



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date August 6, 2015	Action Requested Please review for your August 18 meeting
To Court Technology Advisory Committee	Deadline August 18, 2015
From Rules and Policy Subcommittee Joint Appellate Technology Subcommittee	Contact Tara Lundstrom 415-865-7650 phone tara.lundstrom@jud.ca.gov
Subject Phase I of the Rules Modernization Project	

Background

This year, the Court Technology Advisory Committee (CTAC) is carrying out phase I of the Rules Modernization Project, in collaboration with the five other advisory committees. This endeavor consists of proposing technical, non-substantive changes to the California Rules of Court to facilitate electronic filing, electronic service, and modern business practices.

Proposed amendments to titles 2, 3, 4, 5, 7, and 8 were circulated for public comment this spring, with the public comment period ending on June 17, 2015. Eleven commentators submitted comments in response to the Invitation to Comment. One provided a response to the proposed amendments after the comment period closed. Most comments responded to the proposed amendments to titles 2 and 3. Several applied generally. Only one commentator made comments specific to title 8. No comments were received specific to titles 4, 5, or 7.

During its August 18 meeting, CTAC will review the comments and proposed amendments related to titles 2, 3, 4, 5, 7, and 8 and decide whether to recommend that the rules proposal be considered by the Judicial Council at its October 27 meeting. These proposed amendments include any changes recommended by the advisory committees in response to the public

comments. They have been recommended by the Civil and Small Claims Advisory Committee (CSCAC), the Traffic Advisory Committee, the Family and Juvenile Law Advisory Committee, the Probate and Mental Health Advisory Committee, and the Appellate Advisory Committee (AAC). They have also been reviewed and recommended by CTAC's Joint Appellate Technology Subcommittee (JATS) and Rules and Policy Subcommittee (RPS).

Attached for the committee's review is a draft report to the Judicial Council that includes a comment chart (with responses recommended by CSCAC and AAC) and proposed amendments to titles 2, 3, 4, 5, 7, and 8.

Recommendation

JATS and RPS propose that CTAC recommend that the Judicial Council:

1. Amend titles 2, 3, 4, 5, 7, and 8 (Cal. Rules of Court, rules 2.3, 2.102–2.108, 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, 8.40, 8.42, 8.44–8.47, 8.50, 8.100, 8.104, 8.108, 8.112, 8.123, 8.124, 8.128, 8.130, 8.137, 8.140, 8.144, 8.147, 8.150, 8.204, 8.208, 8.212, 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, 8.804, 8.806, 8.814, 8.821–8.824, 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, 8.874, 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); and
2. Adopt new rules 2.10, 7.802, and 8.11.

Attachment

- Draft report to the Judicial Council with attachments (proposed amendments to titles 2, 3, 4, 5, 7, and 8 and comment chart with responses recommended by CSCAC and AAC)



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455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 27, 2015

Title	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); and adopt rules 2.10, 7.802, and 8.11
Rules Modernization Project: Modernize the Rules of Court to Facilitate E-Business, E-Filing, and E-Service	
Rules, Forms, Standards, or Statutes Affected	Recommended by
Amend titles 2, 3, 4, 5, 7, and 8 (Cal. Rules of Court, rules 2.3, 2.102–2.108, 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, 8.40, 8.42, 8.44–8.47, 8.50, 8.100, 8.104, 8.108, 8.112, 8.123, 8.124, 8.128, 8.130, 8.137, 8.140, 8.144, 8.147, 8.150, 8.204, 8.208, 8.212, 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, 8.804, 8.806, 8.814, 8.821–8.824, 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, 8.874, 8.881–8.883, 8.888, 8.890,	Information Technology Advisory Committee
	Hon. Terence L. Bruiniers, Chair
	Agenda Item Type
	Action Required
	Effective Date
	January 1, 2016
	Date of Report
	August 6, 2015
	Contact
	Tara Lundstrom, 415-865-7650 tara.lundstrom@jud.ca.gov

Executive Summary

The Information Technology Advisory Committee recommends amending various rules in titles 2, 3, 4, 5, 7, and 8 of the California Rules of Court for the purpose of modernizing the rules. This proposal would consist of minor, non-substantive amendments to the rules in order to facilitate electronic filing, electronic service, and modern business practices. The Civil and Small Claims Advisory Committee, the Traffic Advisory Committee, the Family and Juvenile Law Advisory Committee, the Probate and Mental Health Advisory Committee, and the Appellate Advisory Committee also recommend the amendments to the rules in their respective subject matter areas.

