, rule 8.200)

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

	Commenter	Position	Comment	Committee Response
			<p>curiae waits to see if the respondent files a brief—so it can consider or address the arguments made therein—and the respondent does not do so, then amicus curiae risks losing the opportunity to file a brief [See Footnote 2]. If amicus curiae timely files (within the 79-day period) and the respondent later files a brief, then amicus curie will have been deprived of the opportunity to address information that will help the court in resolving the issues in the respondent’s brief. Or it will be forced to undertake the burdensome process of drafting and requesting leave to file an amended amicus brief—a process not expressly contemplated by the rules. Both options frustrate the purpose of an amicus curiae brief, which is to allow amicus curiae to bring to the court’s attention matters that the parties did not address.</p> <p>In sum, we believe that the adverse consequences resulting from the alternative approach caution against its adoption.</p> <p><i>Footnote 1:</i> In our experience, the Default Letter is not always sent the day after the respondent’s brief is due. In this hypothetical, the Default Letter is sent three court days (July 4 is a court holiday) after respondent’s deadline. But even if the Default letter is sent the day after, respondent’s deadline would be July 17—only two days before amicus’s deadline, which is an insufficient amount of time for amicus to meaningfully consider and address the issues in respondent’s brief.</p>	

**SPR24-04**

**Appellate Procedure: Deadline for Amicus Curiae Briefs** (amend Cal. Rules of Court, rule 8.200)

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

	Commenter	Position	Comment	Committee Response
			<p><i>Footnote 2:</i> While Rule 8.200(c)(1) gives the presiding justice authority to allow tardy amicus briefs, the right to do so is not guaranteed and the current rule does not expressly state that this situation is “good cause” to grant an exception to the deadline. And this would just create unnecessary motion practice for the courts.</p>	
2.	<p>Family Violence Appellate Project by Shuray Ghorishi, Senior Managing Attorney Oakland</p>	A	<p>The following comment is submitted by Family Violence Appellate Project (FVAP) regarding the Judicial Council’s Invitation to Comment number SPR24-04. FVAP is a State Bar-funded legal services support center and the only nonprofit organization in California dedicated to representing survivors of domestic violence and other forms of gender-based abuse in civil appeals for free. FVAP is devoted to ensuring survivors can live in healthy, safe environments, free from abuse. This includes filing amicus curiae briefs in federal and state cases that raise important issues for abuse survivors. To date, FVAP has filed amicus curiae briefs in over 63 cases—nearly half of which were filed in the California Courts of Appeal.</p> <p><b>FVAP strongly supports the proposal</b> to amend California Rules of Court, rule 8.200(c)(1) and (c)(7) to clarify that an amicus curiae application is due “34 days after the respondent’s brief could have been filed,” and to amend the Advisory Committee Comment to clarify that the 15-day default notice period should be calculated in</p>	<p>No response necessary.</p> <p>The committee appreciates the feedback and notes the commenter’s support for making the amicus curiae application due within 34 days after the respondent’s brief could have been filed.</p>

## SPR24-04

### Appellate Procedure: Deadline for Amicus Curiae Briefs (amend Cal. Rules of Court, rule 8.200)

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

	Commenter	Position	Comment	Committee Response
			<p>determining that time. We are grateful to the Council for considering and responding to many of FVAP's past suggestions, including its work on SPR24-04.</p>	
			<p>For the reasons outlined in the comments submitted by the Committee on Appellate Courts (CAC) of the California Lawyers Association's Litigation Section, <b>FVAP opposes the alternative approach and making the deadline shorter than 34 days.</b></p>	<p>To ensure that potential amici curiae have sufficient time to conduct research, draft their proposed brief, and file their applications, the committee has decided not to recommend the alternative approach that would base the amicus curiae application deadline on the date the opening brief has been filed.</p>
			<p>To avoid repetition, we will not recite the reasons in CAC's comments, except to say that we entirely agree with them. The alternative approach could create a situation where amicus curiae would have to file their brief before the respondent's brief. That would be more akin to the federal rule, where amicus curiae must file their brief shortly after the appellant's brief. (See Fed. Rules App. Proc., rule 29(a)(6).) In our experience, California's rule is superior, as it allows amicus curiae enough time to grapple with the issues in respondent's brief, so that the court has a complete briefing of how the issues raised in the case impact broader communities. Naturally, this leads to more well-informed jurisprudence. Because the alternative approach has the potential to foreclose amicus curiae's opportunity to do this, we oppose it.</p>	<p>See above response.</p>

**SPR24-04**

**Appellate Procedure: Deadline for Amicus Curiae Briefs** (amend Cal. Rules of Court, rule 8.200)

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

	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			Moreover, although amicus curiae will need to calculate when respondent’s brief “could have been filed” under the proposal, we do not foresee this as too cumbersome of a task, since many (if not most) amicus curiae briefs are not submitted by self-represented litigants, but rather attorneys representing organizations, institutions, and governments’ interests.	The committee agrees that potential amici curiae will not find calculating the deadline under the proposed rule cumbersome.
			In sum, we support the proposal, oppose the alternative approach, and urge the Council to keep the length of time to 34 days.	The committee appreciates the feedback and notes the commenter’s support for making the amicus curiae application due within 34 days after the respondent’s brief could have been filed.
3.	Orange County Bar Association by Christina Zabat-Fran President	A	The proposed rule is appropriate.	The committee appreciates the feedback and notes the commenter’s support for the proposal.



# Judicial Council of California

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## REPORT TO THE JUDICIAL COUNCIL

*Item No.:*

For business meeting on September 20, 2024

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**Title**

Appellate Procedure: Form Briefs for Use in Limited Civil Appeals

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 8.883; approve forms APP-200, APP-200-INFO, APP-201, APP-201-INFO, APP-202, and APP-202-INFO; revise form APP-101-INFO

**Recommended by**

Appellate Advisory Committee  
Hon. Louis Mauro, Chair

**Agenda Item Type**

Action Required

**Effective Date**

January 1, 2025

**Date of Report**

June 5, 2024

**Contact**

Kendall W. Hannon, (415) 865-7653  
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### Executive Summary

The Appellate Advisory Committee recommends the approval of three optional form briefs that parties can use in limited civil appeals, and related information sheets that explain how to use each form brief. Additionally, the committee recommends amending one rule of court and revising one information sheet to address these new forms. The new forms are intended to assist self-represented litigants and attorneys unfamiliar with appellate practice in drafting effective briefs before the appellate division of the superior court.

### Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2025:

1. Approve the following forms for optional use:

- *Appellant's Opening Brief—Limited Civil Case* (form APP-200)
- *How to Use Form APP-200 in Limited Civil Cases* (form APP-200-INFO)
- *Respondent's Brief—Limited Civil Case* (form APP-201)

- *How to Use Form APP-201 in Limited Civil Cases* (form APP-201-INFO)
  - *Appellant’s Reply Brief—Limited Civil Case* (form APP-202)
  - *How to Use Form APP-202 in Limited Civil Cases* (form APP-202-INFO)
2. Amend California Rules of Court, rule 8.883 to provide that when parties use a form brief approved for use by the Judicial Council, the brief and attachments may not exceed 25 pages in length and the attachments must comply with the formatting requirements in Rule 8.883(c)(1) through (c)(7).
  3. Revise *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to refer to the new forms.

The proposed amended rule and new and revised forms are attached at pages 6-50.

### **Relevant Previous Council Action**

Effective January 1, 2009, the Judicial Council adopted California Rules of Court, rule 8.883,<sup>1</sup> which governs the content and form of briefs in the appellate division, and approved form APP-101-INFO, which provides information on appellate procedures in limited civil cases. Both the rule and form have been amended and revised a number of times, but those amendments and revisions are not relevant to the instant proposal.

### **Analysis/Rationale**

This proposal recommends approval of three forms that parties in limited civil cases can use as their appellate briefs before the appellate division. It also recommends the approval of three information sheets, one for each form brief, which will describe how to fill out the form briefs. The forms are designed to improve appellate efficiency and access to justice by helping self-represented litigants, or attorneys unfamiliar with appellate practice, prepare appellate briefs that comply with applicable rules of court,<sup>2</sup> and by helping the appellate division to receive appellate arguments in a compliant and consistent format.

In addition, this proposal would amend rule 8.883(c) to provide that when a party uses a form brief approved by the Judicial Council, the form brief (and any attachments) may not exceed 25 pages in length.

Finally, this proposal recommends revising form APP-101-INFO to include references to the new form briefs and information sheets.

### **Policy implications**

The form briefs are designed to help parties clearly and effectively present their appellate arguments in limited civil cases and, as a result, improve appellate efficiency in those cases. This

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<sup>1</sup> All further rule references are to the California Rules of Court.

<sup>2</sup> See rule 8.883(a) (describing what appellate briefs must contain).



proposal is therefore consistent with *The Strategic Plan for California's Judicial Branch*, specifically the goals of Access, Fairness, Diversity, and Inclusion (Goal I) and Quality of Justice and Service to the Public (Goal IV).

### **Comments**

This proposal was circulated for public comment from March 29 to May 3, 2024, as part of the regular spring cycle. Seven comments were received: one from the Superior Court of Los Angeles, three from county bar associations, two from legal organizations, and one from a retired attorney. All comments agreed with the proposal. A chart with the full text of the comments received and the committee's responses is attached at pages 51-89.

### ***Page Limits when Using Form Briefs***

As circulated, the proposed rule 8.883(c) provided that when a party uses a form brief, the brief and any attachments may not exceed 20 pages. The invitation to comment asked whether 20 pages would provide parties with sufficient space to present their argument on appeal. Two comments were received in response to that question.

The California Lawyers Association Committee on Appellate Courts recommended the proposal be revised to provide that the parties be permitted to include 20 pages of attachments. It noted that some parties will choose to provide their full answer on attached pages, thus reducing the amount of space available to them. On the other hand, the San Diego County Bar Association commented that the 20-page limit was sufficient given that a presiding judge may allow a longer brief for good cause.

The committee declines to recommend that rule 8.883(c) be amended to permit 20 pages of attachments. The committee believes a page limit only referencing attachments could cause confusion. However, to ensure that litigants have more space to present their arguments, and to avoid delays that might result from parties seeking leave to file a larger brief, the committee has revised the proposal to expand the page limit from 20 pages to 25 pages (including the brief and attachments).

### ***Length and Format of Information Sheet***

As circulated, the proposal included a single information sheet which provided information on how to fill out all three form briefs. This single information sheet was 10 pages in length.

Two commenters (the Family Violence Appellate Project and the San Diego County Bar Association) expressed concerns that the length or format of the information sheet could either make it difficult for litigants to find relevant information or be daunting for self-represented litigants. To address these concerns, the committee has revised the proposal to split the information sheet into three separate information sheets, one for each proposed form brief. The committee has concluded that shorter information sheets, which contain instructions for a single form brief, will make it easier for litigants to read and find relevant information.

### ***Use of Form Briefs in Unlimited Civil Cases***

In the invitation to comment, the committee explained that it had considered including form briefs for use in unlimited civil cases in the proposal. The committee concluded that employing form briefs in unlimited civil cases in the first instance was inadvisable given the complex nature of those cases. Instead, the committee determined that using form briefs in limited civil cases first would allow the Judicial Council to assess the degree to which form briefs provide benefits to parties and the courts, and to use that information in determining whether to expand form briefs in the future. With one exception, commenters expressed support for the committee to consider expanding the use of form briefs.

The California Lawyers Association Committee on Appellate Courts, while recognizing the benefits of the approach adopted by the committee, encouraged the committee to evaluate how the limited civil form briefs operate, refine them as necessary, and use that information to craft form briefs for unlimited civil appeals at the earliest opportunity. Similarly, the Appellate Practice Section of the San Diego County Bar Association suggested that this proposal should be seen as a first step and stated that if the form briefs in limited civil cases prove useful to parties, that serious consideration should be given to expanding their use in unlimited civil appeals. It noted that the complex nature of unlimited civil cases is precisely why form briefs would be a benefit. It stated that form briefs would give litigants a structure to better organize the facts and legal arguments of their complex cases.

On the other hand, a retired attorney who served as an appellate specialist cautioned against the use of form briefs in unlimited civil cases. This commenter supported the instant proposal because the amount of money at stake in limited civil cases often makes it difficult for litigants in such cases to retain counsel. In unlimited civil cases, however, the commenter believes that unrepresented parties pose a threat to their own rights and a burden to the courts. The commenter further cautioned that form briefs in such cases could be deceptive for self-represented parties, making them think they can handle the case on their own and thus increase the number of unrepresented litigants.

The committee appreciates the feedback on this issue. The committee intends to monitor how the form briefs in this proposal are received and used. It envisions that experience will lead to refinement and improvement of the forms. In the future, the committee will consider this experience and evaluate whether additional form briefs should be expanded as time and resources allow.

### ***Other Suggested Revisions***

The commenters provided numerous suggestions to improve clarity and readability in the proposed form briefs and information sheet. The committee has adopted many of them. In drafting the form briefs, however, the committee had to strike a balance between including extensive instructions or examples in the briefs, maintaining a reasonable length, and providing the parties with sufficient space for their answers. For this reason, the committee has declined to make some of the proposed revisions. The committee believes the information sheets are the appropriate place for more detailed instructions and discussion on how to fill out each item. To

make sure the parties are aware of this information, the committee has ensured that the parties are advised, in multiple places on the forms, to review the information sheets.

### **Alternatives considered**

As discussed above, the committee considered recommending the adoption of form briefs for use in unlimited civil cases, but concluded that utilizing form briefs in limited civil cases and assessing their utility in those cases is an important first step.

The committee also considered recommending form briefs that would be used in limited civil cases where a cross-appeal has been filed. The committee determined that such briefs, and the need to discuss the briefs in the proposed information sheet, would introduce needless complexity, given the rarity of cross-appeals in limited civil cases.

### **Fiscal and Operational Impacts**

The committee anticipates the proposal may help to reduce staff time previously needed to review and reject noncompliant briefs. It does not anticipate any other fiscal or operational impacts on the courts as a result of the proposal. Implementation requirements for courts would involve making litigants, court staff, and judicial officers aware of the new forms and the revised rule.

### **Attachments and Links**

1. Cal. Rules of Court, rule 8.883, at pages 6-8
2. Forms APP-101-INFO, APP-200, APP-200-INFO, APP-201, APP-201-INFO, APP-202, and APP-202-INFO, at pages 9-50
3. Chart of comments, at page 51-90

Rule 8.883 of the California Rules of Court is amended, effective January 1, 2025, to read:

1 **Rule 8.883. Contents and form of briefs**

2  
3 **(a) Contents**

4  
5 \* \* \*

6  
7 **(b) Length**

8  
9 (1) Except as provided in (4), a brief produced on a computer must not exceed  
10 6,800 words, including footnotes. Such a brief must include a certificate by  
11 appellate counsel or an unrepresented party stating the number of words in  
12 the brief. The person certifying may rely on the word count of the computer  
13 program used to prepare the brief.

14  
15 (2) A brief produced on a typewriter must not exceed 20 pages.

16  
17 (3) The information listed on the cover, any table of contents or table of  
18 authorities, the certificate under (1), and any signature block are excluded  
19 from the limits stated in (1) or (2).

