

**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 \_\_\_\_\_) to prepare 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 \_\_\_\_\_

For information about the appeal process in limited civil cases in general, you should read *Information on Appeal Procedures for Limited Civil Cases* (form \_\_\_\_\_)

To learn even more, you should read rules \_\_\_\_\_ and \_\_\_\_\_ of the California Rules of Court, which set 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 \_\_\_\_\_ and \_\_\_\_\_

**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; and
- 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 \_\_\_\_\_) may be used to prepare your respondent’s brief. The information sheet *How to Use Form APP-201 in Limited Civil Cases* (form \_\_\_\_\_) 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 \_\_\_\_\_). The information sheet *How to Use Form APP-202 in Limited Civil Cases* (form \_\_\_\_\_) 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, rules \_\_\_\_\_ 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 that 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 that 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-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 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 a new trial, you would check the box at item 2a and 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 California Rules of Court, rule .

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

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 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 trial 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 .) 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 kinds of legal errors were made. The appellate division can only review a case to see 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 the 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 that the trial court applied the law wrong. *Abuse of discretion* review is used if you are arguing that the trial court exercised its discretion in an absurd or arbitrary way. *Substantial evidence* review is used if you are arguing that 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

- 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.)

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 \_\_\_\_\_); or
- *Proof of Electronic Service* (form \_\_\_\_\_).

You can get more information about how to serve court papers and proof of service from *What is Proof of Service* (form \_\_\_\_\_) and on the Self-Help Guide to the California Courts website at

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.