Recommendation

The Information Technology Advisory Committee recommends that the Judicial Council, effective January 1, 2016

1. Amend titles 2, 3, 4, 5, 7, and 8 (Cal. Rules of Court, rules 2.3, 2.102–2.108, 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, 8.40, 8.42, 8.44–8.47, 8.50, 8.100, 8.104, 8.108, 8.112, 8.123, 8.124, 8.128, 8.130, 8.137, 8.140, 8.144, 8.147, 8.150, 8.204, 8.208, 8.212, 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, 8.804, 8.806, 8.814, 8.821–8.824, 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, 8.874, 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); and
2. Adopt rules 2.10, 7.802, and 8.11.

The text of the new and amended rules is attached at pages 12–98.

Previous Council Action

Over the past twenty years, the Judicial Council has regularly taken action to facilitate the integration of technology in the work of the courts. For instance, the Judicial Council sponsored legislation in 1999 authorizing electronic filing and service in the trial courts. (Stats. 1999, ch. 514.) It first adopted implementing rules for the trial courts, effective January 1, 2003. The council expanded those rules in 2013 to address mandatory electronic filing and service in response to the enactment of Assembly Bill 2073 (Stats 2012; ch. 320).

In addition, the Judicial Council has adopted rules extending electronic filing and service to the appellate courts, first on a project pilot basis in the Second District Court of Appeal in 2010 and then to all appellate courts in 2012.

Rationale for Recommendation

Recognizing that courts are swiftly proceeding to a paperless world, the Information Technology Advisory Committee (ITAC) 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, ITAC has coordinated with five 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 I: an initial round of technical rule amendments to address language in the rules that is incompatible with the current statutes and rules governing electronic filing and service and with e-business practices in general. Next year, ITAC and the other advisory committees will undertake phase II, which will involve a more in-depth examination of any statutes and rules that may hinder e-business practices.

This proposal makes various technical amendments to the rules in titles 2, 3, 4, 5, 7, and 8.

Amendments to title 2

The amendments to title 2 will:¹

- 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));
- Add a new rule defining the scope of the trial court rules to include documents filed both on paper and electronically (see new rule 2.10);
- Amend language to clarify when certain form and formatting rules apply to electronic documents (see amended rules 2.103, 2.104, 2.105, 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

¹ These amendments have been recommended by ITAC and the Civil and Small Claims Advisory Committee (CSCAC).

- 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).

Amendments to title 3

The amendments to title 3 will:³

- Insert an electronic 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 electronic filing and 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), 3.1351(a) and (c), 3.1700(a)(1) and (b)(1), 3.1900, and 3.2107(a)–(b));
- 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 motion papers filed electronically (see amended rules 3.1110(e) 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 rules 2.253(b)(7) and 2.259(c) apply to motion papers that are required to be 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));

² The amendments to rule 2.551 on filing sealed records in the trial courts, unlike most of the other 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.

³ These amendments have been recommended by ITAC and CSCAC.

- 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)).

Amendment to title 4

The amendment to title 4 will:⁴

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

Amendments to title 5

The amendments to title 5 will:⁵

- 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 a definition for “software” (see amended rule 5.275(g).)

Amendment to title 7

The amendment to title 7 will:⁶

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

Amendments to title 8

The amendments to title 8 will:⁷

- 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 new rule 8.11 and amend rule 8.800(b) to clarify that the rules are intended to apply to documents filed and served electronically;

⁴ This amendment has been recommended by ITAC and the Traffic Advisory Committee.