20  
21 (4) If a party uses a form brief approved for use by the Judicial Council, the  
22 brief, including any attachments, may not exceed 25 pages in length.  
23 Attachments must comply with the formatting requirements stated in (c)(1)  
24 through (c)(7).

25  
26 ~~(4)~~(5) On application, the presiding judge may permit a longer brief for good cause.  
27 A lengthy record or numerous or complex issues on appeal will ordinarily  
28 constitute good cause. If the court grants an application to file a longer brief,  
29 it may order that the brief include a table of contents and a table of  
30 authorities.

31  
32 **(c) Form**

33  
34 (1) A brief may be reproduced by any process that produces a clear, black image  
35 of letter quality. All documents filed must have a page size of 8 1/2 by 11  
36 inches. If filed in paper form, the paper must be white or unbleached and of at  
37 least 20-pound weight. Both sides of the paper may be used if the brief is not  
38 bound at the top.

39  
40 (2) Any conventional font may be used. The font may be either proportionally  
41 spaced or monospaced.  
42

Rule 8.883 of the California Rules of Court is amended, effective January 1, 2025, to read:

- 1 (3) The font style must be roman; but for emphasis, italics or boldface may be  
2 used or the text may be underscored. Case names must be italicized or  
3 underscored. Headings may be in uppercase letters.  
4
- 5 (4) Except as provided in (11), the font size, including footnotes, must not be  
6 smaller than 13-point.  
7
- 8 (5) The lines of text must be at least one-and-a-half-spaced. Headings and  
9 footnotes may be single-spaced. Quotations may be block-indented and  
10 single-spaced. Single-spaced means six lines to a vertical inch.  
11
- 12 (6) The margins must be at least 1½ inches on the left and right and 1 inch on the  
13 top and bottom.  
14
- 15 (7) The pages must be consecutively numbered.  
16
- 17 (8) The cover—or first page if there is no cover—must include the information  
18 required by rule 8.816(a)(1).  
19
- 20 (9) If filed in paper form, the brief must be bound on the left margin, except that  
21 briefs may be bound at the top if required by a local rule of the appellate  
22 division. If the brief is stapled, the bound edge and staples must be covered  
23 with tape.  
24
- 25 (10) The brief need not be signed.  
26
- 27 (11) If the brief is produced on a typewriter:  
28
  - 29 (A) A typewritten original and carbon copies may be filed only with the  
30 presiding judge’s permission, which will ordinarily be given only to  
31 unrepresented parties proceeding in forma pauperis. All other  
32 typewritten briefs must be filed as photocopies.  
33
  - 34 (B) Both sides of the paper may be used if a photocopy is filed; only one  
35 side may be used if a typewritten original and carbon copies are filed.  
36
  - 37 (C) The type size, including footnotes, must not be smaller than standard  
38 pica, 10 characters per inch. Unrepresented incarcerated litigants may  
39 use elite type, 12 characters per inch, if they lack access to a typewriter  
40 with larger characters.  
41

Rule 8.883 of the California Rules of Court is amended, effective January 1, 2025, to read:

1           *(Subd (c) amended effective January 1, 2016; previously amended effective January 1,*  
2           *2011, January 1, 2013, and January 1, 2014.)*

3

4           **(d) Noncomplying briefs**

5

6           \* \* \*

7

8

**Advisory Committee Comment**

9

10           **Subdivision (b).** Subdivision (b)(1) states the maximum permissible lengths of briefs produced  
11 on a computer in terms of word count rather than page count. This provision tracks a provision in  
12 rule 8.204(c) governing Court of Appeal briefs and is explained in the comment to that provision.  
13 Subdivision (b)(3) specifies certain items that are not counted toward the maximum brief length.  
14 Signature blocks, as referenced in this provision, include not only the signatures, but also the  
15 printed names, titles, and affiliations of any attorneys filing or joining in the brief, which may  
16 accompany the signature.

17

18           Subdivision (b)(4) provides the maximum length of a brief, with attachments, if the party uses a  
19 form brief approved for use by the Judicial Council. The Judicial Council has approved the  
20 following optional form briefs that parties may use in limited civil appeals where there is no  
21 cross-appeal: *Appellant’s Opening Brief—Limited Civil Case* (form APP-200), *Respondent’s*  
22 *Brief—Limited Civil Case* (form APP-201), and *Appellant’s Reply Brief—Limited Civil Case*  
23 (form APP-202).

## 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 \$35,000 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](http://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-INFO](#))
- *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](http://www.courts.ca.gov/forms).

- **Prejudicial error:** The appellant (the party who is appealing) may ask the appellate division to **decide** 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 **decide** 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 email 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 Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help](http://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help).

**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 [leginfo.legislature.ca.gov/faces/codes.xhtml](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](http://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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://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](http://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](http://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 **decide** 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.legislature.ca.gov/faces/codes.xhtml](http://www.leginfo.legislature.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](http://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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://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 **given** 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](http://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.ourtreportersboard.ca.gov/consumers/index.shtml#rtf](http://www.ourtreportersboard.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* (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 give you 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](http://www.courts.ca.gov/forms). The court will review this application to decide 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 **made** 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 **making** 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](http://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](http://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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://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 gives an accurate summary of the testimony and other evidence relevant to the issues you stated you are making 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 stated you are making 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](http://www.courts.ca.gov/forms). The court will review this application to **decide** 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 before or together 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](http://www.courts.ca.gov/forms). The court will review this application to **decide** 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](http://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.

You may, but are not required to, fill out *Appellant’s Opening Brief—Limited Civil Case* (form [APP-200](#)) and use it as your opening brief. You can get more information about using this form as your opening brief from *How to Use Form APP-200 in Limited Civil Cases* (form [APP-200-INFO](#)).

**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 before or together 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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://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 may 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](http://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 Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help](http://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help).

**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 **stating** 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](http://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 **gives** an accurate summary of the testimony and other evidence relevant to the issues the appellant **stated** the appellant is **making** 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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://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 stating 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](http://www.courts.ca.gov/forms). The court will review this application and decide 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.

If the appellant chooses a clerk’s transcript but does not have a waiver of the fee for a clerk’s transcript, you can choose an appendix instead of a clerk’s transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent’s Notice Designating Record on Appeal—Limited Civil Case* (form APP-110) within 10 days after the appellant’s notice designating the record on appeal is filed.

## 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](http://www.courts.ca.gov/rules).

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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

You may, but are not required to, fill out *Respondent’s Brief—Limited Civil Case* (form [APP-201](#)) and use it as your answering brief. You can get more information about using this form as your answering brief from *How to Use Form APP-201 in Limited Civil Cases* (form [APP-201-INFO](#)).



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 may 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.

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.

Clerk stamps date here when form is filed.

**DRAFT  
05.16.2024  
Not approved  
by Judicial  
Council****Appellant**  
*(fill in the name of each party appealing)*

v.

**Respondent**  
*(fill in the name of each party against whom the appeal is brought)*

Appellate Division Case Number:

Trial Court Case Number:

Trial Court Judicial Officer:

**Instructions**

- This form is for use as the appellant's opening brief in a **limited civil case** appeal only. Do not use this form, however, if this is a criminal case, an unlimited civil case, or if there is a cross appeal in this case.
- Before you fill in this form, review *How to Use Form APP-200 in Limited Civil Cases* (form [APP-200-INFO](#)). You can get APP-200-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).
- You may attach additional pages as needed when answering an item by checking the box that states there is not enough space. **These additional pages must meet** the formatting requirements of California Rules of Court, rule [8.883\(c\)](#). Your brief cannot be longer than **25** pages, including this form and any **additional** pages used to **complete your answers**.
- Fill out this brief and make a copy for each of the other parties and the trial court. Serve a copy of the completed form on each of the other parties and the trial court and keep proof of this service. *Proof of Service* (form [APP-109](#)) or *Proof of Electronic Service* (form [APP-109E](#)) can be used to make this record. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts website at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. 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.

**1 Information About the Appellant**

- a. Appellant (*name*): \_\_\_\_\_  
 Your Lawyer (*if you have one for this case*):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_
- b. Your Address (*If you are a lawyer filling this form out on behalf of your client, give your contact information and not your client's.*)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Email Address: \_\_\_\_\_



**2 The Order Being Appealed as Stated in the Notice of Appeal**

I am/My client is appealing (*check all that apply*):

- a.  The final judgment in the trial court case.
- b.  An order made after the final judgment in the case.
- c.  An order changing or refusing to change the place of trial (venue).
- d.  An order granting a motion to quash service of summons.
- e.  An order granting a motion to stay or dismiss the action on the ground of inconvenient forum.
- f.  An order granting a new trial.
- g.  An order denying a motion for judgment notwithstanding the verdict.
- h.  An order granting or dissolving an injunction or refusing to grant or dissolve an injunction.
- i.  An order appointing a receiver.
- j.  Other action (*please describe, write the date the trial court took the action you are appealing, and explain why it is appealable*):

**3 Timeliness of Appeal**

- a. Date of entry of judgment or order appealed from:
- b. Date that notice of entry of judgment or a copy of the judgment was served by the clerk or by a party under California Rules of Court, rule 8.822:
- c. Was a notice of intention to move for new trial, a motion for judgment notwithstanding the verdict, a motion for reconsideration, or a motion to vacate the judgment made and denied?  Yes  No
  - (1) If yes, please specify the type of motion:
  - (2) Date motion filed:  
Date motion denied:  
Date denial served:
- d. Date you filed the notice of appeal:

**4 Other Appeals**

Has there been another appeal in this same case?  Yes  No

If yes, list the case number for each appeal and the date of the decision in that prior appeal. Include all appeals in the case, whether or not all appeals have finished.



**5 What Are the Facts of This Case?**

Discuss the facts of the dispute between you and the opposing party that are important to the arguments you are making to the appellate division. You may only discuss facts that were presented to the trial court. For each fact you mention, cite the page or pages of the record where it shows that the fact was presented to the trial court. Read item 11 on *How to Use Form APP-200 in Limited Civil Cases* (form APP-200-INFO) before filing out this section.

- Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 5" at the top.





**6 What Happened in the Trial Court?**

Describe the proceedings in the trial court. When referring to a specific document (such as the complaint, a motion, or an order), cite to the page of the record where that document can be found.

a. In the trial court, you or your client was the (*check one*):

plaintiff (the party who filed the complaint in the case).

defendant (the party against whom the complaint was filed).

b. What legal claims did the plaintiff make in the complaint? (*For example, a claim for negligence, breach of contract, violation of civil rights, or employment discrimination*):

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 6b" at the top.

c. What did the complaint ask the court to do? (*For example, order the defendant to pay damages*):

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 6c" at the top.

d. What legal arguments did the defendant make in response? These arguments can be found either in the answer to the complaint or in motions filed by the defendant. (*For example, the claims in the complaint were barred by the statute of limitations, there was no enforceable contract, or the facts do not support the legal claims in the complaint*):

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 6d" at the top.



- 6 e. Did the defendant file a cross-complaint?  Yes  No  
If yes, describe the legal claims the defendant made in the cross-complaint and what the defendant asked the trial court to do:  
 *Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 6e" at the top.*
- f. What did the trial court do? Describe what the order or judgment being appealed said and what, if anything, the order or judgment required the parties to do.  
 *Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 6f" at the top.*

7 **Your Request of the Appellate Division of the Superior Court**

- What would you like the appellate division to do? (For example, reverse the judgment or order on appeal, or send the case back to the court for more proceedings):  
 *Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 7" at the top.*



**8 What Do You Think the Trial Court Did Wrong?**

What do you think the trial court did wrong in deciding the case, and what law supports your arguments? Refer to facts presented to the trial court as well as the statutes, cases, court rules, or constitutions which support your arguments. You may, but do not have to, make more than one argument. Read item 14 on *How to Use Form APP-200 in Limited Civil Cases* (form APP-200-INFO) before filling out this section.

a. **Argument 1.** *(Include the law and/or facts that support your argument.)*

- Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 8a" at the top.*




- 8 b. **Argument 2 (Optional).** *(Include the law and/or facts that support your argument.)*  
 *Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 8b" at the top.*

- c.  Check here to make additional arguments. Include these additional arguments on an attached sheet of paper, and write "Attachment 8c" at the top.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

 \_\_\_\_\_  
*Sign your name*

Do not forget to serve this brief on the other parties and the trial court and to use a proof of service. See the instructions on page 1 of this brief.

## GENERAL INFORMATION

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

This information sheet tells you about how to use *Appellant's Opening Brief—Limited Civil Case* (form APP-200) to draft an opening brief in a limited civil case.

A “limited civil case” is a civil case that involves an amount of \$35,000 or less. If your case involves more than \$35,000, your case is an “unlimited civil case” and you cannot use form APP-200. Also, do not use form APP-200 in a criminal case.

Do not use form APP-200 if a cross-appeal has been filed in your case. A cross-appeal is when both parties have filed notices of appeal asking to have the trial court’s decision reviewed. For more information about briefs where a cross-appeal has been filed, see California Rules of Court, rule [8.884](#).

For information about the appeal process in limited civil cases in general, you should read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO). To learn even more, you should read rules [8.800–8.845](#) and [8.880–8.891](#) of the California Rules of Court, which sets out the procedures for appeals in limited civil cases. You can get this form and these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules) and [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

**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 and in the form briefs—is the superior court.

If you are the party appealing (asking for the trial court’s decision to be reviewed), you are called the appellant. If you received notice that another party in the case is appealing, you are called the respondent.

**3 What is a brief?**

A “brief” is a written document that tells the appellate division (the court reviewing your case):

- The facts in the case
- The law that applies
- The party’s arguments about the issues being appealed

If you are the appellant, you will file the first brief, called an “opening brief.” If you are the respondent, after the appellant files the opening brief, you will have the chance to file the “respondent’s brief” to respond to the appellant’s arguments in the opening brief. Finally, if the respondent files a respondent’s brief, the appellant will then have the chance to file a “reply brief” to reply to the respondent’s arguments. The reply brief is the final brief unless the appellate division orders further briefing.

**4 Preparing a brief**

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.

If you are the appellant, *Appellant’s Opening Brief—Limited Civil Case* (form APP-200) may be used to prepare your opening brief. This information sheet explains to appellants how to fill out form APP-200.

If you are the respondent, *Respondent’s Brief—Limited Civil Case* (form APP-201) may be used to prepare your respondent’s brief. The information sheet *How to Use Form APP-201 in Limited Civil Cases* (form APP-201-INFO) explains how to fill out form APP-201.

If you are the appellant, and you would like to use a form to prepare your reply brief, you can use *Appellant’s Reply Brief—Limited Civil Case* (form APP-202). The information sheet *How to Use Form APP-202 in Limited Civil Cases* (APP-202-INFO) explains how to fill out form APP-202.

You or your lawyer do not need to use these forms for your briefs. If you choose to draft your own brief, read California Rules of Court, rule [8.882–8.884](#) to learn about what your brief must contain, how it must be formatted, and how and when it must be served and filed.



**INFORMATION ABOUT FILLING OUT  
APPELLANT'S OPENING BRIEF—  
LIMITED CIVIL CASE (FORM APP-200)**

If you are the appellant, you must prepare and file the first brief, called an “appellant’s opening brief.” This brief must clearly explain what you believe are the legal errors made in the trial court. You or your lawyer may use *Appellant’s Opening Brief—Limited Civil Case* (form APP-200) to prepare this opening brief. This section describes how to fill out this form.

