APP-201-INFO How to Use Form APP-201 in Limited Civil Cases

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 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 www.courts.ca.gov/rules and 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; 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. 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* (form 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, rules 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 trial court's decision 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 that 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 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-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 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 email 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 discuss 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 trial court was correct in the decision the appellant is challenging on appeal or why the appellant should not be allowed to appeal; and
- 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 the 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 the 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 the appellant's case to require the trial court's decision to be changed (or *reversed*).

In each of your responses, you must clearly identity 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 8 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.

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.

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 Self Help Guide to the California Courts website at 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.