⁵ These amendments have been recommended by ITAC and the Family and Juvenile Law Advisory Committee.

⁶ This new rule has been recommended by ITAC and the Probate and Mental Health Advisory Committee.

⁷ These amendments have been recommended by ITAC and the Appellate Advisory Committee (AAC).

- Replace references to “mail” with “send” throughout;
- Replace references to “file-stamped” with “filed-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 rules 8.40 and 8.44);
- Add language requiring that all confidential or sealed documents that are transmitted electronically must be transmitted in a secure manner (see amended rules 8.45(c), 8.46(d), 8.47(b) and (c), and 8.482(g));
- Clarify which requirements about form apply to electronically filed records, briefs, supporting documents, or petitions (see amended rules 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 the amended advisory committee comment to rule 8.204);
- Expand advisory committee comments to note 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 amended 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, 8.144(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 amended rule 8.804 and amended rule 8.882(b)); and
- Amend two advisory committee comments to add provisions that the clerk’s transcripts may be in electronic form (see comments to rules 8.122 and 8.832).

Comments, Alternatives Considered, and Policy Implications

Eleven commentators submitted comments in response to the Invitation to Comment. One provided a response to the proposed amendments after the comment period closed. Most comments responded to the proposed amendments to titles 2 and 3. Several applied generally. Only one commentator made comments specific to title 8. No comments were received specific to titles 4, 5, or 7.

Comments

The advisory committees’ responses to all comments received during the comment period are provided in the attached comment chart. In addition, specific responses to certain comments, including the response submitted after the comment period, are addressed further below.

Electronic form and formatting rules. This rules proposal clarifies that many of the form and formatting rules apply only to documents filed on paper, and not filed electronically. Three commentators—the TCPJAC/CEAC Joint Rules Subcommittee and Joint Technology

Subcommittee, and the State Bar’s Committee on Appellate Courts—submitted comments urging that electronic form and formatting rules be adopted in the near future. The TCPJAC/CEAC Joint Rules and Joint Technology Subcommittees specifically recommended future amendments to require bookmarking exhibits and attachments submitted with electronic documents.

The Superior Court of San Diego County submitted a comment in response to the proposed amendment to rule 3.1110(f), which would limit the requirement that parties tab their motions papers to those filed physically in paper form. The court objected to the amendment unless the council were to add similar language requiring bookmarking or its equivalent for all electronically filed documents. The court explained that it refers to rule 3.1110(f) in requiring litigants to bookmark their electronically filed motions since bookmarking is the electronic equivalent to tabbing. Bookmarking allows the court to easily locate documents and exhibits filed with motions. The court also proposed language for amending rule 3.1110(f) that would expressly authorize the bookmarking of electronic documents.

Electronic form and formatting rules, including any rules governing the bookmarking of electronic documents, will be considered during phase II of the Rules Modernization Project. Meanwhile, in response to the concerns raised by the Superior Court of San Diego County, this rules proposal will not amend rule 3.1110(f), so that the court may continue to rely on that rule in requiring that parties bookmark electronic documents.

Typewriters. The State Bar’s Committee on Administrative Justice (CAJ) submitted comments regarding the proposed amendment to rules 2.3(3), 2.104, and 2.150. CAJ opposed removing references to “typewritten,” “typewriting,” and “typewriter” from these rules.⁸ It explained that typewriters “provide an acceptable method of producing legible written text, and not all litigants have access to computers or word processors.” In response to CAJ’s concerns, this rules proposal leaves the references to “typewritten,” “typewriting,” and “typewriter” in these rules.