**5 Attachments, format, and length**

Form APP-200 has spaces for you to give information or answer questions. If any of these spaces are not big enough and you need more space for your response to an item, you may check the box in that item stating that you need more space. After you check the box, you may continue your answer on a separate sheet of paper labeled “Attachment” followed by the item number you are filling out. For example, an attachment continuing your response to item 4 would be labeled “Attachment 4” at the top of the page.

The separate sheets of paper used to continue your answers and the proof of service are the only attachments which may be included with your brief. Do not attach any other documents.

You should format your brief and attachments as follows:

- The attachments must be on white paper, 8.5 inches by 11 inches in size, with 1.5-inch margins on the left and right and 1-inch margins on the top and bottom.
- In typing the brief and attachments, you may use any standard font, but the font must not be smaller than 13 point.
- You should use normal typeface, however italics, boldface type, or underscores can be used for emphasis. Case names must also be in italics or underscored.
- If you file the brief in paper form, you should bind the brief on the left margin, unless the appellate division has a local rule requiring the brief to be bound on the top.
- All attachments need to be included at the end of form APP-200 in the order of the attachment number. For example, you would put Attachment 4 after Attachment 3. You then need to number the pages of all of the attachments in order, starting with page 8 (because the actual form is 7 pages long).

Your opening brief, including the form and any attachments, may not be longer than 25 pages.

**6 Completing the caption (the top part of the form)**

**Name of the parties on appeal.** At the top left of the form, fill out the name of each party appealing the trial court’s decision and the name of each party who is a respondent in the appeal.

**Appellate division case number.** When you filed the notice of appeal in your case, the clerk gave the appeal a case number. You can find this number on the notice of briefing schedule or another document about your case sent to you by the clerk of the appellate division. Write that number in the box entitled “Appellate Division Case Number.”

**Trial court case number and trial court judicial officer.** Write the case number your case had in the trial court here. You can find this number on any court order from the trial court. Also write the name of the trial court judge or other judicial officer who made the decision you are appealing.

**7 Completing item 1, "Information About the Appellant"**

In item 1a, type your name. If you are a lawyer filling this out for your client, type your name, State Bar number, and the name of your law firm.

In item 1b, type your address and contact information if you do not have a lawyer. If you are a lawyer filling out this form for your client, write your office address, telephone number, fax number (if applicable), and email address.

**8 Completing item 2, "The Order Being Appealed as Stated in the Notice of Appeal"**

In this item, you are telling the appellate division about the judgment or order you are appealing. Check the box or boxes that describe the judgment or orders you are appealing. You may check multiple boxes. For example, if you are appealing from the final judgment after a jury trial and the trial court’s denial of your motion for new trial, you would check the box at item 2a and item 2b.

For more information, see Code of Civil Procedure section 904.2.



## 9 Completing item 3, "Timeliness of Appeal"

In item 3, you are providing the court with information about when the trial court entered the order or judgment you are appealing, when notice of that order or judgment was served, and when your notice of appeal was filed. This information will help the appellate division **decide** whether you filed your notice of appeal in time.

Usually, under California Rules of Court, rule 8.822, the deadline to file a Notice of Appeal is **30 days** after you are served with *either* a document called "Notice of Entry" of judgment or a file-stamped copy of the judgment or order. If neither of these documents is served on you, the deadline is **90 days** after the judgment or order was made. There are very limited exceptions to these deadlines that you can find in the California Rules of Court, rule [8.823](#).

In item 3a, write the date the trial court entered the judgment or order you are appealing.

In item 3b, write the date that you were served by the clerk or another party with a notice of entry of judgment or a copy of the judgment under California Rules of Court, rule [8.822](#).

The time to file a notice of appeal may be longer if certain types of motions were filed after the trial court made its decision and the motion was denied by the trial court. These motions are listed in item 3c (notice of intention to move for a new trial, motion for judgment notwithstanding the verdict, motion for reconsideration, or a motion to vacate judgment).

In item 3c, check "yes" if a party filed one of the listed motions which was then denied by the trial court. If you check "yes," write the type of motion that was filed, the date the motion was filed, the date the trial court denied the motion, and the date you were served with a copy of the trial court's denial.

Finally, in item 3d, **list** the date you filed your notice of appeal.

## 10 Completing item 4, "Other Appeals"

In Item 4, **state** whether there have been any other appeals in this case. If yes, **give** the case numbers for those other appeals.

## 11 Completing item 5, "What Are the Facts of This Case?"

In item 5, discuss what happened between the parties to cause this lawsuit to be filed. You must only include facts that:

- Are important to what you think the district court got wrong, and
- Were presented to the trial court. **Important: The appellate division will NOT consider new evidence, such as the testimony of new witnesses or new exhibits, so do not discuss any facts that were not given to the trial court.**

For each fact you discuss in item 5, you must tell the appellate division where in the record on appeal it shows that the fact was presented to the trial court. (For more information about the record on appeal, read item 13 on form [APP-101-INFO](#).) To do this, when you discuss a fact, you must **cite** the page in the record where it shows that fact was presented to the trial court. To **cite** means to **give**: (1) the volume number of the part of the record where the fact can be found, (2) the name of the part of the record you are citing, and (3) the page number in the record where the fact can be found. Here are examples of how to cite to different forms of the record:

- If the fact you are discussing appears at page 10 of volume 2 of the Clerk's Transcript, you would cite the Clerk's Transcript as "2 CT 10."
- If the fact you are discussing appears at page 15 of volume 1 of the Reporter's Transcript, you would cite the Reporter's Transcript as "1 RT 15."
- If the parties used an appendix on appeal instead of a clerk's transcript, and the fact you are discussing appears at page 33 of volume 1 of the appendix, you would cite the appendix as "1 AA 33."

## 12 Completing item 6, "What Happened in the Trial Court?"

In item 6, you will **give** the appellate division the facts about what happened in the trial court. Just like in item 5, you must cite to where in the record on appeal a fact you **give** appears. For example, when you are talking about a specific document filed in the trial court (such as a complaint, a motion, or a court order), cite to where in the record that document can be found.



In item 6a, **state** whether you were the plaintiff or the defendant in the trial court. The plaintiff is the party who filed the complaint in the case. The defendant is the party against whom the complaint was filed.

In item 6b, describe the legal claims the plaintiff made in the complaint. The plaintiff started this lawsuit by filing a complaint. The complaint explains how the plaintiff believes they have been harmed. The “legal claims” in the complaint describe why the plaintiff believes the defendant is legally responsible for that harm. The following are examples of legal claims:

- The defendant drove through a red light and crashed into the plaintiff. The legal claim would be for “negligence.”
- The defendant failed to pay the plaintiff for work the plaintiff did under a contract. The legal claim would be for “breach of contract.”

In item 6c, describe what the plaintiff asked the trial court to do in the complaint to fix the harm they suffered. For example, the plaintiff may have asked the trial court to order the defendant to pay damages (money) to the plaintiff or to issue an injunction (an order requiring the defendant either to do something or not to do something).

In item 6d, describe the arguments the defendant made to the trial court against the complaint. These arguments are the reasons why the defendant believed the plaintiff should lose the lawsuit. These arguments can be found either in the defendant’s answer or in motions filed by the defendant (such as a demurrer or a motion for summary judgment). Examples of such arguments could include:

- The plaintiff waited too long to bring this lawsuit and the claims are now barred by the statute of limitations.
- The facts **stated** in the complaint do not support the legal claims.
- The plaintiff failed to **give** evidence supporting their legal claims.

In item 6e, **state** whether the defendant filed a cross-complaint against the plaintiff or another party. When a plaintiff sues a defendant, the defendant can sue the plaintiff back or, if the defendant thinks someone else is responsible for plaintiff’s harm, the defendant can sue that other person and bring them into the lawsuit. This is called filing a cross-complaint. If the defendant in this case filed a cross-complaint, briefly describe the legal claims made in the cross-complaint and what relief the defendant asked the trial court to order.

In item 6f, describe the decision of the trial court that you are appealing. You should state what the trial court’s decision was (for example, an order sustaining defendant’s demurrer, an order granting a motion for summary judgment, or a judgment after a jury verdict) and describe any reasons the trial court gave for its decision. Finally, describe what, if anything, the trial court’s decision requires the parties to do.

## 13 Completing item 7, "Your Request of the Appellate Division of the Superior Court"

In item 7, tell the appellate division what you would like it to do to fix the mistakes you believe the trial court made. For example, if the trial court sustained the defendant’s demurrer and dismissed your case, you could ask the appellate division to reverse the judgment and send the case back to the trial court to allow the case to continue.

## 14 Completing item 8, "What Do You Think the Trial Court Did Wrong?"

In item 8, you must clearly explain what you believe the trial court did wrong in deciding your case. You must include all your arguments in this opening brief. The appellate division will only consider arguments **made** in the opening brief.

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. Instead, the appellate division will review the appellate record (the record of what happened in the trial court that the parties have **given** the court) and the trial court’s decision to see if certain kind of legal errors were made. The appellate division can only review a case for whether one of the two types of mistakes **happened**:

- A **prejudicial error happened** in the case before the trial court. A *prejudicial error* is an error that was made about either the law or court procedures in the case and that caused harm to the appellant.

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 appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. As the appellant, you have the responsibility of showing that an error was made and that you were harmed by the error in some way.





- That there was **no substantial evidence** to support the judgment, order, or other decision being appealed. *Substantial evidence* is evidence that is reasonable and believable. When it conducts its review, the appellate division only looks to see if there was evidence that reasonably supports the trial court’s judgment, order, or other 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 law that supports your argument. This can take the form of statutes, court opinions, court rules, constitutional provisions, or other legal authority. You may find law that supports your appeal mentioned in the documents filed by the parties in the trial court or in the trial court’s decisions.

The appellate division generally will not reverse the judgment, order, or other decision being appealed unless the record clearly shows that one of these mistakes was made. (*Reverse* means to change the trial court’s decision.)

Item 8 is your opportunity to explain to the appellate division how the trial court made one of these mistakes and how the mistake harmed your case.

For each argument, you should clearly identify the following:

- The mistake you believe the trial court made in its judgment, order, or other decision you are appealing
- The **standard of review** the appellate division should apply in reviewing the argument. The standard of review is how the appellate division looks at what happened in the trial court to decide if the trial court made a mistake.

Some common standards of review are *de novo*, *abuse of discretion*, and *substantial evidence*. *De novo* review is used if you are arguing the trial court applied the law wrong. *Abuse of discretion* review is used if you are arguing the trial court exercised its discretion in an absurd or arbitrary way. *Substantial evidence* review is used if you are arguing the evidence as decided by the trial court or jury does not support the trial court’s decision.

For more information about standards of review, visit the Self-Help Guide to the California Courts website at [selfhelp.courts.ca.gov/civil-appeals/legal-errors-standards-review](http://selfhelp.courts.ca.gov/civil-appeals/legal-errors-standards-review).

- The places in the record on appeal where the facts which support your argument can be found. (Please see the discussion of cites to the record on appeal in item 11 of this information sheet.)

Form APP-200 **has items for you to make** two arguments. If you have more than two arguments to make, check the box at item 8c and **make** those additional arguments on a separate piece of paper and write “Attachment 8c” at the top.

### 15 Serving and Filing Your Brief

After you have completed your brief, make copies of the brief (with all attachments) for your records, each of the other parties in the case, and the trial court.

Serve a copy of the completed form (with all attachments) on each of the other parties and the trial court and keep proof of this service. There are two forms you may use to show proof of service:

- *Proof of Service* (form [APP-109](#)); or
- *Proof of Electronic Service* (form [APP-109E](#)).

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 Self-Help Guide to the California Courts website at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

After you have served copies of the brief on the other parties and the trial court, file the original brief and all attachments, along with the proof of service, with the appellate division.

Clerk stamps date here when form is filed.

**DRAFT  
05.16.2024  
Not approved  
by Judicial  
Council****Appellant***(fill in the name of each party appealing)***v.****Respondent***(fill in the name of each party against whom the appeal is brought)***Appellate Division Case Number:****Trial Court Case Number:****Trial Court Judicial Officer:****Instructions**

- This form is for use as the respondent's brief in a **limited civil case** appeal only. Do not use this form, however, if this is a criminal case, if this is an unlimited civil case, or if there is a cross-appeal in this case.
- Before you fill in this form, review *How to Use Form APP-201 in Limited Civil Cases* (form [APP-201-INFO](#)). You can get APP-201-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).
- You may attach additional pages as needed when answering an item by checking the box that states there is not enough space. **These additional pages** must meet the formatting requirements of California Rules of Court, rule [8.883\(c\)](#). Your brief cannot be longer than **25 pages**, including this form and any **additional pages used to complete your answers**.
- Fill out this brief and make a copy for each of the other parties and the trial court. Serve a copy of the completed form on each of the other parties and the trial court and keep proof of this service. *Proof of Service* (form [APP-109](#)) or *Proof of Electronic Service* (form [APP-109E](#)) can be used to make this record. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts website at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. 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.

**1 Information About the Respondent**

- a. Respondent (*name*): \_\_\_\_\_  
 Your Lawyer (*if you have one for this case*):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_
- b. Your Address (*If you are a lawyer filling this form out on behalf of your client, give your contact information and not your client's.*)  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Email Address: \_\_\_\_\_



**2 What Are the Facts of This Case?**

You do not need to fill out this item if you agree with what the appellant's opening brief says are the facts. If you do not agree with what the Appellant's Opening Brief says are the facts, please describe the facts presented to the trial court which are relevant to the parties' arguments on appeal. For each fact you mention, cite the page or pages of the record where it shows that the fact was presented to the trial court. Read item 8 on *How to Use Form APP-201 in Limited Civil Cases* (form APP-201-INFO) before filing out this section.

- Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 2" at the top.



### 3 What Are Your Responses to Appellant's Arguments?

In responding to the arguments made in the Appellant's Opening Brief, you should try to explain why the trial court was correct in the decision the appellant is challenging on appeal. Refer to facts presented to the trial court as well as the statutes, cases, court rules, constitutions, or other legal authorities that support your responses. Read **item 9** on *How to Use form APP-201 in Limited Civil Cases (form APP-201-INFO)* before filing out this section.

a. **Response 1.**

- (1) What is the first argument in the Appellant's Opening Brief to which you are responding? Briefly describe the argument.  
 Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 3a(1)" at the top.
  
- (2) What is your response to that argument? Include the law and/or facts that support your response.  
 Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 3a(2)" at the top.



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**3** b. **Response 2.**

(1) What is the second argument in the appellant’s opening brief to which you are responding? Briefly describe the argument.

*Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write “Attachment 3b(1)” at the top.*

(2) What is your response to that argument? Include the law and/or facts that support your response.

*Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write “Attachment 3b(2)” at the top.*

c.  Check here to respond to additional arguments. Include these additional responses on an attached sheet of paper, and write “Attachment 3c” at the top. For each response, begin first by briefly describing the argument in the Appellant’s Opening Brief to which you are responding, and then give your response.



