

**APP-001-INFO** Information on Appeal Procedures for Unlimited Civil Cases**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 \$25,000, 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 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 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 California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-appeals.htm](http://www.courts.ca.gov/selfhelp-appeals.htm).
- 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 Infraction* (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 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 affected the court's or jury's decision. An error that affected the outcome of the case is called a "prejudicial error" because it caused harm (in other words, the error was "prejudicial") to the person appealing the order or judgment.

A prejudicial 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, and not enough evidence to support the judgment or order.

If the appellant thinks there was not enough evidence, the appellant may ask the Court of Appeal to determine if there was "no substantial evidence" supporting the judgment, order, or other decision being appealed.

It is difficult to win an appeal. The Court of Appeal will generally not overturn the judgment, order, or other decision being appealed unless the record clearly shows a prejudicial error was made. The trial court does not have to prove its decision was correct. Again, it is up to the appellant to prove that an error was made and that the error affected the outcome of the case.

**4 How does the Court of Appeal review the case?**

When it conducts 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 conclusion about which side had more or stronger evidence or whether the



witnesses were believable.

The rules or “standards of review” that the Court of Appeal will use to decide if the trial court made an error may be different depending on the types of issues you are raising.

For more specific information about how the Court of Appeal reviews the trial court decision, visit the California Courts Online Self-Help Center on Civil Appeals at [www.courts.ca.gov/12431.htm](http://www.courts.ca.gov/12431.htm).

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

You do not *have* to hire a lawyer to represent you in an appeal, unless you are a corporation. Corporations must be represented by a lawyer.

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 e-mail 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.

You must keep the court 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. If you use a different address, be sure to check it regularly to stay informed about your case.

You may refer to *Notice of Change of Address or Other Contact Information (form MC-040)* as an example of how to notify the court and parties about a change of your contact information. Please note, however, that the document that you draft needs to be filed with the Court of Appeal (not the Superior Court) and served on the parties.

## 6 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 California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-lowcosthelp.htm](http://www.courts.ca.gov/selfhelp-lowcosthelp.htm) in the Getting Started section.

### INFORMATION FOR THE APPELLANT

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in 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.

## 7 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).

## 8 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 get a copy of Code of Civil Procedure section 904.1 at <http://leginfo.ca.gov/faces/codes.xhtml>.)

## 9 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).

## 10 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 California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

## 11 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 calendar days** after the trial court clerk or a party serves either a document called a “Notice of Entry” of the trial court judgment or appealable order or 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 calendar 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 calendar 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.

## 12 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.

## 13 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.

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.

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

Within 15 days after the trial court clerk mails a notice that a notice of appeal has been filed in an unlimited civil case, 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.

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 calendar 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 California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

## 15 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.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 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 with the appellant’s opening brief. See (15) 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 you and the respondent agree to this, you can use an agreed statement instead of a clerk’s transcript as a record of documents filed in the trial court. 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. (See rule 8.122(b) of the California Rules of Court.)

If you choose this alternative, you must file with your notice designating the record on appeal either the agreed statement or a written agreement with the respondent (a “stipulation”), stating that you are trying to agree on a statement.



Within the next 30 days, you must then file the agreed statement or tell the trial court that you were unable to agree on a statement and file a new notice designating the record.

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

**Important!** The type of oral record you choose, including a reporter's transcript or a settled statement, should be carefully considered, as it may have effects on 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.**

Please note that the type of oral record you choose may affect your appeal. You may want to consult with an attorney to determine the best option in your case.

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 relating to 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. 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 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 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 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 calendar days you must either file the agreed statement or tell the trial court that you and the other parties were unable to agree on a statement and file a new notice designating the record.

## (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 California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).



**Respondent's review:** The respondent has 20 calendar 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 calendar 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.htm](http://www.courts.ca.gov/rules.htm).

**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.

**16** 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.

**17** 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 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 California Courts Online Self-Help Center 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 calendar 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 can use *Application for Extension of Time to File Brief (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.**

## 18 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."

## 19 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.

## 20 What is "oral argument"?

"Oral argument" is not a chance to introduce 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).

## 21 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.

## 22 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.

**23 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 California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-lowcosthelp.htm](http://www.courts.ca.gov/selfhelp-lowcosthelp.htm).

