

Court Technology Advisory Committee (CTAC)

Public Business Meeting

March 27, 2015

Teleconference



CTAC Public Meeting

Hon. Terence L. Bruiniers

Chair, Court Tech Advisory Committee



Open Meeting

I. Call to Order, Roll Call

Approval of January 23 Minutes
(Open Session)

Refer to DRAFT Minutes in materials.

II. Public Comment

Item 1. Chair Report

Hon. Terence L. Bruiniers

Chair, Court Tech Advisory Committee

Chair Report

- Welcome to new Assembly Member Mark Stone
(Designate is expected on today's call.)
 - 29th District – Santa Cruz, Santa Clara, Monterey
 - Chair, Assembly Judiciary Committee
 - Leader in environmental protection, child welfare, and public safety

Item 2.

New Joint Trial Court Technology Subcommittee

Hon. Marsha Slough
Chair, TCPJAC

Mr. Rick Feldstein
Vice-Chair, CEAC

Refer to the new subcommittee charge in the materials. There are no additional slides for this report.

Item 3. Rules Modernization Project – Phase 1

Hon. Peter Siggins
Chair, Rules & Policy Subcommittee

Hon. Louis Mauro, Chair, JATS
Chair, JATS

Mr. Patrick O'Donnell, Managing Attorney
Ms. Tara Lundstrom, Attorney

Rules Modernization Project

- Refer to rules proposal in materials.
- Proposal includes amendments to rule titles 2, 3, 4, 5, 7, and 8.
- Subcommittees and relevant advisory bodies have reviewed and approved.
- Modifications intend to be limited to technical changes to the rules.
- Request a Motion Recommending that that the Judicial Council's Rules and Projects Committee (RUPRO) approve the circulation of the proposed amendments to titles 2, 3, 4, 5, 7, and 8.

WORKSTREAM REPORTS

Item 4. Data Exchange Workstream

Mr. David Yamasaki

Executive Sponsor

Refer to Status Report Project 1. There are no additional slides for this report.

WORKSTREAM REPORTS

Item 5. E-Filing Workstream

Hon. Sheila F. Hanson
Executive Sponsor

Mr. Rob Oyung
Executive Sponsor

Refer to Status Report Project 2. There are
no additional slides for this report.

WORKSTREAM REPORTS

Item 6. Remote Courtroom Video Workstream

Hon. Terence L. Bruiniers

Executive Sponsor



Remote Video Workstream

General update and related materials

- Appointment to Language Access Plan Task Force – See News Release (attached)
- Review Fresno RVP Report – Q4 2014 (attached)
- Traffic Infraction rule extension will proceed for public comment

WORKSTREAM REPORTS

Item 7. Information Security Framework

Mr. Rob Oyung
Executive Sponsor

Refer to Status Report Project 5. There are no additional slides for this report.

SUBCOMMITTEE REPORTS

Item 8. Rules & Policy Subcommittee

Hon. Peter J. Siggins
Chair

Refer to Status Report Projects 7, 9, 12.
There are no additional slides for this
report.

SUBCOMMITTEE REPORTS

Item 9. Projects Subcommittee

Hon. Robert B. Freedman
Chair

Refer to Status Report Projects 4, 6, 8.
Survey DRAFT in materials. No further
slides for this report.

SUBCOMMITTEE REPORTS

Item 10. Joint Appellate Technology Subcommittee

Hon. Louis R. Mauro
Chair

Refer to Status Report Projects 4, 6, 8.
Action requested next slide.

a. Rules for E-Access to Appellate Court Records (Action Requested)

- Request a Motion Recommending that that the Judicial Council's Rules and Projects Committee (RUPRO) approve the circulation of the proposed amendments to titles 8.80 through 8.85.

Refer to rules proposal in materials.

End of Presentation (Slides)

Meeting Materials
follow this slide in the binder.

Please refer to the PDF Binder Bookmarks panel (left)
to view and navigate the list of additional materials.

Annual Agenda

Project 1. CMS Data Exchanges

Develop Standardized Approaches to CMS Interfaces and Data Exchanges with Critical State Justice Partners

CTAC Resource(s):

CTAC Workstream
 Executive Sponsor: David Yamasaki

JCC Staff Resource(s):

IT (Neil Payne)

MAJOR TASKS	STATUS	UPDATES
(a) Identify specific justice partners exchanges required and court interface needs.	In Progress	Justice partner meeting on January 26 to identify exchanges.
(b) Establish standards for, and define where feasible, common exchange(s), consistent with national standards, and secure methods to share those exchanges for courts wishing to implement them.	In Progress	Efforts began in February with vendors and justice partners. Will continue with justice partner specific focus sessions.
(c) Work with CMS vendors to facilitate timely implementation of standardized exchanges where needed, consistent with existing court deployment schedules.	In Progress	Continues via the Workstream meetings.
(d) Develop governance processes to ensure continuing development and maintenance of statewide data exchanges established, and to maintain on-going communication and cooperation with our justice partners and CMS vendors in this effort.	In Progress	Justice partner specific focus sessions to provide working topics for the governance track.

Annual Agenda
Project 2. E-Filing

Update E-Filing Standards, and Develop Provider Certification, Deployment Strategy, and Rules Evaluation

CTAC Resource(s):

- (a)-(c): CTAC Workstream
 Executive Co-Sponsors: Hon. Sheila F. Hanson and Rob Oyung
- (d): Rules & Policy Subcommittee

JCC Staff Resource(s):

IT (TBD, Manny Floresca), Legal Services (Patrick O'Donnell, Tara Lundstrom)

MAJOR TASKS	STATUS	UPDATES
(a) Update the technical standards for court e-filing, namely, the XML specification and related schema.	Not Started	
(b) Develop the E-Filing Service Provider (EFSP) selection/certification process.	In Progress	See item (c) below.
(c) Develop the roadmap for an e-filing deployment strategy, approach, and branch solutions/alternatives.	In Progress	Identified Program Manager – Snorri Ogata (LA Court). Conducted two planning meetings. Draft approach including ideas for e-filing summit to be discussed with CTAC Chair and Vice-Chair. Formal launch TBD after approval of approach.
(d) Evaluate current e-filing rules, including provisions for mandatory e-filing.	Not Started	

Annual Agenda

Project 3. Remote Courtroom Video

Develop Remote Courtroom Video Standards, a Pilot Program, and Update to Rules

CTAC Resource(s):

- (a)-(b): CTAC Workstream
Executive Sponsor: Hon. Terence L. Bruiniers
- (c): CTAC Rules & Policy Subcommittee

JCC Staff Resource(s):

IT (Fati Farmanfarmaian, Nate Moore), Legal Services (Patrick O'Donnell, Tara Lundstrom)

MAJOR TASKS	STATUS	UPDATES
(a) Develop technical standards for remote courtroom video.	Not Started	Justice Bruiniers appointed to Language Access Plan Task Force, which is expected to begin this work.
(b) Define and implement, in cooperation with the Access & Fairness and Interpreter’s Advisory Committees, a Video Remote Interpreting Pilot Program for foreign languages.	Not Started	
(c) Seek extension of Rule of Court 4.220 (Remote Video Proceedings in Traffic Infraction Cases). Consider Expansion to other case types.	In Progress	Rule proposal advanced for public comment; that cycle closes in June. CTAC will consider responses thereafter.

Annual Agenda

Project 4. Next Generation Hosting Strategy Assessment

Assessment of Alternatives for Transition to Next-Generation Branchwide Hosting Model

CTAC Resource(s):

CTAC Projects Subcommittee; workstreams may be required to complete the longer term components

JCC Staff Resource(s):

IT (Fati Farmanfarmaian, Kathy Fink, Raj Talla, Michael Derr)

MAJOR TASKS	STATUS	UPDATES
(a) Complete hosting needs assessment, develop implementation recommendations, including an evaluation of alternatives and costs.	In Progress	Completed an initial draft of survey; refining further before distributing to courts.
Note: Limited scope due to resource constraints; additional tasks to be considered in future annual agenda.		

Annual Agenda

Project 5. Information Security Framework

Document and Adopt Court Information Systems Security Policy Framework

CTAC Resource(s):

CTAC Workstream

Executive Sponsor: Rob Oyung

JCC Staff Resource(s):

IT (Michael Derr)

MAJOR TASKS	STATUS	UPDATES
(a) Finish the work that was started on the Court Information Systems Security Policy Framework.	In Progress	Review of framework published for Judicial Council IT completed February 23. Draft “How to Use the Framework” document for workstream review will be ready early April.
(b) Initially adopt the framework at a select group of pilot courts.	Not Started	Expect to publish draft framework by April/May 2015.
(c) Adopt the framework at the remaining courts, as needed.	Not Started	Expected August 2015.

Annual Agenda

Project 6. Disaster Recovery Framework Assessment

Survey and Assessment for Court Disaster Recovery Framework and Pilot

CTAC Resource(s):

CTAC Projects Subcommittee

JCC Staff Resource(s):

IT (Fati Farmanfarmaian, Kathy Fink, Raj Talla, Michael Derr)

MAJOR TASKS	STATUS	UPDATES
(a) Survey and provide a disaster recovery needs assessment and gap analysis for the major technology components in the trial and appellate courts.	In Progress	Completed an initial draft of survey; refining further before distributing to courts.
Note: Limited scope due to resource constraints; additional tasks to be considered in future annual agenda.		

Annual Agenda
Project 7. Privacy Policy

Develop Branch & Model Court Privacy Policies on Electronic Court Records and Access

CTAC Resource(s):

CTAC Rules & Policy Subcommittee

JCC Staff Resource(s):

IT (Manny Floresca), Legal Services (Patrick O'Donnell, Tara Lundstrom)

MAJOR TASKS	STATUS	UPDATES
(a) Continue development of a comprehensive statewide privacy policy addressing electronic access to court records and data to align with both state and federal requirements.	In Progress	Draft model under development in cooperation with CEAC and CLAC.
(b) Continue development of a model (local) court privacy policy, outlining the key contents and provisions to address within a local court's specific policy.	Not Started	

Annual Agenda

Project 8. SRL E-Services Portal

Evaluate Feasibility and Desirability of Establishing a Branch Self-Represented Litigants (SRL) E-Services Portal

CTAC Resource(s):

CTAC Projects Subcommittee; workstreams may be required to complete the longer term components

JCC Staff Resource(s):

IT (Fati Farmanfarmaian), Legal Services (Patrick O'Donnell, Tara Lundstrom), and CFCC (Karen Cannata, Diana Glick)

MAJOR TASKS	STATUS	UPDATES
(a) Determine and validate both litigant needs (including LEP litigants) and court requirements.	In Progress	TurboCourt Pro Se Portal informational demo completed for chair and subcommittee chair. HotDocs demo to be scheduled.
(b) Identify available existing technology and infrastructure components to leverage.	In Progress	CCFC staff conducted preliminary survey of court existing online services and other support for self-represented litigants. IT staff gathered preliminary report of existing JCC infrastructure.
(c) Identify information resources to assist litigants.	Not Started	
Note: Limited scope due to resource constraints; additional tasks to be considered in future annual agenda.		

Annual Agenda
Project 9. E-Signatures

Develop Standards for Electronic Signatures

CTAC Resource(s):

CTAC Rules & Policy Subcommittee

JCC Staff Resource(s):

IT (Manny Floresca), Legal Services (Patrick O'Donnell, Tara Lundstrom)

MAJOR TASKS	STATUS	UPDATES
(a) Develop procedures and standards for use of electronic and digital signatures for court documents, as specified in Government Code section 68150(g), for inclusion in the Court Records Manual.	In Progress	Draft model under development in cooperation with CEAC.
(b) Recommend rule proposal incorporating standards into Rules of Court, as appropriate.	Not Started	
Note: This project is distinct from developing standards for court (digital) records certification, i.e., the authentication of court documents and the true certification thereof (per CTAC's 2013 annual agenda review meeting).		

Annual Agenda
Project 10. Tactical Plan for Technology

Update Tactical Plan for Technology for Effective Date 2016-2018

CTAC Resource(s):

Chair and full committee

JCC Staff Resource(s):

IT (Jamel Jones)

MAJOR TASKS	STATUS	UPDATES
(a) Review and update the Tactical Plan for Technology.	On Hold	Expect to begin this work in 2016.
(b) Circulate for branch and public comment.	On Hold	
(c) Finalize and submit for approval.	On Hold	

Annual Agenda

Project 11. Policy & Rules for E-Access to Appellate Court Records

Develop Branch Policy and Rules on Public Access to Electronic Appellate Court Records

CTAC Resource(s):

Joint Appellate Technology Subcommittee

JCC Staff Resource(s):

IT (Julie Bagoye), Legal Services (Patrick O'Donnell, Tara Lundstrom)

MAJOR TASKS	STATUS	UPDATES
(a) Develop a comprehensive statewide policy addressing reasonable public access to electronic appellate court records to align with access rules for the trial courts.	In Progress	JATS' recommendations for rules on access to electronic court records is complete. Rule proposals are in progress (see below).
(b) Draft rule proposal to incorporate standards into Rules of Court, as appropriate.	In Progress	JATS developed proposed rules on access to appellate court records. Rules 8.0 through 8.5 are ready for review and approval by CTAC and for circulation for public comment.
Note: This project corresponds to the Appellate Advisory Committee agenda item #8.		

Annual Agenda

Project 12. Rules for Electronic Service

Evaluate Amendment to Rules of Court to Allow Electronic Service Upon Courts if the Court Consents

CTAC Resource(s):

Joint Appellate Technology Subcommittee and the CTAC Rules & Policy Subcommittee

JCC Staff Resource(s):

IT (Julie Bagoye, Manny Floresca), Legal Services (Patrick O'Donnell, Tara Lundstrom)

MAJOR TASKS	STATUS	UPDATES
(a) Consider whether to recommend rule amendments to clarify that a court may be served electronically if the court consents to receive this form of service.	In Progress	CTAC recommended amendments to rules 2.251 and 8.71 at January 23 meeting. Rule proposal will be circulated for public comment during this rules cycle. Comment period closes in June.
Note: This project applies at both the appellate and trial court levels. Also, this project is intended to correspond to the Appellate Advisory Committee agenda item #9.		

Annual Agenda

Project 13. Modernize Rules of Court

Modernize Trial and Appellate Court Rules to Support E-Business

CTAC Resource(s):

CTAC Rules & Policy Subcommittee and the Joint Appellate Technology Subcommittee

JCC Staff Resource(s):

IT (Manny Floresca, Julie Bagoye), Legal Services (Patrick O'Donnell, Tara Lundstrom)

MAJOR TASKS	STATUS	UPDATES
(a) In collaboration with other advisory committees, review rules and statutes in a systematic manner and develop recommendations for comprehensive changes to align with modern business practices (e.g., eliminating paper dependencies).	In Progress	Requesting CTAC recommend rule proposal at March 27 meeting.
Note: This project corresponds to the Appellate Advisory Committee agenda item #10, as well as on the annual agendas of the additional (subject matter) advisory bodies listed under Resources.		

Annual Agenda

Project 14. Collaborations and Information Exchange

Liaise with Advisory Bodies and the Branch on Technology Initiatives, Rules and Implementations

CTAC Resource(s):

Liaisons

JCC Staff Resource(s):

IT (Jamel Jones)

MAJOR TASKS	STATUS	UPDATES
(a) Share the Judicial Branch Technology Report with advisory bodies and attend liaison committee meetings.	In Progress	Liaisons introduced to chairs and provided meeting dates. In progress of attending meetings, as appropriate.
(b) Identify opportunities to collaborate and share liaison feedback to CTAC, the JCTC, the Judicial Council, and the branch, as appropriate.	In Progress	Liaisons will provide oral reports during the March 27 CTAC meeting.

TCPJAC/CEAC Joint Technology Standing Subcommittee Charge

- The TCPJAC/CEAC Joint Technology Standing Subcommittee (subcommittee) provides an opportunity for PJs and CEOs to review and provide early input on court facilities/technology proposals and recommendations that have a direct impact on court operations;
- The subcommittee provides input and feedback on various technology issues being addressed by the Judicial Council Technology Committee (JCTC) and the Court Technology Advisory Committee (CTAC);
- The subcommittee is comprised of 4 PJ's and 4 CEO's appointed by the TCPJAC and CEAC chairs;
- Representation on the subcommittee will include small, medium and large size courts in order to bring varying perspectives and input on court operational impacts;
- The subcommittee is charged to provide preliminary feedback on technology proposals on behalf of the TCPJAC and CEAC. Input on more substantive technology policy decisions will first be vetted by the Technology Standing Subcommittee and then presented to TCPJAC and CEAC for final review.



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date	Action Requested
March 18, 2015	Please review for March 27 meeting
To	Deadline
Members of the Court Technology Advisory Committee	March 27, 2015
From	Contact
Rules and Policy Subcommittee Hon. Peter J. Siggins, Chair	Tara Lundstrom 415-865-7650 phone tara.lundstrom@jud.ca.gov
Joint Appellate Technology Subcommittee Hon. Louis R. Mauro, Chair	
Subject	
Rules Modernization Project - Phase 1	

Executive Summary

Over the past three months, members of the Court Technology Advisory Committee (CTAC) have assisted advisory committees in carrying out phase 1 of the Rules Modernization Project. This endeavor consists of proposing technical, non-substantive changes to the California Rules of Court to facilitate e-business, e-filing, and e-service.

Attached for the committee's review is an Invitation to Comment (ITC) containing proposed amendments to titles 2, 3, 4, 5, 7, and 8. These proposed amendments have been recommended by the Civil and Small Claims Advisory Committee, the Traffic Law Advisory Committee, the Family and Juvenile Law Advisory Committee, the Probate Law Advisory Committee, and the Appellate Advisory Committee.

During its meetings on February 26 and March 16, the Joint Appellate Technology Subcommittee reviewed and recommended the proposed amendments to title 8. The Appellate Advisory Committee has reviewed and voted to recommend for circulation the proposed amendments through and including rule 8.276. The committee is currently reviewing the remaining proposed amendments to title 8 and will vote by email on or before March 23, whether to recommend that those amendments also be circulated for public comments. The results of the committee's vote will be presented orally during the March 27 CTAC meeting.

When the Rules and Policy Subcommittee met on March 17, it voted to recommend the proposed amendments to titles 2, 3, 4, 5, and 7. The subcommittee made several minor changes to the proposed amendments in rules 2.551(b)(2) and 3.1350(e). The subcommittee also considered alternate definitions for "writing" and "written" in rule 2.3(3). The ITC discusses the subcommittee's recommendations and requests public comment on rules 2.3(3), 2.551(b)(2), and 3.1350(e). The Civil and Small Claims Advisory Committee will not have the opportunity to review the subcommittee's recommendations to rules 2.3(3), 2.551(b)(2), or 3.1350(e), before the ITC is circulated for public comment. However, it will have adequate time to consider these changes, and any public comments received, before deciding whether to recommend the rules proposal be adopted by the Judicial Council.

Committee's task

For the meeting on March 27, 2015, the committee is tasked with reviewing the attached ITC and:

- Recommending to RUPRO that all or part of the proposal be approved for circulation as drafted or as amended by the committee; or
- Asking staff or committee members for further information and analysis; or
- Rejecting the proposal.

Attachment

- Invitation to Comment, Rules Modernization Project – phase 1

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title

Rules Modernization Project: Modernize the Rules of Court to Facilitate E-Business, E-Filing, and E-Service

Proposed Rules, Forms, Standards, or Statutes

Amend titles 2, 3, 4, 5, 7, and 8 (Cal. Rules of Court, rules 2.3, 2.10, 2.102–2.104, 2.106–2.108, 2.111, 2.113–2.115, 2.117, 2.130, 2.133, 2.134, 2.150, 2.550, 2.551, 2.577, 2.816, 2.831, 2.1055, 2.1100, 3.254, 3.524, 3.544, 3.670, 3.815, 3.823, 3.827, 3.931, 3.1010, 3.1109, 3.1110, 3.1113, 3.1202, 3.1300, 3.1302, 3.1304, 3.1320, 3.1326, 3.1327, 3.1330, 3.1340, 3.1346, 3.1347, 3.1350, 3.1351, 3.1354, 3.1590, 3.1700, 3.1900, 3.2107, 4.102, 5.50, 5.83, 5.91, 5.215, 5.242, 5.275, 5.534, 5.906, 7.802, 8.10, 8.11, 8.40, 8.42, 8.44–8.47, 8.50, 8.100, 8.104, 8.108, 8.112, 8.122–8.124, 8.128, 8.130, 8.137, 8.140, 8.144, 8.147, 8.150, 8.204, 8.220, 8.224, 8.248, 8.252, 8.264, 8.272, 8.278, 8.304, 8.308, 8.336, 8.344, 8.346, 8.360, 8.380, 8.384–8.386, 8.405, 8.406, 8.411, 8.412, 8.474, 8.482, 8.486, 8.488, 8.495, 8.496, 8.498, 8.504, 8.512, 8.540, 8.548, 8.610, 8.616, 8.630, 8.702, 8.703, 8.800, 8.803, 8.806, 8.814, 8.821–8.824, 8.832, 8.833–8.835, 8.838, 8.840, 8.842, 8.843, 8.852, 8.853, 8.862, 8.864, 8.866, 8.868, 8.870, 8.872, 8.881–8.883, 8.888, 8.890, 8.891, 8.901, 8.902, 8.911, 8.915, 8.917, 8.919, 8.921, 8.922, 8.924, 8.926–8.928, 8.931, and 8.1018)

Proposed by

Court Technology Advisory Committee
Hon. Terence L. Bruiniers

Action Requested

Review and submit comments by June 17, 2015

Proposed Effective Date

January 1, 2016

Contact

Tara Lundstrom, 415-865-7650
tara.lundstrom@jud.ca.gov

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

Executive Summary and Origin

The Court Technology Advisory Committee (CTAC) proposes to amend various rules in titles 2, 3, 4, 5, 7, and 8 of the California Rules of Court. This proposal would introduce minor, non-substantive amendments to the rules in order to facilitate modern e-business practices, e-filing, and e-service. The Civil and Small Claims Advisory Committee, the Traffic Advisory Committee, the Family and Juvenile Law Advisory Committee, the Probate Law Advisory Committee, and the Appellate Advisory Committee also recommend the amendments to the rules in their respective subject matter areas.

Background

Recognizing that courts are swiftly proceeding to a paperless world, CTAC is leading the Rules Modernization Project, a collaborative effort to comprehensively review and modernize the California Rules of Court so that they will be consistent with and foster modern e-business practices. To ensure that each title is revised in view of any statutory requirements and policy concerns unique to that area of law, CTAC is coordinating with six other advisory committees with relevant subject matter expertise.

The Rules Modernization Project is being carried out in two phases. This rules proposal marks the culmination of phase 1: an initial round of technical rule amendments to address language in the rules that is incompatible with the current statutes and rules governing e-filing and e-service and with e-business practices in general. Next year, CTAC will undertake phase 2, which will involve a more in-depth examination of any statutes and rules that may hinder e-business practices.

The Proposal

This proposal would make minor, technical amendments to the rules in titles 2, 3, 4, 5, 7, and 8.

Proposed amendments to title 2

The proposed amendments to title 2 would:

- Define “papers” as including not only papers in a tangible or physical form, but also in an electronic form (see amended rule 2.3(2));¹
- Strike references to “typewriter,” “typewriting,” and “typewritten” (see amended rules 2.3(3) and 2.150(a));

¹ Rule 2.3(3) currently defines “written,” “writing,” “typewritten,” and “typewriting” as “includ[ing] other methods equivalent in legibility to typewriting.” In striking references to “typewritten” and “typewriting” in rule 2.3(3), the Civil and Small Claims Advisory Committee proposed revising the rule as follows: “‘Written’ and ‘writing’ include other methods of printing letters and words equivalent in legibility to printing on a word processor.” CTAC’s Rules and Policy Subcommittee subsequently considered alternate language based on its concern that the reference to word processors may quickly become outdated. The subcommittee proposed defining “written” and “writing” as “includ[ing] any method of legibly printing or displaying letters and words.” The committee requests comments on the proposed amendments to this rule.

- Add a new rule defining the scope of the trial court rules to include documents filed both on paper and electronically (see proposed new rule 2.10);
- Amend language to clarify when certain formatting rules apply to electronic documents (see amended rules 2.103, 2.104, 2.106, 2.107, 2.108(4)), 2.111(3), 2.113, 2.114, 2.115, and 2.117), electronic forms (see amended rules 2.133 and 2.134(a)–(c), 2.150), and jury instructions filed electronically (see amended rule 2.1055(b)(4));
- Extend the application of the general rules on forms in chapter 2 to forms filed electronically (see amended rule 2.130);
- Amend the definition of “record” to apply to records filed or lodged electronically (see amended rule 2.550(b)(1));
- Amend the rule for filing records under seal to recognize that records and notices may be transmitted electronically and kept by the court in electronic form (see amended rule 2.551);²
- Amend the rule for filing confidential name change records under seal to recognize that petitions may be transmitted electronically (see amended rule 2.577(d) and (f));
- Amend the rules governing motions to withdraw stipulations to court-appointed temporary judges to allow the moving party to provide copies of the motion to the presiding and temporary judge by electronic means (see amended rules 2.816(e)(3) and 2.831(f)); and
- Allow electronic service on the Attorney General of copies of a judgment and notice of judgment declaring a state statute or regulation unconstitutional (see amended rule 2.1100).

Proposed amendments to title 3

The proposed amendments to title 3 would:

- Insert an e-service exception to the duties associated with maintaining and updating the list of parties and their addresses (see amended rule 3.254(a) and (b));
- Amend language in the rules to recognize e-filing and e-service (see amended rules 3.524(a)(2), 3.544(a), 3.670(h)(1)(B), 3.815(b)(2)–(3), 3.823(d), 3.827(b), 3.1010(b)(1), 3.1109(a), 3.1300(a), 3.1302(a), 3.1320(c), 3.1326, 3.1327(a) and (c), 3.1330, 3.1340(b), 3.1346, 3.1347(a) and (c), 3.1350(e),³ 3.1351(a) and (c), 3.1700(a)(1) and (b)(1), 3.1900, and 3.2107(a)–(b));

² The proposed amendments to rule 2.551 on filing sealed records in the trial courts, unlike most of the other proposed rule amendments, are not solely technical and non-substantive. However, they are closely based on the recent amendments to rule 8.46 that changed the appellate rule on sealed records to reflect modern business practices. It should be noted that CTAC’s Rules and Policy Subcommittee voted to use the present tense (“has access”) in rule 2.551(b)(2), instead of the past tense (“had access”) used in rule 8.46. The committee requests comments on this proposed amendment.

³ CTAC’s Rules and Policy Subcommittee voted to remove the reference to separately stapling documents in rule 3.1350(e). The subcommittee recommended instead that subdivision (e) refer to “separate documents” since this would indicate that the documents must be filed separately with the court whether filed in paper or electronic form. The committee requests comments on the proposed amendment to this rule.

- Establish that the times prescribed in the rule governing evidence at arbitration hearings are increased by two days where service is accomplished by electronic means (see amended rule 3.823(d));
- Require that appointed referees provide their e-mail addresses (see amended rule 3.931(b));
- Correct a cross-reference to the appellate court rules (see amended rule 3.1109(c));
- Clarify when certain formatting rules apply to motions papers filed electronically (see amended rules 3.1110(e)–(f) and 3.1113(i)(1)–(2) and (m));
- Require that ex-parte applications state the e-mail addresses of attorneys or parties (see amended rule 3.1202(a));
- Recognize that rule 2.259(c) applies to motion papers filed electronically (see amended rule 3.1300(e));
- Require that any materials lodged electronically specify an electronic address to which they may be returned and allow the clerk to return them by electronic means (see amended rule 3.1302(b));
- Require the clerk to post electronically a general schedule for law and motion hearings (see amended rule 3.1304(a));
- Authorize a court to require that a party submitting written objections provide the proposed order accompanying the objections in electronic form (see amended rule 3.1354(c)); and
- Recognize that the court may electronically sign written judgments (see amended rule 3.1590(l)).

Proposed amendments to title 4

The proposed amendment to title 4 would:

- Allow courts to e-mail copies of countywide bail and penalty schedules to the Judicial Council (see amended rule 4.102).

Proposed amendments to title 5

The proposed amendments to title 5 would:

- Delete references to the back side of a summons (see amended rules 5.50(b) and (c)(1)–(2) and 5.91);
- Allow court employees to notify parties of deficiencies in their paperwork by any means approved by the court (see amended rule 5.83(d)(5));
- Replace references to “videotapes” (see amended rules 5.215(d)(5) and 5.242(k)(4)(G)); and
- Add definitions for “software,” “default settings,” and “contains” (see amended rule 5.275(g)(1)–(3).)

Proposed amendments to title 7

The proposed amendment to title 7 would:

- Clarify that Code of Civil Procedure section 1010.6 and rules 2.250 to 2.261 apply in contested probate proceedings (see new rule 7.802).