**4 Other Arguments**

Are there any other arguments you would like to raise to explain why the superior court was correct in the decision that the appellant is challenging on appeal or why the appellant should not be allowed to appeal?

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 4" at the top.

**5 Your Request of the Appellate Division**

What would you like the appellate division to do? (For example, affirm the trial court's decision or dismiss appellant's appeal):

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 5" at the top.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

Do not forget to serve this brief on the other parties and the trial court and to use a proof of service. See the instructions on page 1 of this brief.

## GENERAL INFORMATION

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

This information sheet tells you about how to use *Respondent's Brief—Limited Civil Case* (form [APP-201](#)) to draft a respondent's brief in a limited civil case.

A “limited civil case” is a civil case that involves an amount of \$35,000 or less. If your case involves more than \$35,000, your case is an “unlimited civil case” and you cannot use form APP-201. Also, do not use form APP-201 in a criminal case.

Do not use form APP-201 if a cross-appeal has been filed in your case. A cross-appeal is when both parties have filed notices of appeal asking to have the trial court’s decision reviewed. For more information about briefs where a cross-appeal has been filed, see California Rules of Court, rule [8.884](#).

For information about the appeal process in limited civil cases in general, you should read *Information on Appeal Procedures for Limited Civil Cases* (form [APP-101-INFO](#)). To learn even more, you should read rules [8.800–8.845](#) and [8.880–8.891](#) of the California Rules of Court, which sets out the procedures for appeals in limited civil cases. You can get this form and these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules) and [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

**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 and in the form briefs—is the superior court.

If you are the party appealing (asking for the trial court's decision to be reviewed), you are called the appellant. If you received notice that another party in the case is appealing, you are called the respondent.

**3 What is a brief?**

A “brief” is a written document that tells the appellate division (the court reviewing your case):

- The facts in the case
- The law that applies
- The party’s arguments about the issues being appealed

If you are the appellant, you will file the first brief, called an “opening brief.” If you are the respondent, after the appellant files the opening brief, you will have the chance to file the “respondent’s brief” to respond to the appellant’s arguments in the opening brief. Finally, if the respondent files a respondent’s brief, the appellant will then have the chance to file a “reply brief” to reply to the respondent’s arguments. The reply brief is the final brief unless the appellate division orders further briefing.

**4 Preparing a brief**

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.

If you are the appellant, *Appellant’s Opening Brief—Limited Civil Case* (form APP-200) may be used to prepare your opening brief. The information sheet *How to Use Form APP-200 in Limited Civil Cases* (form [APP-200-INFO](#)) explains how to fill out form APP-200.

If you are the respondent, *Respondent’s Brief—Limited Civil Case* (form [APP-201](#)) may be used to prepare your respondent's brief. This information sheet explains how to fill out form APP-201.

If you are the appellant, and you would like to use a form to prepare your reply brief, you can use *Appellant’s Reply Brief—Limited Civil Case* (form [APP-202](#)). The information sheet *How to Use Form APP-202 in Limited Civil Cases* ([APP-202-INFO](#)) explains how to fill out form APP-202.

You or your lawyer do not need to use these forms for your briefs. If you choose to draft your own brief, read California Rules of Court, rule [8.882–8.884](#) to learn about what your brief must contain, how it must be formatted, and how and when it must be served and filed.



**INFORMATION ABOUT FILLING OUT  
RESPONDENT'S BRIEF—LIMITED CIVIL  
CASE (FORM APP-201)**

If you are the respondent, your brief, called a “respondent’s brief,” responds to the arguments made in the appellant’s opening brief and explains why the decision of the trial court that is being appealed is correct. You or your lawyer may use *Respondent’s Brief—Limited Civil Case* (form APP-201) for this purpose. This section describes how to fill out this form.

You do not need to submit a respondent’s brief. However, if you do not submit a brief, you will lose the chance to present your argument to the appellate division, either in writing or by making an oral argument before the appellate division. (For more information about oral argument, read item 26 on form APP-101-INFO.) If you do not submit a brief, the appellant does not automatically win the appeal. Instead, the appellate division will decide the appeal on the trial court record, the appellant’s opening brief, and any oral argument by the appellant.

### 5 Attachments, format, and length

Form APP-201 has spaces for you to give information or answer questions. If any of these spaces are not big enough and you need more space for your response to an item, you may check the box in that item stating that you need more space. After you check the box, you may continue your answer on a separate sheet of paper labeled “Attachment” followed by the item number you are filling out. For example, an attachment continuing your response to item 4 would be labeled “Attachment 4” at the top of the page.

The separate sheets of paper used to continue your answers and the proof of service are the only attachments which may be included with your brief. Do not attach any other documents.

You should format your brief and attachments as follows:

- The attachments must be on white paper, 8.5 inches by 11 inches in size, with 1.5 inch margins on the left and right and 1-inch margins on the top and bottom.
- In typing the brief and attachments, you may use any standard font, but the font must not be smaller than 13 point.
- You should use normal typeface, but italics, boldface type, or underscores can be used for emphasis. Case names must also be in italics or underscored.

- If you file the brief in paper form, you should bind the brief on the left margin, unless the appellate division has a local rule requiring the brief to be bound on the top.
- All attachments need to be included at the end of form APP-201 in the order of the attachment number. For example, you would put Attachment 4 after Attachment 3. You then need to number the pages of all of the attachments in order, starting with page 6 (because the actual form is 5 pages long).

Your respondent’s brief, including the form and any attachments, may not be longer than 25 pages.

### 6 Completing the caption (the top part of the form)

**Name of the parties on appeal.** At the top left of the form, fill out the name of each party appealing the trial court’s decision and the name of each party who is a respondent in the appeal.

**Appellate division case number.** When the appellant filed the notice of appeal in this case, the clerk gave the appeal a case number. You can find this number on the appellant’s opening brief or on the notice of briefing schedule sent to you by the clerk of the appellate division. Write that number in the box entitled “Appellate Division Case Number.”

**Trial court case number and trial court judicial officer.** Write the case number your case had in the trial court here. You can find this number on any court order from the trial court. Also write the name of the trial court judge or other judicial officer who made the decision the appellant is appealing.

### 7 Completing item 1, "Information About the Respondent"

In item 1a, type your name. If you are a lawyer filling this out for your client, type your name, State Bar number, and the name of your law firm.

In item 1b, type your address and contact information if you do not have a lawyer. If you are a lawyer filling out this form for your client, write your office address, telephone number, fax number (if applicable), and e-mail address.





## 8 Completing item 2, "What Are the Facts of This Case?"

You do not need to fill out item 2 if you agree with the facts stated by the appellant in the appellant's opening brief. If you do not agree with those facts, then, in item 2, discuss what happened between the parties to cause this lawsuit to be filed.

If you **give** a discussion of the facts, you must only include facts that:

- Are important to the arguments **made** in the appellant's opening brief, your responses to those arguments you make in item 3, or other arguments you make in item 4 about why the superior court was correct in the decision the appellant is challenging on appeal or why the appellant should not be **allowed** to appeal.
- Were presented to the trial court. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not discuss any facts that were not presented to the trial court.

For each fact you discuss in item 2, you must tell the appellate division where in the record on appeal it shows that the fact was presented to the trial court. (For more information about the record on appeal, read item 13 on form APP-101-INFO.) To do this, when you discuss a fact, you must **cite** the page in the record where it shows that fact was presented to the trial court. To *cite* means to **give**: (1) the volume number of the part of the record where the fact can be found, (2) the name of the part of the record you are citing, and (3) the page number in the record where the fact can be found. Here are examples of how to cite to different forms of the record:

- If the fact you are discussing appears at page 10 of volume 2 of the Clerk's Transcript, you would cite the Clerk's Transcript as "2 CT 10."
- If the fact you are discussing appears at page 15 of volume 1 of the Reporter's Transcript, you would cite the Reporter's Transcript as "1 RT 15."
- If the parties used an appendix on appeal instead of a clerk's transcript, and the fact you are discussing appears at page 33 of volume 1 of the appendix, you would cite the appendix as "1 AA 33."

## 9 Completing item 3, "What Are Your Responses to Appellant's Arguments?"

Item 3 is your opportunity to explain why the arguments made by the appellant in appellant's opening brief are wrong and the trial court's decision is right. You should respond to every legal argument **made** by the appellant in the opening brief and should respond to the arguments in the same order that appellant made them.

Form APP-201 **has items for you to respond** to the appellant's first two arguments. If the appellant **made** more than two arguments, check the box at item 3c, and respond to appellant's other arguments on a separate piece of paper labeled "Attachment 3c" at the top of the page.

For each response, begin by briefly describing the appellant's argument to which you are responding. Then, explain why you believe the appellant's argument is wrong and the trial court's decision is correct. Even if the appellant has identified a legal mistake made by the trial court, you can argue that the mistake did not cause enough harm (or *prejudice*) to appellant's case to require the trial court's decision to be changed (or *reversed*).

In each of your responses, you must clearly identify the following:

- The places in the record on appeal where the facts that support your argument can be found. (Please see the discussion of cites to the record on appeal in item 19 of this information sheet.)
- The law that supports your argument. This can take the form of statutes, court opinions, court rules, constitutional provisions, or other legal authority. You may find law that supports your appeal mentioned in the documents filed by the parties in the trial court or in the trial court's decisions.

In reviewing the arguments **made** by the appellant in the opening brief and your responses to those arguments, the appellate division will apply a **standard of review**. The *standard of review* is the rule or guidelines the appellate division will apply to **decide** whether a mistake was made in the trial court. If the appellant's opening brief failed to discuss the applicable standard of review, or if you disagree with the appellant about which standard of review applies, you should include in your response a discussion of what standard of review you believe applies.



You can get information about the possible standards of review that may apply on the Self-Help Guide to the California Courts website at [selfhelp.courts.ca.gov/civil-appeals/legal-errors-standards-review](https://selfhelp.courts.ca.gov/civil-appeals/legal-errors-standards-review).

## 10 Completing item 4, "Other Arguments"

In item 3, you responded to the arguments the appellant made in the appellant's opening brief. Item 4 is your opportunity to make any additional arguments you may have for why the trial court's decision is correct.

For example, if the trial court's decision gave two reasons why the appellant lost, but the appellant only discussed one of these reasons in the appellant's opening brief, you could argue that the appellant has lost the ability to challenge the other reason.

Additionally, if the appellant did not follow the court rules about appeals, you can argue in item 4 that the appellate division should dismiss the appeal. For example, if the appellant failed to file the notice of appeal in time or if the trial court's decision is not an appealable order, you could make these arguments in item 4. For more information about the deadlines for filing a notice of appeal and what orders or trial court decisions can be appealed, see the Self-Help Guide to the California Courts website at [selfhelp.courts.ca.gov/civil-appeals/can-you-appeal](https://selfhelp.courts.ca.gov/civil-appeals/can-you-appeal).

You may make as many additional arguments as you want. Each argument should be listed separately with a title that summarizes the argument in a single sentence, followed by the argument. If you require additional space, check the box stating you need additional space, and continue your answer on an attached sheet of paper labeled "Attachment 4" at the top of the page.

## 11 Completing item 5, "Your Request of the Appellate Division"

In item 5, tell the appellate division what you would like it to do. For example, if you believe the trial court's decision is correct, you could ask the appellate division to affirm the trial court's decision (to affirm means to uphold the trial court's decision). Or, if you believe the appellant has not followed the rules about appeals and the appellate division should reject the appeal, you could ask the appellate division to dismiss the appellant's appeal, leaving the trial court's decision in place.

## 12 Serving and Filing Your Brief

After you have completed your brief, make copies of the brief (with all attachments) for your records, each of the other parties in the case, and the trial court.

Serve a copy of the completed form (with all attachments) on each of the other parties and the trial court and keep proof of this service. There are two forms you may use to show proof of service:

- *Proof of Service* (form [APP-109](#)); or
- *Proof of Electronic Service* (form [APP-109E](#))

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 site at [www.courts.ca.gov/selfhelp-serving.htm](https://www.courts.ca.gov/selfhelp-serving.htm).

After you have served copies of the brief on the other parties and the trial court, file the original brief and all attachments, along with the proof of service, with the appellate division.

Clerk stamps date here when form is filed.

**DRAFT  
05.16.2024  
Not approved  
by Judicial  
Council****Appellant***(fill in the name of each party appealing)*

v.

**Respondent***(fill in the name of each party against whom the appeal is brought)***Appellate Division Case Number:****Trial Court Case Number:****Trial Court Judicial Officer:****Instructions**

- This form is for use as the appellant's reply brief in a **limited civil case** appeal only. Do not use this form, however, if this is a criminal case, if this is an unlimited civil case, or if there is a cross-appeal in this case.
- Before you fill in this form, review *How to Use Form APP-202 in Limited Civil Cases* (form [APP-202-INFO](#)). You can get APP-202-INFO at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).
- You may attach additional pages as needed when answering an item by checking the box that states there is not enough space. **These additional pages** must meet the formatting requirements of California Rules of Court, rule [8.883\(c\)](#). Your brief cannot be longer than **25** pages, including this form and any **additional** pages **used to complete your answers**.
- Fill out this brief and make a copy for each of the other parties and the trial court. Serve a copy of the completed form on each of the other parties and the trial court and keep proof of this service. *Proof of Service* (form [APP-109](#)) or *Proof of Electronic Service* (form [APP-109E](#)) can be used to make this record. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form [APP-109-INFO](#)) and on the Self-Help Guide to the California Courts website at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. 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.

**1 Information About the Appellant**

- a. Appellant (name): \_\_\_\_\_  
 Your Lawyer (if you have one for this case):  
 Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Firm Name: \_\_\_\_\_
- b. Your Address (If you are a lawyer filling this form out on behalf of your client, **give** your contact information and not your client's):  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 Email Address: \_\_\_\_\_



## 2 Replying to Respondent's Arguments

List each argument raised in the respondent's brief to which you are replying, and then explain your reply to that argument. Do not repeat arguments from your opening brief or raise new arguments. Refer to facts presented to the trial court as well as the statutes, cases, court rules, constitutions, and other legal authorities that support your arguments.

### a. Reply 1.

(1) What is the first response or argument in the Respondent's Brief to which you are replying?

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 2a(1)" at the top.

(2) What is your reply to that response or argument? Include the law and/or facts that support your reply.

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write "Attachment 2a(2)" at the top.



**2** b. **Reply 2.**

(1) What is the second response or argument in the respondent’s brief to which you are replying?

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write “Attachment 2b(1)” at the top.

(2) What is your reply to that response or argument? Include the law and/or facts that support your reply.

Check here if there is not enough space for your answer. Continue your answer on an attached sheet of paper, and write “Attachment 2b(2)” at the top.

c.  Check here to reply to additional responses or arguments made in the respondent’s brief. Include the additional replies on an attached sheet of paper, and write “Attachment 2c” at the top.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

Do not forget to serve this brief on the other parties and the trial court and to use a proof of service. See the instructions on page 1 of this brief.

## GENERAL INFORMATION

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

This information sheet tells you about how to use *Appellant's Reply Brief—Limited Civil Case* (form [APP-201](#)) to draft a reply brief in a limited civil case.