**24 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 2 of this information sheet, if you are considering filing a cross-appeal.

**25 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.

**26 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 15 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 calendar 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.

#### **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 calendar 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 calendar 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 California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

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

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 California Courts Online Self-Help Center 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 can 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 calendar days to reply to your brief.

## 28 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 will notify you of the date for oral argument in your case.

“Oral argument” is the parties’ chance to orally explain their arguments to 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 the 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 the appeal or ask the justices if they have any questions you could answer.

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



|   |  |
|---|--|
| PLAINTIFF/PETITIONER:<br>DEFENDANT/RESPONDENT:<br>OTHER PARENT/PARTY: | SUPERIOR COURT CASE NUMBER:<br><br>COURT OF APPEAL CASE NUMBER (if known): |
|---|--|

**OTHER PARTY AND NONPARTY WITNESS TESTIMONY AND OTHER EVIDENCE ATTACHMENT**

Use this form as an attachment to *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014) if other parties or non party witnesses provided testimony relevant to the reasons you are appealing the order or judgment in the case.

- Specify the name of any other party or nonparty witnesses who testified at the trial or hearing and other information specified below.
- Write a complete and accurate summary of what each person said that is relevant to the reasons for this appeal (for example, in response to questions asked by any of the parties (or attorneys) and/or the court). Include only what was actually said; do not comment or give your opinion about what was said.

**1. SUMMARY OF TESTIMONY AND EVIDENCE**

a. Name: \_\_\_\_\_  a party  a nonparty witness in the case  
 testified on behalf of (*specify*):  petitioner/plaintiff  respondent/defendant  other parent/party  
 on (*date*): \_\_\_\_\_.  
 Summary:

[Attachment 1a](#)

- (1) Did a party (or attorney) make an objection to this person's testimony?  No  Yes (*Specify in item 2.*)
- (2) During this person's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge allowed to be used as evidence to support or disprove the testimony?  No  Yes (*Specify in item 3.*)
- (3) During this person's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge *did not* allow to be used as evidence to support or disprove the testimony?  No  Yes (*Specify in item 4.*)

|   |   |
|---|---|
| PLAINTIFF/PETITIONER:<br>DEFENDANT/RESPONDENT:<br>OTHER PARENT/PARTY: | SUPERIOR COURT CASE NUMBER:             |
|   | COURT OF APPEAL CASE NUMBER (if known): |

b. Name: \_\_\_\_\_  a party  a nonparty witness in the case  
 testified on behalf of (specify):  petitioner/plaintiff  respondent/defendant  other parent/party  
 on (date): \_\_\_\_\_.  
 Summary:

[Attachment 1b](#)

- (1) Did a party (or attorney) make an objection to this person's testimony?  No  Yes (Specify in item 2.)
- (2) During this person's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge allowed to be used as evidence to support or disprove the testimony?  No  Yes (Specify in item 3.)
- (3) During this person's testimony, were any exhibits (documents, records, or other materials) relevant to the appeal presented that the judge *did not* allow to be used as evidence to support or disprove the testimony?  No  Yes (Specify in item 4.)

c. Was there testimony from other parties or other nonparty witnesses?  No  Yes

(If you answered yes, fill out and attach to this form as many additional *Other Party and Nonparty Witness Testimony and Evidence Attachment* (forms APP-014A) as needed to answer the question (or provide information in another document, such as *Attachment to Judicial Council Form* ([form MC-025](#)), labeled as Attachment 1c.)

|                       |   |
|-----------------------|---|
| PLAINTIFF/PETITIONER: | SUPERIOR COURT CASE NUMBER:             |
| DEFENDANT/RESPONDENT: |   |
| OTHER PARENT/PARTY:   | COURT OF APPEAL CASE NUMBER (if known): |

2. **Objections to the other party's or nonparty witness's testimony relevant to the appeal**

*(Indicate which person's testimony was objected to and specify the objection. Also indicate whether the court "sustained the objection" (prevented the party from saying something) or "overruled the objection" (allowed the party to make a statement) and include any explanation given by the court.)*

[Attachment 2](#)