Proposed amendments to title 8

The proposed amendments to title 8 would:

- Add definitions of “attach or attachment,” “copy or copies,” “cover,” and “written or writing” to clarify their application to electronically filed documents (see amended rules 8.10 and 8.803);
- Add rules clarifying that the rules are intended to apply to documents filed and served electronically (see proposed new rules 8.11 and 8.800(b));
- Replace references to “mail” with “send” throughout;
- Replace references to “file-stamped” with “file-endorsed” throughout;
- Clarify that requirements for numbers of copies of documents and for the colors of covers of documents apply only to documents filed on paper (see amended rule 8.40);
- Add language requiring that all confidential or sealed documents must be transmitted in a secure manner, clarifying that this requirement applies to documents transmitted electronically (see amended rules 8.45(c), 8.46(d), 8.47(b) and (c), and 8.482(g));
- Add language stating that all or part of the record on appeal, including a clerk’s transcript, a record of administrative proceedings, or a copy of a reporter’s transcript may be in electronic format (see amended rules 8.123, 8.124, 8.130, 8.144, and 8.838);
- Clarify which requirements as to form apply to electronically filed records, briefs, supporting documents, or petitions (see amended rule 8.144, 8.204, 8.486, 8.504, 8.610, 8.824, 8.838, 8.883, 8.928, and 8.931);
- Replace references to “type,” “typeface,” “type style” and “type size” with “font” “font style” and “font size” (see amended rules 8.204, 8.883, and 8.928 and comment to rule 8.204);
- Add advisory committee comments noting that the recoverable costs to notarize, serve, mail, and file documents are intended to include fees charged by electronic service providers for filing or service (see comments to rules 8.278 and 8.891);
- Clarify when requirements for multiple copies to be filed or served only apply to paper documents (see amended rules 8.44, 8.344(c), 8.346(c), 8.380(c), 8.385(b), 8.386(b), 8.495(a), 8.540(b), 8.548(d), 8.630(g), 8.843(d), 8.870(d), 8.921(d), and 8.1018(c));
- Correct a typographical error (see amended rule 8.474(b));
- Clarify that the record and exhibits need only be returned to a lower court if they were transmitted in paper form (see amended rules 8.224, 8.512(a), 8.843(e), 8.870(e), 8.890(b), 8.921(e) and 8.1018(d));
- Clarify that signatures on electronically filed documents must comply with rule 8.77 (see proposed new rule 8.804 and amended rule 8.882(b)); and
- Add advisory committee comments that the clerk’s transcripts may be in electronic form (see comments to rules 8.122 and 8.832).

Alternatives Considered

As an alternative to making technical changes at this time, CTAC considered deferring action and proposing a single rules proposal that would include both substantive and technical changes to the rules at a later date. One benefit of this approach would be to increase the project's overall efficiency by reviewing and ultimately implementing all changes at the same time. By dividing the work into technical and substantive phases, however, the council would be able to modernize the rules, to the extent possible, on a more responsive timeline for those courts that are already implementing e-filing and e-service and adopting e-business practices.

Implementation Requirements, Costs, and Operational Impacts

Because the proposal does not introduce substantive changes to the rules, CTAC does not anticipate that the rule would incur any new costs or require implementation. To the extent that the proposal clarifies existing law, it would facilitate e-business, e-filing, and e-service in the trial and appellate courts and provide cost-efficiencies.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Specific comments are invited on rules 2.3(3), 2.551(b)(2), and 3.1350(e).

The advisory committee also seeks comments from *courts* on the following costs and implementation matters:

- Would the proposal provide cost savings?
- What would the implementation requirements be for courts?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments

1. Cal. Rules of Court, title 2
2. Cal. Rules of Court, title 3
3. Cal. Rules of Court, title 4
4. Cal. Rules of Court, title 5
5. Cal. Rules of Court, title 7
6. Cal. Rules of Court, title 8

California Rules of Court, title 2, rules 2.3, 2.10, 2.102, 2.103, 2.104, 2.106, 2.107, 2.108, 2.111, 2.113, 2.114, 2.115, 2.117, 2.130, 2.133, 2.134, 2.150, 2.550, 2.551, 2.577, 2.816, 2.831, 2.1055, and 2.1100, would be amended to read:

1 **Title 2. Trial Court Rules**

2
3 **Rule 2.3. Definitions**

4
5 As used in the Trial Court Rules, unless the context or subject matter otherwise requires:

- 6
7 (1) “Court” means the superior court;
8
9 (2) “Papers” includes all documents, except exhibits and copies of exhibits, that are
10 offered for filing in any case, but does not include Judicial Council and local court
11 forms, records on appeal in limited civil cases, or briefs filed in appellate divisions,
12 ~~and~~ Unless the context clearly provides otherwise, “papers” need not be in a
13 tangible or physical form but may be in an electronic form.
14
15 (3) “Written,” and “writing,” ~~“typewritten,” and “typewriting”~~ include other methods
16 of printing letters and words equivalent in legibility to ~~typewriting~~ printing on a
17 word processor.

18 * * *

19 **Rule 2.10. Scope of rules [Reserved]**

20
21 These rules apply to documents filed and served electronically as well as in paper form,
22 unless otherwise provided.

23
24 **Rule 2.102. One-sided paper**

25
26 When papers are not filed electronically, ~~On papers,~~ only one side of each page may be
27 used.

28
29 **Rule 2.103. Size, quality, and color, ~~and size of paper~~**

30
31 All papers filed must be 8½ by 11 inches. All papers not filed electronically must be on
32 opaque, unglazed paper, white or unbleached, of standard quality not less than 20-pound
33 weight, ~~8½ by 11 inches.~~

34
35 **Rule 2.104. Printing; type size**

36
37 All papers not filed electronically must be printed ~~or typewritten~~ or be prepared by a
38 photocopying or other duplication process that will produce clear and permanent copies
39 equally as legible as printing in type not smaller than 12 points.

40
41 * * *

1 **Rule 2.106. Font color of print**

2
3 The font color ~~of print~~ must be black or blue-black.

4
5 **Rule 2.107. Margins**

6
7 The left margin of each page must be at least one inch from the left edge ~~of the paper~~ and
8 the right margin at least 1/2 inch from the right edge ~~of the paper~~.

9
10 **Rule 2.108. Spacing and numbering of lines**

11
12 The spacing and numbering of lines on a page must be as follows:

13
14 (1)-(3) * * *

15
16 (4) Line numbers must be placed at the left margin and separated from the text ~~of the~~
17 ~~paper~~ by a vertical column of space at least 1/5 inch wide or a single or double
18 vertical line. Each line number must be aligned with a line of type, or the line
19 numbers must be evenly spaced vertically on the page. Line numbers must be
20 consecutively numbered, beginning with the number 1 on each page. There must be
21 at least three line numbers for every vertical inch on the page.

22
23 * * *

24 **Rule 2.111. Format of first page**

25
26 The first page of each paper must be in the following form:

27
28 (1)-(2) * * *

29
30 (3) On line 8, at or below 3 1/3 inches from the top of the ~~paper~~ page, the title of the
31 court.

32
33 (4)-(11) * * *

34
35 * * *

36 **Rule 2.113. Binding**

37
38 Each paper not filed electronically must consist entirely of original pages without riders
39 and must be firmly bound together at the top.

40
41 **Rule 2.114. Exhibits**

1 Exhibits submitted with papers not filed electronically may be fastened to pages of the
2 specified size and, when prepared by a machine copying process, must be equal to
3 ~~typewritten~~ computer processed materials in legibility and permanency of image.

4
5 **Rule 2.115. Hole punching**

6
7 When papers are not filed electronically, each paper presented for filing must contain two
8 prepunched normal-sized holes, centered 2½ inches apart and 5/8 inch from the top of the
9 paper.

10 * * *

11 **Rule 2.117. Conformed copies of papers**

12
13 All copies of papers served must conform to the original papers filed, including the
14 numbering of lines, pagination, additions, deletions, and interlineations except that, with
15 the agreement of the other party, a party -serving papers by non-electronic means may
16 serve that other party with papers printed on both sides of the page.

17
18 * * *

19 **Rule 2.130. Application**

20
21 The rules in this chapter apply to Judicial Council forms, local court forms, and all other
22 official forms to be filed in the trial courts. The rules apply to forms filed both in paper
23 form and electronically, unless otherwise specified.

24
25 * * *

26 **Rule 2.133. Hole punching**

27
28 All forms not filed electronically must contain two prepunched normal-sized holes,
29 centered 2½ inches apart and 5/8 inch from the top of the form.

30
31 **Rule 2.134. Forms longer than one page**

32
33 **(a) Single side may be used**

34
35 If a form not filed electronically is longer than one page, the form may be printed
36 on sheets printed only on one side even if the original has two sides to a sheet.

37
38 **(b) Two-sided forms must be tumbled**

39
40 If a form not filed electronically is filed on a sheet printed on two sides, the reverse
41 side must be rotated 180 degrees (printed head to foot).

1 (c) **Multiple-page forms must be bound**

2
3 If a form not filed electronically is longer than one page, it must be firmly bound at
4 the top.

5 * * *

6
7 **Rule 2.150. Authorization for computer-generated ~~or typewritten~~ forms for proof**
8 **of service of summons and complaint**

9
10 (a) **Computer-generated ~~or typewritten~~ forms; conditions**

11
12 Notwithstanding the adoption of mandatory form *Proof of Service of Summons*
13 (form POS-010), a form for proof of service of a summons and complaint prepared
14 entirely by word processor, ~~typewriter~~, or similar process may be used for proof of
15 service in any applicable action or proceeding if the following conditions are met:

16
17 (1)–(4) * * *

18
19 (5) The text of form POS-010 must be copied in the same order as it appears on
20 ~~the printed~~ form POS-010 using the same item numbers. A declaration of
21 diligence may be attached to the proof of service or inserted as item 5b(5).

22
23 (6) Areas marked “For Court Use” must be copied in the same general locations
24 and occupy approximately the same amount of space as on ~~the printed~~ form
25 POS-010.

26
27 (7)–(8) * * *

28
29 (9) Material that would have been ~~typed~~ entered onto ~~the printed~~ form POS-010
30 must be ~~typed~~ entered with each line indented 3 inches from the left margin.

31
32 (b) **Compliance with rule * * ***

33
34 **Advisory Committee Comment**

35
36 This rule is intended to permit process servers and others to prepare their own shortened versions
37 of *Proof of Service of Summons* (form POS-010) containing only the information that is relevant
38 to show the method of service used.

39
40 * * *

1 **Rule 2.550. Sealed records**

2
3 **(a) Application * * ***

4
5
6 **(b) Definitions**

7
8 As used in this chapter:

9
10 (1) “Record.” Unless the context indicates otherwise, “record” means all or a
11 portion of any document, paper, exhibit, transcript, or other thing filed or
12 lodged with the court, by electronic means or otherwise.

13
14 (2)–(3) * * *

15
16 **(c)–(e) * * ***

17
18 * * *

19
20 **Rule 2.551. Procedures for filing records under seal**

21
22 **(a) * * ***

23
24 **(b) Motion or application to seal a record**

25
26 (1) *Motion or application required* * * *

27
28 (2) *Service of motion or application*

29
30 A copy of the motion or application must be served on all parties that have
31 appeared in the case. Unless the court orders otherwise, any party that already
32 ~~possesses copies of~~ has access to the records to be placed under seal must be
33 served with a complete, unredacted version of all papers as well as a redacted
34 version. Other parties must be served with only the public redacted version.
35 If a party’s attorney but not the party has access to the record, only the
36 party’s attorney may be served with the complete, unredacted version.

37
38 (3) *Procedure for party not intending to file motion or application*

39
40 (A) * * *

41
42 (B) If the party that produced the documents and was served with the notice
43 under (A)(iii) fails to file a motion or an application to seal the records

1 within 10 days or to obtain a court order extending the time to file such
2 a motion or an application, the clerk must promptly remove all the
3 documents in (A)(i) from the envelope, ~~or~~ container, or secure
4 electronic file where they are located and place them in the public file.
5 If the party files a motion or an application to seal within 10 days or
6 such later time as the court has ordered, these documents are to remain
7 conditionally under seal until the court rules on the motion or
8 application and thereafter are to be filed as ordered by the court.

9
10 (4) *Lodging of record pending determination of motion or application* * * *

11
12 (5) *Redacted and unredacted versions*

13
14 If necessary to prevent disclosure, any motion or application, any opposition,
15 and any supporting documents must be filed in a public redacted version and
16 lodged in a complete, unredacted version conditionally under seal. The cover
17 of the redacted version must identify it as “Public—Redacts materials from
18 conditionally sealed record.” The cover of the unredacted version must
19 identify it as “May Not Be Examined Without Court Order—Contains
20 material from conditionally sealed record”.

21
22 (6) *Return of lodged record*

23
24 If the court denies the motion or application to seal, the clerk must return the
25 lodged record to the submitting party and must not place it in the case file
26 unless that party notifies the clerk in writing ~~within 10 days after the order~~
27 ~~denying the motion or application~~ that the record is to be filed. Unless
28 otherwise ordered by the court, the submitting party must notify the clerk
29 within 10 days after the order denying the motion or application.

30
31 (c) * * *

32
33 (d) **Procedure for lodging of records**

34
35 (1) A record that may be filed under seal must be transmitted to the court in a
36 secure manner that preserves the confidentiality of the records to be lodged.
37 If the record is transmitted in paper form, it must be put in an envelope or
38 other appropriate container, sealed in the envelope or container, and lodged
39 with the court.

40
41 (2) The materials to be lodged under seal must be clearly identified as
42 “CONDITIONALLY UNDER SEAL.” If the materials are transmitted in

1 paper form, the envelope or container lodged with the court must be labeled
2 “CONDITIONALLY UNDER SEAL.”

3
4 (3) The party submitting the lodged record must affix to the electronic
5 transmission, the envelope or the container a cover sheet that:

6
7 (A)–(B) * * *

8
9 (4) * * *

10
11 **(e) Order**

12
13 (1) If the court grants an order sealing a record, the clerk ~~must substitute on the~~
14 ~~envelope or container for the label required by (d)(2) a label prominently~~
15 ~~stating “SEALED BY ORDER OF THE COURT ON (DATE),” and must~~
16 ~~replace the cover sheet required by (d)(3) with a filed-endorsed copy of the~~
17 ~~court’s order. In addition, if the confidential record is in paper format, the~~
18 ~~clerk must substitute on the envelope or container for the label required by~~
19 ~~(d)(2) a label prominently stating “SEALED BY ORDER OF THE COURT~~
20 ~~ON (DATE),” and If the sealed record is in an electronic format, the clerk~~
21 ~~must place the record ordered sealed in a secure electronic file clearly~~
22 identified as sealed by court order on a specified date.

23
24 (2) The order must state whether—in addition to the sealed records ~~in the~~
25 ~~envelope or container~~—the order itself, the register of actions, any other court
26 records, or any other records relating to the case are to be sealed.

27
28 (3) * * *

29
30 (4) Unless the sealing order provides otherwise, it prohibits the parties from
31 disclosing the contents of any materials that have been sealed in anything that
32 is subsequently publicly filed records or papers.

33
34
35 **(f)–(g) * * ***

36
37 **(h) Motion, application, or petition to unseal records**

38
39 (1)–(2) * * *

40
41 (3) If the court proposes to order a record unsealed on its own motion, the court
42 must ~~mail~~ give notice to the parties stating the reason for unsealing the record
43 ~~therefor.~~ Unless otherwise ordered by the court, any party may serve and file an

1 opposition within 10 days after the notice is provided ~~mailed or within such~~
2 ~~time as the court specifies.~~ and any other party may file a response within 5
3 days after the filing of an opposition.

4
5 (4) * * *

6 (5) The order unsealing a record must state whether the record is unsealed entirely
7 or in part. If the court’s order unseals only part of the record or unseals the
8 record only as to certain persons, the order must specify the particular records
9 that are unsealed, the particular persons who may have access to the record, or
10 both. If, in addition to the records in the envelope, ~~or~~ secure
11 electronic file, the court has previously ordered the sealing order, the register of
12 actions, or any other court records relating to the case to be sealed, the
13 unsealing order must state whether these additional records are unsealed.

14
15 * * *

16
17 **Rule 2.577. Procedures for filing confidential name change records under seal**

18
19 (a)–(c) * * *

20
21 **(d) Procedure for lodging of petition for name change**

22
23 (1) The records that may be filed under seal must be lodged with the court. If
24 they are transmitted on paper, they must be placed in a sealed envelope. If
25 they are transmitted electronically, they must be transmitted to the court in a
26 secure manner that preserves the confidentiality of the documents to be
27 lodged.

28
29 (2) If the petitioner is transmitting the petition on paper, the petitioner must
30 complete and affix to the envelope a completed *Confidential Cover Sheet—*
31 *Name Change Proceeding Under Address Confidentiality Program (Safe at*
32 *Home)* (form NC-400) and in the space under the title and case number mark
33 it “CONDITIONALLY UNDER SEAL.” If the petitioner is transmitting
34 electronically, the first page of the electronic transmission must be a
35 completed *Confidential Cover Sheet—Name Change Proceeding Under*
36 *Address Confidentiality Program (Safe at Home)* (form NC-400) with the
37 space under the title and case number marked “CONDITIONALLY UNDER
38 SEAL.”

39
40 (3) On receipt of a petition lodged under this rule, the clerk must endorse the
41 ~~affixed~~ cover sheet with the date of its receipt and must retain but not file the
42 record unless the court orders it filed.

43
44 (4) * * *

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43

(e) * * *

(f) Order

(1)–(2) * * *

(3) For petitions transmitted in paper form, if the court grants an order sealing a record, the clerk must strike out the notation required by (d)(2) on the Confidential Cover Sheet that the matter is filed “CONDITIONALLY UNDER SEAL,” and add a notation to that sheet prominently stating “SEALED BY ORDER OF THE COURT ON (DATE),” and file the documents under seal. For petitions transmitted electronically, the clerk must replace the cover sheet with a file endorsed copy of the court’s order and place the record in a secure electronic file clearly identified as sealed by the court on a specific date.

(4)–(5) * * *

(g)–(h) * * *

* * *

Rule 2.816. Stipulation to court-appointed temporary judge

(a)–(d) * * *

(e) Application or motion to withdraw stipulation

An application or motion to withdraw a stipulation for the appointment of a temporary judge must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation. In addition:

(1)–(2) * * *

(3) The application or motion must be served and filed, and the moving party must ~~mail or deliver~~ provide a copy to the presiding judge.

(4) * * *

* * *

Rule 2.831. Temporary judge - stipulation, order, oath, assignment, disclosure, and disqualification

1 (a)–(e) * * *

2
3 **(f) Motion to withdraw stipulation**

4
5 A motion to withdraw a stipulation for the appointment of a temporary judge must
6 be supported by a declaration of facts establishing good cause for permitting the
7 party to withdraw the stipulation, and must be heard by the presiding judge or a
8 judge designated by the presiding judge. A declaration that a ruling is based on
9 error of fact or law does not establish good cause for withdrawing a stipulation.
10 Notice of the motion must be served and filed, and the moving party must ~~mail or~~
11 ~~deliver~~ provide a copy to the temporary judge. If the motion to withdraw the
12 stipulation is based on grounds for the disqualification of the temporary judge first
13 learned or arising after the temporary judge has made one or more rulings, but
14 before the temporary judge has completed judicial action in the proceeding, the
15 provisions of rule 2.816(e)(4) apply. If a motion to withdraw a stipulation is
16 granted, the presiding judge must assign the case for hearing or trial as promptly as
17 possible.

18 * * *

19
20 **Rule 2.1055. Proposed jury instructions**

21
22 (a) * * *

23
24 **(b) Form and format of proposed instructions**

25
26 (1)–(3) * * *

27
28 (4) Each set of proposed jury instructions filed on paper must be bound loosely.

29
30 (c)–(e) * * *

31
32 * * *

33
34 **Rule 2.1100. Notice when statute or regulation declared unconstitutional**

35
36 Within 10 days after a court has entered judgment in a contested action or special
37 proceeding in which the court has declared unconstitutional a state statute or regulation,
38 the prevailing party, or as otherwise ordered by the court, must ~~mail~~ serve a copy of the
39 judgment and a notice of entry of judgment ~~to~~ on the Attorney General and file a proof of
40 service with the court.

California Rules of Court, title 3, rules 3.254, 3.524, 3.544, 3.670, 3.815, 3.823, 3.827, 3.931, 3.1010, 3.1109, 3.1110, 3.1113, 3.1202, 3.1300, 3.1302, 3.1304, 3.1320, 3.1326, 3.1327, 3.1330, 3.1340, 3.1346, 3.1347, 3.1350, 3.1351, 3.1354, 3.1590, 3.1700, 3.1900, and 3.2107, would be amended to read:

1 **Title 3. Civil Rules**

2
3 * * *

4 **Rule 3.254. List of parties**

5
6 **(a) Duties of first-named plaintiff or petitioner**

7
8 Except as provided under rule 2.251 for electronic service, if more than two parties
9 have appeared in a case and are represented by different counsel, the plaintiff or
10 petitioner named first in the complaint or petition must:

- 11
12 (1) Maintain a current list of the parties and their addresses for service of notice
13 on each party; and
14
15 (2) Furnish a copy of the list on request to any party or the court.

16
17 **(b) Duties of each party**

18
19 Except as provided under rule 2.251 for electronic service, each party must:

- 20
21 (1) Furnish the first-named plaintiff or petitioner with its current address for
22 service of notice when it first appears in the action;
23
24 (2) Furnish the first-named plaintiff or petitioner with any changes in its address
25 for service of notice; and
26
27 (3) If it serves an order, notice, or pleading on a party who has not yet appeared
28 in the action, serve a copy of the list required under (a) at the same time as
29 the order, notice, or pleading is served.

30
31 * * *

32 **Rule 3.524. Order assigning coordination motion judge**

33
34 **(a) Contents of order**

35
36 An order by the Chair of the Judicial Council assigning a coordination motion
37 judge to determine whether coordination is appropriate, or authorizing the presiding
38 judge of a court to assign the matter to judicial officers of the court to make the
39 determination in the same manner as assignments are made in other civil cases,
40 must include the following:
41

- 1 (1) The special title and number assigned to the coordination proceeding; and
2
3 (2) The court's address or electronic service address for submitting all
4 subsequent documents to be considered by the coordination motion judge.
5

6 (b) * * *

7
8 * * *

9 **Rule 3.544. Add-on cases**

10
11 (a) **Request to coordinate add-on case**

12
13 A request to coordinate an add-on case must comply with the requirements of rules
14 3.520 through 3.523, except that the request must be submitted to the coordination
15 trial judge under Code of Civil Procedure section 404.4, with proof of ~~mailing~~
16 service of one copy ~~to~~ on the Chair of the Judicial Council and proof of service as
17 required by rule 3.510.
18

19 (b)–(d) * * *

20
21 * * *

22 **Rule 3.670. Telephone appearance**

23
24 (a)–(g) * * *

25
26 (h) **Notice by party**

- 27
28 (1) Except as provided in (6), a party choosing to appear by telephone at a
29 hearing, conference, or proceeding, other than on an ex parte application,
30 under this rule must either:
31
32 (A) Place the phrase "Telephone Appearance" below the title of the
33 moving, opposing, or reply papers; or
34
35 (B) At least two court days before the appearance, notify the court and all
36 other parties of the party's intent to appear by telephone. If the notice is
37 oral, it must be given either in person or by telephone. If the notice is in
38 writing, it must be given by filing a "Notice of Intent to Appear by
39 Telephone" with the court at least two court days before the appearance
40 and by serving the notice at the same time on all other parties by
41 personal delivery, fax transmission, express mail, ~~e-mail~~ electronic
42 service if such service is required by local rule or court order or agreed

1 to by the parties, or other means reasonably calculated to ensure
2 delivery to the parties no later than the close of the next business day.

3
4 (2) If after receiving notice from another party as provided under (1) a party that
5 has not given notice also decides to appear by telephone, the party may do so
6 by notifying the court and all other parties that have appeared in the action,
7 no later than noon on the court day before the appearance, of its intent to
8 appear by telephone.

9
10 (3) An applicant choosing to appear by telephone at an ex parte appearance
11 under this rule must:

12
13 (A) Place the phrase “Telephone Appearance” below the title of the
14 application papers;

15
16 (B) File and serve the papers in such a way that they will be received by the
17 court and all parties by no later than 10:00 a.m. two court days before
18 the ex parte appearance; and

19
20 (C) If provided by local rule, ensure that copies of the papers are received
21 in the department in which the matter is to be considered.

22
23 (4) Any party other than an applicant choosing to appear by telephone at an ex
24 parte appearance under this rule must notify the court and all other parties
25 that have appeared in the action, no later than 2:00 p.m. on the court day
26 before the appearance, of its intent to appear by telephone. If the notice is
27 oral, it must be given either in person or by telephone. If the notice is in
28 writing, it must be given by filing a “Notice of Intent to Appear by
29 Telephone” with the court and by serving the notice at the same time on all
30 other parties by any means authorized by law reasonably calculated to ensure
31 delivery to the parties no later than the close of business on the court day
32 before the appearance.

33
34 (5) If a party that has given notice that it intends to appear by telephone under (1)
35 subsequently chooses to appear in person, the party may appear in person.

36
37 (6) A party may ask the court for leave to appear by telephone without the notice
38 provided for under (1)–(4). The court should permit the party to appear by
39 telephone upon a showing of good cause or unforeseen circumstances.

40
41 (i)–(q) * * *

42
43 * * *

1 **Rule 3.815. Selection of the arbitrator**

2
3 (a) * * *

4
5 (b) **Selection absent stipulation or local procedures**

6
7 If the arbitrator has not been selected by stipulation and the court has not adopted
8 local rules or procedures for the selection of the arbitrator as permitted under (c),
9 the arbitrator will be selected as follows:

- 10
11 (1) Within 15 days after a case is set for arbitration under rule 3.812, the
12 administrator must determine the number of clearly adverse sides in the case;
13 in the absence of a cross-complaint bringing in a new party, the administrator
14 may assume there are two sides. A dispute as to the number or identity of
15 sides must be decided by the presiding judge in the same manner as disputes
16 in determining sides entitled to preemptory challenges of jurors.
- 17
18 (2) The administrator must select at random a number of names equal to the
19 number of sides, plus one, and ~~mail~~ send the list of randomly selected names
20 to counsel for the parties.
- 21
22 (3) Each side has 10 days from the date of ~~mailing~~ on which the list was sent to
23 file a rejection, in writing, of no more than one name on the list; if there are
24 two or more parties on a side, they must join in the rejection of a single name.
- 25
26 (4) Promptly on the expiration of the 10-day period, the administrator must
27 appoint, at random, one of the persons on the list whose name was not
28 rejected, if more than one name remains.
- 29
30 (5) The administrator must assign the case to the arbitrator appointed and must
31 give notice of the appointment to the arbitrator and to all parties.

32
33 (c)-(f) * * *

34
35 * * *

36 **Rule 3.823. Rules of evidence at arbitration hearing**

37
38 (a)-(c) * * *

39
40 (d) **Delivery of documents**

41
42 For purposes of this rule, “delivery” of a document or notice may be accomplished
43 manually, by electronic means under Code of Civil Procedure section 1010.6 and

1 rule 2.251, or by mail in the manner provided by Code of Civil Procedure section
2 1013. If service is by electronic means, the times prescribed in this rule for delivery
3 of documents, notices, and demands are increased by two days. If service is by
4 mail, the times prescribed in this rule ~~for delivery of documents, notices, and~~
5 ~~demands~~ are increased by five days.

6
7 * * *

8 **Rule 3.827. Entry of award as judgment**

9
10 (a) * * *

11
12 (b) **Notice of entry of judgment**

13
14 Promptly upon entry of the award as a judgment, the clerk must ~~mail~~ serve notice
15 of entry of judgment to all parties who have appeared in the case and must execute
16 a certificate of ~~mailing~~ service and place it in the court's file in the case.

17
18 (c) * * *

19
20 * * *

21 **Rule 3.931. Open proceedings, notice of proceedings, and order for hearing site**

22
23 (a) * * *

24
25 (b) **Notice regarding proceedings before referee**

26
27 (1) In each case in which he or she is appointed, a referee must file a statement
28 that provides the name, telephone number, e-mail address, and mailing
29 address of a person who may be contacted to obtain information about the
30 date, time, location, and general nature of all hearings scheduled in matters
31 pending before the referee that would be open to the public if held before a
32 judge. This statement must be filed at the same time as the referee's
33 certification under rule 3.904(a) or 3.924(a). If there is any change in this
34 contact information, the referee must promptly file a revised statement with
35 the court.

36
37 (2) In addition to providing the information required under (1), the statement
38 filed by a referee may also provide the address of a publicly accessible Web
39 site at which the referee will maintain a current calendar setting forth the
40 date, time, location, and general nature of any hearings scheduled in the
41 matter that would be open to the public if held before a judge.
42

1 (3) The clerk must post the information from the statement filed by the referee in
2 the court facility.

3

4 (c) * * *

5

6

* * *

7 **Rule 3.1010. Oral depositions by telephone, videoconference, or other remote**
8 **electronic means**

9

10 (a) * * *

11

12 **(b) Appearing and participating in depositions**

13

14 Any party may appear and participate in an oral deposition by telephone,
15 videoconference, or other remote electronic means, provided:

16

17 (1) Written notice of such appearance is served by personal delivery, e-mail, or
18 fax at least three court days before the deposition;

19

20 (2) The party so appearing makes all arrangements and pays all expenses
21 incurred for the appearance.

22

23 (c)–(e) * * *

24

25

* * *

26 **Rule 3.1109. Notice of determination of submitted matters**

27

28 **(a) Notice by clerk**

29

30 When the court rules on a motion or makes an order or renders a judgment in a
31 matter it has taken under submission, the clerk must immediately notify the parties
32 of the ruling, order, or judgment. The notification, which must specifically identify
33 the matter ruled on, may be given by serving electronically or mailing the parties a
34 copy of the ruling, order, or judgment, and it constitutes service of notice only if
35 the clerk is required to give notice under Code of Civil Procedure section 664.5.

36

37 (b) * * *

38

39 **(c) Time not extended by failure of clerk to give notice**

40

41 The failure of the clerk to give the notice required by this rule does not extend the
42 time provided by law for performing any act except as provided in rules 8.104(a) or
43 8.8248.822(a).

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Chapter 2. Format of Motion Papers

* * *

Rule 3.1110. General format

(a)–(d) * * *

(e) Binding

For motions filed on paper, all pages of each document and exhibit must be attached together at the top by a method that permits pages to be easily turned and the entire content of each page to be read.

(f) Format of exhibits

For motions filed on paper, each exhibit must be separated by a hard 8½ x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation. For all motions, an index to exhibits must be provided. Pages from a single deposition and associated exhibits must be designated as a single exhibit.

(g) * * *

* * *

Rule 3.1113. Memorandum

(a)–(h) * * *

(i) Copies of authorities

(1) A judge may require that if any authority other than California cases, statutes, constitutional provisions, or state or local rules is cited, a copy of the authority must be lodged with the papers that cite the authority and tabbed or separated as required by rule 3.1110(f).

(2) If a California case is cited before the time it is published in the advance sheets of the Official Reports, the party must include the title, case number, date of decision, and, if from the Court of Appeal, district of the Court of Appeal in which the case was decided. A judge may require that a copy of that case must be lodged and tabbed or separated as required by rule 3.1110(f).