E-mail addresses. Rule 2.111(1) provides that the top of the first page of papers should list an “e-mail address (if available),” among other identifying information. The Civil Unit Managers of the Superior Court of Orange County submitted comments recommending that the phrase “e-mail address (if available)” be replaced with “e-mail address (if available and/or required if submitted electronically).” The managers explained that their proposal would allow the court to capture accurate data for electronic service because it would require all electronic filers to provide the court with their e-mail addresses. The managers further explained that the rules do not require placing the e-mail address on documents and there is no mechanism for placing e-mail addresses on documents.

⁸ Retaining these references also makes the amendments to the trial court rules consistent with the appellate rules: prior to circulating the Invitation to Comment, ITAC and AAC decided against removing these references in the appellate rules because indigent and incarcerated litigants may only have access to typewriters.

Under rule 2.111(1), an e-mail address may be provided on the first page of papers, if available, as a convenience to the court and parties. However, this e-mail address is not necessarily the electronic service address; the electronic service address might instead be registered with an Electronic Filing Service Provider. As provided in the rule, an attorney or litigant may list his or her work or personal e-mail address on the first page of a paper without consenting to receive electronic service at that address. (See Cal. Rules of Court, rule 2.111(1) [“The inclusion of a fax number or e-mail address on any document does not constitute consent to service by fax or e-mail unless otherwise provided by law”].)

A party consents to permissive electronic service by filing form EFS-005, *Consent to Electronic Service and Notice of Electronic Service Address*, which requires that the party specify his or her electronic service address.⁹ This form captures the electronic service address only where electronic service is permissive. In addition, rule 2.256(a)(4) requires parties to provide “one or more electronic service addresses, in the manner specified by the court, at which the electronic filer agrees to accept electronic service.” Since courts already have the ability to require parties to provide their electronic service addresses, this rules proposal does not amend rule 2.111(1).

Filing records under seal. This rules proposal amends rules 2.551 (governing procedures for filing records under seal) and 2.577 (governing procedures for filing confidential name change records under seal). It states specific procedures for filing electronically transmitted records under seal by court order.

As circulated, the rules proposal would have amended rules 2.551(e)(1) and 2.577(f)(3) to require that, when a court grants an order sealing a record, it must replace the cover sheet with a filed-endorsed copy of the court’s order. In addition, the rules proposal would have required the court, if the record was in electronic form, to place the record ordered sealed in a secure electronic file, clearly identified as sealed by court order on a specified date.

After the comment period closed, Mr. Alan Carlson—the Court Executive Officer of the Superior Court of Orange County—provided his response to these proposed amendments. He explained that removing the cover sheet and attaching the court’s order for records and petitions transmitted electronically is unworkable in his court’s electronic case and document management systems. Once these records and petitions have been electronically transmitted by the parties, the court cannot alter these documents; however, the court can change the level of access to these documents and can identify these documents as sealed by court order on a specific date. Mr. Carlson also explained that his document management system does not electronic documents in a secure electronic “file.”

This rules proposal incorporates Mr. Carlson’s recommendations into the amendments for rules 2.551(e)(1) and 2.577(f)(3).

⁹ Form EFS-005 is available at <http://www.courts.ca.gov/documents/efs005.pdf>.

Rule 2.551(e)(1) is amended to provide as follows:

If the court grants an order sealing a record and if the sealed record is in paper format, the clerk must substitute on the envelope or container for the label required by (d)(2) a label prominently stating “SEALED BY ORDER OF THE COURT ON (DATE),” and must replace the cover sheet required by (d)(3) with a filed-endorsed copy of the court’s order. If the sealed record is in an electronic format, the clerk must file the court’s order, store the record ordered sealed in a secure manner, and clearly identify the record as sealed by court order on a specified date.

Rule 2.577(f)(3) is amended as follows:

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,” 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 file the court’s order, store the record ordered sealed in a secure manner, and clearly identify the record as sealed by court order on a specified date.