3. **Exhibits (documents, records, or other materials) relevant to the appeal allowed to be used as evidence to support or disprove the testimony.** *(Write a complete and accurate summary of the exhibits. Include any objections and the court's ruling on those objections. Do not comment or give your opinion about the exhibits.)*

[Attachment 3](#)

4. Exhibits (documents, records, other materials) relevant to the appeal not allowed to be used as evidence to support or disprove the testimony. *(Write a complete and accurate summary of the exhibits. Include any objections and the court's ruling on those objections. Do not comment or give your opinion about the items.)*

[Attachment 4](#)

# APP-014-INFO Information Sheet for Proposed Settled Statement

## 1 What information does this form provide?

This information tells you how to fill out *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-014). It includes:

- Instructions for appellant to complete form APP-014; and
- Definitions of legal terms, deadlines for filing and serving form APP-014, and the process for asking the court to certify your proposed settled statement for use in the Court of Appeal.

This information is also helpful for respondents who are completing *Response to Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form APP-020).

More information for the appellant and respondent about the settled statement process is found in *Information on Appeal Procedures for Unlimited Civil Cases* (form [APP-001-INFO](#)). Read items 13b(3) and 24d.

## 2 Where can I find general information about the appeals process?

For general information about the appeals process, read *Information on Appeal Procedures for Unlimited Civil Cases* (form [APP-001-INFO](#)) (family law cases are one type of unlimited civil case). To learn more, you may also:

- Visit the California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-appeals.htm](http://www.courts.ca.gov/selfhelp-appeals.htm).
- Find out about self-help resources for the district in which you filed your appeal, at [www.courts.ca.gov/courts\\_of\\_appeal.htm](http://www.courts.ca.gov/courts_of_appeal.htm).
- 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).
- Consult with a lawyer. Find a lawyer through your local bar association, the State Bar of California at [www.calbar.ca.gov](http://www.calbar.ca.gov), or the Lawyer Referral Services at 1-866-442-2529.

## 3 What is a settled statement?

A settled statement is a summary of the oral (spoken) trial court proceedings that is approved by the trial court judge who conducted those proceedings. The Court of Appeal will rely on this statement in deciding your case.

The appellant is responsible for preparing a proposed settled statement.

## 4 When can I use a settled statement?

You may use a settled statement as the record of the oral (spoken) trial court proceedings for an appeal if:

- The trial or hearing was not reported by a court reporter; or
- You have an order waiving your court fees and costs; or
- The court orders that you can use a settled statement instead of a court reporter's transcript.

## 5 What must be included in a proposed settled statement?

The proposed settled statement must include all of the following:

- A statement of the reasons for your appeal (see item **10**);
- A summary of the evidence and testimony of each witness that relates to the reasons for your appeal; and
- A copy of the judgment or order being appealed (must be attached to the settled statement).

## 6 What is the deadline to file the form?

File the original form in the trial court:

- At the same time you file *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003) or within **30 days** of that date;

**OR**

- Within 30 days of the date that the court sends, or a party serves, an order granting your motion to use a settled statement, if applicable.



## 7 What is the meaning of these words that are found in form APP-014 and this information sheet?

**Evidence:** Any proof legally presented at a hearing or trial through witnesses, records, or exhibits.

**Substantial evidence:** Evidence that is reasonable, believable, and of solid value. It is not just any evidence. The focus is on the quality—not the quantity—of evidence needed to support a legal conclusion.

**Findings:** A decision by a judge that something is a fact or is true or is relevant.

**Judgment:** The final determination of the rights of the parties in an action or proceeding.

**Objection.** A formal protest made by a party about what a party or witness says at the trial or hearing or about any exhibits or other evidence that the other side tries to introduce during a trial or hearing.

**Order.** A decision made by a judicial officer on an issue that is raised by a party in a lawsuit.

**Rulings on objections.** A ruling is a judge’s decision on a party’s objection to a witness’s testimony, exhibits, or other evidence at the trial or hearing. The judge can “sustain” the objection or “overrule” the objection.

*If the judge sustains* the objection, the judge is agreeing with the objection and will not consider that part of the testimony or evidence that is being objected to.

*If the judge overrules* the objection, the judge is disagreeing with the objection, and will allow the evidence to be introduced.