1 (3) Upon the request of a party to the action, any party citing any authority other
2 than California cases, statutes, constitutional provisions, or state or local rules
3 must promptly provide a copy of such authority to the requesting party.
4

5 (j)-(l) * * *

6
7 **(m) Proposed orders or judgments**

8
9 If a proposed order or judgment is submitted, it must be lodged and served with the
10 moving papers but must not be attached to them. The requirements for proposed
11 orders, including the requirements for submitting proposed orders by electronic
12 means, are stated in rule 3.1312.

13
14 * * *

15 **Rule 3.1202. Contents of application**

16
17 **(a) Identification of attorney or party**

18
19 An ex parte application must state the name, address, e-mail address, and telephone
20 number of any attorney known to the applicant to be an attorney for any party or, if
21 no such attorney is known, the name, address, e-mail address, and telephone
22 number of the party if known to the applicant.
23

24 **(b)** * * *

25
26 * * *

27 **Rule 3.1300. Time for filing and service of motion papers**

28
29 **(a) In general**

30
31 Unless otherwise ordered or specifically provided by law, all moving and
32 supporting papers must be served and filed in accordance with Code of Civil
33 Procedure section 1005 and, when applicable, the statutes and rules providing for
34 electronic filing and service.
35

36 **(b)-(d)** * * *

37
38 **(e) Computation of time**

39
40 A paper submitted before the close of the clerk's office to the public on the day the
41 paper is due is deemed timely filed. Under rule 2.259(c), a court may provide by
42 local rule that a paper filed electronically before midnight on a court day is deemed
43 filed on that court day.

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* * *

Rule 3.1302. Place and manner of filing

(a) Papers filed in clerk’s office

Unless otherwise provided by local rule or specified in a court’s protocol for electronic filing, all papers relating to a law and motion proceeding must be filed in the clerk’s office.

(b) Requirements for lodged material

Material lodged physically with the clerk must be accompanied by an addressed envelope with sufficient postage for mailing the material. Material lodged electronically must clearly specify the electronic address to which the materials may be returned. After determination of the matter, the clerk may mail or send the material back to the party lodging it.

* * *

Rule 3.1304. Time of hearing

(a) General schedule

The clerk must post electronically and at the court house a general schedule showing the days and departments for holding each type of law and motion hearing.

(b)–(d) * * *

* * *

Rule 3.1320. Demurrers

(a)–(b) * * *

(c) Notice of hearing

A party filing a demurrer must serve and file therewith a notice of hearing that must specify a hearing date in accordance with the provisions of Code of Civil Procedure section 1005 and, if service is by electronic means, in accordance with the requirements of Code of Civil Procedure section 1010.6(a)(4) and rule 2.251(h)(2).

(d)–(j) * * *

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Rule 3.1326. Motions for change of venue

Following denial of a motion to transfer under Code of Civil Procedure section 396b, unless otherwise ordered, 30 calendar days are deemed granted defendant to move to strike, demur, or otherwise plead if the defendant has not previously filed a response. If a motion to transfer is granted, 30 calendar days are deemed granted from the date the receiving court ~~mails~~ sends notice of receipt of the case and its new case number.

* * *

Rule 3.1327. Motions to quash or to stay action in summary proceeding involving possession of real property

(a) Notice

In an unlawful detainer action or other action brought under chapter 4 of title 3 of part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a motion to quash service of summons on the ground of lack of jurisdiction or to stay or dismiss the action on the ground of inconvenient forum must be given in compliance with Code of Civil Procedure sections 1010.6 or 1013 and 1167.4.

(b) * * *

(c) Written opposition in advance of hearing

If a party seeks to have a written opposition considered in advance of the hearing, the written opposition must be filed and served on or before the court day before the hearing. Service must be by personal delivery, electronic service, facsimile transmission, express mail, or other means consistent with Code of Civil Procedure sections 1010, 1010.6, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties no later than the close of business on the court day before the hearing. The court, in its discretion, may consider written opposition filed later.

* * *

Rule 3.1330. Motion concerning arbitration

A petition to compel arbitration or to stay proceedings pursuant to Code of Civil Procedure sections 1281.2 and 1281.4 must state, in addition to other required allegations, the provisions of the written agreement and the paragraph that provides for arbitration. The provisions must be stated verbatim or a copy must be physically or electronically attached to the petition and incorporated by reference.

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Rule 3.1340. Motion for discretionary dismissal after two years for delay in prosecution

(a) * * *

(b) Notice of court’s intention to dismiss

If the court intends to dismiss an action on its own motion, the clerk must set a hearing on the dismissal and ~~mail~~ send notice to all parties at least 20 days before the hearing date.

(c) * * * *

* * *

Rule 3.1346. Service of motion papers on nonparty deponent

A written notice and all moving papers supporting a motion to compel an answer to a deposition question or to compel production of a document or tangible thing from a nonparty deponent must be personally served on the nonparty deponent unless the nonparty deponent agrees to accept service by mail or electronic service at an address or electronic service address specified on the deposition record.

Rule 3.1347. Discovery motions in summary proceeding involving possession of real property

(a) Notice

In an unlawful detainer action or other action brought under chapter 4 of title 3 of part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a discovery motion must be given in compliance with Code of Civil Procedure sections 1010.6 or 1013 and 1170.8.

(b) * * *

(c) Written opposition in advance of hearing

If a party seeks to have a written opposition considered in advance of the hearing, the written opposition must be served and filed on or before the court day before the hearing. Service must be by personal delivery, electronic service, facsimile transmission, express mail, or other means consistent with Code of Civil Procedure sections 1010, 1010.6, 1011, 1012, and 1013, and reasonably calculated to ensure

1 delivery to the other party or parties no later than the close of business on the court
2 day before the hearing. The court, in its discretion, may consider written opposition
3 filed later.

4
5 * * *

6 **Rule 3.1350. Motion for summary judgment or summary adjudication**

7
8 **(a)–(d)** * * *

9
10 **(e) Documents in opposition to motion**

11
12 Except as provided in Code of Civil Procedure section 437c(r) and rule 3.1351, the
13 opposition to a motion must consist of the following separate documents,
14 ~~separately stapled and~~ titled as shown:

- 15
16 (1) [*Opposing party's*] memorandum in opposition to [*moving party's*] motion
17 for summary judgment or summary adjudication or both;
18
19 (2) [*Opposing party's*] separate statement of undisputed material facts in
20 opposition to [*moving party's*] motion for summary judgment or summary
21 adjudication or both;
22
23 (3) [*Opposing party's*] evidence in opposition to [*moving party's*] motion for
24 summary judgment or summary adjudication or both (if appropriate); and
25
26 (4) [*Opposing party's*] request for judicial notice in opposition to [*moving*
27 *party's*] motion for summary judgment or summary adjudication or both (if
28 appropriate).

29
30 **(f)–(i)** * * *

31
32 * * *

33 **Rule 3.1351. Motions for summary judgment in summary proceeding involving**
34 **possession of real property**

35
36 **(a) Notice**

37
38 In an unlawful detainer action or other action brought under chapter 4 of title 3 of
39 part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a
40 motion for summary judgment must be given in compliance with Code of Civil
41 Procedure sections 1010.6 or 1013 and 1170.7.
42

1 (b) * * *

2
3 (c) **Written opposition in advance of hearing**

4
5 If a party seeks to have a written opposition considered in advance of the hearing,
6 the written opposition must be filed and served on or before the court day before
7 the hearing. Service must be by personal delivery, electronic service, facsimile
8 transmission, express mail, or other means consistent with Code of Civil Procedure
9 sections 1010, 1010.6, 1011, 1012, and 1013, and reasonably calculated to ensure
10 delivery to the other party or parties no later than the close of business on the court
11 day before the hearing. The court, in its discretion, may consider written opposition
12 filed later.

13
14 * * *

15 **Rule 3.1352. Objections to evidence**

16
17 A party desiring to make objections to evidence in the papers on a motion for summary
18 judgment must either:

- 19
20 (1) Submit objections in writing under rule 3.1354; or
21
22 (2) Make arrangements for a court reporter to be present at the hearing.

23
24 * * *

25 **Rule 3.1354. Written objections to evidence**

26
27 (a)–(b) * * *

28
29 (c) **Proposed order**

30
31 A party submitting written objections to evidence must submit with the objections a
32 proposed order. The proposed order must include places for the court to indicate
33 whether it has sustained or overruled each objection. It must also include a place
34 for the signature of the judge. The court may require that the proposed order be
35 provided in electronic form. The proposed order must be in one of the following
36 two formats:

37
38 *(First Format):*

39 **Objections to Jackson Declaration**

40
41 **Objection Number 1**

1 “Johnson told me that no widgets were ever received.” (Jackson declaration, page 3, lines
2 7–8.)

3
4 **Grounds for Objection 1:** Hearsay (Evid. Code, § 1200); lack of personal knowledge
5 (Evid. Code, § 702(a)).
6

Court’s Ruling on Objection 1:	Sustained: _____ Overruled: _____
---------------------------------------	--------------------------------------

7
8 **Objection Number 2**

9
10 “A lot of people find widgets to be very useful.” (Jackson declaration, page 17, line 5.)

11
12 **Grounds for Objection 2:** Irrelevant (Evid. Code, §§ 210, 350–351).
13

Court’s Ruling on Objection 2:	Sustained: _____ Overruled: _____
---------------------------------------	--------------------------------------

14
15 *(Second Format):*

16 **Objections to Jackson Declaration**

17
18

Material Objected to:	Grounds for Objection:	Ruling on the Objection
1. Jackson declaration, page 3, lines 7–8: “Johnson told me that no widgets were ever received.”	Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).	Sustained: _____ Overruled: _____
2. Jackson declaration, page 17, line 5: “A lot of people find widgets to be very useful.”	Irrelevant (Evid. Code, §§210, 350–351).	Sustained: _____ Overruled: _____
Date: _____	_____	_____ Judge

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Rule 3.1590. Announcement of tentative decision, statement of decision, and judgment

(a)–(k) ***

(l) Signature and filing of judgment

If a written judgment is required, the court must sign and file the judgment within 50 days after the announcement or service of the tentative decision, whichever is later, or, if a hearing was held under (k), within 10 days after the hearing. An electronic signature by the court is as effective as an original signature. The judgment constitutes the decision on which judgment is to be entered under Code of Civil Procedure section 664.

(m)–(n) ***

* * *

Rule 3.1700. Prejudgment costs

(a) Claiming costs

(1) *Trial costs*

A prevailing party who claims costs must serve and file a memorandum of costs within 15 days after the date of mailing service of the notice of entry of judgment or dismissal by the clerk under Code of Civil Procedure section 664.5 or the date of service of written notice of entry of judgment or dismissal, or within 180 days after entry of judgment, whichever is first. The memorandum of costs must be verified by a statement of the party, attorney, or agent that to the best of his or her knowledge the items of cost are correct and were necessarily incurred in the case.

(2) * * *

(b) Contesting costs

(1) *Striking and taxing costs*

Any notice of motion to strike or to tax costs must be served and filed 15 days after service of the cost memorandum. If the cost memorandum was served by mail, the period is extended as provided in Code of Civil Procedure

1 section 1013. If the cost memorandum was served electronically, the period is
2 extended as provided in Code of Civil Procedure section 1010.6(a)(4).

3
4 (2)–(4) * * *

5
6 * * *

7 **Rule 3.1900. Notice of renewal of judgment**

8
9 A copy of the application for renewal of judgment must be physically or electronically
10 attached to the notice of renewal of judgment required by Code of Civil Procedure
11 section 683.160.

12
13 * * *

14 **Rule 3.2107. Request for court order**

15
16 **(a) Request before trial**

17
18 If a party files a written request for a court order before the hearing on the claim,
19 the requesting party must mail, ~~or~~ personally deliver, or if agreed on by the parties
20 electronically serve a copy to all other parties in the case. The other parties must be
21 given an opportunity to answer or respond to the request before or at the hearing.
22 This subdivision does not apply to a request to postpone the hearing date if the
23 plaintiff's claim has not been served.

24
25 **(b) Request after trial**

26
27 If a party files a written request for a court order after notice of entry of judgment,
28 the clerk must ~~mail~~ send a copy of the request to all other parties in the action. A
29 party has 10 calendar days from the date on which the clerk ~~mailed~~ sent the request
30 to file a response before the court makes an order. The court may schedule a
31 hearing on the request, except that if the request is to vacate the judgment for lack
32 of appearance by the plaintiff, the court must hold a hearing. The court may give
33 notice of any scheduled hearing with notice of the request, but the hearing must be
34 scheduled at least 11 calendar days after the clerk has ~~mailed~~ sent the request.
35

Rule 4.102 of the California Rules of Court would be amended, effective January 1, 2016, to read:

Title 4. Criminal Rules

* * *

Rule 4.102. Uniform bail and penalty schedules—traffic, boating, fish and game, forestry, public utilities, parks and recreation, business licensing

The Judicial Council of California has established the policy of promulgating uniform bail and penalty schedules for certain offenses in order to achieve a standard of uniformity in the handling of these offenses.

In general, bail is used to ensure the presence of the defendant before the court. Under Vehicle Code sections 40512 and 13103, bail may also be forfeited and forfeiture may be ordered without the necessity of any further court proceedings and be treated as a conviction for specified Vehicle Code offenses. A penalty in the form of a monetary sum is a fine imposed as all or a portion of a sentence imposed.

To achieve substantial uniformity of bail and penalties throughout the state in traffic, boating, fish and game, forestry, public utilities, parks and recreation, and business licensing cases, the trial court judges, in performing their duty under Penal Code section 1269b to annually revise and adopt a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions, must give consideration to the Uniform Bail and Penalty Schedules approved by the Judicial Council. The Uniform Bail and Penalty Schedule for infraction violations of the Vehicle Code will be established by the Judicial Council in accordance with Vehicle Code section 40310. Judges must give consideration to requiring additional bail for aggravating or enhancing factors.

After a court adopts a countywide bail and penalty schedule, under Penal Code section 1269b, the court must, as soon as practicable, mail or e-mail a copy of the schedule to the Judicial Council with a report stating how the revised schedule differs from the council's uniform traffic bail and penalty schedule, uniform boating bail and penalty schedule, uniform fish and game bail and penalty schedule, uniform forestry bail and penalty schedule, uniform public utilities bail and penalty schedule, uniform parks and recreation bail and penalty schedule, or uniform business licensing bail and penalty schedule.

The purpose of this uniform bail and penalty schedule is to:

(1)-(2) * * *

Rules 5.50, 5.83, 5.91, 5.215, 5.242, 5.275, 5.534 and 5.906 of the California Rules of Court would be amended, effective January 1, 2016, to read:

1 **Title 5. Family and Juvenile Rules**

2
3 * * *

4 **Rule 5.50. Papers issued by the court**

5
6 (a) * * *

7
8 (b) **Automatic temporary family law restraining order in summons; handling by**
9 **clerk**

10
11 Under Family Code section 233, in proceedings for dissolution, legal separation, or
12 nullity of a marriage or domestic partnership and in parentage proceedings, the
13 clerk of the court must issue a summons that includes automatic temporary
14 (standard) restraining orders ~~on the reverse side of the summons.~~

15
16 (1) The summons and standard restraining orders must be issued and filed in the
17 same manner as a summons in a civil action and must be served and enforced
18 in the manner prescribed for any other restraining order.

19
20 (2) If service is by publication, the publication need not include the standard
21 restraining orders.

22
23 (c) **Individual restraining order**

24
25 (1) On application of a party and as provided in the Family Code, a court may
26 issue any individual restraining order that appears to be reasonable or
27 necessary, including those automatic temporary restraining orders in (b)
28 included ~~on the back of~~ in the family law summons under Family Code
29 section 233.

30
31 (2) Individual restraining orders supersede the standard family law restraining
32 orders ~~on the back of~~ in the Family Law and Uniform Parentage Act
33 summonses.

34
35 * * *

36 **Rule 5.83. Family centered case resolution**

37
38 (a)–(c) * * *

39
40 (d) **Family centered case resolution conferences**

41
42 (1)–(4) * * *

43
44 (5) Nothing in this rule prohibits an employee of the court from reviewing the
45 file and notifying the parties of any deficiencies in their paperwork before the
46 parties appear in front of a judicial officer at a family centered case resolution

1 conference. This type of assistance can occur by telephone, in person, ~~or~~ in
2 writing, or by other means approved by the court, on or before each
3 scheduled family centered case resolution conference. However, this type of
4 procedural assistance is not intended to replace family centered case
5 resolution plan management or to create a barrier to litigants' access to a
6 judicial officer.

7
8 (e)–(g) * * *

9
10 * * *

11 **Rule 5.91. Individual restraining order**

12
13 On a party's request for order and as provided in the Family Code, a court may issue any
14 individual restraining order that appears to be reasonable or necessary, including those
15 automatic temporary restraining orders included ~~on the back of~~ in the family law
16 summons. Individual orders supersede the standard family law restraining orders ~~on the~~
17 ~~back of~~ in the Family Law and Uniform Parentage Act summonses.

18
19 * * *

20 **Rule 5.215. Domestic violence protocol for Family Court Services**

21
22 (a)–(c) * * *

23
24 (d) **Family Court Services: Description and duties**

25
26 (1)–(4) * * *

27
28 (5) *Providing information*

29
30 Family Court Services staff must provide information to families accessing
31 their services about the effects of domestic violence on adults and children.
32 Family Court Services programs, including but not limited to orientation
33 programs, must provide information and materials that describe Family Court
34 Services policy and procedures with respect to domestic violence. ~~Where~~
35 Whenever possible, the videotapes provided information delivered in video
36 or audiovisual format should be closed-captioned.

37
38 (6)–(8) * * *

39
40 (e)–(j) * * *

41
42 * * *

43 **Rule 5.242. Qualifications, rights, and responsibilities of counsel appointed to**
44 **represent a child in family law proceedings**

1 (a)–(j) * * *

2
3 (k) **Other considerations**

4
5 Counsel is not required to assume the responsibilities of a social worker, probation
6 officer, child custody evaluator, or mediator and is not expected to provide
7 nonlegal services to the child. Subject to the terms of the court’s order of
8 appointment, counsel for a child may take the following actions to implement his or
9 her statutory duties in representing a child in a family law proceeding:

10
11 (1)–(3) * * *

12
13 (4) Conduct thorough, continuing, and independent investigations and discovery
14 to protect the child’s interest, which may include:

15
16 (A)–(F) * * *

17
18 (G) Reviewing relevant photographs, video-s or audiotapes recordings, and
19 other evidence;

20
21 (H)–(L) * * *

22
23 (5) * * *

24
25 * * *

26 **Rule 5.275. Standards for computer software to assist in determining support**

27
28 (a)–(f) * * *

29
30 (g) **Definitions**

31
32 As used in this ~~rule~~ chapter:

33
34 (1) “Software” refers to any program or digital application used to calculate the
35 appropriate amount of child or spousal support.

36
37 (2) “Default settings” refers to the status in which the software first starts when it
38 is installed on a computer system. The software may permit the default
39 settings to be changed by the user, either on a temporary or a permanent
40 basis, if (1) the user is permitted to change the settings back to the default
41 without reinstalling the software, (2) the computer screen prominently
42 indicates whether the software is set to the default settings, and (3) any
43 printout from the software prominently indicates whether the software is set
44 to the default settings.

1 *Information—Request to Return to Juvenile Court Jurisdiction and Foster*
2 *Care* (form JV-468) may be:

- 3
- 4 (A) Filed with the juvenile court that maintained general jurisdiction; or
- 5
- 6 (B) Submitted to the juvenile court in the county in which the nonminor
- 7 currently resides, after which:
- 8
- 9 (i) The court clerk must record the date and time received on the
- 10 face of the originals submitted and provide a copy of the originals
- 11 marked as received to the nonminor at no cost to ~~the~~ him or her.
- 12
- 13 (ii) To ensure receipt of the original form JV-466 and, if submitted,
- 14 the form JV-468 by the court of general jurisdiction within five
- 15 court days as required in section 388(e), the court clerk must
- 16 forward those originals to the clerk of the court of general
- 17 jurisdiction within two court days of submission of the originals
- 18 by the nonminor.
- 19
- 20 (iii) The court in the county in which the nonminor resides is
- 21 responsible for all costs of processing, copying, and forwarding
- 22 the form JV-466 and form JV-468 to the clerk of the court of
- 23 general jurisdiction.
- 24
- 25 (iv) The court clerk in the county in which the nonminor resides must
- 26 retain a copy of the documents submitted.
- 27
- 28 (v) The form JV-466 and, if submitted, the form JV-468 must be
- 29 filed immediately upon receipt by the clerk of the juvenile court
- 30 of general jurisdiction.
- 31
- 32 (C) For a nonminor living outside the state of California, the form JV-466
- 33 and, if the nonminor wishes to keep his or her contact information
- 34 confidential, the form JV-468 must be filed with the juvenile court of
- 35 general jurisdiction.
- 36

37 (3)–(5) * * *

38

39 (d)–(i) * * *

Rule 7.802 of the California Rules of Court would be adopted, effective January 1, 2016, to read:

1 **Title 7. Probate Rules**

2
3 * * *

4 **Chapter 17. Contested Hearings and Trials**

5
6 **Rule 7.802. Electronic Filing and Service in Contested Probate Proceedings**

7
8 The provisions of Code of Civil Procedure 1010.6 and rules 2.250–2.261 of the
9 California Rules of Court concerning filing and service by electronic means apply to
10 contested proceedings under the Probate Code and the Probate Rules to the same extent
11 as they apply to other contested civil proceedings in each superior court in this state.

Rules 8.10, 8.11, 8.40, 8.42, 8.44, 8.45, 8.46, 8.47, 8.50, 8.100, 8.104, 8.108, 8.112, 8.122, 8.123, 8.124, 8.128, 8.130, 8.137, 8.140, 8.144, 8.147, 8.150, 8.204, 8.220, 8.224, 8.248, 8.252, 8.264, 8.272, 8.278, 8.304, 8.308, 8.336, 8.344, 8.346, 8.360, 8.380, 8.384, 8.385, 8.386, 8.405, 8.406, 8.411, 8.412, 8.474, 8.482, 8.486, 8.488, 8.495, 8.496, 8.498, 8.504, 8.512, 8.540, 8.548, 8.610, 8.616, 8.630, 8.702, 8.703, 8.800, 8.803, 8.806, 8.814, 8.821, 8.822, 8.823, 8.824, 8.832, 8.833, 8.834, 8.835, 8.838, 8.840, 8.842, 8.843, 8.852, 8.853, 8.862, 8.864, 8.866, 8.868, 8.870, 8.872, 8.881, 8.882, 8.883, 8.888, 8.890, 8.891, 8.901, 8.902, 8.911, 8.915, 8.917, 8.919, 8.921, 8.922, 8.924, 8.926, 8.927, 8.928, 8.931, and 8.1018 of the California Rules of Court would be amended, effective January 1, 2016, to read:

1 **Title 8. Appellate Rules**

2
3 * * *

4
5 **Rule 8.10. Definitions and use of terms**

6
7 Unless the context or subject matter requires otherwise, the definitions and use of terms in rule
8 1.6 apply to these rules. In addition, the following apply:

9
10 (1)-(7) * * *

11
12 (8) The words “attach” or “attachment” may refer to either physical attachment or
13 electronic attachment, as appropriate.

14
15 (9) The words “copy” or “copies” may refer to electronic copies, as appropriate.

16
17 (10) The word “cover” includes the cover page of a document filed electronically.

18
19 (11) “Written” and “writing” include electronically created written materials, whether or
20 not those materials are printed on paper.

21
22
23 **Rule 8.11. Scope of rules**

24
25 These rules apply to documents filed and served electronically as well as in paper form, unless
26 otherwise provided.

27
28 * * *

29
30 **Rule 8.40. Form of filed documents**

31
32 (a) * * *

33
34 (b) **Cover color**

35
36 (1) As far as practicable, the covers of briefs and petitions filed in paper form must be in
37 the following colors:

38
39 Appellant’s opening brief or appendix green

1	Respondent’s brief or appendix	yellow
2	Appellant’s reply brief or appendix	tan
3	Joint appendix	white
4	Amicus curiae brief	gray
5	Answer to amicus curiae brief	blue
6	Petition for rehearing	orange
7	Answer to petition for rehearing	blue
8	Petition for original writ	red
9	Answer (or opposition) to petition for original writ	red
10	Reply to answer (or opposition) to petition for original writ	red
11	Petition for transfer of appellate division case to Court	white
12	of Appeal	
13	Answer to petition for transfer of appellate division case	blue
14	to Court of Appeal	
15	Petition for review	white
16	Answer to petition for review	blue
17	Reply to answer to petition for review	white
18	Opening brief on the merits	white
19	Answer brief on the merits	blue
20	Reply brief on the merits	white

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(2) In appeals under rule 8.216, the cover of a combined respondent’s brief and appellant’s opening brief filed in paper form must be yellow, and the cover of a combined reply brief and respondent’s brief filed in paper form must be tan.

(3) * * *

(c) * * *

Rule 8.42. Requirements for signatures of multiple parties on filed documents

When a document to be filed, in paper form, such as a stipulation, requires the signatures of multiple parties, the original signature of at least one party must appear on the document filed in the reviewing court; the other signatures may be in the form of copies of the signed signature page of the document. Electronically filed documents must comply with the relevant provisions of rule 8.77.

Advisory Committee Comment

~~Please note that rule 8.77 establishes different requirements for documents that are electronically filed.~~

* * *

1 **Rule 8.44. Number of copies of filed documents**

2
3 ~~Except as these rules provide otherwise, the number of copies of every brief, petition, motion,~~
4 ~~application, or other document that must be filed in a reviewing court is as follows:~~

5
6 **(a) Documents filed in the Supreme Court**

7
8 Except as these rules provide otherwise, the number of copies of every brief, petition,
9 motion, application, or other document that must be filed in the Supreme Court and that is
10 filed in paper form is as follows:

11
12 (1)-(6) * * *

13
14 **(b) Documents filed in a Court of Appeal**

15
16 Except as these rules provide otherwise, the number of copies of every brief, petition,
17 motion, application, or other document that must be filed in a Court of Appeal and that is
18 filed in paper form is as follows:

19
20 (1)-(7) * * *

21
22 **(c) Electronic copies**

23
24 A court that permits electronic filing will specify any requirements regarding ~~copies of~~
25 electronically filed documents in the electronic filing requirements published pursuant to
26 rule 8.74. In addition, a court may provide by local rule for the submission of an electronic
27 copy of a document that is not electronically filed either in addition to the copies of a
28 document required to be filed under (a) or (b) or as a substitute for one or more of these
29 copies. The local rule must specify the format of the electronic copy and provide for an
30 exception if it would cause undue hardship for a party to submit an electronic copy.

31
32 **Advisory Committee Comment * * ***

33
34 * * *

35
36 **Rule 8.45. General provisions**

37
38 **(a)** * * *

39
40 **(b) Definitions**

41
42 As used in this article:

43
44 (1) “Record” means all or part of a document, paper, exhibit, transcript, or other thing
45 filed or lodged with the court by electronic means or otherwise.

46
47 (2)-(7) * * *

1
2 **(c) Format of sealed and confidential records**
3

4 (1) Unless otherwise provided by law or court order, sealed or confidential records that
5 are part of the record on appeal or the supporting documents or other records
6 accompanying a motion, petition for a writ of habeas corpus, other writ petition, or
7 other filing in the reviewing court must be kept separate from the rest of a clerk’s or
8 reporter’s transcript, appendix, supporting documents, or other records sent to the
9 reviewing court and in a secure manner that preserves their confidentiality.

10
11 (A)-(D) * * *

12
13 (2) * * *

14
15 (3) Records relating to a request for funds under Penal Code section 987.9 or other
16 proceedings the occurrence of which is not to be disclosed under the court order or
17 applicable law must not be bound together with, or electronically transmitted as a
18 single document with, other sealed or confidential records and must not be listed in
19 the index required under (1)(D) or the alphabetical or chronological indexes to a
20 clerk’s or reporter’s transcript, appendix, supporting documents to a petition, or other
21 records sent to the reviewing court.
22

23 **(d) * * ***

24
25 **Advisory Committee Comment * * ***

26
27 * * *

28 **Rule 8.46. Sealed records**
29

30 **(a)-(c) * * ***

31
32 **(d) Record not filed in the trial court; motion or application to file under seal**
33

34 (1)-(2) * * *

35
36 (3) To lodge a record, the party must transmit the record to the court in a secure manner
37 that preserves the confidentiality of the record to be lodged. The record must be
38 transmitted separate from the rest of a clerk’s or reporter’s transcript, appendix,
39 supporting documents, or other records sent to the reviewing court with a cover sheet
40 that complies with rule 8.40(c) and labels the contents as “CONDITIONALLY
41 UNDER SEAL.” If the record is in paper format, it must be placed in a sealed
42 envelope or other appropriate sealed container.
43

44 (4)-(9) * * *

45
46 **(e) Unsealing a record in the reviewing court**
47

1 (1)-(2) * * *

2
3 (3) If the reviewing court proposes to order a record unsealed on its own motion, the
4 court must send ~~mail~~ notice to the parties. Unless otherwise ordered by the court, any
5 party may serve and file an opposition within 10 days after the notice is sent ~~mailed~~,
6 and any other party may serve and file a response within 5 days after an opposition is
7 filed.

8
9 (4)-(7) * * *

10
11 (f) * * *

12 * * *

13
14 **Rule 8.47. Confidential records**

15
16 (a) * * *

17
18 (b) **Records of *Marsden* hearings and other in-camera proceedings**

19
20 (1)-(2) * * *

21
22 (3) A defendant may serve and file a motion or application in the reviewing court
23 requesting permission to file under seal a brief, petition, or other filing that raises a
24 *Marsden* issue or an issue related to another in-camera hearing covered by this
25 subdivision and requesting an order maintaining the confidentiality of the relevant
26 material from the reporter’s transcript of or documents filed or lodged in connection
27 with the in-camera hearing.