A “limited civil case” is a civil case that involves an amount of \$35,000 or less. If your case involves more than \$35,000, your case is an “unlimited civil case” and you cannot use form [APP-202](#). Also, do not use form [APP-202](#) in a criminal case.

Do not use form [APP-202](#) if a cross-appeal has been filed in your case. A cross-appeal is when both parties have filed notices of appeal asking to have the trial court’s decision reviewed. For more information about briefs where a cross-appeal has been filed, see California Rules of Court, rule [8.884](#).

For information about the appeal process in limited civil cases in general, you should read *Information on Appeal Procedures for Limited Civil Cases* (form [APP-101-INFO](#)). To learn even more, you should read rules [8.800–8.845](#) and [8.880–8.891](#) of the California Rules of Court, which sets out the procedures for appeals in limited civil cases. You can get this form and these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules) and [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

**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 and in the form briefs—is the superior court.

If you are the party appealing (asking for the trial court's decision to be reviewed), you are called the appellant. If you received notice that another party in the case is appealing, you are called the respondent.

**3 What is a brief?**

A “brief” is a written document that tells the appellate division (the court reviewing your case):

- The facts in the case
- The law that applies
- The party’s arguments about the issues being appealed

If you are the appellant, you will file the first brief, called an “opening brief.” If you are the respondent, after the appellant files the opening brief, you will have the chance to file the “respondent’s brief” to respond to the appellant’s arguments in the opening brief. Finally, if the respondent files a respondent’s brief, the appellant will then have the chance to file a “reply brief” to reply to the respondent’s arguments. The reply brief is the final brief unless the appellate division orders further briefing.

**4 Preparing a brief**

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.

If you are the appellant, *Appellant’s Opening Brief—Limited Civil Case* (form [APP-200](#)) may be used to prepare your opening brief. The information sheet *How to Use Form APP-200 in Limited Civil Cases* (form [APP-200-INFO](#)) explains how to fill out form [APP-200](#).

If you are the respondent, *Respondent’s Brief—Limited Civil Case* (form [APP-201](#)) may be used to prepare your respondent's brief. The information sheet *How to Use Form APP-201 in Limited Civil Cases* (form [APP-201-INFO](#)) explains how to fill out form [APP-201](#).

If you are the appellant, and you would like to use a form to prepare your reply brief, you can use *Appellant's Reply Brief—Limited Civil Case* (form [APP-202](#)). This information sheet explains how to fill out form [APP-202](#).

You or your lawyer do not need to use these forms for your briefs. If you choose to draft your own brief, read California Rules of Court, rule [8.882–8.884](#) to learn about what your brief must contain, how it must be formatted, and how and when it must be served and filed.



**INFORMATION ABOUT FILLING OUT  
APPELLANT'S REPLY BRIEF—  
LIMITED CIVIL CASE (FORM APP-202)**

If you are the appellant and the respondent filed a respondent's brief, that brief contained arguments that responded to your opening brief. You now have the opportunity to file an "appellant's reply brief" which replies to those arguments made in the respondent's brief. You or your lawyer may use *Appellant's Reply Brief—Limited Civil Case* (form APP-202) for this purpose. This section describes how to fill out this form.

You do not need to file a reply brief unless you want to. If you choose to file a reply brief, it will be the final brief filed in the case, unless the appellate division chooses to order additional briefing.

### 5 Attachments, format, and length

Form APP-202 has spaces for you to give information or answer questions. If any of these spaces are not big enough and you need more space for your response to an item, you may check the box in that item stating that you need more space. After you check the box, you may continue your answer on a separate sheet of paper labeled "Attachment" followed by the item number you are filling out. For example, an attachment continuing your response to item 4 would be labeled "Attachment 4" at the top of the page. The separate sheets of paper used to continue your answers and the proof of service are the only attachments which may be included with your brief. Do not attach any other documents.

You should format your brief and attachments as follows:

- The attachments must be on white paper, 8.5 inches by 11 inches in size, with 1.5-inch margins on the left and right and 1-inch margins on the top and bottom.
- In typing the brief and attachments, you may use any standard font, but the font must not be smaller than 13 points.
- You should use normal typeface, but italics, boldface type, or underscores can be used for emphasis. Case names must also be in italics or underscored.

- If you file the brief in paper form, you should bind the brief on the left margin, unless the appellate division has a local rule requiring the brief to be bound on the top.
- All attachments need to be included at the end of form APP-202 in the order of the attachment number. For example, you would put Attachment 4 after Attachment 3. You then need to number the pages of all of the attachments in order, starting with page 4 (because the actual form is 3 pages long).

Your reply brief, including the form and any attachments, may be no longer than 25 pages.

### 6 Completing the caption (the top part of the form)

**Name of the parties on appeal.** At the top left of the form, fill out the name of each party appealing the trial court's decision and the name of each party who is a respondent in the appeal.

**Appellate division case number.** When you filed the notice of appeal in your case, the clerk gave the appeal a case number. You can find this number on the notice of briefing schedule or another document about your case sent to you by the clerk of the appellate division. Write that number in the box entitled "Appellate Division Case Number."

**Trial court case number and trial court judicial officer.** Write the case number your case had in the trial court here. You can find this number on any court order from the trial court. Also write the name of the trial court judge or other judicial officer who made the decision you are appealing.

### 7 Completing item 1, "Information About the Appellant"

In item 1a, type your name. If you are a lawyer filling this out for your client, type your name, State Bar number, and the name of your law firm.

In item 1b, type your address and contact information if you do not have a lawyer. If you are a lawyer filling out this form for your client, write your office address, telephone number, fax number (if applicable), and e-mail address.



**8** **Completing item 2, "Replying to Respondent's Arguments"**

Item 2 is your opportunity to reply to the arguments made by the respondent in the respondent's brief.

Form APP-202 has items for you to reply to the respondent's first two arguments. If the respondent's brief contained more than two arguments, check the box at item 2c, and reply to the other arguments on a separate piece of paper labeled "Attachment 2c" at the top of the page.

For each reply, begin by briefly describing the respondent's argument to which you are replying. Then, give your reply explaining why the respondent's arguments are incorrect. Your reply brief should not simply repeat the arguments you made in the opening brief. Instead, your reply arguments can do the following:

- Address legal issues and arguments made in the respondent's brief.
- Show the appellate division how the respondent did not successfully address the legal issues made in the appellant's opening brief.
- Address new legal authorities (cases, statutes, or constitutional provisions) included in the respondent's brief.

For each of your reply arguments, you must clearly identify the following:

- The places in the record on appeal where the facts that support your argument can be found. (Please see the discussion of cites to the record on appeal in item 11 of this information sheet.)
- The law that supports your argument. This can take the form of statutes, court opinions, court rules, constitutional provisions, or other legal authority. You may find law that supports your appeal mentioned in the documents filed by the parties in the trial court or in the trial court's decisions.

**9** **Serving and Filing Your Brief**

After you have completed your brief, make copies of the brief (with all attachments) for your records, each of the other parties in the case, and the trial court.

Serve a copy of the completed form (with all attachments) on each of the other parties and the trial court and keep proof of this service. There are two forms you may use to show proof of service:

- *Proof of Service* (form [APP-109](#)); or
- *Proof of Electronic Service* (form [APP-109E](#))

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 Self-Help Guide to the California Courts website at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

After you have served copies of the brief on the other parties and the trial court, file the original brief and all attachments, along with the proof of service, with the appellate division.



**SPR24-05**

**Appellate Procedure: Form Briefs for Use in Limited Civil Appeals** (amend Cal. Rules of Court, rule 3.886; approve forms APP-200, APP-200-INFO, APP-201, APP-201-INFO, APP-202 and APP-202-INFO; revise APP-101-INFO)

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

	Commenter	Position	Comment	Committee Response
1.	Richard Hill Benes Attorney at Law (Ret.) San Diego	A	<p>I am a retired appellate specialist who practiced civil appellate law for 47 years.</p> <p>With a philosophical reservation, I support the proposal for the promulgation of form briefs for use in limited civil appeals, primarily because I believe it is very difficult for litigants to retain attorneys for representation in such appeals. The amount at stake seldom justifies the expense of legal representation and makes it exceedingly difficult for parties in such appeals to obtain the help of willing attorneys, even when they seek them. Because appellate representation is seldom obtained in limited civil appeals, the use of form appellate briefs should improve the efficiency of appellate departments.</p> <p>However, for the following reasons, I write to urge caution in expanding the proposal to facilitate the use of form appellate briefs in unlimited civil cases.</p> <p>Our system of justice is based upon the fundamental premise that truth appears and justice is best achieved in an adversarial system in which all opposing parties are represented by competent attorneys. When a party cannot afford to obtain counsel, or chooses not to, the system is degraded and operates less efficiently and accurately in producing justice. Unrepresented parties are unfamiliar with the law and the rules of civil procedure. In both limited and unlimited civil</p>	<p>The committee appreciates the feedback and notes the commenter’s support for the instant proposal.</p> <hr/> <p>The committee appreciates the feedback.</p>

**SPR24-05**

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	Commenter	Position	Comment	Committee Response
			<p>cases, they represent a threat to their own legal rights and a burden to the judicial system.</p>	
			<p>Therefore, the primary goal of the State Bar, the Judicial Council, and all local bar associations should be to develop programs to insure that all litigants can obtain legal representation. It should not be to facilitate self-representation, especially on appeal in unlimited cases. After all, appellate law has been recognized as a specialized area of legal practice for 28 years.</p>	<p>The committee appreciates the feedback.</p>
			<p>Unfortunately, such self-representation is rarely a matter of choice. Despite tools that have increased the productivity of attorneys in recent decades, such as word-processing, electronic legal research, and even artificial intelligence, the cost of legal representation has outpaced the rate of inflation. When appellate lawyers charge \$600 or more per hour, many civil appellate litigants simply cannot afford appellate representation, despite the greater rights at stake in unlimited civil cases.</p>	<p>The committee appreciates the feedback.</p>
			<p>I have heard that as many as one in three appeals in unlimited civil cases now involve at least one unrepresented party. That should be very disappointing to the bench as well as the bar. Who would not be shocked if one in six patients performed appendectomies on themselves because they could not afford a surgeon?</p>	<p>The committee appreciates the feedback.</p>

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	Commenter	Position	Comment	Committee Response
			<p>To appellate litigants who are either unable to afford appellate counsel, or simply penurious, the opportunity of self-representation through the use of form briefs promulgated by the Judicial Council would be attractive (especially with the availability of artificial intelligence tools) and dangerous. Such forms may deceptively appear like “legalzoom.com” or “trustandwill.com” procedures in which parties can prepare their own legal documents. The promulgation of such forms might even increase the number of unrepresented litigants.</p>	
			<p>As the Invitation to Comment well notes, “Unlimited civil cases are more likely to involve complex or complicated factual or legal backgrounds for which form briefs may not be well suited.” Unlimited civil cases are certainly more heavily litigated in trial courts than limited civil cases. More importantly, the users of form appellate briefs in unlimited civil cases would usually be unfamiliar with the rules of law and the standards of appellate review, and they would usually lack the analytical ability of a trained attorney. A form is simply not a substitute for a legal education.</p>	<p>The committee appreciates the feedback.</p>
			<p>Thank you for consideration of these comments.</p>	<p>No response necessary.</p>
<p>2.</p>	<p>California Lawyers Association By Saul Bercovitch, Associate Executive Director, Governmental Affair</p>	<p>AM</p>	<p>The Committee on Appellate Courts (CAC) of the California Lawyers Association’s Litigation Section submits this response to the Invitation to Comment on SPR24-05 (Form Briefs). Established</p>	<p>No response necessary.</p>

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	Commenter	Position	Comment	Committee Response
			<p>in 2018, the California Lawyers Association is a nonprofit, voluntary organization comprising thousands of licensed attorneys that is dedicated to the professional advancement of attorneys practicing in the State of California. The CAC consists of over twenty experienced appellate practitioners and court staff, drawn from a wide range of practice areas. As part of its mission, the CAC frequently shares its views regarding proposals to change rules that govern appellate practice.</p> <p>In SPR24-05, the Advisory Appellate Committee proposes use of form briefs in the Appellate Division. The CAC strongly supports SPR24-05. We offer four general observations, and then specific comments to further this initiative. The draft briefs and proposed Information Sheets plainly required extensive work. We commend the Appellate Advisory Committee for undertaking this effort.</p>	<p>The committee notes the commenter’s support for the proposal.</p>
			<p><b>1. General Observations Regarding SPR24-05</b>  <i>First</i>, the form briefs are a giant leap forward in facilitating access to appellate justice for self-represented litigants seeking review of trial court decisions. For the reasons detailed in the Invitation to Comment, these briefs will be a “win-win” for both parties and the courts.</p>	<p>The committee appreciates the feedback.</p>

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	Commenter	Position	Comment	Committee Response
			<p><i>Second</i>, when proposing form briefs, the CAC did not consider possible use in the Appellate Division, but an incremental approach makes sense. If these briefs are as beneficial as we anticipate, as they have been in other jurisdictions, we hope the Appellate Advisory Committee will consider form briefs for use in the Court of Appeal at the earliest opportunity.</p>	
			<p><i>Third</i>, we foresee an iterative process possibly refining the form briefs in response to any practical issues arising in their use. After two years using form briefs in the Appellate Division, for example, the Appellate Advisory Committee might consider evaluating what has worked well and what can be improved. This could occur in connection with introducing form briefs for use in the Court of Appeal.</p>	<p>The committee appreciates the feedback.</p>
			<p><i>Fourth</i>, we propose additions to the form briefs that should help self-represented litigants who do not read the Information Sheets before using the form briefs. We also suggest some revisions to the Information Sheets.</p>	<p>See responses to specific comments below.</p>
			<p><b>2. Comments on SPR24-05</b></p> <ul style="list-style-type: none"> <li>▪ The Invitation to Comment does not indicate whether the briefs will be fillable on a computer, with the ability to save the document as a PDF</li> </ul>	<p>It will be possible to complete the form briefs on a computer and save them, similar to other Judicial Council forms.</p>

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

	Commenter	Position	Comment	Committee Response
			file. Like many other Judicial Council forms, there should be a fill-and-save option.	
			<ul style="list-style-type: none"> <li>▪ The line spacing on the draft forms may be too tight for a legible presentation, especially if the briefs are typed separately or handwritten. If possible, the lines could be eliminated entirely.</li> </ul>	The committee has made the suggested revision and removed the lines from the text boxes.
			<ul style="list-style-type: none"> <li>▪ We suggest that the form briefs permit 20 pages of attachments. There are two reasons for this suggestion. First, for the substantive questions, the user might decide not to write in the form brief at all and only use the attachments. Under those circumstances, the attachments may provide insufficient space. Second, the form briefs are different lengths. The appellant would have only 13 pages of attachments for the opening brief, whereas the respondent would have 15 pages of attachments. The reply brief would permit 17 pages of attachments.</li> </ul>	<p>The committee declines to revise the proposed page limit for form briefs to permit 20 pages of attachments. The committee believes defining the page limit in such a way could cause confusion, especially compared to the page limits applicable to briefs composed with a computer or typewriter which are articulated in terms of total pages.</p> <p>However, to provide more space for parties to present their arguments on appeal, the committee has increased the page limit applicable to the proposed form briefs (including attachments) to 25 pages.</p>
			<ul style="list-style-type: none"> <li>▪ At pp. 4-5 of Appellant’s Opening Brief (PDF pp. 28-29), Subsections 6(d)-(e) ask the appellant to identify the arguments made by the defendant and whether the defendant filed a cross-complaint. A self-represented litigant who is the plaintiff in the case, as is common, may not fully understand the defendant’s arguments. Although we understand the judicial reader’s interest in the opposing position, the answer to the first question</li> </ul>	The committee declines to make the suggested change. First, <i>Appellant’s Opening Brief</i> (form APP-200) may be filled out by defendant-appellants. In these cases, the information requested by items 6(d) & (e) would not be included in the respondent’s brief. Second, the committee believes these items request information that would be useful for the appellate division in understanding what transpired in the