Electronic submission of documents after close of business. Four commentators submitted comments in response to the proposed amendment to rule 3.1300(e), which governs the filing and service of motion papers.¹⁰ Under this rules proposal, as circulated, subdivision (e) would have been amended as follows:

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

Three commentators identified an error in the proposed language in that papers are initially “received,” not filed. Ms. Robin Brandes-Gibbs, an employee at the Superior Court of Orange County, proposed replacing the term “filed” with “received by the court.” This rules proposal incorporates Ms. Brandes-Gibb’s suggested language since it would correct the error and would track the language of rule 2.259(c).¹¹

¹⁰ Ms. Robin Brandes-Gibbs referenced subdivision (c) of rule 3.1300, but her comments appear directed toward subdivision (e).

¹¹ Rule 2.259(c) provides in full:

A document that is received electronically by the court after the close of business is deemed to have been received on the next court day, unless the court has provided by local rule with respect

In response to the error, the TCPJAC/CEAC Joint Rules Subcommittee and Joint Technology Subcommittee proposed adding the phrase “if, after review by the clerk, it is accepted for filing” to the end of the proposed amendment. This rules proposal does not incorporate this recommendation since the subcommittee’s concern is already addressed by the cross-reference in rule 3.1300(e) to rule 2.259(c), which provides that electronically filed documents must “be processed and satisfy all other legal filing requirements to be filed as an official court record.”

In addition, Ms. Brandes-Gibbs questioned whether the proposed amendment to rule 3.1300(e), as well as rules 2.253(b)(7) and 2.259(c),¹² contradict Code of Civil Procedure section 1010.6(b)(3). Code of Civil Procedure section 1010.6(b)(3) does provide that “[a]ny document that is electronically filed with the court after the close of business on any day shall be deemed to have been filed on the next court day.” It also defines “close of business” as meaning “5 p.m. or the time at which the court would not accept filing at the court’s filing counter, whichever is earlier.”

Code of Civil Procedure section 1010.6(b)(3) governs only *permissive* electronic filing. Subdivision (g) exempts superior courts from complying with subdivision (b)(3) where electronic filing is *mandatory*. Subdivision (f), in turn, instructs the Judicial Council to adopt uniform rules governing mandatory electronic filing that conform with the conditions in section 1010.6, including the exception in subdivision (g) to subdivision (b)(3). Thus, Code of Civil Procedure section 1010.6 provides an exception to the close-of-business rule where electronic filing is mandatory.

The amendment to rule 3.1300(e) tracks this legislative scheme. By its cross-reference to rule 2.259(c), which in turn references rule 2.253(b)(7), the proposed amendment to rule 3.1300(e) only applies to papers that are required to be filed electronically. Even though the amendment to rule 3.1300(e) is authorized under Code of Civil Procedure section 1010.6, this proposal includes additional language to clarify that the amendment only applies to mandatory filing. In response to Ms. Brandes-Gibbs’ comments, rule 3.1300(e) will be amended to provide:

A paper submitted before the close of the clerk’s office to the public on the day the paper is due is deemed timely filed. Under rules 2.253(b)(7) and 2.259(c), a court may provide by local rule that a paper *that is required to be filed*

to documents filed under the mandatory electronic filing provisions in rule 2.253(b)(7), that documents received electronically before midnight on a court day are deemed to have been filed on that court day, and documents received electronically after midnight are deemed filed on the next court day. This provision concerns only the effective date of filing. Any document that is electronically filed must be processed and satisfy all other legal filing requirements to be filed as an official court record.

¹² Rule 2.253(b)(7) addresses mandatory electronic filing and is cross-referenced in rule 2.259(c). It recognizes that courts may provide by local rule that electronically filed documents received before midnight will be deemed to have been filed by that court day.

electronically and that is received electronically by the court before midnight on a court day is deemed filed on that court day.

In its comments to the proposed amendment to rule 3.1300(e), the Superior Court of Sacramento County recommended against authorizing inconsistencies throughout the State. Currently, the Code of Civil Procedure and trial court rules allow for electronic filing deadlines to vary depending on whether electronic filing is permissive or mandatory and depending on the court's local rules. Addressing the court's concern about inconsistencies is beyond the scope of the present rules proposal because it would require a substantive amendment to the rules and possibly to the Code of Civil Procedure. The advisory committees may address the court's concern during phase II of the Rules Modernization Project.