28
29 (A)-(B) * * *

30
31 (C) At the time the motion or application is filed, the defendant must:

32
33 (i) * * *

34
35 (ii) Lodge an unredacted version of the brief, petition, or other filing that he
36 or she is requesting be filed under seal. The filing must be transmitted in
37 a secure manner that preserves the confidentiality of the filing being
38 lodged. If this version is in paper format, it must be placed in a sealed
39 envelope or other appropriate sealed container. The cover of the
40 unredacted version of the document, and if applicable the envelope or
41 other container, must identify it as “May Not Be Examined Without
42 Court Order—Contains material from conditionally sealed record.”

43
44 (D) * * *

1 **(c) Other confidential records**

2
3 Except as otherwise provided by law or order of the reviewing court:

4
5 (1) * * *

6
7 (2) To maintain the confidentiality of material contained in a confidential record, if it is
8 necessary to disclose such material in a filing in the reviewing court, a party may
9 serve and file a motion or application in the reviewing court requesting permission
10 for the filing to be under seal.

11
12 (A)-(B) * * *

13
14 (C) At the time the motion or application is filed, the party must:

15
16 (i) * * *

17
18 (ii) Lodge an unredacted version of the brief, petition, or other filing that he
19 or she is requesting be filed under seal. The filing must be transmitted in
20 a secure manner that preserves the confidentiality of the filing being
21 lodged. If this version is in paper format, it must be placed in a sealed
22 envelope or other appropriate sealed container. The cover of the
23 unredacted version of the document, and if applicable the envelope or
24 other container, must identify it as “May Not Be Examined Without
25 Court Order—Contains material from conditionally sealed record.”
26 Material from a confidential record disclosed in this version must be
27 identified and accompanied by a citation to the statute, Rule of Court,
28 case, or other authority establishing that the record is required by law to
29 be closed to inspection in the reviewing court.

30
31 (D) * * *

32
33 **Advisory Committee Comment * * ***

34
35 * * *

36
37 **Rule 8.50. Applications**

38
39 **(a)-(b) * * ***

40
41 **~~(e)~~—Envelopes**

42
43 ~~An application to a Court of Appeal must be accompanied by addressed, postage prepaid~~
44 ~~envelopes for the clerk’s use in mailing copies of the order on the application to all parties.~~

45
46 **~~(d)~~(c)Disposition * * ***

1 **Advisory Committee Comment * * ***

2
3 * * *

4
5 **Rule 8.100. Filing the appeal**

6
7 (a) * * *

8
9 (b) **Fee and deposit**

10
11 (1) Unless otherwise provided by law, the notice of appeal must be accompanied by the
12 \$775 filing fee under Government Code sections 68926 and 68926.1(b), an
13 application for a waiver of court fees and costs on appeal under rule 8.26, or an order
14 granting such an application. The fee ~~should~~ may be paid by check or money order
15 payable to “Clerk, Court of Appeal”; if the fee is paid in cash, the clerk must give a
16 receipt. The fee may also be paid by any method permitted by the court pursuant to
17 rules 2.258 and 8.78.

18
19 (2)-(3) * * *

20
21 (c)-(d) * * *

22
23 (e) **Superior court clerk’s duties**

24
25 (1) The superior court clerk must promptly ~~mail~~ send a notification of the filing of the
26 notice of appeal to the attorney of record for each party, to any unrepresented party,
27 and to the reviewing court clerk.

28
29 (2) The notification must show the date it was ~~mailed~~ sent and must state the number
30 and title of the case and the date the notice of appeal was filed. If the information is
31 available, the notification must include:

32
33 (A) The name, address, telephone number, e-mail address, and California State Bar
34 number of each attorney of record in the case;

35
36 (B) * * *

37
38 (C) The name, address, e-mail address, and telephone number of any unrepresented
39 party.

40
41 (3) * * *

42
43 (4) The ~~mailing~~ sending of a notification under (1) is a sufficient performance of the
44 clerk’s duty despite the death of the party or the discharge, disqualification,
45 suspension, disbarment, or death of the attorney.

46
47 (5)-(6) * * *

1
2 (f) * * *

3
4 (g) **Civil case information statement**

5
6 (1) Within 15 days after the superior court clerk ~~mails~~ sends the notification of the filing
7 of the notice of appeal required by (e)(1), the appellant must serve and file in the
8 reviewing court a completed *Civil Case Information Statement* (form APP-004),
9 attaching a copy of the judgment or appealed order that shows the date it was
10 entered.

11
12 (2) If the appellant fails to timely file a case information statement under (1), the
13 reviewing court clerk must notify the appellant ~~by mail~~ in writing that the appellant
14 must file the statement within 15 days after the clerk's notice is ~~mailed~~ sent and that
15 if the appellant fails to comply, the court may either impose monetary sanctions or
16 dismiss the appeal. If the appellant fails to file the statement as specified in the
17 notice, the court may impose the sanctions specified in the notice.
18

19 **Advisory Committee Comment**

20
21 **Subdivision (a).** * * *

22
23 **Subdivision (b).** * * *

24
25 **Subdivision (c)(2).** * * *

26
27 **Subdivision (e).** Under subdivision (e)(2), a notification of the filing of a notice of appeal must show the
28 date that the clerk ~~mailed~~ sent the document. This provision is intended to establish the date when the 20-
29 day extension of the time to file a cross-appeal under rule 8.108(e) begins to run.

30
31 Subdivision (e)(1) requires the clerk to ~~mail~~ send a notification of the filing of the notice of appeal to the
32 appellant's attorney or to the appellant if unrepresented. Knowledge of the date of that notification allows
33 the appellant's attorney or the appellant to track the running of the 20-day extension of time to file a
34 cross-appeal under rule 8.108(e).
35

36 **Rule 8.104. Time to appeal**

37
38 (a) **Normal time**

39
40 (1) Unless a statute, rule 8.108, or rule 8.702 provides otherwise, a notice of appeal must
41 be filed on or before the earliest of:

42
43 (A) 60 days after the superior court clerk serves on the party filing the notice of
44 appeal a document entitled "Notice of Entry" of judgment or a file-
45 ~~stamped~~ endorsed copy of the judgment, showing the date either was served;
46

1 (B) 60 days after the party filing the notice of appeal serves or is served by a party
2 with a document entitled "Notice of Entry" of judgment or a file-
3 ~~stamped~~endorsed copy of the judgment, accompanied by proof of service; or
4

5 (C) * * *

6
7 (2) * * *

8
9 (3) If the parties stipulated in the trial court under Code of Civil Procedure section
10 1019.5 to waive notice of the court order being appealed, the time to appeal under
11 (1)(C) applies unless the court or a party serves notice of entry of judgment or a file-
12 ~~stamped~~endorsed copy of the judgment to start the time period under (1)(A) or (B).
13

14 (b)-(e) * * *

15
16 **Advisory Committee Comment * * ***
17

18 **Rule 8.108. Extending the time to appeal**
19

20 (a)-(e) * * *

21
22 (f) **Public entity actions under Government Code section 962, 984, or 985**
23

24 If a public entity defendant serves and files a valid request for a mandatory settlement
25 conference on methods of satisfying a judgment under Government Code section 962, an
26 election to pay a judgment in periodic payments under Government Code section 984 and
27 rule 3.1804, or a motion for a posttrial hearing on reducing a judgment under Government
28 Code section 985, the time to appeal from the judgment is extended for all parties until the
29 earliest of:
30

31 (1) 90 days after the superior court clerk serves the party filing the notice of appeal with
32 a document entitled "Notice of Entry" of judgment, or a file-~~stamped~~endorsed copy
33 of the judgment, showing the date either was served;
34

35 (2) 90 days after the party filing the notice of appeal serves or is served by a party with a
36 document entitled "Notice of Entry" of judgment or a file-~~stamped~~endorsed copy of
37 the judgment, accompanied by proof of service; or
38

39 (3) * * *

40
41 (g)-(h) * * *

42
43 **Advisory Committee Comment * * ***
44

45 * * *

1 **Rule 8.112. Petition for writ of supersedeas**

2
3 **(a) Petition**

4
5 (1)-(3) * * *

6
7 (4) If the record has not been filed in the reviewing court:

8
9 (A)-(B) * * *

10
11 (C) The documents listed in (B) must comply with the following requirements:

12
13 (i) If filed in paper form, they must be bound together at the end of the
14 petition or in separate volumes not exceeding 300 pages each. The pages
15 must be consecutively numbered;

16
17 (ii) If filed in paper form, they must be index-tabbed by number or letter,
18 and

19
20 (iii) They must begin with a table of contents listing each document by its
21 title and its index-~~tab~~ number or letter.

22
23 (5) * * *

24
25 **(b)-(d) * * ***

26
27 **Advisory Committee Comment * * ***

28
29 * * *

30
31 **Rule 8.122. Clerk’s transcript**

32
33 **(a)-(d) * * ***

34
35 **Advisory Committee Comment**

36
37 **Subdivision (a).** * * *

38
39 **Subdivision (b).** * * *

40
41 **Subdivision (c).** The provisions of this rule together with rule 8.144, allow the clerk’s transcript to be in
42 electronic form, when permitted under the reviewing court’s local rules.

43
44 Under subdivision (c)(2), a clerk who sends a notice under subdivision (c)(1) must include a certificate
45 stating the date on which the clerk sent it. This provision is intended to establish the date when the 10-day
46 period for depositing the cost of the clerk’s transcript under this rule begins to run.

1 The superior court will make the determination on any application to waive the fees for preparing,
2 certifying, copying, and transmitting the clerk's transcript.

3
4 **Subdivision (d). * * ***

5
6 **Rule 8.123. Record of administrative proceedings**

7
8 **(a)-(b) * * ***

9
10 **(c) Transmittal to the reviewing court**

11
12 Except as provided in (d), if any administrative record is designated by a party, the
13 superior court clerk must transmit the original administrative record, or electronic
14 administrative record, with any clerk's or reporter's transcript sent to the reviewing court
15 under rule 8.150. If the appellant has elected under rule 8.121 to use neither a clerk's
16 transcript nor a reporter's transcript, the superior court clerk must transmit any
17 administrative record designated by a party to the reviewing court no later than 45 days
18 after the respondent files a designation under (b)(2) or the time for filing it expires,
19 whichever first occurs.

20
21 **(d)-(e) * * ***

22
23 **Rule 8.124. Appendixes**

24
25 **(a)-(b) * * ***

26
27 **(c) Document or exhibit held by other party**

28
29 If a party preparing an appendix wants it to contain a copy of a document or an exhibit in
30 the possession of another party:

31
32 **(1)-(2) * * ***

33
34 **(3)** If the party possessing the document or exhibit sends it to the requesting party non-
35 electronically, that party must copy and return it to the possessing party within 10
36 days after receiving it.

37
38 **(4) * * ***

39
40 **(5)** On request, the reviewing court may return a document or an exhibit to the party that
41 sent it non-electronically. When the remittitur issues, the reviewing court must return
42 all documents or exhibits to the party that sent them, if they were sent non-
43 electronically.

44
45 **(d) Form of appendix**

- 1 (1) An appendix must comply with the requirements of rule 8.144(~~ab~~)-(ed) for a clerk's
2 transcript.
3
4 (2) * * *
5
6 (3) An appendix must not be bound or transmitted electronically as one document with a
7 brief.
8

9 (e)-(g) * * *

10 **Advisory Committee Comment * * ***

11 * * *

12
13
14 **Rule 8.128. Superior court file instead of clerk's transcript**

15
16 (a) * * *

17
18 (b) **Cost estimate; preparation of file; transmittal**

- 19
20 (1) Within 10 days after a stipulation under (a) is filed, the superior court clerk must
21 send mail the appellant an estimate of the cost to prepare the file, including the cost
22 of sending the index under (3). The appellant must deposit the cost or file an
23 application for, or an order granting, a waiver of the cost within 10 days after the
24 clerk sends mails the estimate.
25

26 (2)-(4) * * *

27 **Advisory Committee Comment * * ***

28
29 **Rule 8.130. Reporter's transcript**

30
31 (a) * * *

32
33 (b) **Deposit or substitute for cost of transcript**

34
35 (1) * * *

- 36
37 (2) If the reporter believes the deposit is inadequate, within 15 days after the clerk mails
38 sends the notice under (d)(1) the reporter may file with the clerk and send mail to the
39 designating party an estimate of the transcript's total cost at the statutory rate,
40 showing the additional deposit required. The party must deposit the additional sum
41 within 10 days after the reporter mails sends the estimate.
42

43 (3) * * *

44
45 (c) * * *

1 **(d) Superior court clerk's duties**

2
3 (1) * * *

4
5 (2) The clerk must promptly ~~mail~~ send the reporter notice of the designation and of the
6 deposit or substitute and notice to prepare the transcript, showing the date the notice
7 was sent ~~mailed~~ to the reporter, when the court receives:

8
9 (A)-(C) * * *

10
11 (3) If the appellant does not present the deposit under (b)(1) or a substitute under (b)(3)
12 with its notice of designation or does not present an additional deposit required under
13 (b)(2):

14
15 (A) The clerk must promptly notify the appellant in writing ~~by mail~~ that, within 15
16 days after the notice is sent ~~mailed~~, the appellant must take one of the
17 following actions or the court may dismiss the appeal:

18
19 (i)-(v) * * *

20
21 (B) * * *

22
23 (4)-(5) * * *

24
25 **(e) * * ***

26
27 **(f) Filing the transcript; copies; payment**

28
29 (1) Within 30 days after notice is ~~mailed~~ sent under (d)(2), the reporter must prepare and
30 certify an original of the transcript and file it in superior court. The reporter must
31 also file one copy of the original transcript, or more than one copy if multiple
32 appellants equally share the cost of preparing the record (see rule 8.147(a)(2)). Only
33 the reviewing court can extend the time to prepare the reporter's transcript (see rule
34 8.60).

35
36 (2)-(4) * * *

37
38 **(g) * * ***

39
40 **(h) Agreed or settled statement when proceedings cannot be transcribed**

41
42 (1) If any portion of the designated proceedings cannot be transcribed, the superior court
43 clerk must so notify the designating party in writing ~~by mail~~; the notice must show
44 the date it was sent ~~mailed~~. The party may then substitute an agreed or settled
45 statement for that portion of the designated proceedings by complying with either
46 (A) or (B):

1
2 (A) Within 10 days after the notice is sent ~~mailed~~, the party may file in superior
3 court, under rule 8.134, an agreed statement or a stipulation that the parties are
4 attempting to agree on a statement. If the party files a stipulation, within 30
5 days thereafter the party must file the agreed statement, move to use a settled
6 statement under rule 8.137, or proceed without such a statement; or
7

8 (B) Within 10 days after the notice is sent ~~mailed~~, the party may move in superior
9 court to use a settled statement. If the court grants the motion, the statement
10 must be served, filed, and settled as rule 8.137 provides, but the order granting
11 the motion must fix the times for doing so.
12

13 (2)-(3) * * *

14
15 **Advisory Committee Comment**

16
17 **Subdivision (a).** * * *

18
19 **Subdivision (b).** * * *

20
21 **Subdivision (c).** * * *

22
23 **Subdivision (d).** Under subdivision (d)(2), the clerk’s notice to the reporter must show the date on which
24 the clerk sent ~~mailed~~ the notice. This provision is intended to establish the date when the period for
25 preparing the reporter’s transcript under subdivision (f)(1) begins to run.
26

27 **Subdivision (e).** * * *

28
29 **Subdivision (f).** * * *

30
31 * * *

32
33 **Rule 8.137. Settled statement**

34
35 **(a) Motion to use settled statement**

36
37 (1)-(2) * * *

38
39 (3) If the court denies the motion, the appellant must file a new notice designating the
40 record on appeal under rule 8.121 within 10 days after the superior court clerk sends
41 ~~mails~~, or a party serves, the order of denial.
42

43 **(b) Time to file; contents of statement**

44
45 (1) Within 30 days after the superior court clerk sends ~~mails~~, or a party serves, an order
46 granting a motion to use a settled statement, the appellant must serve and file in
47 superior court a condensed narrative of the oral proceedings that the appellant

1 believes necessary for the appeal. Subject to the court's approval in settling the
2 statement, the appellant may present some or all of the evidence by question and
3 answer.

4
5 (2)-(5) * * *

6
7 (c) * * *

8
9 * * *

10
11 **Rule 8.140. Failure to procure the record**

12
13 (a) **Notice of default**

14
15 Except as otherwise provided by these rules, if a party fails to timely do an act required to
16 procure the record, the superior court clerk must promptly notify the party in writing by
17 ~~mail~~ that it must do the act specified in the notice within 15 days after the notice is sent
18 ~~mailed~~, and that if it fails to comply, the reviewing court may impose one of the following
19 sanctions:

20
21 (1)-(2) * * *

22
23 (b)-(c) * * *

24
25 **Advisory Committee Comment * * ***

26
27 **Rule 8.144. Form of the record**

28
29 (a) **Paper and format**

30
31 (1) Where the local rules of the reviewing court so allow, all or part of the record may be
32 in electronic format.

33
34 ~~(1)~~(2) In the clerk's and reporter's transcripts:

35
36 (A) All documents filed must have a page size of 8½ by 11 inches. If filed in paper
37 form, the paper must be white or unbleached, 8½ by 11 inches, and of at least
38 20-pound weight;

39
40 (B)-(D) * * *

41
42 (E) The margin must be at least 1¼ inches from the left edge ~~on the bound side of~~
43 ~~the page.~~

44
45 ~~(2)~~(3) If filed in paper form, in the clerk's transcript only one side of the paper may be
46 used; in the reporter's transcript both sides may be used, but the margins must then
47 be 1¼ inches on each edge.

1
2 (3)(4) In the reporter's transcript the lines on each page must be consecutively numbered,
3 and must be double-spaced or one-and-a-half-spaced; double-spaced means three
4 lines to a vertical inch.

5
6 (4)(5) The clerk's and reporter's transcripts must comply with rules 8.45–8.47 relating to
7 sealed and confidential records.
8

9 **(b) Indexes**

10 Except as provided in rule 8.45, at the beginning of the first volume of each:

- 11
12
13 (1) The clerk's transcript must contain alphabetical and chronological indexes listing
14 each document and the volume, where applicable, and page where it first appears;
15
16 (2) The reporter's transcript must contain alphabetical and chronological indexes listing
17 the volume, where applicable, and page where each witness's direct, cross, and any
18 other examination, begins; and
19
20 (3) The reporter's transcript must contain an index listing the volume, where applicable,
21 and page where any exhibit is marked for identification and where it is admitted or
22 refused. The index must identify each exhibit by number or letter and a brief
23 description of the exhibit.
24

25 **(c) Binding and cover**

26
27 (1) If filed in paper form, clerk's and reporter's transcripts must be bound on the left
28 margin in volumes of no more than 300 sheets.

29
30 (2)-(3) * * *

31
32 **(d)-(f) * * ***

33 **Advisory Committee Comment * * ***
34

35 **Rule 8.147. Record in multiple or later appeals in same case**

36
37 **(a) * * ***

38
39 **(b) Later appeal**

40
41 In an appeal in which the parties are using either a clerk's transcript under rule 8.122 or a
42 reporter's transcript under rule 8.130:

- 43
44 (1) A party wanting to incorporate by reference all or parts of a record in a prior appeal
45 in the same case must specify those parts in its designation of the record.
46

1 (A) The prior appeal must be identified by its case name and number. If only part
2 of a record is being incorporated by reference, that part must be identified by
3 citation to the volume, where applicable, and page numbers of the record
4 where it appears and either the title of the document or documents or the date
5 of the oral proceedings to be incorporated. The parts of any record
6 incorporated by reference must be identified in a separate section at the end of
7 the designation of the record.

8
9 (B)-(C) * * *

10
11 (2) * * *

12 **Advisory Committee Comment * * ***

13 * * *

14
15
16 **Rule 8.150. Filing the record**

17
18 (a) * * *

19
20 (b) **Reviewing court clerk's duties**

21
22 On receiving the record, the reviewing court clerk must promptly file the original and send
23 ~~mail~~ notice of the filing date to the parties.

24 * * *

25
26
27 **Rule 8.204. Contents and form of briefs**

28
29 (a) * * *

30
31 (b) **Form**

32
33 (1) A brief may be reproduced by any process that produces a clear, black image of
34 letter quality. All documents filed must have a page size of 8½ by 11 inches. If filed
35 in paper form, the paper must be white or unbleached, ~~8½ by 11 inches~~, and of at
36 least 20-pound weight.

37
38 (2) Any conventional font typeface may be used. The font typeface may be either
39 proportionally spaced or monospaced.

40
41 (3) The font type style must be roman; but for emphasis, italics or boldface may be used
42 or the text may be underscored. Case names must be italicized or underscored.
43 Headings may be in uppercase letters.

44
45 (4) Except as provided in (11), the font type size, including footnotes, must not be
46 smaller than 13-point, and both sides of the paper may be used.
47

1 (5)-(7) * * *

2
3 (8) If filed in paper form, the brief must be bound on the left margin. If the brief is
4 stapled, the bound edge and staples must be covered with tape.

5
6 (9) * * *

7
8 (10) If filed in paper form, the cover must be in the color prescribed by rule 8.40(b), ~~and,~~
9 ~~in~~ In addition to providing the cover information required by rule 8.40(c), the cover
10 must state:

11 (A)-(D) * * *

12
13 (11) * * *

14
15
16 (c)-(e) * * *

17 18 **Advisory Committee Comment**

19
20 **Subdivision (b).** The first sentence of subdivision (b)(1) confirms that any method of reproduction is
21 acceptable provided it results in a clear black image of letter quality. The provision is derived from
22 subdivision (a)(1) of rule 32 of the Federal Rules of Appellate Procedure (28 U.S.C.) (FRAP 32).

23
24 Paragraphs (2), (3), and (4) of subdivision (b) state requirements of font typeface, font type style, and
25 font type size (see also subd. (b)(11)(C)). ~~The first two terms are defined in *The Chicago Manual of Style*~~
26 ~~(15th ed., 2003) p. 839. Note that computer programs often refer to typeface as “font.”~~

27
28 Subdivision (b)(2) allows the use of any conventional font typeface—e.g., Times New Roman, Courier,
29 Arial, Helvetica, etc.—and permits the font typeface to be either proportionally spaced or monospaced.

30
31 Subdivision (b)(3) requires the font type style to be roman, but permits the use of italics, boldface, or
32 underscoring for emphasis; it also requires case names to be italicized or underscored. These provisions
33 are derived from FRAP 32(a)(6).

34
35 Subdivision (b)(5) allows headings to be single-spaced; it is derived from FRAP 32(a)(4). The provision
36 also permits quotations of any length to be block-indented and single-spaced at the discretion of the brief
37 writer.

38
39 See also rule 1.200 concerning the format of citations. Brief writers are encouraged to follow the citation
40 form of the *California Style Manual* (4th ed., 2000).

41
42 **Subdivision (c).** * * *

43
44 **Subdivision (d).** * * *

45
46 **Subdivision (e).** * * *

1 **Rule 8.208. Certificate of Interested Entities or Persons**

2
3 (a)-(c) * * *

4
5 **(d) Serving and filing a certificate**

6
7 (1)-(2) * * *

8
9 (3) If a party fails to file a certificate as required under (1), the clerk must notify the
10 party in writing ~~by mail~~ that the party must file the certificate within 15 days after
11 the clerk’s notice is sent ~~mailed~~ and that if the party fails to comply, the court may
12 impose one of the following sanctions:

13
14 (A)-(B) * * *

15
16 (4) * * *

17
18 (e)-(f) * * *

19
20 **Advisory Committee Comment * * ***

21
22
23 **Rule 8.212. Service and filing of briefs * * ***

24
25 **Advisory Committee Comment**

26
27 **Subdivision (a).** * * *

28
29 **Subdivision (b).** Extensions of briefing time are limited by statute in some cases. For example, under
30 Public Resources Code section 21167.6(h) in cases under section 21167, extensions are limited to one 30-
31 day extension for the opening brief and one 30-day extension for “preparation of responding brief.”

32
33 Under rule 8.42, the original signature of only one party is required on the stipulation filed with the court;
34 the signatures of the other parties may be in the form of copies of the signed signature page of the
35 document. Signatures on electronically filed documents are subject to the requirements of rule 8.77.

36
37 Subdivision (b)(2) clarifies that a party seeking an extension of time from the presiding justice must
38 proceed by application under rule 8.50 rather than by motion under rule 8.54.

39
40 **Subdivision (c).** * * *

41 * * *

42
43 **Rule 8.220. Failure to file a brief**

44
45 **(a) Notice to file**

1 If a party fails to timely file an appellant’s opening brief or a respondent’s brief, the
2 reviewing court clerk must promptly notify the party in writing by mail that the brief must
3 be filed within 15 days after the notice is sent mailed and that if the party fails to comply,
4 the court may impose one of the following sanctions:

5
6 (1)-(2) * * *

7
8 **(b)-(d) * * ***

9
10 **Rule 8.224. Transmitting exhibits**

11
12 **(a) * * ***

13
14 **(b) Transmittal**

15
16 Unless the reviewing court orders otherwise, within 20 days after the first notice under (a)
17 is filed:

18
19 (1) The superior court clerk must put any designated exhibits in the clerk’s possession
20 into numerical or alphabetical order and send them to the reviewing court ~~with two~~
21 ~~copies of a list of the exhibits sent.~~ The superior court clerk must also send a list of
22 the exhibits sent. If the exhibits are not transmitted electronically, the superior court
23 clerk must send two copies of the list. If the reviewing court clerk finds the list
24 correct, the clerk must sign and return ~~one~~ a copy to the superior court clerk.

25
26 (2) Any party in possession of designated exhibits returned by the superior court must
27 put them into numerical or alphabetical order and send them to the reviewing court
28 ~~with two copies of a list of the exhibits sent.~~ The party must also send a list of the
29 exhibits sent. If the exhibits are not transmitted electronically, the party must send
30 two copies of the list. If the reviewing court clerk finds the list correct, the clerk must
31 sign and return ~~one~~ a copy to the party.

32
33 **(c) * * ***

34
35 **(d) Request and return by reviewing court**

36
37 At any time the reviewing court may direct the superior court or a party to send it an
38 exhibit. On request, the reviewing court may return an exhibit to the superior court or to
39 the party that sent it. When the remittitur issues, the reviewing court must return all
40 exhibits not transmitted electronically to the superior court or to the party that sent them.

41
42 **Advisory Committee Comment * * ***

43
44 * * *

45
46 **Rule 8.248. Prehearing conference**

1 (a)-(c) * * *

2
3 (d) Time to file brief

4
5 The time to file a party's brief under rule 8.212(a) is tolled from the date the Court of
6 Appeal sends ~~mails~~ notice of the conference until the date it sends ~~mails~~ notice that the
7 conference is concluded.

8
9 **Advisory Committee Comment**

10
11 **Subdivision (a).** * * *

12
13 **Subdivision (d).** If a prehearing conference is ordered before the due date of the appellant's opening
14 brief, the time to file the brief is not *extended* but *tolled*, in order to avoid unwarranted lengthening of the
15 briefing process. For example, if the conference is ordered 15 days after the start of the normal 30-day
16 briefing period, the rule simply *suspends* the running of that period; when the period resumes, the party
17 will not receive an automatic extension of a full 30 days but rather the remaining 15 days of the original
18 briefing period, unless the period is otherwise extended.

19
20 Under subdivision (d) the tolling period continues "until the date [the Court of Appeal] sends ~~mails~~ notice
21 that the conference is *concluded*" (italics added). This provision is intended to accommodate the
22 possibility that the conference may not conclude on the date it begins.

23
24 Whether or not the conference concludes on the date it begins, subdivision (d) requires the Court of
25 Appeal clerk to send ~~mail~~ the parties a notice that the conference is concluded. This provision is intended
26 to facilitate the calculation of the new briefing due dates.

27
28
29 **Rule 8.252. Judicial notice; findings and evidence on appeal**

30
31 (a)-(b) * * *

32
33 (c) Evidence on appeal

34
35 (1)-(2) * * *

36
37 (3) For documentary evidence, a party may offer the original, a certified copy, ~~or~~ a
38 photocopy, or, in a case in which electronic filing is permitted, an electronic copy.
39 The court may admit the document in evidence without a hearing.

40
41 **Advisory Committee Comment** * * *

42
43 * * *

44
45 **Rule 8.264. Filing, finality, and modification of decision**

46
47 (a)-(c) * * *

1 **(d) Consent to increase or decrease in amount of judgment**

2
3 If a Court of Appeal decision conditions the affirmance of a money judgment on a party's
4 consent to an increase or decrease in the amount, the judgment is reversed unless, before
5 the decision is final under (b), the party serves and files ~~two copies~~ a copy of a consent in
6 the Court of Appeal. If a consent is filed, the finality period runs from the filing date of the
7 consent. The clerk must send one file-~~stamped~~ endorsed copy of the consent to the superior
8 court with the remittitur.

9
10 **Advisory Committee Comment * * ***

11
12 * * *

13 **Rule 8.272. Remittitur**

14
15 **(a) * * ***

16
17 **(b) Clerk's duties**

18
19 (1) If a Court of Appeal decision is not reviewed by the Supreme Court:

20
21 (A) * * *

22
23 (B) The clerk must send the lower court or tribunal the Court of Appeal remittitur
24 and a file-~~stamped~~ endorsed copy of the opinion or order.

25
26 (2) After Supreme Court review of a Court of Appeal decision:

27
28 (A) * * *

29
30 (B) The clerk must send the lower court or tribunal the Court of Appeal remittitur,
31 a copy of the Supreme Court remittitur, and a file-~~stamped~~ endorsed copy of the
32 Supreme Court opinion or order.

33
34 **(c)-(d) * * ***

35 **Advisory Committee Comment * * ***

36
37 * * *

38
39 **Rule 8.278. Costs on appeal**

40
41 **(a)-(d) * * ***

42 **Advisory Committee Comment**

43
44
45 This rule is not intended to expand the categories of appeals subject to the award of costs. See rule 8.493
46 for provisions addressing costs in writ proceedings.