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	Commenter	Position	Comment	Committee Response
			<p>will be largely, if not entirely, found in the Respondent’s Brief. Likewise, because “cross-complaint” is a term of art, and cross-complaints are exceptional, the appellant may find the second question confusing. For these reasons, we suggest that these two questions be omitted, or made optional if the appellant wishes to provide an answer.</p>	<p>trial court. Finally, the committee believes that any confusion will be minimized by the information provided in <i>How to Use Form APP-200 in Limited Civil Cases</i> (APP-200-INFO)</p>
			<ul style="list-style-type: none"> <li>▪ At pp. 5 &amp; 7 of APP-200-INFO (PDF pp. 36, 38), the Information Sheet refers to standards of review, but the Appellant’s Opening Brief and Respondent’s Brief do not mention standards of review. Given the basic importance of these standards on appeal and the possibility that self-represented litigants will not read form APP-200-INFO, the form briefs could include a reference to the standard of review at PDF pp. 30 (What the Trial Court Did Wrong) &amp; 44 (Responses to Appellant’s Arguments). We suggest using a check box for the standards of review.</li> </ul>	<p>The committee declines to make the suggested revision. The committee had to strike a balance between including additional information on the form brief, keeping the form’s length reasonable, and ensuring that the parties have sufficient space to provide an answer. The committee concludes that the instructions to item 7 on form APP-200 and item 3 on form APP-201, which specifically direct the party to refer to the relevant section of the information sheet, will sufficiently advise the party of the need to address the standard of review.</p>
			<ul style="list-style-type: none"> <li>▪ Sections 5 and 8 (PDF pp. 27, 30) in the Appellant’s Opening Brief reference the Information Sheet, but sections 2 and 3 of the Respondent’s Brief (PDF pp. 43–44) do not reference the Information Sheet. We suggest including references to the Information Sheet in the Respondent’s Brief.</li> </ul>	<p>The committee has made the suggested revision.</p>

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**Appellate Procedure: Form Briefs for Use in Limited Civil Appeals** (amend Cal. Rules of Court, rule 3.886; approve forms APP-200, APP-200-INFO, APP-201, APP-201-INFO, APP-202 and APP-202-INFO; revise APP-101-INFO)

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

	Commenter	Position	Comment	Committee Response
			<p><b>3. Comments on specific lines or aspects</b></p> <ul style="list-style-type: none"> <li>▪ At p. 3 of APP-200-INFO (PDF p. 34), in the first column at the bottom under number 11, the term “district court” presumably intends to refer to “trial court.”</li> <li>▪ At p. 3 of APP-200-INFO (PDF p. 34), in the second column in the middle under number 11, “App’x” presumably intends to refer to “AA.”</li> </ul>	<p>The committee has made the recommended revisions.</p>
			<ul style="list-style-type: none"> <li>▪ At p. 2 of APP-200-INFO (PDF p. 33), in the second column under number 8, presumably “denial” (“the trial court’s denial of your motion for new trial”) intends to refer to “grant.”</li> </ul>	<p>The committee declines to make the recommended revision. The example is addressing a situation where a party loses at trial, unsuccessfully moves for a new trial, and then appeals both the jury verdict and the denial of the motion for a new trial.</p>
			<ul style="list-style-type: none"> <li>▪ At p. 3 of the Appellant’s Opening Brief (PDF p. 27), under “What Are the Facts of this Case?” in number 5, we recommend expanding the explanation along the following lines, given the possibility that many self-represented litigants may not read form APP-200-INFO:</li> </ul>	<p>The committee declines to make the suggested revision. The committee had to strike a balance between including additional information on the form brief, keeping the form’s length reasonable, and ensuring that the parties have sufficient space to provide an answer.</p> <p>The committee has slightly revised the instructions to the fact section in light of this and similar comments. As revised, the committee believes the instructions, which refer the party to the relevant part of the information sheet, are sufficiently clear given the available space.</p>
			<p>In this section, discuss only the facts important to the arguments you are</p>	



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	Commenter	Position	Comment	Committee Response
			<p>making in this court and that were presented to the trial court. Here are some examples. If you are appealing from an order sustaining a demurrer to your complaint (dismissing your case before a trial), state the facts that you included in your complaint. If you are appealing after a trial, discuss the facts that you presented and the facts your opponent presented.</p>	
			<p>For every fact you include, you must state where the court can find that fact in the record. For example, if you are referring to the fact that “they went to the store” and that fact is on page 14 of volume 1 of the clerk’s transcript, write “They went to the store. (1 CT 14.)” If the fact is on page 26 of volume 2 of the reporter’s transcript, write “They went to the store. (2 RT 26.)”</p>	
			<p>Read item 11 on Information on Using Form Appellate Briefs (form APP-200-INFO) before filing out this section. Remember, failing to follow these rules may result in the appellate division disregarding part or all of your statement of the facts and ruling against you.</p>	
			<ul style="list-style-type: none"> <li>▪ At p. 4 of Appellant’s Opening Brief (PDF p. 28), we suggest changing “Describe the</li> </ul>	<p>The committee has made the suggested revision.</p>

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**Appellate Procedure: Form Briefs for Use in Limited Civil Appeals** (amend Cal. Rules of Court, rule 3.886; approve forms APP-200, APP-200-INFO, APP-201, APP-201-INFO, APP-202 and APP-202-INFO; revise APP-101-INFO)

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	Commenter	Position	Comment	Committee Response
			<p>proceedings before the trial court” to “Describe the proceedings in the trial court.”</p> <ul style="list-style-type: none"> <li>▪ At p. 7 of the Appellant’s Opening Brief (PDF p. 31), we suggest adding “Optional” in parenthesis after “Argument 2,” so it would be: Argument 2 (optional). The instructions for the argument section say it is not mandatory to include more than one argument, but it would be a helpful reminder so that self-represented litigants do not feel obligated to fill the space.</li> <li>▪ After the signature line on all the briefs, we suggest adding: “Don’t forget to serve this brief on the other parties and the trial court and use a proof of service. See the instructions on page 1 of this brief.”</li> </ul>	<p>The committee has made the suggested revision.</p> <p>The committee has made the suggested revision.</p>
3.	<p>Family Violence Appellate Project By Gloria Carolina Chong, Housing Attorney, Housing and Employment Justice Program Oakland</p>	AM	<p>The Family Violence Appellate Project (“FVAP”) submits the following comments regarding the Judicial Council’s (“Council”) proposed new form briefs and instructions (Appellant’s Opening Brief—Limited Civil Appeal (form APP-200), Respondent’s Brief—Limited Civil Appeal (form APP-201), Appellant’s Reply Brief—Limited Civil Appeal (form APP-202), and Information on Using Form Appellate Briefs (APP-200-INFO)) for limited civil appeals.</p> <p>FVAP is the only nonprofit organization in California dedicated to representing domestic</p>	<p>No response necessary.</p> <p>No response necessary.</p>

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			<p>violence survivors in civil appeals for free. FVAP’s goal is to empower abuse survivors through the court system and ensure that they and their children can live in safe and healthy environments, free from abuse. This includes a commitment to increasing survivors’ access to secure and safe housing through representing survivors in appeals, including limited civil appeals. Our expertise in appellate procedure and creating plain language materials for pro per litigants makes FVAP uniquely situated to assess the impact of the Council’s proposed new limited civil appeal forms.</p> <p>We greatly appreciate the Council’s work to create these new forms and provide thoughtful instructions for each form. We submit the following comments to ensure these forms and instructions serve their crucial function of accurately conveying information that court users — particularly pro per litigants — can understand.</p> <p><b>I. Consider Adding a Table of Contents to Form APP-200-INFO.</b> We commend the Council for providing such extensive information to pro per litigants regarding the civil appeals brief-writing process in form APP-200-INFO. Because of APP-200-INFO’s length, we suggest adding a table of contents. A table of contents would make it easier for pro per</p>	<p>The committee appreciates the feedback.</p> <hr/> <p>The committee declines to make the recommended revision. Instead, the committee has revised the proposal to split up APP-200-INFO into three separate information sheets, one applicable to each form brief:</p> <ul style="list-style-type: none"> <li>• <i>How to Use Form APP-200 in Limited Civil Cases</i> (form APP-200-INFO)</li> </ul>

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			<p>litigants to find specific pieces of information within the form.</p> <hr/> <p><b>II. Consider Clarifying and Expanding the Page Limits for Each Form Brief</b>            For pro per litigants to have enough space to make their arguments, the Council should consider expanding the page limit to at least 25 pages. Currently, the proposed form briefs’ explanations and formatting take up a significant amount of space, so expanding the page limits would ensure equity among litigants regarding the amount of space they have to make their arguments.</p> <p>Further, the current page requirements on page one of each form brief state the following, “Your brief cannot be longer than 20 pages, including this form and any attached pages.” With this language, pro per litigants may mistakenly believe that the page limit includes any additional paperwork such as exhibits and other documents in the record. Thus, current language should clarify that the</p>	<ul style="list-style-type: none"> <li>• <i>How to Use Form APP-201 in Limited Civil Cases</i> (form APP-200-INFO)</li> <li>• <i>How to Use Form APP-202 in Limited Civil Cases</i> (form APP-202-INFO)</li> </ul> <p>The committee believes these shorter information sheets, which include only information relevant to the form brief being filled out, will make it easier for litigants to find relevant information.</p> <p>The committee has made the suggested revision to proposed rule 8.883. The committee believes a 25 page limit will provide more space for parties to make their arguments on appeal.</p> <p>To address the identified concern, the committee has made two revisions. First, the instruction regarding the page limit and attachments has been revised to state that the “brief cannot be longer than 25 pages, including this form and any additional pages used to complete your answers.” Second, the information sheet items which discuss attachments, formatting, and length, now advises that “The separate sheets of paper used to continue your answers and the proof of service are the only</p>

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			<p>attachments do not include any part of the trial court record, such as the exhibits or transcripts.</p>	<p>attachments which may be included with your brief. Do not attach any other documents.”</p>
			<p><b>A. Recommended language:</b>            “Your brief cannot be longer than 25 pages. The 25 pages includes this form and any attachments to the form. The 25 pages does NOT include any of the trial court record such as the exhibits or transcripts.”</p>	<p>See above response.</p>
			<p><b>III. Consider Adding Background Information to Form APP-200, Form APP-201 and Form APP-202</b>            Although the Council provided detailed information in the APP-200-INFO for pro per litigants, we think pro per litigants may not use form APP-200-INFO, instead relying solely on the form briefs. Thus, we suggest that the Council expand on some information in each form brief for pro per litigants who do not to refer to APP-200-INFO (perhaps because they were never made aware of the INFO form). Adding short summaries in the form briefs of complex concepts — such as record citation or standards of review — will make the forms more accessible for pro per litigants. The suggested additions below are listed in order of importance to include in the forms.</p>	<p>See below for responses to specific comments.</p>
			<p><b>A. Information Regarding Record Citation</b></p>	<p>The committee declines to make the recommended revision. The committee had to strike a balance</p>

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			<p>Form briefs APP-200 and APP-201 ask the litigant to note the important facts of the case and refers the litigant to form APP-200-INFO for more information on record citation. Without additional information in the form briefs themselves, pro per litigants may miss that citing to the record is necessary for the appellate court to effectively review the appeal. Thus, we suggest adding some information to form briefs APP-200 and APP-201 about record citation with an explanation on how to cite to the record.</p>	<p>between including additional information on the form brief, keeping the form’s length reasonable, and ensuring that the parties have sufficient space to provide an answer. The committee concludes that the multiple references to the need to review the information sheet strikes the appropriate balance between space constraints on the form brief and the need to provide instruction to the form user. The committee notes that the “fact section” items on form APP-200 and form APP-201 include instructions which direct the form user to the precise item on the information sheet which discuss record citations.</p>
			<p><b>1. Recommended Language:</b>            “For each fact you bring up, you must tell the appellate court where to find that fact in the record, this is also known as “citing to the record.” To cite the record, you must give the appellate court the following information: 1) the volume number of the record where the fact is, (2) the name of the part of the record where the fact is, and (3) the page number in the record where the fact is. For example, if the fact you mentioned is on page 10 of volume 2 of the Clerk’s Transcript, you could cite this as “(2CT10).”            Here is an example of how this could look in a brief: “On 1-1-2024, Mr. Tenant got a 3-day Notice to Terminate Tenancy from Landlord LLP. (2CT10).””</p>	<p>See above response.</p>

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			<p><b>B. Information Regarding Standard of Review</b>            Form APP-200 asks the litigant to state what they think the trial court did wrong and directs the litigant to form APP-200-INFO for more information on this section. Because a pro per litigant may not refer to form APP-200-INFO, we suggest adding information on standards of review as they are necessary to include in the appellant’s opening brief, yet a difficult concept to understand.</p>	<p>The committee declines to make the recommended revision. The committee had to strike a balance between including additional information on the form brief, keeping the form’s length reasonable, and ensuring that the parties have sufficient space to provide an answer. The committee concludes that the multiple references to the need to review the information sheet strikes the appropriate balance between space constraints on the form brief and the need to provide instruction to the form user. The committee notes that the argument section of form APP-200 includes an instruction with specifically directs the user to read the item on the information sheet which includes the standard of review discussion.</p>
			<p><b>1. Recommended Language:</b>            “You must include the <b>standard of review</b> that the appellate court should apply <b>for every argument</b>. The standard of review is how the appellate court looks at what happened at trial to decide if the trial court made a mistake.            Some common standards of review are de novo, abuse of discretion, and substantial evidence. De novo review is used if you are arguing the trial court applied the law wrong. Abuse of discretion review is used if you are arguing the trial court’s decision was absurd given the facts of the case. Substantial evidence review is used if you are arguing the evidence as found by the trial court does not support the trial court’s decision. Read</p>	<p>See above response.</p>

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			<p>item 14 on form APP-200-INFO to learn more about standards of review and about how to fill out this section.”</p>	
			<p><b>C. Information Regarding Formatting Requirements</b>            Each form brief indicates that the brief and attachments must comply with the formatting requirements of the California Rules of Court rule 8.883(c). However, it may be difficult for a pro per litigant to find the rules if they do not have internet access. Further, it may be difficult for pro per litigants to understand the complex language of the California Rules of Court. Thus, we suggest adding language that briefly lists the main formatting requirements. We also suggest that the Council directly refer litigants to form APP-200-INFO section 5, for more detailed information on the formatting requirements.</p>	<p>The committee declines to make the recommended revision. The committee had to strike a balance between including additional information on the form brief, keeping the form’s length reasonable, and ensuring that the parties have sufficient space to provide an answer. The committee concludes that the reference to the California Rule of Court which provides the formatting requirements, and the instruction immediately proceeding the discussion of the formatting requirements which direct the user to review the information sheet, strikes the appropriate balance between space constraints and the need to provide information to the form user.</p>
			<p><b>1. Recommended language:</b>            “The attachments must be on 8.5-inch by 11-inch white paper. They must have 1.5-inch margins on the left and right and 1-inch margins on the top and bottom. You should use a standard font that is at least 13-point. Don’t use bold, italics or underline unless you need to for emphasis. However, case names should be in italics or underlined. If you file the brief in paper form, bind it on the left-hand side, or on the top if your specific court rules say you should.</p>	<p>See above response.</p>



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			Please note: These are only the main rules, to see all the formatting rules you must follow, go to the California Rules of Court rule 8.883(c). Refer to form APP-200-INFO section 5, for more details on the formatting requirements also.”	
			<p><b>IV. Consider Adding a Reminder to Serve Documents After Signature Line</b>            Since litigants may forget about service after going through the process of drafting their brief, it would be useful to remind pro per litigants to serve the form briefs by including information on service at the end of the form briefs.</p>	The committee has made the recommended revision.
			<p><b>General Language Access Changes to All Forms</b>            Again, these new form briefs and instructions are a tremendous step forward in enabling access to appellate justice for pro per litigants seeking review of trial court decisions. To further increase the accessibility and positive impact of these forms, we encourage the Council to make plain language revisions on all form briefs and instructions.</p>	The committee appreciates the feedback.
			We believe that the form briefs and instructions drafted by the Council should be drafted in a manner similar to the forms used in Small Claims cases and petitions for Restraining Orders. Those forms use plain language principles that a party	The committee appreciates the feedback. See responses to specific comments below.