## 8 Overview for completing form APP-014

- Review the entire form to become familiar with the categories and what areas apply to the reasons for your appeal. Not all items will apply to your situation.
- Review the judgment or order that you are appealing and make a copy to attach to form APP-014.
- Know why you are appealing the trial court’s order or judgment. Describe the reasons in item 2 of form APP-014.

In addition, you will use form APP-014 to specify those portions of the record that have evidence relevant to your issues on appeal, such as:

- The testimony of a party or nonparty witness.
- The court’s ruling on an objection to a party’s or nonparty witness’s testimony.
- The court’s rulings about allowing (or not allowing) exhibits to be admitted into evidence to support or disprove a party’s or a nonparty witness’s testimony.
- The trial court’s findings at the hearing or trial.
- The court’s ruling on a motion or motions.
- The court’s rulings on one or several jury instructions (Note: not all cases have juries.)

Remember, not every item on the form may apply to your situation. Answering “yes” or “no” where indicated on form APP-014 and APP-014A will help you and the court focus on the issues that are relevant to your appeal.

## 9 How do I complete the caption (the top part of the form)?

**Name and contact information.** If you have a lawyer for the appeal, your lawyer will fill out the form. If you do not have a lawyer for the appeal, write your name and provide your contact information in the first part of the caption.

**Court address.** Complete the address for the superior court where your case is filed.

**Party names.** Write the names of the parties in the case. *Note for Domestic Violence Restraining Order cases:* If you are appealing a Domestic Violence Restraining Order, write your name next to Plaintiff/Petitioner if you are the Protected Person on the restraining order. Write your name next to Defendant/Respondent if you are the Restrained Person on the restraining order.



# APP-014-INFO Information Sheet for Proposed Settled Statement

**Amended statement.** If the court ordered you to amend (make changes to) a proposed settled statement, check the box under the name of the form. Then, on the line that follows the check box, write whether this is the first, second, third, fourth, etc. time you are amending the proposed settled statement.

**Filing date of notice of appeal.** Finally, fill in the date your appeal was filed, as well as the superior court case number and Court of Appeal case number.

## 10 How do I complete item 1, “Preliminary Information”?

In item 1 of form APP-014, check the boxes that apply and provide the dates requested.

## 11 How do I complete item 2, “Reasons for Your Appeal”?

In item 2 of APP-014, describe the errors (mistakes) you believe were made at the hearing or trial. For example:

### *No substantial evidence*

You might argue that there was no substantial evidence that supported the judgment or order that you are appealing. (See item 7 of this information sheet for the definition of substantial evidence.)

### *Error*

You might argue that an error or errors about the law or court procedure affected the outcome of the trial or hearing. This can include an argument that the court made a ruling that is based on a mistake about the facts of the case or about the law.

Before you complete this item, you should understand that the Court of Appeal will reverse the order or judgment you are appealing only if the error affected the outcome of the case. (“Reverse” means to change the trial court’s decision.)

If you need more space to describe the reasons for your appeal, check the box labeled, “Attachment 2a” and/or “Attachment 2b.” Then attach a separate page or pages (you can use form MC-025) to continue describing the reasons for your appeal).

### YOUR ARGUMENTS/REASONS CAN BE BECAUSE:

- There was no substantial evidence that supported the judgment or order.
  - There was an error or errors about either the law or court procedure.
- Examples are that the court:
- (1) misinterpreted the law;
  - (2) wrongly ruled on an objection; or
  - (3) gave an incorrect jury instruction.

### YOUR ARGUMENTS/REASONS CANNOT BE TO:

- Present your case all over again to the Court of Appeal;
- Present new evidence or new witnesses to the Court of Appeal;
- Generally complain about the judge or a lawyer; or
- Explain to the Court of Appeal that a witness did not tell the truth at the trial.

## 12 How do I complete item 3, “Summary of the Parties’ Testimony and Other Evidence”?

Indicate in item 3 of form APP-014 if a party in the case gave testimony at the trial or hearing. Item 3 provides space to summarize the testimony that is relevant to the reasons you gave in item 2 for this appeal.