1 **Subdivision (c).** * * *

2
3 **Subdivision (d).** Subdivision (d)(1)(B) is intended to refer not only to a normal record prepared by the
4 clerk and the reporter under rules 8.122 and 8.130 but also, for example, to an appendix prepared by a
5 party under rule 8.124 and to a superior court file to which the parties stipulate under rule 8.128.

6
7 Subdivision (d)(1)(D), allowing recovery of the “costs to notarize, serve, mail, and file the record, briefs,
8 and other papers,” is intended to include fees charged by electronic filing service providers for electronic
9 filing and service of documents.

10
11 “Net interest expenses” in subdivisions (d)(1)(F) and (G) means the interest expenses incurred to borrow
12 the funds that are deposited minus any interest earned by the borrower on those funds while they are on
13 deposit.

14
15 * * *

16
17 **Rule 8.304. Filing the appeal; certificate of probable cause**

18
19 **(a)-(b)** * * *

20
21 **(c) Notification of the appeal**

22
23 (1) When a notice of appeal is filed, the superior court clerk must promptly send mail a
24 notification of the filing to the attorney of record for each party, to any unrepresented
25 defendant, to the reviewing court clerk, to each court reporter, and to any primary
26 reporter or reporting supervisor. If the defendant also files a statement under (b)(1),
27 the clerk must not send mail the notification unless the superior court files a
28 certificate under (b)(2).

29
30 (2) The notification must show the date it was sent mailed, the number and title of the
31 case, and the dates the notice of appeal and any certificate under (b)(2) were filed. If
32 the information is available, the notification must also include:

33
34 (A) The name, address, telephone number, e-mail address, and California State Bar
35 number of each attorney of record in the case;

36
37 (B) * * *

38
39 (C) The name, address, e-mail address, and telephone number of any unrepresented
40 defendant.

41
42 (3)-(4) * * *

43
44 (5) The sending mailing of a notification under (1) is a sufficient performance of the
45 clerk’s duty despite the discharge, disqualification, suspension, disbarment, or death
46 of the attorney.
47

1 (6) * * *

2
3 **Advisory Committee Comment * * ***

4
5 * * *

6
7 **Rule 8.308. Time to appeal**

8
9 (a) * * *

10
11 (b) **Cross-appeal**

12
13 If the defendant or the People timely appeals from a judgment or appealable order, the time
14 for any other party to appeal from the same judgment or order is either the time specified
15 in (a) or 30 days after the superior court clerk sends mails notification of the first appeal,
16 whichever is later.

17
18 (c)-(d) * * *

19
20 **Advisory Committee Comment * * ***

21
22 * * *

23
24 **Rule 8.336. Preparing, certifying, and sending the record**

25
26 (a)-(c) * * *

27
28 (d) **Reporter's transcript**

29
30 (1)-(3) * * *

31
32 (4) Any portion of the transcript transcribed during trial must not be retyped unless
33 necessary to correct errors, but must be repaginated and combined ~~bound~~ with any
34 portion of the transcript not previously transcribed. Any additional copies needed
35 must not be retyped but, if the transcript is in paper form, must be prepared by
36 photocopying or an equivalent process.

37
38 (5) * * *

39
40 (e)-(h) * * *

41
42 **Advisory Committee Comment * * ***

43
44 * * *

45 **Rule 8.344. Agreed statement**

1 If the parties present the appeal on an agreed statement, they must comply with the relevant
2 provisions of rule 8.134, but the appellant must file an original and, if the statement is filed in
3 paper form, three copies of the statement in superior court within 25 days after filing the notice
4 of appeal.

5
6 **Rule 8.346. Settled statement**

7
8 **(a)-(b) * * ***

9
10 **(c) Serving and filing the settled statement**

11
12 The applicant must prepare, serve, and file in superior court an original and, if the
13 statement is filed in paper form, three copies of the settled statement.

14
15 **Rule 8.360. Briefs by parties and amici curiae**

16
17 **(a)-(b) * * ***

18
19 **(c) Time to file**

20
21 **(1)-(4) * * ***

22
23 **(5)** If a party fails to timely file an appellant's opening brief or a respondent's brief, the
24 reviewing court clerk must promptly notify the party in writing ~~by mail~~ that the brief
25 must be filed within 30 days after the notice is sent ~~mailed~~, and that failure to comply
26 may result in one of the following sanctions:

27
28 **(A)-(B) * * ***

29
30 **(6) * * ***

31
32 **(d)-(f) * * ***

33 **Advisory Committee Comment * * ***

34
35 * * *

36
37 **Rule 8.380. Petition for writ of habeas corpus filed by petitioner not represented by an**
38 **attorney**

39
40 **(a)-(b) * * ***

41
42 **(c) Number of copies**

43
44 In the Court of Appeal, the petitioner must file the original of the petition under (a) and
45 one set of any supporting documents. In the Supreme Court the petitioner must file an
46 original and, if the petition is filed in paper form, 10 copies of the petition and an original

1 and, if the document is filed in paper form, 2 copies of any supporting document
2 accompanying the petition unless the court orders otherwise.

3
4 **Advisory Committee Comment * * ***
5
6

7 **Rule 8.384. Petition for writ of habeas corpus filed by an attorney for a party**
8

9 **(a) Form and content of petition and memorandum**

10
11 (1)-(2) * * *

12
13 (3) The petition and any memorandum must support any reference to a matter in the
14 supporting documents by a citation to its index number or letter ~~tab~~ and page.
15

16 **(b)-(d) * * ***

17 **Advisory Committee Comment * * ***
18
19

20 **Rule 8.385. Proceedings after the petition is filed**
21

22 **(a) * * ***
23

24 **(b) Informal response**

25
26 (1) * * *

27
28 (2) The response must be served and filed within 15 days or as the court specifies. If the
29 petitioner is not represented by counsel in the habeas corpus proceeding, one copy of
30 the informal response and any supporting documents must be served on the
31 petitioner. If the petitioner is represented by counsel in the habeas corpus
32 proceeding, ~~two copies~~ the response must be served on the petitioner's counsel, ~~and~~
33 if the response is served in paper form, two copies must be served on the
34 petitioner's counsel. If the petitioner is represented by court-appointed counsel other
35 than the State Public Defender's Office or Habeas Corpus Resource Center, one copy
36 must also be served on the applicable appellate project.
37

38 (3) * * *

39
40 **(c)-(f) * * ***
41

42 **Advisory Committee Comment * * ***
43
44

45 **Rule 8.386. Proceedings if the return is ordered to be filed in the reviewing court**
46

1 (a) * * *

2
3 (b) **Serving and filing return**

4
5 (1)-(2) * * *

6
7 (3) ~~Two copies of the~~ The return and any supporting documents must be served on the
8 petitioner's counsel, and if the return is served in paper form, two copies must be
9 served on the petitioner's counsel. If the petitioner is represented by court-appointed
10 counsel other than the State Public Defender's Office or Habeas Corpus Resource
11 Center, one copy must be served on the applicable appellate project.

12
13 (c) **Form and content of return**

14
15 (1) * * *

16
17 (2) Rule 8.486(c)(1) and (2) govern the form of any supporting documents
18 accompanying the return. The return must support any reference to a matter in the
19 supporting documents by a citation to its index ~~tab~~ number or letter and page.

20
21 (3) * * *

22
23 (d)-(g) * * *

24
25 * * *

26
27 **Rule 8.405. Filing the appeal**

28
29 (a) * * *

30
31 (b) **Superior court clerk's duties**

32
33 (1) When a notice of appeal is filed, the superior court clerk must immediately:

34
35 (A) ~~Mail~~ Send a notification of the filing to:

36
37 (i)-(iii) * * *

38
39 (B) * * *

40
41 (2) The notification must show the name of the appellant, the date it was ~~mailed~~ sent, the
42 number and title of the case, and the date the notice of appeal was filed. If the
43 information is available, the notification must also include:

44
45 (A) The name, address, telephone number, e-mail address, and California State Bar
46 number of each attorney of record in the case;

1
2 (B) * * *

3
4 (C) The name, address, e-mail address, and telephone number of any unrepresented
5 party.

6
7 (3)-(4) * * *

8
9 (5) The sending mailing of a notification is a sufficient performance of the clerk's duty
10 despite the discharge, disqualification, suspension, disbarment, or death of the
11 attorney.

12
13 (6) * * *

14
15 **Advisory Committee Comment * * ***

16
17
18 **Rule 8.406. Time to appeal**

19
20 (a) * * *

21
22 (b) **Cross-appeal**

23
24 If an appellant timely appeals from a judgment or appealable order, the time for any other
25 party to appeal from the same judgment or order is either the time specified in (a) or 20
26 days after the superior court clerk sends mails notification of the first appeal, whichever is
27 later.

28
29 (c)-(d) * * *

30
31 **Advisory Committee Comment * * ***

32
33 * * *

34
35 **Rule 8.411. Abandoning the appeal**

36
37 (a)-(b) * * *

38
39 (c) **Clerk's duties**

40
41 (1) If the abandonment is filed in the superior court, the clerk must immediately send
42 mail a notification of the abandonment to:

43
44 (A)-(C) * * *

- 1 (2) If the abandonment is filed in the reviewing court and the reviewing court orders the
2 appeal dismissed, the clerk must immediately send mail a notification of the order of
3 dismissal to every party.
4

5 **Advisory Committee Comment * * ***

6
7 * * *

8 **Rule 8.412. Briefs by parties and amici curiae**

9
10 (a)-(c) * * *

11
12 (d) **Failure to file a brief**

- 13
14 (1) Except in appeals governed by rule 8.416, if a party fails to timely file an appellant's
15 opening brief or a respondent's brief, the reviewing court clerk must promptly notify
16 the party's counsel or the party, if not represented, in writing by mail that the brief
17 must be filed within 30 days after the notice is sent mailed and that failure to comply
18 may result in one of the following sanctions:
19

20 (A)-(B) * * *

21
22 (2)-(3) * * *

23
24 (e) * * *

25
26 **Advisory Committee Comment * * ***

27
28 * * *

29
30 **Rule 8.474. Procedures and data**

31
32 (a) * * *

33
34 (b) **Data**

35
36 The clerks of the superior courts and the reviewing courts must ~~the~~ provide the data
37 required to assist the Judicial Council in evaluating the effectiveness of the rules governing
38 appeals and writs in juvenile cases.
39

40 * * *

41
42 **Rule 8.482. Appeal from judgment authorizing conservator to consent to sterilization of**
43 **conservatee**

44
45 (a)-(b) * * *

46

1 (c) **Superior court clerk’s duties**

2
3 After entering the judgment, the clerk must immediately:

4
5 (1) * * *

6
7 (2) Send Mail certified copies of the judgment to the Court of Appeal and the Attorney
8 General.

9
10 (d)-(f) * * *

11
12 (g) **Confidential material**

13
14 (1) * * *

15
16 (2) Material under (1) must be sent to the reviewing court in a secure manner that
17 preserves its confidentiality. If the material is in paper format, it must be sent to the
18 reviewing court in a sealed envelope marked “CONFIDENTIAL—MAY NOT BE
19 EXAMINED WITHOUT A COURT ORDER.”

20
21 (h)-(i) * * *

22
23 * * *

24
25 **Rule 8.486. Petitions**

26
27 (a)-(b) * * *

28
29 (c) **Form of supporting documents**

30
31 (1) Documents submitted under (b) must comply with the following requirements:

32
33 (A) If submitted in paper form, they must be bound together at the end of the
34 petition or in separate volumes not exceeding 300 pages each. The pages must
35 be consecutively numbered.

36
37 (B) If submitted in paper form, they must be index-tabbed by number or letter.

38
39 (C) They must begin with a table of contents listing each document by its title and
40 its index-~~tab~~ number or letter. If a document has attachments, the table of
41 contents must give the title of each attachment and a brief description of its
42 contents.

43
44 (2) The clerk must file any supporting documents not complying with (1), but the court
45 may notify the petitioner that it may strike or summarily deny the petition if the

1 documents are not brought into compliance within a stated reasonable time of not
2 less than 5 days.

- 3
4 (3) Rule 8.44(a) governs the number of copies of supporting documents to be filed in the
5 Supreme Court. Rule 8.44(b) governs the number of supporting documents to be
6 filed in the Court of Appeal.

7
8 (d)-(e) * * *

9 **Advisory Committee Comment * * ***

10
11
12 * * *

13 **Rule 8.488. Certificate of Interested Entities or Persons**

14
15 (a)-(c) * * *

16
17 (d) **Failure to file a certificate**

- 18
19 (1) If a party fails to file a certificate as required under (b) and (c), the clerk must notify
20 the party in writing ~~by mail~~ that the party must file the certificate within 10 days
21 after the clerk's notice is sent ~~mailed~~ and that if the party fails to comply, the court
22 may impose one of the following sanctions:

23
24 (A)-(B) * * *

- 25
26 (2) * * *

27
28 **Advisory Committee Comment * * ***

29
30 * * *

31
32 **Rule 8.495. Review of Workers' Compensation Appeals Board cases**

33
34 (a) **Petition**

- 35
36 (1)-(2) * * *

- 37
38 (3) The petition must be accompanied by proof of service of ~~two copies~~ a copy of the
39 petition on the Secretary of the Workers' Compensation Appeals Board in San
40 Francisco, or two copies if the petition is served in paper form, and one copy on each
41 party who appeared in the action and whose interest is adverse to the petitioner.
42 Service on the board's local district office is not required.

43
44 (b)-(c) * * *

- 45
46 (1)-(2) * * *

1 (3) If a party fails to file a certificate as required under (1) and (2), the clerk must notify
2 the party in writing ~~by mail~~ that the party must file the certificate within 10 days
3 after the clerk's notice is ~~mailed~~ sent and that failure to comply will result in one of
4 the following sanctions:

5
6 (A)-(B) * * *

7
8 (4) * * *

9
10 **Advisory Committee Comment * * ***

11 * * *

12
13
14 **Rule 8.496. Review of Public Utilities Commission cases**

15
16 **(a)-(b) * * ***

17
18 **(c) Certificate of Interested Entities or Persons**

19
20 (1)-(2) * * *

21
22 (3) If a party fails to file a certificate as required under (1) and (2), the clerk must notify
23 the party ~~by mail~~ in writing that the party must file the certificate within 10 days
24 after the clerk's notice is ~~mailed~~ sent and that failure to comply will result in one of
25 the following sanctions:

26
27 (A)-(B) * * *

28
29 (4) * * *

30
31 **Advisory Committee Comment * * ***

32 * * *

33
34
35 **Rule 8.498. Review of Agricultural Labor Relations Board and Public Employment**
36 **Relations Board cases**

37
38 **(a)-(c) * * ***

39
40 **(d) Certificate of Interested Entities or Persons**

41
42 (1)-(2) * * *

43
44 (3) If a party fails to file a certificate as required under (1) and (2), the clerk must notify
45 the party ~~by mail~~ in writing that the party must file the certificate within 10 days
46 after the clerk's notice is ~~mailed~~ sent and that failure to comply will result in one of
47 the following sanctions:

1
2 (A)-(B) * * *

3
4 (4) * * *

5
6 **Advisory Committee Comment * * ***

7
8
9 * * *

10
11 **Rule 8.504. Form and contents of petition, answer, and reply**

12
13 (a) * * *

14
15 (b) **Contents of a petition**

16
17 (1)-(3) * * *

18
19 (4) If the petition seeks review of a Court of Appeal opinion, a copy of the opinion
20 showing its filing date and a copy of any order modifying the opinion or directing its
21 publication must be bound at the back of the original petition and each copy filed in
22 the Supreme Court, or, if the petition is not filed in paper form, attached.

23
24 (5) If the petition seeks review of a Court of Appeal order, a copy of the order showing
25 the date it was entered must be bound at the back of the original petition and each
26 copy filed in the Supreme Court, or, if the petition is not filed in paper form,
27 attached.

28
29 (6)-(7) * * *

30
31 (c)-(e) * * *

32
33 **Advisory Committee Comment * * ***

34
35 * * *

36
37
38 **Rule 8.512. Ordering review**

39
40 (a) **Transmittal of record**

41
42 On receiving a copy of a petition for review or on request of the Supreme Court, whichever
43 is earlier, the Court of Appeal clerk must promptly send the record to the Supreme Court.
44 If the petition is denied, the Supreme Court clerk must promptly return the record to the
45 Court of Appeal if the record was transmitted in paper form.

1 (b)-(d) * * *

2 **Advisory Committee Comment * * ***

3
4 * * *

5
6 **Rule 8.540. Remittitur**

7
8 (a) * * *

9
10 (b) **Clerk's duties**

11
12 (1) * * *

13
14 (2) After review of a Court of Appeal decision, the Supreme Court clerk must address
15 the remittitur to the Court of Appeal and send that court ~~two copies~~ a copy of the
16 remittitur and ~~two~~ a file-stamped endorsed ~~copies~~ copy of the Supreme Court opinion
17 or order. The clerk must send two copies of any document sent in paper form.

18
19 (3) After a decision in an appeal from a judgment of death or in a cause transferred to
20 the court under rule 8.552, the clerk must send the remittitur and a file-
21 ~~stamped endorsed~~ copy of the Supreme Court opinion or order to the lower court or
22 tribunal.

23
24 (4) * * *

25
26 (c) * * *

27
28 * * *

29
30 **Rule 8.548. Decision on request of a court of another jurisdiction**

31
32 (a)-(c) * * *

33
34 (d) **Serving and filing the request**

35
36 The requesting court clerk must file an original and, if the request is filed in paper form, 10
37 copies₂ of the request in the Supreme Court with a certificate of service on the parties.

38
39 (e) * * *

40
41 (f) **Proceedings in the Supreme Court**

42
43 (1)-(5) * * *

44
45 (6) After filing the opinion, the clerk must promptly send ~~file-stamped endorsed~~ copies to
46 the requesting court and the parties and must notify that court and the parties when
47 the decision is final.

1
2 (7) * * *

3
4
5 * * *

6
7 **Rule 8.610. Contents and form of the record**

8
9 (a)-(b) * * *

10
11 (c) **Juror-identifying information**

12
13 Any document in the record containing juror-identifying information must be edited in
14 compliance with rule 8.332. Unedited copies of all such documents and a copy of the table
15 required by the rule, under seal and bound together if filed in paper form, must be included
16 in the record sent to the Supreme Court.

17
18 (d) * * *

19
20 **Advisory Committee Comment * * ***

21
22 * * *

23
24 **Rule 8.616. Preparing the trial record**

25
26 (a) * * *

27
28 (b) **Reporter's duties**

29
30 (1) * * *

31
32 (2) Any portion of the transcript transcribed during trial must not be retyped unless
33 necessary to correct errors, but must be repaginated and ~~bound~~ combined with any
34 portion of the transcript not previously transcribed. Any additional copies needed
35 must not be retyped but, if the transcript is in paper form, must be prepared by
36 photocopying or an equivalent process.

37
38 (3) * * *

39
40 (c)-(d) * * *

41
42 **Advisory Committee Comment * * ***

43
44 * * *

45
46 **Rule 8.630. Briefs by parties and amicus curiae**

1 (a)-(f) * * *

2
3 (g) Service

4
5 (1) * * *

6
7 (2) The Attorney General must serve two paper copies or one electronic copy of the
8 respondent's brief on each defendant's appellate counsel and, for each defendant
9 sentenced to death, one copy on the California Appellate Project in San Francisco.

10
11 (3) * * *

12
13 (h) * * *

14 **Advisory Committee Comment * * ***

15 * * *

16
17 **Rule 8.702. Appeals**

18
19 (a) * * *

20
21 (b) Notice of appeal

22
23 (1) *Time to appeal*

24
25 The notice of appeal must be served and filed on or before the earlier of:

26
27 (A) Five court days after the superior court clerk serves on the party filing the
28 notice of appeal a document entitled "Notice of Entry" of judgment or a file-
29 ~~stamped~~endorsed copy of the judgment, showing the date either was served; or

30
31 (B) Five court days after the party filing the notice of appeal serves or is served by
32 a party with a document entitled "Notice of Entry" of judgment or a file-
33 ~~stamped~~endorsed copy of the judgment, accompanied by proof of service.

34
35 (2) * * *

36
37 (c)-(g) * * *

38 **Advisory Committee Comment * * ***

39 * * *

40
41 **Rule 8.703. Writ proceedings**

42
43 (a) * * *

44
45 (b) Petition

1 (1) *Time for filing petition*

2
3 A petition for a writ challenging a superior court judgment or order governed by the
4 rules in this chapter must be served and filed on or before the earliest of:

5
6 (A) Thirty days after the superior court clerk serves on the party filing the petition
7 a document entitled “Notice of Entry” of judgment or order, or a file-
8 ~~stamped~~endorsed copy of the judgment or order, showing the date either was
9 served; or

10
11 (B) Thirty days after the party filing the petition serves or is served by a party with
12 a document entitled “Notice of Entry” of judgment or order, or a file-
13 ~~stamped~~endorsed copy of the judgment or order, accompanied by proof of
14 service.

15
16 (2) * * *

17
18 * * *

19
20 **Rule 8.800. Application of Division and scope of rules**

21
22 **(a) Application**

23
24 The rules in this division apply to:

25
26 (1)-(2) * * *

27
28 **(b) Scope of rules**

29
30 These rules in this division apply to documents filed and served electronically as well as in paper
31 form, unless otherwise provided.

32
33
34 * * *

35
36 **Rule 8.804 8.803. Definitions**

37
38 As used in this division, unless the context or subject matter otherwise requires:

39
40 (1)-(22) * * *

41
42 (23) The words “attach” or “attachment” may refer to either physical attachment or electronic
43 attachment, as appropriate.

44
45 (24) The words “copy” or “copies” may refer to electronic copies, as appropriate.

1 (25) The word “cover” includes the cover page of a document filed electronically.

2
3 (26) “Written” and “writing” include electronically created written materials, whether or not
4 those materials are printed on paper.

5
6 **Advisory Committee Comment * * ***

7
8 **Rule 8.804. Requirements for signatures on documents**

9
10 Except as otherwise provided, or required by order of the court, signatures on electronically filed
11 documents must comply with the requirements of rule 8.77.

12
13 * * *

14
15 **Rule 8.806. Applications**

16
17 **(a)-(b) * * ***

18
19 **(c) Envelopes**

20
21 If any party or parties in the case are served in paper form, a~~An~~ application must be
22 accompanied by addressed, postage-prepaid envelopes for the clerk’s use in mailing copies
23 of the order on the application to ~~all~~ those parties.

24
25 **(d) * * ***

26 **Advisory Committee Comment * * ***

27
28 * * *

29 **Rule 8.814. Substituting parties; substituting or withdrawing attorneys**

30
31 **(a)-(b) * * ***

32
33 **(c) Withdrawing attorney**

34
35 **(1) * * ***

36
37 **(2)** The proof of service need not include the address of the party represented. But if the
38 court grants the motion, the withdrawing attorney must promptly provide the court
39 and the opposing party with the party’s current or last known address, e-mail
40 address, and telephone number.

41
42 **(3) * * ***

43
44 * * *

45
46 **Rule 8.821. Notice of appeal**

1 (a)-(c) * * *

2
3 (d) **Notification of the appeal**

4
5 (1) When the notice of appeal is filed, the trial court clerk must promptly ~~mail~~ send a
6 notification of the filing of the notice of appeal to the attorney of record for each
7 party and to any unrepresented party. The clerk must also ~~mail~~ send or deliver this
8 notification to the appellate division clerk.

9
10 (2) The notification must show the date it was ~~mailed~~ sent and must state the number
11 and title of the case and the date the notice of appeal was filed.

12
13 (3) * * *

14
15 (4) The ~~mailing~~ sending of a notification under (1) is a sufficient performance of the
16 clerk's duty despite the death of the party or the discharge, disqualification,
17 suspension, disbarment, or death of the attorney.

18
19 (5) * * *

20
21 (e) * * *

22
23 **Advisory Committee Comment * * ***

24
25
26 **Rule 8.822. Time to appeal**

27
28 (a) **Normal time**

29
30 (1) Unless a statute or rule 8.823 provides otherwise, a notice of appeal must be filed on
31 or before the earliest of:

32
33 (A) 30 days after the trial court clerk serves the party filing the notice of appeal a
34 document entitled "Notice of Entry" of judgment or a file-~~stamped~~ endorsed
35 copy of the judgment, showing the date it was served;

36
37 (B) 30 days after the party filing the notice of appeal serves or is served by a party
38 with a document entitled "Notice of Entry" of judgment or a file-
39 ~~stamped~~ endorsed copy of the judgment, accompanied by proof of service; or

40
41 (C) * * *

42
43 (2) * * *

44
45 (3) If the parties stipulated in the trial court under Code of Civil Procedure section
46 1019.5 to waive notice of the court order being appealed, the time to appeal under

1 (1)(C) applies unless the court or a party serves notice of entry of judgment or a file-
2 stamped endorsed copy of the judgment to start the time period under (1)(A) or (B).
3

4 (b)-(d) * * *

5 **Advisory Committee Comment * * ***
6
7

8 **Rule 8.823. Extending the time to appeal**
9

10 (a)-(e) * * *

11
12 (f) **Public entity actions under Government Code section 962, 984, or 985**
13

14 If a public entity defendant serves and files a valid request for a mandatory settlement
15 conference on methods of satisfying a judgment under Government Code section 962, an
16 election to pay a judgment in periodic payments under Government Code section 984 and
17 rule 3.1804, or a motion for a posttrial hearing on reducing a judgment under Government
18 Code section 985, the time to appeal from the judgment is extended for all parties until the
19 earliest of:

- 20
21 (1) 60 days after the superior court clerk serves the party filing the notice of appeal with
22 a document entitled “Notice of Entry” of judgment or a file-stamped endorsed copy
23 of the judgment, showing the date either was served;
24
25 (2) 60 days after the party filing the notice of appeal serves or is served by a party with a
26 document entitled “Notice of Entry” of judgment or a file-stamped endorsed copy of
27 the judgment, accompanied by proof of service; or
28
29 (3) * * *

30
31 (g)-(h) * * *

32
33
34 **Rule 8.824. Writ of supersedeas**
35

36 (a) **Petition**
37

38 (1)-(3) * * *

39
40 (4) If the record has not been filed in the reviewing court:

41 (A)-(B) * * *

42
43
44 (C) The documents listed in (B) must comply with the following requirements:
45

- 1 (i) If filed in paper form, they must be bound together at the end of the
2 petition or in separate volumes not exceeding 300 pages each. The pages
3 must be consecutively numbered;
4
5 (ii) If filed in paper form, they must be index-tabbed by number or letter;
6 and
7
8 (iii) They must begin with a table of contents listing each document by its
9 title and its index-~~tab~~ number or letter.

10
11 (5) * * *

12
13 **(b)-(d) * * ***

14
15 **Advisory Committee Comment * * ***

16
17 * * *

18
19 **Rule 8.832. Clerk's transcript * * ***

20
21 **Advisory Committee Comment**

22
23 Under rule 8.838, the clerk's transcript may be in electronic form, when permitted under the reviewing
24 court's local rules.