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			<p>with limited formal education is more likely to understand. We elaborate on our specific recommendations below.</p>	
			<p><b>I. Avoid Long Sentences with Many Clauses Separated by Commas.</b>            Although this type of sentence structure is common in legal writing, it often leads to confusion and misunderstanding for people without a legal background. These sentences should be broken down into separate, shorter sentences or with bullet-points. Below we provide examples of how to incorporate these changes using samples from the proposed APP-200 and APP-200-INFO form.</p>	
			<p><b>A. Item 3(c) on APP-200 Page 2</b>  <b>1. Original Language:</b>            “ c. Was a notice of intention to move for new trial, a motion for judgment notwithstanding the verdict, a motion for reconsideration, or a motion to vacate the judgment made and denied?”</p>	<p>The committee declines to make the suggested revision due to space constraints. The committee concludes that the item in question is sufficiently clear as drafted.</p>
			<p><b>2. Suggested language:</b>            “Were any of the following motions made and denied by the court?:            1) notice of intention to move for a new trial,            2) a motion for judgment notwithstanding the verdict,            3) a motion for reconsideration,</p>	<p>See above response.</p>

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			4) a motion to vacate the judgment”	
			<p><b>B. Item 8 on APP-200 Page 6</b>  <b>1. Original Language:</b>            “What do you think the trial court did wrong in deciding the case, and what law supports your arguments? Refer to facts presented to the trial court as well as the statutes, cases, court rules, or constitutions which support your arguments.”</p>	<p>The committee declines to make the suggested revision due to space constraints and the need to ensure that the form user has sufficient space to provide an answer.</p>
			<p><b>2. Suggested Language:</b>            “What do you think the trial court did wrong in deciding the case? Also, what law supports your arguments? Refer to the following to support your argument:            ● the facts presented at trial,            ● statutes,            ● cases,            ● court rules, and            ● constitutions.”</p>	<p>See above response.</p>
			<p><b>B. Item 9 on APP-200-INFO Page 3</b>  <b>1. Original Language:</b>            “Except in very limited circumstances listed in California Rules of Court, rule 8.823, you must have filed your notice of appeal within 30 days after the trial court clerk or a party served either a document called “Notice of Entry” of the trial court judgment or a file-stamped copy of the</p>	<p>The committee has made the recommended revision to item 9 on APP-200-INFO.</p>

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			<p>judgment or within 90 days after entry of the judgment, whichever is earlier.”</p>	
			<p><b>2. Suggested Language:</b>            “Usually, the deadline to file a Notice of Appeal is 30 days after you are served with either a document called “Notice of Entry” of judgment or a filed-stamped copy of the judgment or order. If neither of these documents is served on you, the deadline is 90 days from the date the order was made. There are very limited exceptions to these deadlines that you can find in the California Rules of Court, rule 8.823.”</p>	<p>See above response.</p>
			<p><b>II. Break Up Long Paragraphs of Dense Text into Smaller Sections.</b>            Individuals with limited English proficiency and limited literacy skills often struggle to read and comprehend long sections of prolix text.</p>	<p>The committee appreciates the information.</p>
			<p><b>A. Item 14 on AP-200-INFO Page 5</b>  <b>1. Original Language</b>            “- The standard of review that the reviewing court should apply in reviewing the argument. The standard of review is the rule or guidelines the appellate division will apply to determine whether a mistake was made in the trial court. Common standards of review include “de novo” if you are claiming the trial court misapplied the law; “abuse of discretion” if you are claiming the trial court</p>	<p>The committee has made the recommended revision to item 14 of APP-200-INFO.</p>

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			<p>exercised their discretion in an absurd or arbitrary way; or “substantial evidence” if you are challenging the factual findings of the judge or jury. You can get information about the possible standards of review that may apply on the Self-Help Guide to the California Courts website at <a href="https://selfhelp.courts.ca.gov/civil-appeals/legal-errors-standards-review">selfhelp.courts.ca.gov/civil-appeals/legal-errors-standards-review</a>.”</p>	
			<p><b>2. Recommended language</b>            “- The standard of review that the appellate court should apply in reviewing the argument. The standard of review is how the appellate court looks at what happened at trial to decide if the trial court made a mistake.</p>	<p>See above response.</p>
			<p>Some common standards of review are de novo, abuse of discretion, and substantial evidence. De novo review is used if you are arguing the trial court applied the law wrong. Abuse of discretion review is used if you are arguing the trial court’s decision was absurd given the facts of the case. Substantial evidence review is used if you are arguing the evidence as decided by the trial court does not support the trial court’s decision.</p>	
			<p>For more information about standards of review, go to the Self-Help Guide on the California Courts website at <a href="https://selfhelp.courts.ca.gov/civil-appeals/legal-errors-standards-review">https://selfhelp.courts.ca.gov/civil-appeals/legal-errors-standards-review</a>.”</p>	

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			<p><b>III. Use a Variety of Text Formatting Options Throughout the Forms.</b>                      Individuals with limited English proficiency or limited literacy skills would be able to understand and appropriately utilize the forms if the key words/phrases and instructions stood out from the rest of the text using italics, bold font, underlining, larger font size, ALL CAPS, and creative combinations thereof.</p>	<p>The committee has made revisions APP-200-INFO to add bold text to emphasize certain requirements or statements.</p>
			<p>These formatting options should be used especially in cases where a pro per litigant is likely to miss a key point in the information sheets. For example, because many, if not most, pro per litigants struggle to understand that appellate courts will not consider new evidence or information, it is common for pro per litigants to erroneously introduce new evidence during an appeal. See below for how to potentially emphasize this concept in the APP-200-INFO.</p>	<p>See above response.</p>
			<p><b>A. Item 11 on APP-200-INFO Page 3</b>  <b>1. Original language</b>                      “In item 5, discuss what happened between the parties to cause this lawsuit to be filed. You must only include facts that:                      ● Are important to what you think the district court got wrong, and                      ● Were presented to the trial court. The appellate division will not consider new evidence, such as</p>	<p>The committee has made the suggested revision to item 11 on APP-200-INFO.</p>

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			<p>the testimony of new witnesses or new exhibits, so do not discuss any facts that were not presented to the trial court.”</p>	
			<p><b>2. Recommended language</b>            “In item 5, discuss what happened between the parties to cause this lawsuit to be filed. You must ONLY include facts that:</p> <ul style="list-style-type: none"> <li>● Are important to what you think the trial court got wrong, and</li> <li>● Were presented to the trial court.</li> </ul> <p><b>IMPORTANT: The appellate division will most likely NOT consider new evidence, like the testimony of new witnesses or new exhibits, so do not discuss any facts that were not given to the trial court.”</b></p>	<p>See above response.</p>
			<p><b>IV. Use Language at a 7th or 8th Grade Reading Level.</b>            The language in forms used by the public should be at about a 7th or 8th grade reading level. Thus, we encourage the Council to use less complex language when possible.</p>	<p>The committee appreciates the feedback.</p>
			<p>Below is list of words used in the form briefs and instructions that have easier to understand synonyms. The Council is welcome to use the alternative synonyms to make their forms and instructions even more reader-friendly for pro per litigants:</p>	

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			<p>Replace “concluded” with “finished.” (AP-200, pg. 2)</p> <p>Replace “believe” with “think.” (APP-101-INFO, pg. 10; APP-200-INFO, pgs. 2, 3,4,5 7 &amp; 8)</p> <p>Replace “indicate(s)/(d)” with “show(s)/(ed)”, “put” or “write”, depending on what fits best. (APP-101-INFO, pgs. 8 &amp;13; APP-200, pgs. 1 &amp; 2; APP-200-INFO, pgs. 3 &amp; 4; APP-201. pg. 1; APP-202. pg. 1.)</p> <p>Replace “conventional” with “standard.” (APP-200-INFO, pgs. 2, 6 &amp; 9.)</p> <p>Replace “determine” with “decide.” (APP-101-INFO, pgs. 1, 3, 6, 9 &amp;14; APP-200-INFO, pgs. 3, 5 &amp; 7.)</p> <p>Replace “provide” and “provided” with “give” and “given,” respectively. (APP-101-INFO, pgs. 4, 6, 8 &amp; 13; APP-200, pg. 1; APP-200-INFO, pgs. 2, 3, 4, 5, 6, 7, 8, 9 &amp; 10; APP-201, pgs. 1 &amp; 4.; APP-202, pg. 1)</p> <p>Replace “occurred” with “happened.” (APP-200-INFO, pg. 4)</p> <p>Replace “alleged” with “stated.” (APP-200-INFO, pg. 4.)</p> <p>Re: Invitation to Comment SPR 24-05 May 3, 2024 Page 9</p>	<p>The committee has made the recommended revisions on the indicated forms with the following exceptions. First, the committee declines to change “believe” with “think.” The committee concludes that “believe” is sufficiently clear. Second, the committee replaced “indicated” or “indicate” with “stated” or “state.”</p>



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			<p>Replace “comply with” with “meet.” (APP-200, pg. 1; APP-201, pg. 1; APP-202 pg. 1.)</p> <p>Within the context of raise an argument or arguments raised, replace “raise” and “raised” with “make” and “made” respectively. (APP-101-INFO, pg. 7; APP-200-INFO, pgs. 4, 6, 7, 8 &amp; 10; APP-201, pg. 5; APP-202, pg. 2)</p> <p>Replace “permitted” to “allowed.” (APP-200-INFO, pg. 7; APP-201, pg. 5.)</p> <p>* * *</p>	
			<p>It is our hope that this is the beginning of a longer dialogue about ways the California courts can be more accessible to pro per litigants.</p>	<p>The committee appreciates the feedback and welcomes suggestions on how to improve litigants’ access to the California courts.</p>
			<p>In conclusion, we express our appreciation for the Judicial Council’s work on introducing these important form briefs and instructions, and for the Council’s consideration of these comments</p>	<p>The committee appreciates the feedback.</p>

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
4.	Los Angeles County Bar Association by Julia C. Shear Kushner, Chair, Appellate Courts Section	AM	<p>The Appellate Courts Section of the Los Angeles County Bar Association (LACBA) approves of, and joins in, the Committee on Appellate Courts (CAC) of the California Lawyer’s Association Litigation Section’s response to the Invitation to Comment on SPR24-05 (Form Briefs), attached to this letter. The Appellate Courts Section joins the CAC in its support of the proposal and commendation of the Appellate Advisory Committee for this effort.</p> <p>The Appellate Courts Section of LACBA consists of approximately 250 members of the bar actively and regularly involved in handling civil, criminal, and juvenile appeals in private practice and with public agencies and entities. The Appellate Courts Section provides continuing legal education seminars concerning state and federal appellate practice, strives to improve the administration of appellate justice by working with the appellate courts and serving as a bridge between the bench and the bar, provides a forum for professional networking among members of the appellate bar, and seeks to improve the appellate practice by monitoring and evaluating proposals affecting appellate practice and recommending changes to relevant statutes and rules.</p> <p>*[The commenter attached a copy of the comment submitted by the California Lawyer’s Association Committee on Appellate Courts]</p>	<p>The committee appreciates the feedback and notes the commenter’s support for the proposal and joinder in the California Lawyer’s Association’s comment.</p>

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
5.	Orange County Bar Association by Christina Zabat-Fran, President	AM	<p>The 20-page limit should be enough for most cases, but there are a lot of different questions and subquestions that theoretically could require a party to attach a sheet of paper for additional explanation. And right now, the instruction reads “Continue your answer on an attached sheet of paper, and write ‘Attachment 6b’ at the top.” (emphasis added). This implies the party must include a separate sheet of paper for each subquestion, even when the required additional explanation might be short and only take a few lines on the page.</p> <p>Consider changing the instructions to “Continue your answer on an attached sheet of paper, and write ‘Attachment 6b’ as the heading to your answer to this question.” Or something similar.</p>	The committee declines to make the suggested revision. Under the Judicial Council’s Form Manual, the continuation of each answer needs to be on a separate attachment.
6.	San Diego County Bar Association by Jeff Michalowski, Chair, Appellate Practice Section	AM	<p>Dear Madam Chief Justice and Members of the Judicial Council:</p> <p>The Appellate Practice Section of the San Diego County Bar Association appreciates the opportunity to comment on proposal SPR24-05, Appellate Procedure: Form Briefs for Use in Limited Civil Appeals.</p> <p>The Appellate Practice Section thanks Melanie Gold and Richard Benes for their work in preparing this letter.</p>	No response necessary.