After summarizing the testimony, indicate if there were any objections to the testimony and exhibits relevant to the appeal that the judge allowed, or did not allow, to be used as evidence to support or disprove the party’s testimony. If you answer yes to any of the questions following each party’s testimony, complete the corresponding item on page 4.

If you need more space to describe the testimony or evidence, check the box below the summary of the testimony (for example, “Attachment 3a(1)”). Then, attach a separate page or pages (you can use form MC-025) to continue the summary. Label the attachment “APP-014, Attachment 3a(1)” if you are continuing to summarize the testimony of the party named in item 3a(1).

If more than two parties provided testimony, complete *Other Party and Nonparty Witness Testimony and Other Evidence Attachment (Unlimited Civil Case)* (form APP-014A) and attach it to form APP-014.



**13 How do I complete item 4, “Summary of Nonparty Witness Testimony and Other Evidence”?**

If nonparty witnesses (persons other than the parties in the case) provided testimony at the trial or hearing that is relevant to the reasons for your appeal, you will need to provide the information and attach it to form APP-014.

You may use *Other Party and Nonparty Witness Testimony and Other Evidence Attachment (Unlimited Civil Case)* (form APP-014A) for this purpose.

**14 How do I complete item 5, “Trial Court’s Findings”?**

Indicate if the judge made any findings (decisions about the facts or the law) that are relevant to your reasons in item 2 of form APP-014 for this appeal. (See item 7 for the definition of findings.)

If you need more space to describe the trial court’s findings, check the box “Attachment 5.” Then, attach a separate page or pages (you can use form MC-025) to continue the summary. Label the attachment “APP-014, Attachment 5.”

**15 How do I complete item 6, “Summary of Motions”?**

If the trial court’s ruling on a motion is relevant to your reasons in item 2 of form APP-014 for this appeal, describe the motion. Include which party made the motion, what was said by the parties and the court about the motion, whether the trial court granted or denied the motion, and what the court said in ruling on the motion.

**16 How do I complete item 7, “Summary of Jury Instructions”?**

If one of your reasons in item 2 of form APP-014 for this appeal is a challenge to a jury instruction, indicate which instruction you are challenging and which party requested it. Also state whether the court gave the instruction to the jury, refused to give the instruction to the jury, or modified the instruction before giving it to the jury. If an instruction was given orally rather than in writing, provide the language of the oral instruction. And if an instruction was modified, describe how the instruction was modified.

**17 Attach order or judgment and make copies**

When you have finished your proposed settled statement:

- Attach a copy of the order or judgment you are appealing;
- Make one copy of the proposed settled statement and attachments for each party in your case; and
- Keep a copy for your records.

**18 Have all parties in the case served**

Have each party in your case served with a copy of the complete proposed settled statement with attachments.

For information about serving your documents:

- See *Information Sheet for Proof of Service* (form APP-009-INFO); and
- Go to the California Courts Online Self-Help Center at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

**19 File the proof of service forms with the court**

You can file the forms in person, by mail, or e-filing (if available) in the court that made the order or judgment you are appealing.

Ask the court clerk to stamp the extra copy for your records to show that the original was filed.

**20 Respondent’s options**

The respondent has 20 calendar days from the date you serve your proposed settled statement to serve and file either:

- Proposed amendments (changes) to the proposed settled statement. Use *Response to Appellant’s Proposed Settled Statement (Unlimited Civil Case)* (form APP-020) to request changes; or
- A notice choosing to provide a reporter’s transcript instead of a settled statement. This option is available if the oral proceedings in the trial court were reported by a court reporter.



**21** Review process

If the respondent proposes changes, the trial court judge then reviews both your proposed settled statement and the respondent's proposed amendments.

If the proposed settled statement does not need any corrections or modifications, the trial court judge will certify the statement as an accurate summary of the testimony and evidence relevant to the reasons for the appeal.

*Changes made to the settled statement*

If corrections or modifications are needed, and the judge makes the amendments to the statement, the amended statement will be sent to you and the respondent for your review.

If the judge orders you (the appellant) to make the corrections or modifications to the statement, you must serve and file an amended proposed settled statement within the time ordered by the judge.