Use of an electronic record on appeal. CAJ expressed concern about the impact of the proposed amendments to rules 8.122, 8.144, 8.336, and 8.838, on indigent appellate litigants, particularly incarcerated appellants and others who do not have access to computers. The proposed amendments to these rules would have expressly allowed all or part of the record on appeal to be in electronic form where authorized by local rule of the appellate court or division. In addition, the proposed amendments to rule 8.832, not specifically mentioned by CAJ, would have added language to the rule's Advisory Committee Comment parallel to the language proposed for the comment to rule 8.122, but applying to appeals to an appellate division of a superior court.

Recognizing that the exceptions for self-represented litigants in the electronic filing and service rules do not apply to the form of the record on appeal, the proposed amendments to 8.122, 8.144, 8.832, and 8.838—which would have expressly allowed use of an electronic record on appeal—have been withdrawn from this rules proposal for further consideration in phase II of the Rules Modernization Project. Other amendments to rules 8.144 and 8.838, as well as the amendment to rule 8.336, remain part of this rules proposal. These amendments clarify application of the rules where the clerk's or reporter's transcript is in electronic form.

At least one of the courts of appeal is currently receiving the clerk's transcripts in electronic form from one of the superior courts within the district. This practice, already in effect under the existing rules of court, should be able to continue unchanged while further consideration is given to how best to address this issue in the rules of court.

Alternatives

As an alternative to making technical changes at this time, ITAC considered deferring action and proposing a single rules proposal that would have included both substantive and technical changes to the rules at a later date. One benefit of this approach would have been increasing 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 will modernize the rules, to the extent possible, on a more responsive timeline for those courts that are already implementing electronic filing and service and adopting modern business practices.

Implementation Requirements, Costs, and Operational Impacts

Because the proposal does not introduce substantive changes to the rules, it is not expected to incur any new costs or require implementation. To the extent that the proposal clarifies existing law, it will facilitate electronic filing and service in the trial and appellate courts and provide cost-efficiencies.

Only minimal costs are associated with amending the rules.

Attachments and Links

1. Cal. Rules of Court, amendments to title 2, at pages 12–21
2. Cal. Rules of Court, amendments to title 3, at pages 22–35
3. Cal. Rules of Court, amendments to title 4, at page 36
4. Cal. Rules of Court, amendments to title 5, at pages 37–40
5. Cal. Rules of Court, amendments to title 7, at pages 41
6. Cal. Rules of Court, amendments to title 8, at pages 42–97
7. Comment chart, at pages 98–107

Rules 2.3, 2.10, 2.102, 2.103, 2.104, 2.105, 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, of the California Rules of Court are amended, and rule 2.10 is adopted, effective January 1, 2016, to read:

Title 2. Trial Court Rules

Rule 2.3. Definitions

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

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

Rule 2.10. Scope of rules [Reserved]

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

Rule 2.102. One-sided paper

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

Rule 2.103. Size, quality, and color, and size of paper

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

Rule 2.104. Printing; type font size

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

1 **Rule 2.105. Type Font style**

2
3 The ~~typeface~~ font must be essentially equivalent to Courier, Times New Roman, or Arial.

4
5 **Rule 2.106. Font color of print**

6
7 The font color ~~of print~~ must be black or blue-black.

8
9 **Rule 2.107. Margins**

10
11 The left margin of each page must be at least one inch from the left edge ~~of the paper~~ and
12 the right margin at least 1/2 inch from the right edge ~~of the paper~~.

13
14 **Rule 2.108. Spacing and numbering of lines**

15
16 The spacing and numbering of lines on a page must be as follows:

17
18 (1)–(3) * * *

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

26
27 **Rule 2.111. Format of first page**

28
29 The first page of each paper must be in the following form:

30
31 (1)–(2) * * *

32
33 (3) On line 8, at or below 3 1/3 inches from the top of the ~~paper~~ page, the title of the
34 court.