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	Commenter	Position	Comment	Committee Response
			<p><b>I. Overview Comment to Form Brief Proposal</b></p> <p>The San Diego Appellate Practice Section was pleased and impressed with the Judicial Council’s detailed proposal to provide form briefs to assist litigants in bringing their limited civil appeals. We strongly endorse the proposal, with some modest suggestions described below. If the form brief concept proves useful in limited civil appeals, as we expect it will, we encourage the Judicial Council to consider potentially expanding the rule to assist self-represented litigants in unlimited civil appeals. We are available to participate in evaluating the use of the Form Brief after implementation and to assist in considering any necessary modifications.</p>	<p>The committee appreciates the feedback and notes the commenter’s support for the proposal.</p>
			<p>The San Diego Appellate Practice Section has particular expertise in this area. We have long supported measures providing greater access to justice for unrepresented litigants in the appellate courts. We sponsor two programs in which our attorneys have worked with hundreds of self-represented appellate litigants: (1) the San Diego Appellate Self-Help Workshop—a monthly program in which volunteer appellate attorneys educate self-represented litigants on appellate rules and procedure; and (2) the Access to Appellate Justice project—a pilot program that seeks to match low-income self-represented litigants with attorneys willing to represent them on a pro bono basis.</p>	

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	Commenter	Position	Comment	Committee Response
			<p>Through these programs, we have developed an understanding of how best to communicate complex appellate topics to self-represented litigants. We have also witnessed first-hand the difficulties experienced by self-represented litigants in presenting their cases on appeal. Even with the information provided at the workshops, most of these litigants have a hard time preparing an organized appellate brief that is effective in describing the relevant facts and in asserting legal arguments. Based on this experience, we think a form brief will provide a critical tool to assist litigants in brief preparation. It will also potentially provide an economical way for attorneys who do not frequently practice in appellate courts to prepare and submit briefs in limited civil appeals.</p>	
			<p><b>II. Response to Request for Specific Comments</b></p> <p><b>A. Does the proposal appropriately address the stated purpose?</b>            Yes. Providing a form brief will help certain parties draft more effective briefs because it will help them better organize their briefs and more effectively describe the relevant facts and legal contentions.</p>	<p>The committee appreciates the feedback</p>
			<p>The most helpful aspect of the proposed Form Brief is providing the litigants with a printed</p>	<p>The committee appreciates the feedback.</p>

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			<p>outline to format and structure their presentation. Without a structure and the accompanying instructions, self-represented litigants have a hard time knowing how to begin and/or how to communicate their main points. The structure will also help opposing parties and courts in effectively responding to and evaluating the merits of the appellate arguments.</p>	<p>The committee appreciates the feedback.</p> <p>The committee appreciates the feedback. To help ensure that litigants have more space to provide their answers and information, the committee has revised the proposal to provide a 25-page limit.</p>
			<p>The Form Brief will also assist litigants in complying with important appellate rules, such as describing only matters that are part of the appellate record and providing citations to the record. This will promote a decision on the merits, rather than a determination on procedural grounds, such as waiver/forfeiture.</p> <p>As discussed below, we think the proposal could be improved by providing in the Form Brief more specific directions and examples, and better reference to the Instruction materials. We will discuss those in Part III below.</p>	
			<p><b>B. Does the proposed 20-page limit for the form brief (including any attachments) provide the parties with sufficient space to present their arguments on appeal?</b></p> <p>In general yes, with the safety net of Rule 8.883(b)(4)—which would be renumbered to Rule 8.883(b)(5) if the proposal is adopted—allowing the presiding judge to permit a longer brief for</p>	

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			<p>good cause. It is sensible for the page limit for form briefs to align with the existing 20-page limit for typewritten briefs (see Rule 8.883(b)(2)).</p> <p><b>III. Suggestions for Modest Changes</b></p> <p>1. We understand that this form is a fillable pdf form. (If it is not, we would encourage you to make it one.) We thus think the lines on the form are somewhat confusing and might not be helpful. Additionally, if the litigant uses a printed version of the form and completes it in a handwritten form, the lines are so close together, it would be hard for the court to read the content. If there are to be lines on the form, we would suggest the line spacing be increased somewhat.</p> <p>2. Regarding the <b>Information on Using Form Appellate Briefs (form APP-200-INFO) form</b>, we think this Information form is confusing because its numbering does not correspond with the sections on the Form Briefs. To be most useful, the circled numbers should correspond with the circled sections. That way the litigant will easily find the directions for that section. For example, on the Appellant’s Form Brief, the circled section 1 corresponds with the circled section 7 in the Information form. Likewise, on the Respondent’s Form Brief, the circled section 1 corresponds with the circled section 18. If the Judicial Council intends to use one Information</p>	<p>The committee has made the suggested revision and removed the lines from the text boxes.</p> <p>The committee declines to make the suggested revision as it does not comply with the Judicial Council Forms Manual provisions on numbering items on a form.</p> <p>However, to help litigants find relevant information in the information sheets, the committee has revised APP-200-INFO to split it into three information sheets, one for each of the proposed form briefs:</p> <ul style="list-style-type: none"> <li>• <i>How to Use Form APP-200 in Limited Civil Cases (form APP-200-INFO)</i></li> </ul>

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			<p>form for all three briefs, perhaps the sections could be labeled 1A [appellant’s brief sections]; 1R [respondent’s brief sections]; and 1RB [reply brief sections]. Alternatively, the form could be clearly subdivided into three sections, corresponding to the three form briefs, with the circled numbering starting at 1 for each section.</p>	<ul style="list-style-type: none"> <li>• <i>How to Use Form APP-201 in Limited Civil Cases</i> (form APP-200-INFO)</li> <li>• <i>How to Use Form APP-202 in Limited Civil Cases</i> (form APP-202-INFO)</li> </ul> <p>The committee believes these shorter information sheets, which include only information relevant to the form brief being filled out, will make it easier for litigants to find relevant information and minimize potential confusion.</p>
			<p>3. On the first page of each of the Form Briefs, the second bullet point states: “<b>Before you fill in this form, read Information on Using Form Appellate Briefs (form APP-200-INFO). You can get this form at any courthouse or county law library or online at <a href="http://www.courts.ca.gov/forms">www.courts.ca.gov/forms</a>.</b>” (Bolding added)</p> <p>We think this direction to “read” the APP-200 Information form before filling out the Form Brief creates a difficult task for the self-represented litigant. Although the Information form contains helpful advice, the Information form is dense and would be hard to “read” as a whole for most self-represented litigants, especially if English is a second language. We are concerned that this direction could result in the self-represented litigant becoming overwhelmed with too much</p>	<p>The committee has made the suggested revision in part. The committee has changed “read” to “review.”</p> <p>In addition, to help address the concern that self-represented litigants may find a long information sheet daunting or difficult to read, the committee has revised APP-200-INFO to split it into three information sheets, one for each of the proposed form briefs:</p> <ul style="list-style-type: none"> <li>• <i>How to Use Form APP-200 in Limited Civil Cases</i> (form APP-200-INFO)</li> <li>• <i>How to Use Form APP-201 in Limited Civil Cases</i> (form APP-200-INFO)</li> <li>• <i>How to Use Form APP-202 in Limited Civil Cases</i> (form APP-202-INFO)</li> </ul>



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			<p>information, and could serve as a barrier to the use of the form.</p> <p>To prevent this outcome, we suggest two modest changes. First, replacing “read” with a term such as “review” or “refer to” would make the direction sound somewhat less intimidating. Second, it would be helpful to highlight that each section in the Form Brief has a corresponding section in the Information form, which would indicate to readers that they do not necessarily need to read the entire Information form at once. So we suggest the direction read as follows:</p> <p>“Before you fill in this Form Brief, review the Information on Using Form Appellate Briefs (form APP-200-INFO). You can obtain this Information form at any courthouse or county law library or online at <a href="http://www.courts.ca.gov/forms">www.courts.ca.gov/forms</a>.”</p> <p>Each section in the Form Brief has a corresponding section in the Information form to guide you how to complete that section. When you begin filling out the Form Brief, review the directions applicable to the particular section you are working on.”</p> <p>4. On page 2, sections 2 and 3 in the Form Brief, we would suggest a reference to the applicable statute or Rule of Court, and also adding those references to the Information form. For example:</p>	<p>The committee believes these shorter information sheets, which include only information relevant to the form brief being filled out, will make it easier for litigants to find relevant information and minimize potential confusion.</p> <p>The committee declines the suggestion that citations to the relevant statute or rule of court be included on the form itself. Instead, the committee has included the citations in the relevant section of the information sheet.</p>

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			<p>on Part 2 (“The Order Being Appealed as Stated in the Notice of Appeal”), we would add See Code of Civil Procedure section 904.2.</p> <p>on part 3 “Timeliness of Appeal,” we would add California Rules of Court, rule 8.104</p> <p>Adding these references will assist the self-represented litigant who wants to understand/view the underlying rule, and will also help attorneys who are using the form or others who are assisting the self-represented litigant fill out the form.</p> <p>5. The Form Brief (Appellant’s Brief) provides the following directions before the Factual Section (page 3, Section 5):</p> <p><b>“What Are the Facts of This Case?”</b></p> <p>“What are the facts about what happened between the parties that caused this lawsuit? Discuss only the facts that are important to your arguments made in item 8 and that were presented to the trial court. For each fact you mention, cite the page or pages of the record where it shows that the fact was presented to the trial court. Read item 11 on Information on Using Form Appellate Briefs (form APP-200-INFO) before filing out this section.”</p>	<p>The committee declines the suggested revision. The committee had to strike a balance between including additional information on the form brief, keeping the form’s length reasonable, and ensuring that the parties have sufficient space to provide an answer.</p> <p>To help avoid a situation where a litigant provides a narrative that is not tethered to the evidence or issues on appeal, the committee has revised the instructions on item 5 of form APP-200 to read: “Discuss the facts of the dispute between you and the opposing party that are important to the arguments you are making to the appellate division. You may only discuss facts that were presented to the trial court. For each fact you mention, cite the page or pages of the record where it shows that the fact was presented to the</p>

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				<p>trial court. Read item 11 on <i>How to Use form APP-200 in Limited Civil Cases</i> (form APP-200-INFO) before filling out this section.”</p>
			<p>We have some concern that these directions do not provide sufficient guidance for the self-represented litigant on how to describe the relevant facts, and as currently drafted, the first sentence—particularly the words “what happened between the parties”—may invite a lengthy narrative untethered to the evidence in the case or the issues on appeal. We suggest some modest changes. First, we think it would make sense to emphasize in the first sentence that parties should only discuss facts that were presented in the trial court. Second, to underscore that each fact should include a record citation, we think it would be useful to provide an example of what that would look like. So we think this direction should read:</p>	<p>See above response.</p>
			<p><b>“What Are the Facts of This Case?”</b>            “What are the facts that were presented in the trial court about the dispute between you and the opposing party? Discuss only the facts that are important to your arguments made in item 8 and that were presented to the trial court.            For each fact you mention, please provide the page or pages of the record—typically either the clerk’s transcript (CT) or reporter’s transcript (RT)—where it shows that the fact was presented to the trial court. For example, if you say, “they went to</p>	<p>See above response.</p>

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			<p>the store” and that fact was stated on page 14 of the clerk’s transcript, write “They went to the store. (CT 14.)” Read item 11 on Information on Using Form Appellate Briefs (form APP- 200-INFO) before filing out this section.”</p> <p>6. For the Respondent’s Brief Fact section: The proposed form states:</p> <p><b>“What Are the Facts of this Case?”</b></p> <p>You do not need to fill out this item if you agree with the [sic] what the Appellant’s Opening Brief says are the facts. If you do not agree with what the Appellant’s Opening Brief says are the facts, please describe here the facts about what happened between the parties to cause this lawsuit. For each fact you mention cite the page or pages of the record where it shows that the fact was presented to the trial court.”</p> <p>We agree with the first sentence (except that the additional word “the” should be removed). But,</p>	<p></p> <p>The committee has made the suggested revision in part. The instructions to item 2 on form APP-201 have been revised to read: “You do not need to fill out this item if you agree with what the appellant’s opening brief says are the facts. If you do not agree with what the Appellant’s Opening Brief says are the facts, please describe the facts presented to the trial court which are relevant to the parties’ arguments on appeal. For each fact you mention, cite the page or pages of the record where it shows that the fact was presented to the trial court. Read item 8 on <i>How to Use form APP-201 in Limited Civil Cases</i> (form APP-201-INFO) before filling out this section.</p> <p>The committee believes the language suggested by the commenter which would have the respondent provide “all different or additional facts” could be confusing to the respondent. The committee concludes it would be better for the respondent to provide their own recitation of the facts in the event they disagree with the facts articulated in the opening brief.</p> <p>See above response.</p>

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			<p>for the second sentence, we have the same concerns as expressed in Section III.5 above that this direction would not provide sufficient guidance to the litigant and would be unlikely to lead to a statement of facts relevant to the appellate issues. Thus, we suggest revising the second sentence to read: “If you do not agree with what the Appellant’s Opening Brief says are the facts, please describe here all different or additional facts that were presented in the trial court and are related to the legal issues raised by the appellant.”</p> <p><b>IV. Potential Future Expansion of Form Briefs to Unlimited Civil Appeals</b></p> <p>The San Diego Appellate Practice Section believes Form Briefs could also be valuable in unlimited civil appeals. The Invitation to Comment notes a concern that “Unlimited civil cases are more likely to involve complex or complicated factual or legal backgrounds for which form briefs may not be well suited.” We understand this concern, but do not believe it warrants categorically restricting the use of Form Briefs to limited civil appeals. In complex cases, self-represented litigants often have a particularly difficult time describing the relevant facts and law, and their appellate contentions. A structured brief would help these litigants organize the facts and arguments and provide a better opportunity for the court to consider their arguments on their merits.</p>	<p>The committee appreciates the feedback and notes the commenter’s support for using form briefs in limited civil cases as a “first step.”</p>

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			<p>While it would obviously be preferable for litigants to hire experienced counsel in more complex unlimited civil cases, that is often not financially feasible. In about one-third of civil appellate cases in the Court of Appeal, one or more of the parties are self-represented. Without assistance, these parties generally do not have the ability to prepare a brief that effectively explains the factual and legal issues and/or articulates their appellate contentions. This is a strong barrier to a full and meaningful appellate review of their challenges to the trial court’s rulings. A form brief could be a valuable tool to assist these litigants.</p>	<p>See above response.</p>
			<p>We fully support the Judicial Council’s decision to propose the Form Briefs only for limited civil appeals as a first step. But we think that if the Form Briefs prove useful for litigants in limited civil appeals, serious consideration should be given in the future to expanding the Form Briefs to unlimited civil appeals.</p>	<p>See above response.</p>
7.	<p>Superior Court of Los Angeles County by Bryan Borys, Director of Research and Data Management</p>	AM	<p>The following comments are representative of the Superior Court of California, County of Los Angeles (Court), and do not represent or promote the viewpoint of any particular judicial officer or employee.</p>	<p>No response necessary</p>

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	<b>Commenter</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>The Court agrees with SPR24-05, “Appellate Procedure: Form Briefs for Use in Limited Civil Appeals,” if modified.</p> <p>It is suggested that language be added to the information sheet for using the form briefs and to the form brief to clarify that the attachments to the form briefs are limited to the continuation pages of their briefs. The concern is that litigants may interpret “attachments” as used on the form brief and information sheet as including the items that are allowed under rule 8.204(a) in the Court of Appeal and the Supreme Court. There is no similar rule for limited civil appeals.</p>	<p>The committee notes the commenter’s support for the proposal.</p> <p>The committee has revised the instructions on each form brief to state, in relevant part, “You may attach additional pages as needed when answering an item by checking the box that states there is not enough space. . . . Your brief cannot be longer than 25 pages including this form and any additional pages used to complete your answers.”</p> <p>Additionally, the items on each of the proposed information sheets which discuss attachments, formatting, and length have been revised to include the statement “The separate sheets of paper used to continue your answers and the proof of service are the only attachments which may be included with your brief. Do not attach any other documents.”</p>