*Resolving disagreements*

If you or the respondent disagree with anything in the amended proposed settled statement, the parties have 10 calendar days from the date the amended statement is sent to serve and file proposed amendments to the amended proposed settled statement.

The judge then reviews any proposed amendments and decides if any further changes to the proposed settled statement are necessary.

If corrections and modifications are needed, the process of review and proposing amendments as described in this section must be repeated.

**22** Certification

Once the trial court judge decides that no further changes are needed, the judge will certify the statement as an accurate summary of the testimony and evidence relevant to the reasons for the appeal. The trial court clerk will send the settled statement to the Court of Appeal.



|   |   |
|---|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY<br>STATE BAR NUMBER:<br><br>NAME:<br>FIRM NAME:<br>STREET ADDRESS:<br>CITY: STATE: ZIP CODE:<br>TELEPHONE NO.: FAX NO.:<br>E-MAIL ADDRESS:<br>ATTORNEY FOR (name): | <b>FOR COURT USE ONLY</b>               |
| <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b><br>STREET ADDRESS:<br>MAILING ADDRESS:<br>CITY AND ZIP CODE:<br>BRANCH NAME:   |   |
| PLAINTIFF/PETITIONER:<br>DEFENDANT/RESPONDENT:<br>OTHER PARENT/PARTY:   | SUPERIOR COURT CASE NUMBER:             |
| <b>ORDER ON APPELLANT'S PROPOSED SETTLED STATEMENT<br/>(UNLIMITED CIVIL CASE)</b><br><br><input type="checkbox"/> _____ Amended (If applicable, specify 1st, 2nd, 3rd, etc. amended form.)            | COURT OF APPEAL CASE NUMBER (if known): |

**1. The court has received and reviewed the following:**

- a.  Appellant's Proposed Settled Statement (Unlimited Civil Case) (form APP-014)  \_\_\_\_\_ Amended filed by the appellant on (date):
- b.  Response to Appellant's Proposed Settled Statement (Unlimited Civil Case) (form APP-020)  \_\_\_\_\_ Amended filed by the respondent on (date):
- c.  Other (specify):

**2. The court makes the following order:**

- a.  **Certification.** The court certifies that the statement proposed by the appellant in 1a is an accurate summary of the testimony and other evidence that is relevant to the appellant's reasons for the appeal. The court settles the statement and certifies that it is ready to be sent to the Court of Appeal.
- b.  **Court reporter transcript required.** The trial court proceedings in this case were reported by a court reporter. Instead of correcting the settled statement, the court orders under rule 8.137(f)(2) of the California Rules of Court that a transcript be prepared as the record of these proceedings. (Check the court's local rules to make sure the court has a rule providing that this option is available.)
- c.  **Corrections required.** Corrections are needed for the settled statement proposed by the appellant to be an accurate summary of the evidence and testimony for the issues the court addressed in the order or judgment being appealed.
  - (1)  A modified settled statement is attached to this order.
  - (2)  The appellant is ordered to prepare a settled statement incorporating the modifications listed below and to serve and file the modified statement.

(a)

(b)

|   |   |
|---|---|
| PLAINTIFF/PETITIONER:<br>DEFENDANT/RESPONDENT:<br>OTHER PARENT/PARTY: | SUPERIOR COURT CASE NUMBER:                     |
|   | COURT OF APPEAL CASE NUMBER <i>(if known)</i> : |

2. c. (2) Court orders *(continued)*:

(c)

(d)

(e)

(3)  *Additional corrections required.* More corrections than could be listed above were needed in order for the settled statement proposed by the appellant to be an accurate summary of the testimony and other evidence that is relevant to the issues the appellant indicated are the reasons for this appeal. A list of required modifications is attached. The appellant is ordered to prepare a statement incorporating these modifications and serve and file the modified statement.

d.  *Material required for the proposed settled statement to comply with rule 8.137.*

(1)  The proposed settled statement does not contain the following material required by rule 8.137.

(2) The appellant is ordered to prepare a new proposed settled statement that includes this material.

e.  The new proposed settled statement must be served and filed by *(date)*:

f.  Other orders are specified below:

Date:

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 (TYPE OR PRINT NAME)

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 SIGNATURE OF TRIAL COURT JUDICIAL OFFICER