25
26 **Subdivision (a). * * ***

27
28 **Subdivision (d). * * ***

29
30 **Rule 8.833. Trial court file instead of clerk's transcript**

31
32 **(a) * * ***

33
34 **(b) Cost estimate; preparation of file; transmittal**

- 35
36 (1) Within 10 days after the appellant serves a notice under rule 8.831 indicating that the
37 appellant elects to use a clerk's transcript, the trial court clerk may ~~mail~~ send the
38 appellant a notice indicating that the appellate division for that court has elected by
39 local court rule to use the original trial court file instead of a clerk's transcript and
40 providing the appellant with an estimate of the cost to prepare the file, including the
41 cost of sending the index under (4).
42
43 (2) Within 10 days after the clerk ~~mails~~ sends the estimate under (1), the appellant must
44 deposit the estimated cost with the clerk, unless otherwise provided by law or the
45 party submits an application for a waiver of the cost under rule 8.818 or an order
46 granting a waiver of this cost.
47

1 (3)-(5) * * *

2
3 **Rule 8.834. Reporter’s transcript**

4
5 **(a) Notice**

6
7 (1)-(3) * * *

8
9 (4) Except when a party deposits a certified transcript of all the designated proceedings
10 under (b)(2)(D) with the notice of designation, the clerk must promptly ~~mail~~ send a
11 copy of each notice to the reporter. The copy must show the date it was ~~mailed~~ sent.
12

13 **(b) Deposit or substitute for cost of transcript**

14
15 (1) Within 10 days after the clerk ~~mails~~ sends a notice under (a)(4), the reporter must file
16 the estimate with the clerk—or notify the clerk in writing of the date that he or she
17 notified the appellant directly—of the estimated cost of preparing the reporter’s
18 transcript at the statutory rate.
19

20 (2) * * *

21
22 (3) With its notice of designation, a party may serve and file a copy of its application to
23 the Court Reporters Board for payment or reimbursement from the Transcript
24 Reimbursement Fund under Business and Professions Code section 8030.2 et seq.
25

26 (A)-(D) * * *

27
28 (D) If the Court Reporters Board provisionally approves the application, the
29 reporter’s time to prepare the transcript under (d)(1) begins when the clerk
30 ~~mails~~ sends notice of the provisional approval under (4).
31

32 (4) * * *

33
34 **(c)-(e) * * ***

35
36 **(f) Notice when proceedings cannot be transcribed**

37
38 (1) If any portion of the designated proceedings were not reported or cannot be
39 transcribed, the trial court clerk must so notify the designating party ~~by mail~~ in
40 writing; the notice must:
41

42 (A) * * *

43
44 (B) Show the date it was ~~mailed~~ sent.
45

1 (2) Within 10 days after the notice under (1) is ~~mailed~~ sent, the designating party must
2 file a new election notifying the court whether the party elects to proceed with or
3 without a record of the identified oral proceedings. If the party elects to proceed with
4 a record of these oral proceedings, the notice must specify which form of the record
5 listed in rule 8.830(a)(2) the party elects to use.
6

7 (A)-(C) * * *

8
9 (3) * * *

10
11 **Advisory Committee Comment * * ***
12

13
14 **Rule 8.835. Record when trial proceedings were officially electronically recorded**
15

16 (a)-(c) * * *

17
18 (d) **Notice when proceedings were not officially electronically recorded or cannot be**
19 **transcribed**
20

21 (1) If the appellant elects under rule 8.831 to use a transcript prepared from an official
22 electronic recording or the recording itself, the trial court clerk must notify the
23 appellant by mail in writing if any portion of the designated proceedings was not
24 officially electronically recorded or cannot be transcribed. The notice must:
25

26 (A) * * *

27
28 (B) Show the date it was ~~mailed~~ sent.
29

30 (2) Within 10 days after the notice under (1) is ~~mailed~~ sent, the appellant must file a new
31 election notifying the court whether the appellant elects to proceed with or without a
32 record of the oral proceedings that were not recorded or cannot be transcribed. If the
33 appellant elects to proceed with a record of these oral proceedings, the notice must
34 specify which form of the record listed in rule 8.830(a)(2) the appellant elects to use.
35

36 (A)-(C) * * *

37
38 * * *

39
40 **Rule 8.838. Form of the record**
41

42 (a) **Paper and format**
43

44 (1) Where the local rules for the appellate division so allow, all or part of the record may
45 be in electronic format.
46

1 (2) Except as otherwise provided in this rule, clerk's and reporter's transcripts must
2 comply with the paper and format requirements of rule 8.144(a).
3

4 **(b) Indexes**
5

6 At the beginning of the first volume of each:
7

8 (1) The clerk's transcript must contain alphabetical and chronological indexes listing
9 each document and the volume, where applicable, and page where it first appears;
10

11 (2) The reporter's transcript must contain alphabetical and chronological indexes listing
12 the volume, where applicable, and page where each witness's direct, cross, and any
13 other examination, begins; and
14

15 (3) * * *
16

17 **(c) Binding and cover**
18

19 (1) If filed in paper form, clerk's and reporter's transcripts must be bound on the left
20 margin in volumes of no more than 300 sheets, except that transcripts may be bound
21 at the top if required by a local rule of the appellate division.
22

23 (2)-(3) * * *
24

25 * * *
26
27

28 **Rule 8.840. Completion and filing of the record**
29

30 **(a)** * * * *
31

32 **(b) Filing the record**
33

34 When the record is complete, the trial court clerk must promptly send the original to the
35 appellate division and send to the appellant and respondent copies of any certified
36 statement on appeal and any copies of transcripts or official electronic recordings that they
37 have purchased. The appellate division clerk must promptly file the original and ~~mail~~ send
38 notice of the filing date to the parties.
39

40 * * *
41
42

43 **Rule 8.842. Failure to procure the record**
44

45 **(a) Notice of default**
46

1 Except as otherwise provided by these rules, if a party fails to do any act required to
2 procure the record, the trial court clerk must promptly notify that party by mail in writing
3 that it must do the act specified in the notice within 15 days after the notice is mailed sent
4 and that, if it fails to comply, the reviewing court may impose the following sanctions:
5

6 (1)-(2) * * *

7
8 (b) * * *

9
10
11 **Rule 8.843. Transmitting exhibits**

12
13 (a)-(c) * * *

14
15 (d) **Transmittal**

16
17 Unless the appellate division orders otherwise, within 20 days after notice under (a) is filed
18 or after the appellate division directs that an exhibit be sent:
19

20 (1) The trial court clerk must put any designated exhibits in the clerk's possession into
21 numerical or alphabetical order and send them to the appellate division ~~with two~~
22 ~~copies of a list of the exhibits sent.~~ The trial court clerk must also send a list of the
23 exhibits sent. If the exhibits are not transmitted electronically, the trial court clerk
24 must send two copies of the list. If the appellate division clerk finds the list correct,
25 the clerk must sign and return ~~one~~ a copy to the trial court clerk.
26

27 (2) Any party in possession of designated exhibits returned by the trial court must put
28 them into numerical or alphabetical order and send them to the appellate division
29 ~~with two copies of a list of the exhibits sent.~~ The party must also send a list of the
30 exhibits sent. If the exhibits are not transmitted electronically, the party must send
31 two copies of the list. If the appellate division clerk finds the list correct, the clerk
32 must sign and return ~~one~~ a copy to the party.
33

34 (e) **Return by appellate division**

35
36 On request, the appellate division may return an exhibit to the trial court or to the party that
37 sent it. When the remittitur issues, the appellate division must return all exhibits not
38 transmitted electronically to the trial court or to the party that sent them.
39

40 * * *

41 **Rule 8.852. Notice of appeal**

42
43 (a) * * *

44
45 (b) **Notification of the appeal**
46

1 (1) When a notice of appeal is filed, the trial court clerk must promptly ~~mail~~ send a
2 notification of the filing to the attorney of record for each party and to any
3 unrepresented defendant. The clerk must also ~~mail~~ send or deliver this notification to
4 the appellate division clerk.

5
6 (2) The notification must show the date it was ~~mailed~~ sent or delivered, the number and
7 title of the case, the date the notice of appeal was filed, and whether the defendant
8 was represented by appointed counsel.

9
10 (3)-(4) * * *

11
12 (5) The ~~mailing~~ sending of a notification under (1) is a sufficient performance of the
13 clerk's duty despite the discharge, disqualification, suspension, disbarment, or death
14 of the attorney.

15
16 (6) * * *

17
18 **Advisory Committee Comment * * ***
19
20

21 **Rule 8.853. Time to appeal**

22
23 (a) * * *

24
25 (b) **Cross-appeal**

26
27 If the defendant or the People timely appeal from a judgment or appealable order, the time
28 for any other party to appeal from the same judgment or order is either the time specified
29 in (a) or 15 days after the trial court clerk ~~mails~~ sends notification of the first appeal,
30 whichever is later.

31
32 (c)-(d) * * *

33
34
35
36 **Advisory Committee Comment * * ***

37
38 * * *

39
40
41 **Rule 8.862. Preparation of clerk's transcript**

42
43 (a)-(b) * * *

44
45 (c) **Probation officer's reports**
46

1 A probation officer’s report included in the clerk’s transcript under rule 8.861(12)(D) must
2 appear in only the copies of the appellate record that are sent to the reviewing court, to
3 appellate counsel for the People, and to appellate counsel for the defendant who was the
4 subject of the report or to the defendant if he or she is self-represented. If the report is in
5 paper form, it must be placed in a sealed envelope. The reviewing court’s copy of the report,
6 and if applicable, the envelope, must be placed in a sealed envelope marked
7 “CONFIDENTIAL—MAY NOT BE EXAMINED WITHOUT COURT ORDER—
8 PROBATION OFFICER REPORT.”
9

10 (d)-(e) * * *

11 **Advisory Committee Comment * * ***

12
13
14 * * *

15
16 **Rule 8.864. Record of oral proceedings**

17
18 (a) **Appellant’s election**

19
20 The appellant must notify the trial court whether he or she elects to proceed with or
21 without a record of the oral proceedings in the trial court. If the appellant elects to proceed
22 with a record of the oral proceedings in the trial court, the notice must specify which form
23 of the record of the oral proceedings in the trial court the appellant elects to use:
24

- 25 (1) A reporter’s transcript under rules 8.865–8.867 or a transcript prepared from an
26 official electronic recording of the proceedings under rule 8.868(b). If the appellant
27 elects to use a reporter’s transcript, the clerk must promptly ~~mail~~ send a copy of
28 appellant’s notice making this election and the notice of appeal to each court
29 reporter;
30

31 (2)-(3) * * *

32
33 (b)-(c) * * *

34
35 **Advisory Committee Comment * * ***

36
37 * * *

38
39 **Rule 8.866. Preparation of reporter’s transcript**

40
41 (a) **When preparation begins**

42
43 (1) * * *

- 44
45 (2) If the notice sent to the reporter by the clerk under rule 8.864(a)(1) indicates that the
46 appellant is the defendant and that the defendant was not represented by appointed
47 counsel at trial:

1
2 (A) Within 10 days after the date the clerk ~~mailed~~ sent the notice under rule
3 8.864(a)(1), the reporter must file with the clerk the estimated cost of preparing
4 the reporter's transcript.
5

6 (B) The clerk must promptly notify the appellant and his or her counsel of the
7 estimated cost of preparing the reporter's transcript. The notification must
8 show the date it was ~~mailed~~ sent.
9

10 (C) Within 10 days after the date the clerk ~~mailed~~ sent the notice under (B), the
11 appellant must do one of the following:
12

13 (i)-(vii) * * *

14
15 (D) If the trial court determines that the appellant is not indigent, within 10 days
16 after the date the clerk ~~mails~~ sends notice of this determination to the appellant,
17 the appellant must do one of the following:
18

19 (i)-(vi) * * *

20
21 (E) The clerk must promptly notify the reporter to begin preparing the transcript
22 when:
23

24 (i)-(iii) * * *

25
26 **(b)-(e) * * ***
27

28 **(f) Notice when proceedings were not reported or cannot be transcribed**
29

30 (1) If any portion of the oral proceedings to be included in the reporter's transcript was
31 not reported or cannot be transcribed, the trial court clerk must so notify the parties
32 by mail in writing. The notice must:
33

34 (A) * * *

35
36 (B) Show the date it was ~~mailed~~ sent.
37

38 (2) Within 15 days after this notice is ~~mailed~~ sent by the clerk, the appellant must serve
39 and file a notice with the court stating whether the appellant elects to proceed with or
40 without a record of the identified proceedings. When the party elects to proceed with
41 a record of these oral proceedings:
42

43 (A)-(B) * * *

44
45 **Advisory Committee Comment * * ***
46

1
2
3 **Rule 8.868. Record when trial proceedings were officially electronically recorded**
4

5 **(a)-(d) *****
6

7 **(e) When preparation begins**
8

9 (1)-(2) ***
10

11 (2) If the appellant is the defendant and the defendant was not represented by appointed
12 counsel at trial:

13
14 (A) Within 10 days after the date the defendant files the election under rule
15 8.864(a)(1), the clerk must notify the appellant and his or her counsel of the
16 estimated cost of preparing the transcript or the copy of the recording. The
17 notification must show the date it was ~~mailed~~ sent.
18

19 (B) Within 10 days after the date the clerk ~~mailed~~ sent the notice under (A), the
20 appellant must do one of the following:
21

22 (i)-(v) ***
23

24 (C) If the trial court determines that the appellant is not indigent, within 10 days
25 after the date the clerk ~~mails~~ sends notice of this determination to the appellant,
26 the appellant must do one of the following:
27

28 (i)-(iv) ***
29

30 (D) ***
31

32 **(f) Notice when proceedings were not officially electronically recorded or cannot be**
33 **transcribed**
34

35 (1) If any portion of the oral proceedings to be included in the transcript was not
36 officially electronically recorded under Government Code section 69957 or cannot
37 be transcribed, the trial court clerk must so notify the parties ~~by mail~~ in writing. The
38 notice must:
39

40 (A) ***
41

42 (B) Show the date it was ~~mailed~~ sent.
43

44 (2) Within 15 days after this notice is ~~mailed~~ sent by the clerk, the appellant must serve
45 and file a notice with the court stating whether the appellant elects to proceed with or

1 without a record of the identified oral proceedings. When the party elects to proceed
2 with a record of these oral proceedings:

3
4 (A)-(B) * * *

5
6 **Advisory Committee Comment * * ***

7
8
9 * * *

10
11
12 **Rule 8.870. Exhibits**

13
14 (a)-(c) * * *

15
16 (d) **Transmittal**

17
18 Unless the appellate division orders otherwise, within 20 days after the first notice under
19 (b) is filed or after the appellate division directs that an exhibit be sent:

20
21 (1) The trial court clerk must put any designated exhibits in the clerk's possession into
22 numerical or alphabetical order and send them to the appellate division ~~with two~~
23 ~~copies of a list of the exhibits.~~ The trial court clerk must also send a list of the
24 exhibits sent. If the exhibits are not transmitted electronically, the trial court clerk
25 must send two copies of the list. If the appellate division clerk finds the list correct,
26 the clerk must sign and return ~~one~~ a copy to the trial court clerk.

27
28 (2) Any party in possession of designated exhibits returned by the trial court must put
29 them into numerical or alphabetical order and send them to the appellate division
30 ~~with two copies of a list of the exhibits sent.~~ The party must also send a list of the
31 exhibits sent. If the exhibits are not transmitted electronically, the party must send
32 two copies of the list. If the appellate division clerk finds the list correct, the clerk
33 must sign and return ~~one~~ a copy to the party.

34
35
36
37 (e) **Return by appellate division**

38
39 On request, the appellate division may return an exhibit to the trial court or to the party that
40 sent it. When the remittitur issues, the appellate division must return all exhibits not
41 transmitted electronically to the trial court or to the party that sent them.

42
43 * * *

44
45 **Rule 8.872. Sending and filing the record in the appellate division**

1 (a)-(b) * * *

2
3 (c) **Filing the record**

4
5 On receipt, the appellate division clerk must promptly file the original record and ~~mail~~
6 send notice of the filing date to the parties.

7
8 * * *

9
10
11 **Rule 8.874. Failure to procure the record**

12
13 (a) **Notice of default**

14
15 If a party fails to do any act required to procure the record, the trial court clerk must
16 promptly notify that party ~~by mail~~ in writing that it must do the act specified in the notice
17 within 15 days after the notice is ~~mailed~~ sent and that, if it fails to comply, the appellate
18 division may impose the following sanctions:

19
20 (1) * * *

21
22 (b) * * *

23
24 * * *

25
26 **Rule 8.881. Notice of briefing schedule**

27
28 When the record is filed, the clerk of the appellate division must promptly ~~mail~~ send a notice to
29 each appellate counsel or unrepresented party giving the dates the briefs are due.

30
31
32 **Rule 8.882. Briefs by parties and amici curiae**

33
34 (a) * * *

35
36 (b) **Extensions of time**

37
38 (1) Except as otherwise provided by statute, in a civil case, the parties may extend each
39 period under (a) by up to 30 days by filing one or more stipulations in the appellate
40 division before the brief is due. Stipulations must be signed by and served on all
41 parties. If the stipulation is filed in paper form, the original signature of at least one
42 party must appear on the stipulation filed in the appellate division; the signatures of
43 the other parties may be in the form of fax copies of the signed signature page of the
44 stipulation. If the stipulation is electronically filed, the signatures must comply with
45 the requirements of rule 8.77.

1 (2)-(4) * * *

2
3 **(c) Failure to file a brief**

4
5 (1) If a party in a civil appeal fails to timely file an appellant's opening brief or a
6 respondent's brief, the appellate division clerk must promptly notify the party ~~by~~
7 mail in writing that the brief must be filed within 15 days after the notice is ~~mailed~~
8 and that if the party fails to comply, the court may impose one of the following
9 sanctions:

10
11 (A)-(B) * * *

12
13 (2) If the appellant in a misdemeanor appeal fails to timely file an opening brief, the
14 appellate division clerk must promptly notify the appellant ~~by mail~~ in writing that the
15 brief must be filed within 30 days after the notice is ~~mailed~~ sent and that if the
16 appellant fails to comply, the court may impose one of the following sanctions:

17
18 (A)-(B) * * *

19
20 (3) If the respondent in a misdemeanor appeal fails to timely file a brief, the appellate
21 division clerk must promptly notify the respondent ~~by mail~~ in writing that the brief
22 must be filed within 30 days after the notice is ~~mailed~~ sent and that if the respondent
23 fails to comply, the court may impose one of the following sanctions:

24
25 (A)-(B) * * *

26
27 (4) * * *

28
29 **(d)-(e) * * ***

30 **Advisory Committee Comment * * ***

31
32
33 **Rule 8.883. Contents and form of briefs**

34
35 **(a)-(b) * * ***

36
37 **(c) Form**

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

44
45 (2) Any conventional ~~typeface~~ font may be used. The ~~typeface~~ font may be either
46 proportionally spaced or monospaced.
47

1 (3) The ~~type~~ font style must be roman; but for emphasis, italics or boldface may be used
2 or the text may be underscored. Case names must be italicized or underscored.
3 Headings may be in uppercase letters.
4

5 (4) Except as provided in (11), the ~~type~~ font size, including footnotes, must not be
6 smaller than 13-point.
7

8 (5)-(8) * * *

9
10 (9) If filed in paper form, the brief must be bound on the left margin, except that briefs
11 may be bound at the top if required by a local rule of the appellate division. If the
12 brief is stapled, the bound edge and staples must be covered with tape.
13

14 (10)-(11)

15
16 (d) * * *

17
18 **Advisory Committee Comment * * ***

19 * * *

20
21
22 **Rule 8.888. Finality and modification of decision**

23
24 (a)-(b) * * *

25
26 (c) **Consent to increase or decrease in amount of judgment**

27
28 If an appellate division decision conditions the affirmance of a money judgment on a
29 party's consent to an increase or decrease in the amount, the judgment is reversed unless,
30 before the decision is final under (a), the party serves and files ~~two copies~~ a copy of a
31 consent in the appellate division. If a consent is filed, the finality period runs from the
32 filing date of the consent. The clerk must send one ~~file-stamped~~ endorsed copy of the
33 consent to the trial court with the remittitur.
34

35 * * *

36
37 **Rule 8.890. Remittitur**

38
39 (a) * * *

40
41 (b) **Clerk's duties**

42
43 (1) If an appellate division case is not transferred to the Court of Appeal under rule
44 8.1000 et seq., the appellate division clerk must:

45 (A) * * *

1 (B) Send the remittitur to the trial court with a file-stamped endorsed copy of the
2 opinion or order; and

3
4 (C) Return to the trial court with the remittitur all original records, exhibits, and
5 documents sent, non-electronically, to the appellate division in connection with
6 the appeal, except any certification for transfer under rule 8.1005, the
7 transcripts or statement on appeal, briefs, and the notice of appeal.

8
9 (2) * * *

10
11 (c)-(d) * * *

12
13 **Rule 8.891. Costs and sanctions in civil appeals**

14
15 (a)-(e) * * *

16
17 **Advisory Committee Comment**

18
19 **Subdivision (d).** “Net interest expenses” in subdivisions (d)(1)(F) and (G) means the interest expenses
20 incurred to borrow the funds that are deposited minus any interest earned by the borrower on those funds
21 while they are on deposit.

22
23 Subdivision (d)(1)(D), allowing recovery of the “costs to notarize, serve, mail, and file the record, briefs,
24 and other papers,” is intended to include fees charged by electronic filing service providers for electronic
25 filing and service of documents.

26
27 * * *

28
29 **Rule 8.901. Notice of appeal**

30
31 (a) * * *

32
33 (b) **Notification of the appeal**

34
35 (1) When a notice of appeal is filed, the trial court clerk must promptly ~~mail~~ send a
36 notification of the filing to the attorney of record for each party and to any
37 unrepresented defendant. The clerk must also ~~mail~~ send or deliver this notification to
38 the appellate division clerk.

39
40 (2) The notification must show the date it was ~~mailed~~ sent or delivered, the number and
41 title of the case, and the date the notice of appeal was filed.

42
43 (3)-(4) * * *

44
45 (5) The ~~mailing~~ sending of a notification under (1) is a sufficient performance of the
46 clerk’s duty despite the discharge, disqualification, suspension, disbarment, or death
47 of the attorney.

1
2 (6) * * *

3
4 **Advisory Committee Comment * * ***

5
6
7 **Rule 8.902. Time to appeal**

8
9 (a) * * *

10
11 (b) **Cross-appeal**

12
13 If the defendant or the People timely appeals from a judgment or appealable order, the time
14 for any other party to appeal from the same judgment or order is either the time specified
15 in (a) or 30 days after the trial court clerk ~~mails~~ sends notification of the first appeal,
16 whichever is later.

17
18 (c)-(d) * * *

19 **Advisory Committee Comment * * ***

20 * * *

21
22
23 **Rule 8.911. Prosecuting attorney's notice regarding the record**

24
25 If the prosecuting attorney does not want to receive a copy of the record on appeal, within 10
26 days after the notification of the appeal under rule 8.901(b) is ~~mailed~~ sent to the prosecuting
27 attorney, the prosecuting attorney must serve and file a notice indicating that he or she does not
28 want to receive the record.

29 * * *

30
31
32 **Rule 8.915. Record of oral proceedings**

33
34 (a) **Appellant's election**

35
36 The appellant must notify the trial court whether he or she elects to proceed with or
37 without a record of the oral proceedings in the trial court. If the appellant elects to proceed
38 with a record of the oral proceedings in the trial court, the notice must specify which form
39 of the record of the oral proceedings in the trial court the appellant elects to use:

40
41 (1)-(2) * * *

42
43 (3) A reporter's transcript under rules 8.918–8.920 or a transcript prepared from an
44 official electronic recording of the proceedings under rule 8.917(b). If the appellant
45 elects to use a reporter's transcript, the clerk must promptly ~~mail~~ send a copy of
46 appellant's notice making this election and the notice of appeal to each court
47 reporter.

1
2 (b)-(c) * * *

3 **Advisory Committee Comment * * ***

4
5
6 * * *

7
8
9 **Rule 8.917. Record when trial proceedings were officially electronically recorded**

10
11 (a)-(d) * * *

12
13 (e) **When preparation begins**

14
15 (1) * * *

16
17 (2) If the appellant is the defendant:

18
19 (A) Within 10 days after the date the appellant files the election under rule
20 8.915(a), the clerk must notify the appellant and his or her counsel of the
21 estimated cost of preparing the transcript or the copy of the recording. The
22 notification must show the date it was ~~mailed~~ sent.

23
24 (B) Within 10 days after the date the clerk ~~mailed~~ sent the notice under (A), the
25 appellant must do one of the following:

26
27 (i)-(v) * * *

28
29 (C) If the trial court determines that the appellant is not indigent, within 10 days
30 after the date the clerk ~~mails~~ sends notice of this determination to the appellant,
31 the appellant must do one of the following:

32
33 (i)-(iv) * * *

34
35 (D) * * *

36
37 (f) **Notice when proceedings were not officially electronically recorded or cannot be**
38 **transcribed**

39
40 (1) If any portion of the oral proceedings to be included in the transcript were not
41 officially electronically recorded under Government Code section 69957 or cannot
42 be transcribed, the trial court clerk must so notify the parties ~~by mail~~ in writing. The
43 notice must:

44
45 (A) * * *

46
47 (B) Show the date it was ~~mailed~~ sent.

1
2 (2) Within 15 days after this notice is ~~mailed~~ sent by the clerk, the appellant must serve
3 and file a notice with the court stating whether the appellant elects to proceed with or
4 without a record of the identified proceedings. When the party elects to proceed with
5 a record of these oral proceedings:
6

7 (A)-(B) * * *

8
9 **Advisory Committee Comment * * ***

10
11 * * *

12
13 **Rule 8.919. Preparation of reporter's transcript**

14
15 **(a) When preparation begins**

16
17 (1) * * *

18
19 (2) If the notice sent to the reporter by the clerk under rule 8.915(a)(3) indicates that the
20 appellant is the defendant:

21
22 (A) Within 10 days after the date the clerk ~~mailed~~ sent the notice under rule
23 8.915(a)(3), the reporter must file with the clerk the estimated cost of preparing
24 the reporter's transcript; and

25
26 (B) The clerk must promptly notify the appellant and his or her counsel of the
27 estimated cost of preparing the reporter's transcript. The notification must
28 show the date it was ~~mailed~~ sent.
29

30 (C) Within 10 days after the date the clerk ~~mailed~~ sent the notice under (B), the
31 appellant must do one of the following:

32
33 (i)-(vii) * * *

34
35 (D) If the trial court determines that the appellant is not indigent, within 10 days
36 after the date the clerk ~~mailed~~ sends notice of this determination to the appellant,
37 the appellant must do one of the following:

38
39 (i)-(vi) * * *

40
41 (E) * * *

42
43 **(b)-(e) * * ***

44
45 **(f) Notice when proceedings cannot be transcribed**
46

1 (1) If any portion of the oral proceedings to be included in the reporter's transcript was
2 not reported or cannot be transcribed, the trial court clerk must so notify the parties
3 by ~~mail~~ in writing. The notice must:

4
5 (A) * * *

6
7 (B) Show the date it was ~~mailed~~ sent.

8
9 (2) Within 15 days after this notice is ~~mailed~~ sent by the clerk, the appellant must serve
10 and file a notice with the court stating whether the appellant elects to proceed with or
11 without a record of the identified proceedings. When the party elects to proceed with
12 a record of these oral proceedings:

13
14 (A)-(B) * * *

15
16 **Advisory Committee Comment * * ***

17
18
19 * * *

20
21 **Rule 8.921. Exhibits**

22
23 (a)-(c) * * *

24
25 (d) **Transmittal**

26
27 Unless the appellate division orders otherwise, within 20 days after notice under (b) is filed
28 or after the appellate division directs that an exhibit be sent:

29
30 (1) The trial court clerk must put any designated exhibits in the clerk's possession into
31 numerical or alphabetical order and send them to the appellate division ~~with two~~
32 ~~copies of a list of the exhibits sent.~~ The trial court clerk must also send a list of the
33 exhibits sent. If the exhibits are not transmitted electronically, the trial court clerk
34 must send two copies of the list. If the appellate division clerk finds the list correct,
35 the clerk must sign and return ~~one~~ a copy to the trial court clerk.

36
37 (2) Any party in possession of designated exhibits returned by the trial court must put
38 them into numerical or alphabetical order and send them to the appellate division
39 ~~with two copies of a list of the exhibits sent.~~ The party must also send a list of the
40 exhibits sent. If the exhibits are not transmitted electronically, the party must send
41 two copies of the list. If the appellate division clerk finds the list correct, the clerk
42 must sign and return ~~one~~ a copy to the party.

43
44
45 (e) **Return by appellate division**

1 On request, the appellate division may return an exhibit to the trial court or to the party that
2 sent it. When the remittitur issues, the appellate division must return all exhibits not
3 transmitted electronically to the trial court or to the party that sent them.
4

5
6 **Rule 8.922. Sending and filing the record in the appellate division**
7

8 **(a)-(b) * * ***
9

10 **(c) Filing the record**

11
12 On receipt, the appellate division clerk must promptly file the original record and ~~mail~~
13 send notice of the filing date to the parties.
14

15 * * *

16
17 **Rule 8.924. Failure to procure the record**
18

19 **(a) Notice of default**
20

21 If a party fails to do any act required to procure the record, the trial court clerk must
22 promptly notify that party ~~by mail~~ in writing that it must do the act specified in the notice
23 within 15 days after the notice is ~~mailed~~ sent and that, if it fails to comply, the reviewing
24 court may impose the following sanctions:
25

26 (1)-(2) * * *
27

28 **(b) * * ***
29

30 * * *

31
32 **Rule 8.926. Notice of briefing schedule**
33

34 When the record is filed, the clerk of the appellate division must promptly ~~mail~~ send, to each
35 appellate counsel or unrepresented party, a notice giving the dates the briefs are due.
36

37
38 **Rule 8.927. Briefs**
39

40 **(a) * * ***
41

42 **(b) Failure to file a brief**
43

44 (1) If the appellant fails to timely file an opening brief, the appellate division clerk must
45 promptly notify the appellant ~~by mail~~ in writing that the brief must be filed within 20

1 days after the notice is ~~mailed~~ sent and that if the appellant fails to comply, the court
2 may dismiss the appeal.
3

- 4 (2) If the respondent fails to timely file a brief, the appellate division clerk must
5 promptly notify the respondent ~~by mail~~ in writing that the brief must be filed within
6 20 days after the notice is ~~mailed~~ sent and that if the respondent fails to comply, the
7 court will decide the appeal on the record, the appellant's opening brief, and any oral
8 argument by the appellant.
9

10 (3) * * *

11
12 (c) * * *

13
14 **Rule 8.928. Contents and form of briefs**

15
16 (a)-(b) * * *

17
18 (c) **Form**

- 19
20 (1) A brief may be reproduced by any process that produces a clear, black image of
21 letter quality. All documents filed must have a page size of 8 1/2 by 11 inches. If
22 filed in paper form, the paper must be white or unbleached, 8 1/2 by 11 inches, and of
23 at least 20-pound weight. Both sides of the paper may be used if the brief is not
24 bound at the top.

- 25
26 (2) Any conventional ~~typeface~~ font may be used. The ~~typeface~~ font may be either
27 proportionally spaced or monospaced.
28

- 29 (3) The ~~type~~ font style must be roman; but for emphasis, italics or boldface may be used
30 or the text may be underscored. Case names must be italicized or underscored.
31 Headings may be in uppercase letters.
32

- 33 (4) Except as provided in (11), the ~~type~~ font size, including footnotes, must not be
34 smaller than 13-point.
35

36 (5)-(8) * * *

- 37
38 (9) If filed in paper form, the brief must be bound on the left margin, except that briefs
39 may be bound at the top if required by a local rule of the appellate division. If the
40 brief is stapled, the bound edge and staples must be covered with tape.
41

42 (10)-(11) * * *

43
44 (d) * * *

45
46 **Advisory Committee Comment * * ***
47

1 * * *

2
3 **Rule 8.931. Petitions filed by persons not represented by an attorney**

4
5 (a)-(b) * * *

6
7 (c) **Form of supporting documents**

8
9 (1) Documents submitted under (b) must comply with the following requirements:

10
11 (A) If submitted in paper form, they must be bound together at the end of the
12 petition or in separate volumes not exceeding 300 pages each. The pages must
13 be consecutively numbered.

14
15 (B) If submitted in paper form, they must be index-tabbed by number or letter.

16
17 (C) They must begin with a table of contents listing each document by its title and
18 its index-~~tab~~ number or letter. If a document has attachments, the table of
19 contents must give the title of each attachment and a brief description of its
20 contents.

21
22 (2) * * *

23
24 (3) Unless the court provides otherwise by local rule or order, only one set of ~~any~~
25 ~~separately bound~~ the supporting documents needs to be filed in support of a petition,
26 an answer, an opposition, or a reply.

27
28 (d) * * *

29
30 **Advisory Committee Comment * * ***

31
32 * * *

33
34 **Rule 8.1018. Finality and remittitur**

35
36 (a)-(b) * * *

37
38 (c) **When the Court of Appeal issues a decision**

39
40 If the Court of Appeal issues a decision on a case it has ordered transferred from the
41 appellate division of the superior court, filing, finality, and modification of that decision
42 are governed by rule 8.264 and remittitur is governed by rule 8.272, except that the clerk
43 must address the remittitur to the appellate division and send that court ~~two copies~~ a copy
44 of the remittitur and ~~two file-stamped copies~~ a file-endorsed copy of the Court of Appeal
45 opinion or order. If the remittitur and opinion are sent in paper format, two copies must be
46 sent. On receipt of the Court of Appeal remittitur, the appellate division clerk must
47 promptly issue a remittitur if there will be no further proceedings in that court.

1
2
3
4
5
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7
8
9

(d) Documents to be returned

When the Court of Appeal denies or vacates transfer or issues a remittitur under (c), the Court of Appeal clerk must return to the appellate division any part of the record sent non-electronically to the Court of Appeal under rule 8.1007 and any exhibits that were sent non-electronically.

Advisory Committee Comment * * *

[close this page](#)

CALIFORNIA COURTS
THE JUDICIAL BRANCH OF CALIFORNIA

Chief Justice Names Members of Language Access Task Force

FOR RELEASE

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March 5, 2015

Chief Justice Names 15 Judicial Officers and Court Administrators to Language Access Task Force

Nominations sought for additional members: court interpreters, legal service providers, and community leaders

SAN FRANCISCO— California Chief Justice Tani G. Cantil-Sakauye named [15 judicial officers and court administrators](#) to the newly formed [Language Access Plan Implementation Task Force](#). Chaired by [California Supreme Court Associate Justice Mariano-Florentino Cuéllar](#), the task force will advise the Judicial Council on implementation of the 75 recommendations contained in the [Strategic Plan for Language Access in the California Courts](#).

"The plan provides a consistent statewide approach to language access," said Chief Justice Cantil-Sakauye. "Members of the task force will have the challenge of figuring out how to turn that plan into a reality for our courts and the millions of limited-English speakers seeking to use them. I look forward to seeing their progress, which will be integral to ensuring equal access to justice in California."

In addition to judicial officers and court administrators, task force membership will include court interpreters, legal services providers, and community leaders. The deadline to submit [nominations](#) for those additional openings is March 18.

Once fully formed, the task force expects to hold business and community meetings around the state to receive input from a wide variety of language access stakeholders and interested members of the public regarding successful implementation of the plan.

Learn more at the [Language Access](#) section of the California Courts public website.

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FRESNO SUPERIOR COURT PILOT REMOTE VIDEO PROCEEDINGS (RVP) PROJECT FOR TRAFFIC CASES

Semiannual Progress Report #4 July 1 – December 31, 2014

SUMMARY

After two full years of operation, the Fresno Superior Court's RVP pilot project has proven to be an effective and efficient way of providing access to traffic court for persons in western Fresno County. These areas are up to 60 miles from the traffic courthouse in downtown Fresno. The RVP operations have become routine, both for the court and the remote partners, enabling for fast troubleshooting of the few minor problems that arise. Equally important, public understanding of RVP services -- and what the program cannot provide -- has increased as evident by the steady decline over the past two years in the number of persons who were not assisted because their needs were not related to court matters. Conversely, the number of persons going to the RVP sites for non-hearing court matters has been steady during the last three reporting periods, indicating that court users may view the remote sites almost as mini satellite courthouses on RVP dates. Also on the topic of public awareness, courtesy notices continue to be the best way of increasing awareness of RVP at the time that users most need the information.

SYSTEM USAGE

There was a slight dip in total system usage in this period compared to the previous one. The total number of appearances dropped from 168 in the previous six months to 141 in this one and the walk-ins went from 155 to 143. This second-period drop parallels what occurred in calendar year 2013 and is likely linked to the reduced public demand for court services that typically occurring during the holiday season.

As in the three previous reporting periods, Spanish was the only language in which interpreting services were requested, though the number of requests was down in this period. Even as a percent to total appearances, interpreter demand was down from 64 percent in the previous period to 39 percent in this one. The court has no explanation for this decline but will continue to monitor court user needs and increase outreach efforts as needed.

Below is the statistical report for the current reporting period.

Period: July 1 – December 31, 2014	Site: Coalinga (70 miles from Fresno-Clovis MSA)	Site: Mendota (36 miles from Fresno-Clovis MSA)	Total for both sites
Hearings and Trials			
Same-Day Hearings/Trials Set (JC Form TR-505)	24	62	86
Separate RVP hearings and trials (JC Form TR-510)	3	0	3
Court trials held	1	16	17
The number of actual appearances at offsite remote location	42	99	141
Walk-in Requests			
Walk-ins assisted onsite with court documents, questions, extensions and other traffic court- related matters.	52	91	143
Walk-ins referred to the traffic courthouse or other court divisions for assistance with payments or other court matters.	9	22	31
Walk-ins who were not assisted due to the requests not being related to court matters.	0	1	1
Appeals			
Filed after RVP court trial	0	0	0
Upheld	0	0	0
Overtured	0	0	0
Pending	0	0	0
Bail			
Bail waived	1	0	1
Bail waived - failure to appear for court trial	0	0	0
Law Enforcement			
The number of requests from LEAs to appear at downtown courthouse instead of remote location (JC form FTR-70)	0	0	0
Language Assistance			
The number of cases/matters where an interpreter was used	7	48	55
Languages	Spanish	Spanish	
The number of issues related to interpreter use such as notice not given to provide an interpreter	0	0	0
Citations			
The number of citations filed in the geographical area surrounding the remote sites	5,266	1,851	7,117

SYSTEM PERFORMANCE

The RVP system is performing quite well and there were no system outages or glitches related to technology to report in this period.

USER SATISFACTION

The court continues to receive positive feedback from users about the RVP through voluntary post-appearance surveys. As illustrated in the following tabulation of all survey responses in this period, the overwhelming majority of respondents indicated positive experiences. Most notable was that 49 persons would definitely or probably recommend the RVP process to someone else.

Question	Responses
Please rate how timely you were assisted.	Pleased: 38 Okay: 11 Disappointed: 1
Were your expectations met?	Yes, definitely: 31 Yes, somewhat: 14 No: 0
How did you feel about the way court was conducted?	Pleased: 36 Okay: 11 Disappointed: 1
How was the quality of the video and audio?	Excellent: 17 Good: 26 Fair: 3 Poor: 2
Would you recommend this service to others?	Absolutely: 41 Probably: 8 Don't know: 1 No: 0
Overall, how would you rate the service you received?	Excellent: 30 Good: 15 Fair: 3 Poor: 0
How did you hear about the Remote Video Proceedings?	Media: 0 Court website: 1 Neighbor: 5 Other: 5 Court courtesy notice: 28 Community representative: 4

The rated responses were enhanced by fill-in comments. Below is a representative sample of responses when court users were asked what could be done to make the RVP experience better.

- "Nothing, everything was great." (Mendota user, 8/5/14)
- "Everything was OK. It went well." (Coalinga user, 8/13/14)

- “Todo es perfecto. Estoy satisfecho. Es muy bueno.” Translation: “Everything is perfect. I am satisfied. It is very good.” (Mendota user, 9/30/14)
- “Nothing. The experience met my expectations.” (Mendota user, 9/30/14)
- “Offer more days, maybe two days a week instead of every Wednesday/one day a week.” (Coalinga user, 11/12/14)

Other Notes

In this reporting period, the court renewed the agreements with the two RVP partners, the Cities of Coalinga and Mendota, which have pledged continued support through onsite staff, space, and publicity.

PART A: Disaster Recovery Framework Assessment

This assessment is designed to determine:

- Current court practices regarding disaster recovery (DR) planning, DR plan maintenance, and DR testing;
- Activity by courts without a current disaster recovery plan (DRP) to implement planning for DR preparedness;
- The percentages of courts that have alternate recovery sites, the number of sites, and the distance between sites;
- Current recovery objectives and technology selections; and
- Court confidence in DR preparedness.

NOTE: Part A of this survey addresses recovery from a loss of an entire data center only.

Survey Definitions

“Disaster Recovery” (DR) refers to security planning and procedures to protect the courts’ technology infrastructure (including applications, telecommunications, etc.) from the effects of significant negative events.

“Disaster Recovery Plan” (DRP) refers to documents, policies, procedures and actions to limit the disruption to court operations and to recover from a disaster

Continuity of Operations Plan (COOP) is the initiative that ensures that individual executive departments and agencies are able to continue operation of their essential functions under a broad range of circumstances including all-hazard emergencies as well as natural, man-made, and technological threats and national security emergencies.

Outsourcing involves the contracting out of a business process to another party.

Insourcing is a business decision that is often made to maintain control of critical production or competencies.

“Hosted Solutions” refers to the physical servers supporting and storing court data whether provided internally, by the branch data center, or a vendor either locally, offsite, or via “cloud” hosting.

1 DR planning, maintenance and testing

1.1 Do you have a formal and documented DR plan in place?

- Yes – as part of our Continuity of Operations Plans (COOP) plan

- Yes – standalone
- No, but one is currently planned in the next 6-12 months
- No, we currently do not have plans to develop a formal DR plan
- Other - describe

1.2 How often is your disaster recovery plan updated?

- Continuously (our DR plan is updated as part of change and configuration management process)
- Quarterly
- Twice per year
- Once per year
- Every two years
- It's been longer than two years
- We don't have a plan
- Other - describe

1.3 How often do you conduct a full test (a live or simulated failover of all infrastructure at a given site) of your DR plan?

- More than twice per year
- Twice a year
- Once a year
- We don't test our plan
- Don't know
- Other – describe

1.4 Do you have dedicated staff to support your DRP?

- Yes, full time court employees
- Yes, a combination of full time court employees and outsourced or on call staff
- Yes, all outsourced or on call staff
- No, it is supported among other responsibilities by our internal IT department
- No. Please explain.

2 Disaster recovery sites

2.1 How many data centers do you currently have? If more than one, please explain.

2.2 Do you have a recovery site for your data center(s) and IT operations in the event of a disaster or other primary site failure?

- Yes, one
- Yes, more than one
- No, but one is currently planned in the next 6-12 months

- No, we do not currently have plans for a recovery site. Please explain.

2.3 If you responded “Yes, one”, or “Yes, more than one” to question 2.2, how would you characterize the way you source your recovery disaster site(s)?

- Equal mix of outsourced and insourced
- Primarily outsourced
- Primarily insource
- Other - describe

2.4 How do you provision your recovery site?

- We own the site
- Shared fixed-site IT infrastructure at a service provider
- Collocation site
- Multi-tenancy managed hosting
- Dedicated fixed-site IT infrastructure at a service provider
- Dedicated managed hosting
- Cloud-based
- Other - Describe

2.5 If you responded “No but one is currently planned in the next 6-12 months” to question 2.2,, please describe what strategy you are pursuing in establishing a recovery site:

- Our own site
- At another court site
- California Court Technology Center (CCTC)
- Shared fixed-site IT infrastructure at a service (IaaS) provider
- Collocation site
- Multi-tenancy managed hosting
- Dedicated fixed-site IT infrastructure at a service (IaaS) provider
- Dedicated managed hosting
- Cloud managed by the court
- Cloud managed by a provider
- Other - Describe

2.6 What is the distance between your primary data center and your furthest backup data center, in miles?

- Greater than 1000 miles
- 500 to less than 1000 miles
- 250 to less than 500 miles
- 100 to less than 250 miles

- 50 to less than 100 miles
- 25 to less than 50 miles
- less than 25 miles
- Don't know
- Other – describe

2.7 What risks is your primary datacenter(s) faced with? Note: Primary data center is where production applications run, therefore, there may be several primary data centers. Check all that apply:

- Our primary datacenter(s) is in a flood zone or area where flooding could occur
- Our primary datacenter(s) is very near or on a fault (earthquakes)
- Our primary datacenter(s) has fire sprinklers (standard, not pre-action)
- Our primary datacenter(s) has a single cooling unit, or cannot withstand the failure of one unit
- Our primary datacenter(s) has a single emergency power source (UPS)

3 Application criticality and preferred recovery technology

3.1 What percentage of your applications and data fall into the following tiers? (Note: The total of all four categories should equal 100%)

- Mission critical (e.g. Case Management Systems (CMS))
- Standard business (e.g. email systems)
- Non-critical applications (e.g. test systems)
- Other - describe

3.2 How do you synchronize your primary and recovery site(s)? Check all that apply.

- Mission critical applications and data
 - o Replication (via software or SAN)
 - o Virtual replication/DR solution (e.g. “VMware Site Recovery Manager)
 - o Periodic (manual) point in time copies
 - o Remote backup to DR site
 - o Backup locally to tape for off-site storage
 - o Other – describe
 - o None/not applicable
- Standard business applications and data
 - o Replication (via software or SAN)
 - o Virtual replication/DR solution (e.g. “VMware Site Recovery Manager)

- Periodic (manual) point in time copies
- Remote backup to DR site
- Backup locally to tape for off-site storage
- Other – describe
- None/not applicable
- Non-critical applications and data
 - Replication (via software or SAN)
 - Virtual replication/DR solution (e.g. “VMware Site Recovery Manager)
 - Periodic (manual) point in time copies
 - Remote backup to DR site
 - Backup locally to tape for off-site storage
 - Other – describe
 - None/not applicable

3.3 Does your DR site have the same capability as your primary data center site(s)?

- Yes
- No
- Other. Please explain.

4 Recovery times and data loss from disaster or major disruptions

4.1 What were the biggest challenges you faced when recovering from most recent disaster or major disruption (Rank 1-3)

- Mismatched business expectations with IT capabilities
- Not knowing when to “declare” a disaster and execute a recovery
- Lack of communication between IT and business
- Plan not up to date with current environment
- Insufficient planning for a specific scenario
- Insufficient testing and overall preparedness
- Service provider did not meet expectations
- Lack of communication between recovery staff
- Staff not available to execute recovery plan
- Lack of staff
- Plan not useful for actual recover process
- Limited budget/resources
- Service provider was unresponsive

4.2 In days, hours and/or minutes, approximately how long does it take for you to recover all mission-critical applications and data?

Note: The time would start when the “go-ahead” is issued to execute the DRP and would end once all applications and data are available

4.3 What is your maximum targeted period in which data might be lost from your mission-critical applications and data during disaster recovery?

5 Market drivers for improving DR and confidence levels

5.1 How would you rate your ability to recover your data center in the event of a site failure or disaster event?

- Very prepared
- Prepared
- Somewhat prepared
- Not prepared
- Other - describe

5.2 On a scale of 1-4, where 1 is not critical and 4 is very critical, how important is it to improve your court’s overall disaster recovery preparedness and capabilities? Please explain.

PART B: Next Generation Hosting Solutions Needs Assessment

This assessment is designed to gather information on:

- Current court practices regarding their hosting solutions;
- The considerations and requirements of courts in selecting new hosting solutions;
- Envisioned court strategy for next generation hosting, including specific products, services, and providers, along with general approaches, alternatives and benefits.

Survey Definitions

“**Hosted Solutions**” refers to the physical servers supporting and storing court data whether provided internally, by the branch data center, or a vendor either locally, offsite, or via “cloud” hosting. A hosted service provider owns and oversees infrastructure, software and administrative tasks and makes the system available to clients, usually over the Internet.

The three main elements of hosted services are software as a service (SaaS), platform as a service (PaaS) and infrastructure as a service (IaaS). In combination, the three elements encompass software and network capacity as well as the equipment used to support operations, including storage, hardware, servers and networking components.

Cloud hosting is a new type of hosting platform that allows customers powerful, scalable and reliable hosting based on clustered load-balanced servers and utility billing. A cloud hosted website may be more reliable than alternatives since other computers in the cloud can compensate when a single piece of hardware goes down. Also, local power disruptions or even natural disasters are less problematic for cloud hosted sites, as cloud hosting is decentralized. Cloud hosting also allows providers to charge users only for resources consumed by the user, rather than a flat fee for the amount the user expects they will use, or a fixed cost upfront hardware investment. Alternatively, the lack of centralization may give users less control on where their data is located which could be a problem for users with data security or privacy concerns.

Examples of types of hosted solutions:

- Shared hosting solutions: one's systems is placed on the same server as many other sites, ranging from a few to hundreds or thousands. Typically, all systems may share a common pool of server resources, such as RAM and CPU and the. The features available with this type of service can be quite basic and not flexible in terms of software and updates. Resellers often sell shared hosting and web companies often have reseller accounts to provide hosting for clients
- Dedicated hosting services: the user gets his or her own server and gains full control over it (user has root access for Linux/administrator access for Windows); however, the user typically does not own the server. One type of Dedicated hosting is Self-Managed or

Unmanaged. This is usually the least expensive for Dedicated plans. The user has full administrative access to the server, which means the client is responsible for the security and maintenance of his own dedicated server.

- Managed hosting service: the user gets his or her own server but is not allowed full control over it (user is denied root access for Linux/administrator access for Windows); however, they are allowed to manage their data via FTP or other remote management tools. The user is disallowed full control so that the provider can guarantee quality of service by not allowing the user to modify the server or potentially create configuration problems. The user typically does not own the server. The server is leased to the client.
- Colocation hosting service: similar to the dedicated hosting service, but the user owns the colo server; the hosting company provides physical space that the server takes up and takes care of the server. This is the most powerful and expensive type of hosting service. In most cases, the colocation provider may provide little to no support directly for their client's machine, providing only the electrical, Internet access, and storage facilities for the server. In most cases for colo, the client would have his own administrator visit the data center on site to do any hardware upgrades or changes. Formerly, many colocation providers would accept any system configuration for hosting, even ones housed in desktop-style minitower cases, but most hosts now require rack mount enclosures and standard system configurations.
- Cloud hosting: is a new type of hosting platform that allows customers powerful, scalable and reliable hosting based on clustered load-balanced servers and utility billing. A cloud hosted site may be more reliable than alternatives since other computers in the cloud can compensate when a single piece of hardware goes down. Also, local power disruptions or even natural disasters are less problematic for cloud hosted sites, as cloud hosting is decentralized. Cloud hosting also allows providers to charge users only for resources consumed by the user, rather than a flat fee for the amount the user expects they will use, or a fixed cost upfront hardware investment. Alternatively, the lack of centralization may give users less control on where their data is located which could be a problem for users with data security or privacy concerns.

1 Current Hosting Solutions

1.1 *How are your court's applications currently hosted? (Check all that apply.)*

- Datacenter managed by the court
- California Court Technology Center (CCTC)
- Co-location datacenter
- Other vendor-managed datacenter
- Cloud managed by the court
- Cloud managed by a vendor
 - o Software as a Service (SaaS)
 - o Infrastructure as a Service (IaaS)
 - o Platform as a Service (PaaS)
- Other. Please describe.

1.2 What cloud providers does your court currently use?

- Amazon
- AT&T
- CalCloud
- Google
- HP Cloud
- Microsoft Azure
- Oracle Cloud
- VMware
- None
- Other. Please describe

1.3 What virtualization technologies has your court deployed?

- Citrix
- Desktop virtualization
- HP
- HyperV
- IBM PowerVM
- Kernel-based Virtual Machine
- Redhat Enterprise Virtualization
- Solaris LDOM
- Solaris Containers
- VMware
- None
- Other. Please describe

2 Next Generation Hosting Solutions Planning

2.1 Are you actively considering and/or planning to move to a different hosting solution? If so, what is the timeframe?

- Currently changing hosting solutions
- 1 – 2 years
- 3 – 5 years
- 5 – 10 years
- No plans to change
- Other. Please describe.

2.2 If you are currently considering or planning to move to a different hosting solution, what type(s) of solutions are you considering? Check all that apply.

- Datacenter managed by the court
- California Court Technology Center (CCTC)
- Co-location datacenter
- Other vendor-managed datacenter
- Cloud managed by the court

- Cloud managed by a vendor
 - o Software as a Service (SaaS)
 - o Infrastructure as a Service (IaaS)
 - o Platform as a Service (PaaS)
- Other. Please describe.

2.3 Are you considering a cloud provider? If so, which are you considering? (Check all that apply.)

- Amazon
- AT&T
- CalCloud
- Google
- HP Cloud
- Microsoft Azure
- Oracle Cloud
- VMware
- None
- Other. Please describe

2.4 What are the benefits you would expect to realize from a new hosting solution?

- Improved cost efficiencies (e.g., ability to place workload on lowest-price cloud solution)
- Improved security compared to public cloud alternative
- On-demand flexibility of hosting workloads on-premises or in the cloud
- Improved disaster recovery/fault tolerance
- Improved user experience
- Geographical independence
- Simplified and integrated management console for traditional and cloud resources
- Improved flexibility/agility to scale up or down in response to business and/or market needs
- Improve availability (uptime)
- Improve capabilities (new software or services)
- Improve reporting
- Improve monitoring and alerts
- Improve automation capabilities
- Other. Please describe.

2.5 How much autonomy you would expect from a new hosting solution?

- Managed only by court IT
- Managed by a combination of court IT and outsourced staff
- Managed only by outsourced staff
- Other. Please explain.



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date	Action Requested
March 18, 2015	Please review for March 27, 2015 meeting
To	Deadline
Members of Court Technology Advisory Committee	March 27, 2015
From	Contact
The Joint Appellate Technology Subcommittee Heather Anderson, Subcommittee Counsel	Heather Anderson, Supervising Attorney 415-865-7691 phone heather.anderson@jud.ca.gov
Subject	
Consideration of development of rules regarding public access to electronic appellate court records	

Introduction

Item 11 on the Court Technology Advisory Committee's annual agenda is considering whether to develop proposed rules setting out a statewide policy for e-access to appellate court records. As more documents are electronically filed in the appellate courts and stored in electronic form, it is anticipated that questions will arise about public access to these electronic records. Currently, there is a set of rules regarding public access to electronic trial court records, but no equivalent set of appellate rules. Using the trial court rules as a base, the Joint Appellate Technology Subcommittee (JATS) prepared a draft of proposed rules regarding public access to electronic appellate court records. The Appellate Advisory Committee reviewed this draft proposal at its March 10 meeting and recommends that it be circulated for public comment.

Background

Trial court rules

On the recommendation of the Court Technology Advisory Committee (CTAC), effective July 1, 2002, the Judicial Council adopted rules regarding public access to electronic trial court records, California Rules of Court, rules 2.500 – 2.507. While these trial court rules were adopted in compliance with a statutory mandate,¹ CTAC had actually been working on rules to address this topic for six years. Over that period, several different versions of possible rules were considered and circulated for comment by CTAC and the Judicial Council discussed this topic at two council meetings. The rules that were ultimately adopted by the council thus represent a great deal of thought, public input, and struggle with difficult policy issues.

The October 2001 report to the Judicial Council regarding the trial court rules on access to electronic court records explains that these rules “attempt to balance the right of public access to trial court records against the right of privacy afforded by article I, section 1 of the California Constitution.” As that report further discusses, there is a general right of public access to court records. This right is based in both the United States’ and California constitutions (see, for example, *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178; *Burkle v. Burkle* (2006) 135 Cal.App.4th 1045, and *Copley Press, Inc. v. Superior Court* (1998) 63 Cal.App.4th 367). In 2004, after the adoption of the trial court rules on access to electronic court records, article I, section 3 of the California Constitution was also amended to expressly provide for the broad construction of statutes, court rules, or other authority to further the people’s right of access to government records.

This right of public access to court records is not absolute, however. The 2004 amendment to article I, section 3 recognized this, specifically providing, in relevant part, that: [n]othing in this subdivision supersedes or modifies the right of privacy guaranteed by Section 1 or affects the construction of any statute, court rule, or other authority to the extent that it protects that right to privacy.” (California Constitution, Article I, section 3(b)(3)).² As the cases cited above discuss,

¹ These rules were part of a larger set of rules relating to electronic filing and service in the trial courts that Code of Civil Procedure section 1010.6 required be adopted by the council. Code of Civil Procedure section 1010.6(e) provides, in relevant part: “The Judicial Council shall adopt uniform rules for the electronic filing and service of documents in the trial courts of the state, which shall include statewide policies on vendor contracts, privacy, and access to public records, and rules relating to the integrity of electronic service.”

² The legislative history of this amendment also indicates that it was not intended to require internet access to public records. The Senate Daily Journal for the 2003-2004 Regular Session, page 3405, contains a letter dated April 20, 2004, from Senator John Burton, President pro Tempore of the Senate and author of the amendment, stating the following regarding the intent:

The Legislature recently approved SCA 1 (Burton), which places a measure on the statewide ballot on the subject of public access to public documents and meetings. There is lingering concern expressed by certain privacy advocates that passage of SCA 1 would create an affirmative duty on the part of state and local government bodies to post all information in their possession on the Internet, including personal information of

courts may restrict public access to (seal) court records in an individual case if this is necessary to protect another overriding interest (see also California Rules of Court, rule 2.550(d), which codifies the holding in the *NBC Subsidiary* case regarding the findings required for sealing). There are also statutes and rules that restrict public access to certain court records based on privacy and/or other overriding concerns (see, for example, Welf. & Inst. Code, § 827 and California Rules of Court, rule 8.401 [records in juvenile proceedings] and Gov. Code, § 68633(f) [fee waiver applications]). These cases, statutes, and rules reflect a balancing between the right of public access to court records and other rights, such as the right to privacy, and a conclusion that public access can be completely prohibited in certain circumstances to protect those other rights.

The question faced by CTAC in developing the trial court rules on public access to electronic records (and which are also faced in considering appellate rules on this topic) is not the stark one of whether to prohibit public access to court records, but a subtler question of what mode of access should be provided to those records that are public. In the past, public court records could only be accessed on a case-by-case basis, in paper format, at the courthouse. The advent of electronic court records provides additional options for how court records can be accessed. Records stored electronically can potentially be accessed electronically and remotely, not just at the courthouse, and searched based on a wide variety of criteria. They can also be more easily be aggregated, copied, and disseminated than paper records. These technological advancements present potential benefits for both the public and the courts in terms of increasing the ease and reducing the cost of accessing court records and in terms of providing greater transparency and public understanding of court actions.

However, CTAC also previously concluded that electronic access to court records presents potential risks. Because accessing paper records is difficult and time-consuming, even though most court records are public, information from those records kept in paper format is not generally extracted, disseminated, or used by those not involved in the case except in high-profile cases. The United States Supreme Court referred to the difficulty in gathering information from paper files as “practical obscurity” (*United States Department of Justice v. Reporters Committee for Freedom of the Press*, 489 U.S. 749 (109 S.Ct. 1468, 103 L.Ed.2d 774)).³ The practical obscurity of paper court records creates a de facto protection for the privacy of information contained in these records and means that concerns about the privacy of these paper records have arisen infrequently. The advent of electronic court records has the potential for eliminating this practical obscurity and thus brings to the fore privacy concerns about

citizens contained in government files. In response to this concern, the author wishes to clarify that passage of SCA 1 does not in and of itself create an obligation to publish or publicize such information held by government bodies by means of the Internet.

³ In this case, the court recognized a privacy interest in information that is publicly available through other means, such as in paper court files, but is “practically obscure.”

information in these records. As articulated in CTAC's October and December 2001 reports to the Judicial Council, these concerns include:⁴

- Broadening access to/dissemination of, and thus the potential for exploitation of, sensitive personal and financial information contained in court files. For example, many court files, particularly in family and probate cases, contain personal identifying or financial information, such as Social Security numbers, drivers' license numbers, financial account numbers and balances, pay stubs, tax returns, dates of birth, and home addresses and phone numbers.⁵ This, in turn, may increase concerns about:
 - Identity theft and other financial abuses of those whose information is contained in court records;
 - Risk of physical harm to victims and witnesses whose contact information is contained in court records;
 - Damage to the reputations, relationships, and business opportunities of individuals whose personal information is in court records, particularly those such as crime victims, witnesses and jurors, who are compelled to provide information in court proceedings;
 - Undermining public confidence in and discouraging the use of the public courts by increasing the privacy "price" associated with using the courts.
- Facilitating the private compilation/dissemination of criminal history information that is not subject to the legislative, judicial, and administrative safeguards established to insure only the appropriate release of accurate information (see, for example, Penal Code section 11105 and *Westbrook v. City of Los Angeles* (1994) 27 Cal.App4th 157); and
- Loss of control/ability to correct information. Once information has been made available on the internet, it is very difficult, if not impossible, to withdraw that information. This makes procedures to modify or correct information, such as expungement or sealing of juvenile criminal records under specified circumstances, ineffectual.

⁴ In identifying and assessing these risks, CTAC and the council considered, among other things, the public comments received on various versions of the proposed rules, information from reports regarding access to electronic records in the federal and other state court systems, and the scope of electronic access provided in those other court systems.

⁵ Rule 1.20(b) provides that "[t]o protect personal privacy and other legitimate interests, parties and their attorneys must not include, or must redact where inclusion is necessary, the following identifiers from all pleadings and other papers filed in the court's public file, whether filed in paper or electronic form, unless otherwise provided by law or ordered by the court:" social security numbers and financial account numbers. Despite this requirement, such information may still appear in case files.

CTAC also expressed concern about the technological ability of court case management systems to segregate records required by law to be kept confidential and ensure that these were not improperly accessed in electronic form.

CTAC's view in 2001 was that, based on these potential risks, there should not be remote electronic access to all public trial court records.⁶ CTAC's October 2001 report to the Judicial Council states that "[i]t is the conclusion of the Court Technology Advisory Committee that unrestricted Internet access to case files would compromise privacy and, in some cases, could increase the risk of personal harm to litigants and others whose private information appears in case files." The trial court rules ultimately recommended by CTAC and adopted by the Judicial Council permitted the following access to electronic trial court records:

- Access, including bulk access, both remote and at the courthouse, to electronic registers of action, indexes, and calendars (rules 2.503(b)(1) and (g));
- Access on a case-by-case basis, both remote and at the courthouse, to other electronic records in most civil cases (rules 2.503(b)(2) and (f)). For case-by-case access, cases are only permitted to be identified based on the following information: the number of the case, the caption of the case, or the name of a party (rule 2.503(f));
- Access only on a case-by-case basis at the courthouse to electronic records in the following cases (rules 2.503(c) and (g)):
 - Proceedings under the Family Code, including proceedings for dissolution, legal separation, and nullity of marriage; child and spousal support proceedings; and child custody proceedings;;
 - Juvenile court proceeding;
 - Guardianship or conservatorship proceedings;
 - Mental health proceedings;
 - Criminal proceedings; and
 - Civil harassment proceedings under Code of Civil Procedure section 527.6.

Since 2002, the following additional case types have been added to the list of those for which electronic records may be accessed only on a case-by-case basis at the courthouse:

- Domestic violence prevention proceedings;
- Workplace violence prevention proceedings under Code of Civil Procedure section 527.8;

⁶ Note that the first proposed rule on access to electronic trial court records circulated for public comment by CTAC in 1997 would have provided for electronic access to all such records. This first proposal was withdrawn based on public comments expressing concerns about privacy interests and legal restrictions on dissemination of information in criminal case files.

- Private postsecondary school violence prevention proceedings under Code of Civil Procedure section 527.85;
- Elder or dependent adult abuse prevention proceedings under Welfare and Institutions Code section 15657.03; and
- Proceedings to compromise the claims of a minor or a person with a disability.

These rules reflect CTAC's and the Judicial Council's conclusion at that time that the risk/benefit balance associated with public access to electronic trial court records varies depending on the type of record and the type of case. For registers of actions and calendars, it was concluded that the potential privacy risks are low, so greater access is permitted to these records.⁷ For criminal, family, juvenile, and the other proceedings listed in rule 2.503(c), it was concluded that the potential privacy risks are high, so access to these records in electronic format is available only at the courthouse, maintaining the de facto protections provided by practical obscurity. The risk in general civil cases was treated as somewhere in the middle, so remote access is permitted, but not bulk access.

JATS development of proposed appellate rules

Based on a suggestion from its chair, the Appellate Advisory Committee (AAC) proposed a new project to explore the possibility of developing rules to address public access to electronic appellate court records. This was identified as a priority 1 project with a proposed January 1, 2016 completion date on AAC's 2014 annual agenda. The thought was that this project might best be undertaken by JATS since it addresses a court technology-related issue. The two-year completion window was suggested because, at the time AAC's 2014 annual agenda was proposed, JATS had not yet been formed.

JATS began working on this project in October 2014. It has met several times to consider how to approach this project overall and to review drafts of possible rules. JATS considered a number of factors in determining how to approach this project, including:

- **The potential benefits and risks of electronic access considered by CTAC and the Judicial Council in the development and adoption of the trial court rules** – These benefits and risks are outlined above.

⁷ To ensure that the privacy risk associated with remote, bulk access to these records is low, rule 2.507(c) identifies information that may not be included in the register of actions, index, or calendar, including social security numbers; any financial information; arrest warrant information; search warrant information; victim information; witness information; ethnicity; age; gender; government-issued identification card numbers (i.e., military); driver's license number; and date of birth.

- **The extent to which any appellate rules should mirror the structure and/or content of the trial court rules** – The trial court rules on public access to electronic records, which have now been in place for 12 years, create a certain framework and expectations about access/privacy of court records. JATS considered the degree to which it is important for any rules regarding access to electronic appellate court records to incorporate a consistent approach to electronic access.
- **The greater historic access to certain appellate court records** –Because of the appellate courts’ role in establishing case law, historically, there has been greater public access to certain records in appellate court proceedings than to trial court records. In addition to access to paper files at individual courthouses:
 - All opinions issued by the California Supreme Court and published opinions of the Courts of Appeal are published in the Official Reports, which are available in law libraries in every county and in other libraries as well. These reports are also now available online; and
 - Copies of briefs in civil cases have historically been available in the four depository libraries in the state. Online databases of these briefs are also now available.

This greater historic access may shape expectations both of the courts and the public about what is the appropriate level of public access to electronic appellate court records.

- **The current access to appellate court records on the California courts website**– Attached is a summary of the information about California Supreme Court and Court of Appeal cases that is currently available electronically via the California courts website. As you can see, there is already remote, and sometimes bulk, electronic access to many appellate court records. Access to some appellate court records exceeds that permitted for trial court records under rules 2.500 – 2.507, such as bulk access to opinions, bulk access to party briefs in Supreme Court cases, and the ability to search for cases by attorney name and, in the Court of Appeal, by calendar date. JATS considered whether any proposed rules should codify or modify the current level of public access provided to electronic appellate court records.
- **Centralized vs. decentralized implementation** – Access to electronic appellate court records is currently being provided on a centralized basis through the California courts website, rather than individually by each appellate court. In contrast, in the trial courts each individual court is responsible for providing access and the rules are structured to reflect this fact. JATS considered what aspects of providing access should be handled centrally and what should be the responsibility of each individual court.

Ultimately, JATS made the following decisions to guide its development of proposed rules on access to electronic appellate court records:

- The level of electronic access currently being provided to appellate court records should not be reduced by these rules;
- If electronic access to particular appellate court records is not currently being provided, the rules should treat those records in the same way as they are treated under the trial court rules on access to electronic records;
- The rules should be drafted with the assumption that electronic access to appellate court records will generally be provided through a centralized mechanism, such as the California courts website, rather than being provided by each individual appellate court.

The Proposal

Attached for CTAC's review is the draft set of possible rules on public access to electronic Court of Appeal and Supreme Court records. This draft was developed by JATS and reviewed and recommended for circulation by AAC. This draft uses the existing trial court e-access rules as a base. The following are the main substantive differences between the attached proposed new appellate rules and the current trial court rules:

- The proposed definition of "court records" has been modified to reflect the types of records maintained by the Courts of Appeal and Supreme Court and the fact that the Government Code section cited in the definition of trial court records does not apply to appellate courts (proposed rule 8.82). One difference that the committee should note is that the trial court rules exclude from the definition of court records "any reporter's transcript for which the reporter is entitled to receive a fee for any copy." In the attached draft, such transcripts are not excluded from the definition of court records. However, the draft does specifically provide that such transcripts will not be made available remotely (see proposed rule 8.83(c)). These changes are proposed for two reasons: (1) to avoid creating an impression that reporter's transcripts cannot be received or retained by the courts in electronic format; and, at the same time (2) to keep the public's access to any such transcripts that are in electronic form the same as the access now available for such transcripts that are in paper form – at the courthouse only.
- The proposed rules would provide for continued remote public access to those electronic appellate court records now made available to the public on this website (proposed rule 8.83(b));

- The proposed rules would permit an appellate court to provide remote access to additional records not only in extraordinary criminal cases, but in other extraordinary cases as well (proposed rule 8.83(d));
- The proposed rules reflect the fact that the public can search for Court of Appeal cases based on some criteria that are not available for searches of trial court records (proposed rule 8.83(e));
- The proposed rules reflect the fact that electronic appellate court records will generally be made available through a centralized mechanism, such as the California courts website, rather than by each individual appellate court; and
- The proposed rules do not set out requirements for the items that must be included in appellate court calendars and registers or actions or for items that must be excluded from these records. JATS and AAC considered such requirements unnecessary because the appellate court electronic calendars and registers of actions currently made available on the California courts website already generally comply with those aspects of the trial court rule that would be applicable to appellate court records.

There are additional minor substantive differences between the proposed appellate rules and the existing trial court rules, such as replacing references to presiding judges with references to presiding justices and replacing references to statutes regarding trial court fees with statutes regarding appellate court fees. In addition, there are some differences in the structure of the proposed rules, such as in the placement of definitions and other provisions, and in wording that are not intended to be substantive.

Committee Task

The committee's task is to review the attached draft invitation to comment and:

- (1) recommend to RUPRO that the invitation to comment, as proposed, be approved for circulation;
- (2) recommend to AAC that the proposal be revised and that the revised proposal be circulated for public comment;
- (3) ask staff or committee members for further information/analysis; or
- (4) reject the proposal.

Court Technology Advisory Committee

March 17, 2015

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Coordination with the Appellate Advisory Committee

As noted above, AAC has already recommended circulation of the attached proposal. If CTAC recommends changes to this proposal, those changes will need to be considered by AAC before the proposal is submitted to RUPRO for consideration.

Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR15-___

Title	Action Requested
Appellate Procedure: Access to Electronic Appellate Court Records	Review and submit comments by June 17, 2015
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Cal. Rules of Court, rules 8.80 – 8.85	January 1, 2016
Proposed by	Contact
Appellate Advisory Committee Hon. Raymond J. Ikola, Chair	Heather Anderson, heather.anderson@jud.ca.gov, 415-865-7691
Court Technology Advisory Committee Hon. Terence L. Bruiniers, Chair	

Executive Summary and Origin

Based on a suggestion received from a justice of a Court of Appeal, the Appellate Advisory Committee and the Court Technology Advisory Committee are proposing new rules addressing public access to electronic appellate court records. The proposed appellate rules are based on the existing rules regarding public access to electronic trial court records.

The Proposal

California Rules of Court, rules 2.500 – 2.507 address public access to electronic trial court records. These rules are intended to provide the public with reasonable access to trial court records that are maintained in electronic form, while protecting privacy interests. The rules address, among other things, what electronic trial court records may be made available remotely, what records may be made available only at the courthouse, what records can be made available in bulk, and what records may only be accessed on a case-by-case basis.

As more documents are electronically filed in the Courts of Appeal and Supreme Court and stored in electronic form, it is anticipated that questions will arise about public access to these electronic records. This proposal would establish a set of rules to addresses public access to electronic records of the Courts of Appeal and Supreme Court. The proposed rules are based on the trial court rules, but there are some substantive differences in the proposed new appellate rules based primarily on differences in the nature of the records maintained by trial and appellate courts and in existing public access to these records:

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

- The proposed definition of “court records” has been modified to reflect the types of records maintained by the Courts of Appeal and Supreme Court and the fact that the Government Code section cited in the definition of trial court records does not apply to appellate courts (proposed rule 8.82);
- The proposed rules reflect the fact that certain types of Court of Appeal and Supreme Court records, such as opinions, are already made available to the public on the California courts website. The proposed rules would provide for continued remote public access to those electronic appellate court records now made available to the public on this website (proposed rule 8.83(b));
- The proposed rules would permit an appellate court to provide remote access to additional records not only in extraordinary criminal cases, but in other extraordinary cases as well (proposed rule 8.83(d));
- The proposed rules reflect the fact that the public can search for Court of Appeal cases based on some criteria that are not available for searches of trial court records (proposed rule 8.83(e));
- The proposed rules reflect the fact that electronic appellate court records will generally be made available through a centralized mechanism, such as the California courts website, rather than by each individual appellate court; and
- The proposed rules do not set out requirements for the items that must be included in appellate court calendars and registers or actions or for items that must be excluded from these records. The committees considered such requirements unnecessary because the appellate court electronic calendars and registers of actions currently made available on the California courts website already generally comply with those aspects of the trial court rule that would be applicable to appellate court records.

There are additional minor substantive differences between the proposed appellate rules and the existing trial court rules, such as replacing references to presiding judges with references to presiding justices and replacing references to statutes regarding trial court fees with statutes regarding appellate court fees. In addition, there are some differences in the structure of the proposed rules, such as in the placement of definitions and other provisions, and in wording that are not intended to be substantive.

Alternatives Considered

In developing these rules, the committees considered a variety of alternatives with respect to the scope and proposed language of individual rules. For example, the committees considered whether the rules should provide for remote access only to those types of electronic records that are remotely accessible under the trial court rules, but ultimately decided that the proposed rules should reflect and maintain the current remote access to additional appellate court records.

The committees also considered not proposing these rule amendments at all. However, the committee concluded that it would be helpful to both the public and the courts to clarify the scope of public access to electronic appellate court records.

Implementation Requirements, Costs, and Operational Impacts

This proposal should not impose significant implementation requirements on the courts because it mandates access to those electronic appellate court records that are already currently being made available electronically and, like the trial court rules, provides for further access only to the extent feasible. The proposed rules should provide guidance with respect to electronic access to appellate court records, which may reduce questions about such access for litigants and thus costs associated with inquiries about this access for both litigants and the courts.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on whether the proposal appropriately addresses the stated purpose.

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

California Rules of Court, rules 8.80 – 8.85 would be adopted, effective January 1, 2016 to read:

1 **Article 6. Public Access to Electronic Appellate Court Records**
2

3 **Rule 8.80. Statement of purpose**

4 **Rule 8.81. Application and scope**

5 **Rule 8.82. Definitions**

6 **Rule 8.83. Public access**

7 **Rule 8.84. Limitations and conditions**

8 **Rule 8.85. Fees for electronic access**
9

10
11 **Rule 8.80. Statement of purpose**
12

13 **(a) Intent**
14

15 The rules in this article are intended to provide the public with reasonable access to
16 appellate court records that are maintained in electronic form, while protecting
17 privacy interests.
18

19 **(b) Benefits of electronic access**
20

21 Improved technologies provide courts with many alternatives to the historical
22 paper-based record receipt and retention process, including the creation and use of
23 court records maintained in electronic form. Providing public access to appellate
24 court records that are maintained in electronic form may save the courts and the
25 public time, money, and effort and encourage courts to be more efficient in their
26 operations. Improved access to appellate court records may also foster in the public
27 a more comprehensive understanding of the appellate court system.
28

29 **(c) No creation of rights**
30

31 The rules in this article are not intended to give the public a right of access to any
32 record that they are not otherwise entitled to access. The rules do not create any
33 right of access to sealed or confidential records.
34

35 **Advisory Committee Comment**
36

37 The rules in this article acknowledge the benefits that electronic court records provide but attempt to limit
38 the potential for unjustified intrusions into the privacy of individuals involved in litigation that can occur
39 as a result of remote access to electronic court records. The proposed rules take into account the limited
40 resources currently available in the appellate courts. It is contemplated that the rules may be modified to

1 provide greater electronic access as the courts' technical capabilities improve and with the knowledge
2 gained from the experience of the courts in providing electronic access under these rules.

3
4 **Subdivision (c).** Rules 8.45-8.47 govern sealed and confidential records in the appellate courts.
5

6
7 **Rule 8.81. Application and scope**

8
9 **(a) Application**

10
11 The rules in this article apply only to records of the Supreme Court and Courts of
12 Appeal.

13
14 **(b) Access by parties and attorneys**

15
16 The rules in this article apply only to access to court records by the public. They do
17 not limit access to court records by a party to an action or proceeding, by the
18 attorney of a party, or by other persons or entities that are entitled to access by
19 statute or rule.
20

21
22 **Rule 8.82. Definitions**

23
24 As used in this article, the following definitions apply:

25
26 (1) “Court record” is any document, paper, exhibit, transcript, or other thing filed in an
27 action or proceeding; any order, judgment, or opinion of the court; and any court
28 minutes, index, register of actions or docket. The term does not include the personal
29 notes or preliminary memoranda of justices, judges or other judicial branch
30 personnel.

31
32 (2) “Electronic record” is a court record that requires the use of an electronic device to
33 access. The term includes both a record that has been filed electronically and an
34 electronic copy or version of a record that was filed in paper form.

35
36 (3) “The public” means an individual, a group, or an entity, including print or electronic
37 media, or the representative of an individual, a group, or an entity.

38
39 (4) “Electronic access” means computer access to court records available to the public
40 through both public terminals at the courthouse and remotely, unless otherwise
41 specified in the rules in this article.
42

1 (5) Providing electronic access to electronic records “to the extent it is feasible to do
2 so” means that electronic access must be provided to the extent the court determines
3 it has the resources and technical capacity to do so.

4
5 (6) “Bulk distribution” means distribution of multiple electronic records that is not
6 done on a case-by-case basis.

7
8
9 **Rule 8.83. Public access**

10
11 **(a) General right of access**

12
13 All electronic records must be made reasonably available to the public in some
14 form, whether in electronic or in paper form, except sealed or confidential records.

15
16 **(b) Electronic access required to extent feasible**

17
18 (1) Electronic access, both remote and at the courthouse, will be provided to the
19 following court records, except sealed or confidential records, to the extent it
20 is feasible to do so:

21
22 (A) Dockets or registers of actions;

23
24 (B) Calendars;

25
26 (C) Opinions; and

27
28 (D) The following Supreme Court records:

29
30 i. Results from the most recent Supreme Court weekly conference;

31
32 ii. Party briefs in cases argued in the Supreme Court for at least the
33 preceding 3 years;

34
35 iii. Supreme Court minutes from at least the preceding 3 years.

36
37 (2) If a court maintains records in civil cases in addition to those listed in (1) in
38 electronic form, electronic access to these records, except those listed in (c),
39 must be provided both remotely and at the courthouse, to the extent it is
40 feasible to do so.

1 **(c) Courthouse electronic access only**

2
3 If a court maintains the following records in electronic form, electronic access to
4 these records must be provided at the courthouse, to the extent it is feasible to do so,
5 but remote electronic access may not be provided to these records:
6

7 (1) Any reporter’s transcript for which the reporter is entitled to receive a fee; and
8

9 (2) Records other than those listed in (b)(1) in the following proceedings:
10

11 (A) Proceedings under the Family Code, including proceedings for
12 dissolution, legal separation, and nullity of marriage; child and spousal
13 support proceedings; child custody proceedings; and domestic violence
14 prevention proceedings;
15

16 (B) Juvenile court proceedings;
17

18 (C) Guardianship or conservatorship proceedings;
19

20 (D) Mental health proceedings;
21

22 (E) Criminal proceedings;
23

24 (F) Civil harassment proceedings under Code of Civil Procedure section
25 527.6;
26

27 (G) Workplace violence prevention proceedings under Code of Civil
28 Procedure section 527.8;
29

30 (H) Private postsecondary school violence prevention proceedings under
31 Code of Civil Procedure section 527.85;
32

33 (I) Elder or dependent adult abuse prevention proceedings under Welfare
34 and Institutions Code section 15657.03; and
35

36 (J) Proceedings to compromise the claims of a minor or a person with a
37 disability.
38

39 **(d) Remote electronic access allowed in extraordinary cases**

40
41 Notwithstanding (c)(2)(E), the presiding justice of the court, or a justice assigned by
42 the presiding justice, may exercise discretion, subject to (e)(1), to permit remote
43 electronic access by the public to all or a portion of the public court records in an

1 individual criminal case if (1) the number of requests for access to documents in the
2 case is extraordinarily high and (2) responding to those requests would significantly
3 burden the operations of the court. An individualized determination must be made
4 in each case in which such remote electronic access is provided.

5
6 (1) In exercising discretion under (d), the justice should consider the relevant
7 factors, such as:

8
9 (A) The privacy interests of parties, victims, witnesses, and court personnel,
10 and the ability of the court to redact sensitive personal information;

11
12 (B) The benefits to and burdens on the parties in allowing remote electronic
13 access; and

14
15 (C) The burdens on the court in responding to an extraordinarily high
16 number of requests for access to documents.

17
18 (2) The following information must be redacted from records to which the court
19 allows remote access under (d): driver license numbers; dates of birth; social
20 security numbers; Criminal Identification and Information and National Crime
21 Information numbers; addresses and phone numbers of parties, victims,
22 witnesses, and court personnel; medical or psychiatric information; financial
23 information; account numbers; and other personal identifying information.
24 The court may order any party who files a document containing such
25 information to provide the court with both an original unredacted version of
26 the document for filing in the court file and a redacted version of the
27 document for remote electronic access. No juror names or other juror
28 identifying information may be provided by remote electronic access.
29 Subdivision (d)(2) does not apply to any document in the original court file; it
30 applies only to documents that are made available by remote electronic access.

31
32 (3) Five days' notice must be provided to the parties and the public before the
33 court makes a determination to provide remote electronic access under this
34 rule. Notice to the public may be accomplished by posting notice on the
35 court's Web site. Any person may file comments with the court for
36 consideration, but no hearing is required.

37
38 (4) The court's order permitting remote electronic access must specify which
39 court records will be available by remote electronic access and what categories
40 of information are to be redacted. The court is not required to make findings
41 of fact. The court's order must be posted on the court's Web site and a copy
42 sent to the Judicial Council.

1 **(e) Access only on a case-by-case basis**

2

3 With the exception of the records covered by (b)(1), electronic access to an
4 electronic record may be granted only when the record is identified by the number
5 of the case, the caption of the case, the name of a party, the name of the attorney, or
6 the date of oral argument, and only on a case-by-case basis.

7

8 **(f) Bulk distribution**

9

10 Bulk distribution of may be provided only of the records covered by (b)(1).

11

12 **(g) Records that become inaccessible**

13

14 If an electronic record to which electronic access has been provided is made
15 inaccessible to the public by court order or by operation of law, the court is not
16 required to take action with respect to any copy of the record that was made by a
17 member of the public before the record became inaccessible.

18

19 **Advisory Committee Comment**

20

21 The rule allows a level of access by the public to all electronic records that is at least equivalent to the
22 access that is available for paper records and, for some types of records, is much greater. At the same
23 time, it seeks to protect legitimate privacy concerns.

24

25 **Subdivision (b).** Courts should encourage availability of electronic access to court records at public off-
26 site locations.

27

28 **Subdivision (c).** This subdivision excludes certain records (those other than the register, calendar,
29 opinions, and certain Supreme Court records) in specified types of cases (notably criminal, juvenile, and
30 family court matters) from remote electronic access. The committees recognized that while these case
31 records are public records and should remain available at the courthouse, either in paper or electronic
32 form, they often contain sensitive personal information. The court should not publish that information
33 over the Internet. However, the committees also recognized that the use of the Internet may be appropriate
34 in certain criminal cases of extraordinary public interest where information regarding a case will be
35 widely disseminated through the media. In such cases, posting of selected nonconfidential court records,
36 redacted where necessary to protect the privacy of the participants, may provide more timely and accurate
37 information regarding the court proceedings, and may relieve substantial burdens on court staff in
38 responding to individual requests for documents and information. Thus, under subdivision (e), if the
39 presiding justice makes individualized determinations in a specific case, certain records in criminal cases
40 may be made available over the Internet.

41

42 **Subdivisions (e)(f).** These subdivisions limit electronic access to records (other than the register,
43 calendars, opinions, and certain Supreme Court records) to a case-by-case basis and prohibit bulk
44 distribution of those records. These limitations are based on the qualitative difference between obtaining
45 information from a specific case file and obtaining bulk information that may be manipulated to compile
46 personal information culled from any document, paper, or exhibit filed in a lawsuit. This type of

1 aggregate information may be exploited for commercial or other purposes unrelated to the operations of
2 the courts, at the expense of privacy rights of individuals.

3
4 Courts must send a copy of the order permitting remote electronic access in extraordinary criminal cases
5 to: Judicial Council Support, Judicial Council of California, 455 Golden Gate Avenue, San Francisco, CA
6 94102-3688

7
8
9 **Rule 8.84. Limitations and conditions**

10
11 **(a) Means of access**

12
13 Electronic access to records required under this article must be provided by means
14 of a network or software that is based on industry standards or is in the public
15 domain.

16
17 **(b) Official record**

18
19 Unless electronically certified by the court, a court record available by electronic
20 access is not the official record of the court.

21
22 **(c) Conditions of use by persons accessing records**

23
24 Electronic access to court records may be conditioned on:

25
26 (1) The user's consent to access the records only as instructed; and

27
28 (2) The user's consent to monitoring of access to its records.

29
30 The court must give notice of these conditions, in any manner it deems appropriate.
31 Access may be denied to a member of the public for failure to comply with either of
32 these conditions of use.

33
34 **(d) Notices to persons accessing records**

35
36 The court must give notice of the following information to members of the public
37 accessing its records electronically, in any manner it deems appropriate:

38
39 (1) The identity of the court staff member to be contacted about the requirements
40 for accessing the court's records electronically.

41
42 (2) That copyright and other proprietary rights may apply to information in a case
43 file, absent an express grant of additional rights by the holder of the copyright
44 or other proprietary right. This notice must advise the public that:

1
2 (A) Use of such information in a case file is permissible only to the extent
3 permitted by law or court order; and

4
5 (B) Any use inconsistent with proprietary rights is prohibited.

6
7 (3) Whether electronic records are the official records of the court. The notice
8 must describe the procedure and any fee required for obtaining a certified
9 copy of an official record of the court.

10
11 (4) That any person who willfully destroys or alters any court record maintained
12 in electronic form is subject to the penalties imposed by Government Code
13 section 6201.

14
15 (e) **Access policy**

16
17 A privacy policy must be posted on the California Courts public-access Web site to
18 inform members of the public accessing its electronic records of the information
19 collected regarding access transactions and the uses that may be made of the
20 collected information.

21
22
23 **Rule 8.85. Fees for electronic access**

24
25 (a) **Court may impose fees for copies**

26
27 The court may impose fees for the costs of providing copies of its electronic
28 records, under Government Code section-68928.

29
30 (b) **Fees of vendor must be reasonable**

31
32 To the extent that public access to a court's electronic records is provided
33 exclusively through a vendor, the contract with the vendor must ensure that any fees
34 the vendor imposes for the costs of providing access are reasonable.



JUDICIAL COUNCIL OF CALIFORNIA

COURT TECHNOLOGY
ADVISORY COMMITTEE

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ctac@jud.ca.gov

COURT TECHNOLOGY ADVISORY COMMITTEE

MINUTES OF OPEN MEETING

January 23, 2015
10:00 AM to 11:00 AM
Teleconference

Advisory Body Members Present: Hon. Terence L. Bruiniers, Chair; Hon. Robert B. Freedman, Vice Chair; Hon. Kyle S. Brodie; Mr. Jake Chatters; Mr. Brian Cotta; Hon. Julie R. Culver; Prof. Dorothy J. Glancy; Hon. Sheila F. Hanson; Hon. Samantha P. Jessner; Mr. Robert Oyung; Mr. Pat Patterson; Hon. Alan G. Perkins; Hon. Peter J. Siggins; Mr. Don Willenburg; Mr. David H. Yamasaki; Hon. Theodore C. Zayner

Advisory Body Members Absent: Hon. Jeffrey B. Barton; Hon. Hannah-Beth Jackson; Hon. Louis R. Mauro; Hon. James Mize

Others Present: Hon. James E. Herman; Mr. Curt Soderlund; Mr. Mark Dusman; Ms. Renea Stewart; Ms. Kathy Fink; Ms. Fati Farmanfarmaian; Mr. Patrick O'Donnell; Ms. Tara Lundstrom; Ms. Heather Anderson; Mr. Manny Floresca; Ms. Jackie Woods

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 10:00 AM, and took roll call.

Approval of Minutes

The advisory body reviewed and approved the minutes of the December 5, 2014, public Court Technology Advisory Committee meeting.

Public Comment

The chair announced there were no public comments received.

DISCUSSION AND ACTION ITEMS (ITEMS 1-6)

Item 1

Opening Remarks and Chair Report

Update: Hon. Terence L. Bruiniers provided updates on the following items. Members received the updated Fresno reports regarding the Remote Video Pilot project. The project extension will be discussed later in the Rules & Policy Subcommittee update. Justice Bruiniers and Judge Freedman attended the NCSC eCourts Conference in Las Vegas December 2014, they shared that although the technology portion wasn't that

expanded past the judicial branches current uses, they found the security data presentations of value given the numerous hacking data breaches today. Lastly, Justice Bruiniers provided a brief update on the Appellate E-Filing project timeline. The Fifth District will go live with ImageSoft the 2nd week of February. The Third District will be the next court. There's no confirmation if another Court of Appeal will go or if the Supreme Court will follow the Third District.

Item 2

Annual Agenda (Action Required)

Action: Justice Bruiniers asked for a motion to approve the 2015 CTAC Annual Agenda to be sent to JCTC for review and approval at their February 9 meeting. CTAC approved the motion to send the 2015 CTAC Annual Agenda to JCTC.

Item 3

Information Security Framework Workstream Report

Update: Mr. Rob Oyung provided an update on the workstream activities. They will complete the review of framework published for Judicial Council IT by March 2015. The draft framework will be published by May 2015. Adoption at other courts is as needed by August 2015. It is not mandatory for the courts to use this framework; if they do no, it will be up to the court to create an individual policy.

Item 4

Data Exchange Workstream Report

Update: Mr. David Yamasaki reported the Data Exchange Workstream is moving forward in its effort to identify those data exchanges that will be for use in the case management systems (CMS) being installed into various courts. This effort includes justice partners and CMS vendors as well as CIOs/CEOs, and judges. The first meeting held in Sacramento on Jan. 27 was with justice partners and vendors to identify exchanges. The next meeting will be in San Francisco on Feb. 2 and include all participants and interested parties. Once the exchanges have been identified the workstream will begin working on both technical and governance tracks.

Item 5

Rules & Policy Subcommittee Report

Update: Hon. Peter J. Siggins reported this subcommittee met on January 15 to review the follow rule proposals. Work continues on the rules modernization project.

Ms. Tara Lundstorm provided an update on the current rules proposals. CTAC is being asked to approve the proposal to amend rule 2.251 to authorize electronic service on

the courts that consent to such service. CTAC is asked to also approve amendment to rule 8.71 to allow courts to continue conducting remote video proceedings in traffic cases after January 1, 2016. This is in conjunction with rule 4.220 being discussed by the JATS subcommittee. CTAC approved motion for both amendments to be forwarded to Rules and Projects Committee (RUPRO).

Mr. Jake Chatters provided an update on the Court Executive Advisory Committee (CEAC) Subcommittee on records management regarding E-Signatures. Expect the first draft by end of March, then to CEAC in April, after CEAC it will be given to other advisory committees for review. Due date is January 2016. This is rule 6.8150 (h). The intent is to focus on courts, but CEAC is looking at outside signatures as well.

Item 6

Joint Appellate Technology Subcommittee Report

Update: Ms. Heather Anderson reported on behalf of Justice Mauro, JATS chair on the proposal to amend rule 4.220 to allow courts to continue conducting remote video proceedings in traffic cases after January 1, 2016. This is in conjunction with the rule 8.71 and CTAC approved both rules to be submitted to RUPRO.

Item 7

Projects Subcommittee Report

Update: Hon. Robert Freedman provided an update on the Projects subcommittee. Focus is on disaster recovery and a next generation hosting survey being developed to get an idea where the courts are most vulnerable. SRL portal demos are being scheduled with Turbo Court and other vendors. Justice Bruiniers and Judge Freedman will attend and if there is value to CTAC, they will arrange a webinar for CTAC members to view demos.

A D J O U R N M E N T

Adjourn to Nonpublic Session.

Approved by the advisory body on .