35
36 (4)–(11) * * *

37
38 **Rule 2.113. Binding**

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

1 **Rule 2.114. Exhibits**

2
3 Exhibits submitted with papers not filed electronically may be fastened to pages of the
4 specified size and, when prepared by a machine copying process, must be equal to
5 ~~typewritten~~ computer processed materials in legibility and permanency of image.
6

7 **Rule 2.115. Hole punching**

8
9 When papers are not filed electronically, each paper presented for filing must contain two
10 prepunched normal-sized holes, centered 2½ inches apart and 5/8 inch from the top of the
11 paper.
12

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

14
15 All copies of papers served must conform to the original papers filed, including the
16 numbering of lines, pagination, additions, deletions, and interlineations except that, with
17 the agreement of the other party, a party serving papers by non-electronic means may
18 serve that other party with papers printed on both sides of the page.
19

20 **Rule 2.130. Application**

21
22 The rules in this chapter apply to Judicial Council forms, local court forms, and all other
23 official forms to be filed in the trial courts. The rules apply to forms filed both in paper
24 form and electronically, unless otherwise specified.
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).
42

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

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

10
11 Notwithstanding the adoption of mandatory form *Proof of Service of Summons*
12 (form POS-010), a form for proof of service of a summons and complaint prepared
13 entirely by word processor, typewriter, or similar process may be used for proof of
14 service in any applicable action or proceeding if the following conditions are met:
15

16 (1)–(4) * * *

17
18 (5) The text of form POS-010 must be copied in the same order as it appears on
19 ~~the printed~~ form POS-010 using the same item numbers. A declaration of
20 diligence may be attached to the proof of service or inserted as item 5b(5).
21

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

26 (7)–(8) * * *

27
28 (9) Material that would have been ~~typed~~ entered onto ~~the printed~~ form POS-010
29 must be ~~typed~~ entered with each line indented 3 inches from the left margin.
30

31 (b) * * *

32
33 **Advisory Committee Comment**
34

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

39 **Rule 2.550. Sealed records**

40
41 (a) * * *
42
43

1 (b) **Definitions**

2
3 As used in this chapter:

4
5 (1) “Record.” Unless the context indicates otherwise, “record” means all or a
6 portion of any document, paper, exhibit, transcript, or other thing filed or
7 lodged with the court, by electronic means or otherwise.

8
9 (2)–(3) * * *

10
11 (c)–(e) * * *

12
13 **Rule 2.551. Procedures for filing records under seal**

14
15 (a) * * *

16
17 (b) **Motion or application to seal a record**

18
19 (1) * * *

20
21 (2) *Service of motion or application*

22
23 A copy of the motion or application must be served on all parties that have
24 appeared in the case. Unless the court orders otherwise, any party that already
25 ~~possesses copies of~~ has access to the records to be placed under seal must be
26 served with a complete, unredacted version of all papers as well as a redacted
27 version. Other parties must be served with only the public redacted version.
28 If a party’s attorney but not the party has access to the record, only the
29 party’s attorney may be served with the complete, unredacted version.

30
31 (3) *Procedure for party not intending to file motion or application*

32
33 (A) * * *

34
35 (B) If the party that produced the documents and was served with the notice
36 under (A)(iii) fails to file a motion or an application to seal the records
37 within 10 days or to obtain a court order extending the time to file such
38 a motion or an application, the clerk must promptly remove all the
39 documents in (A)(i) from the envelope, ~~or~~ container, or secure
40 electronic file where they are located and place them in the public file.
41 If the party files a motion or an application to seal within 10 days or
42 such later time as the court has ordered, these documents are to remain

1 conditionally under seal until the court rules on the motion or
2 application and thereafter are to be filed as ordered by the court.

3
4 (4) * * *

5
6 (5) *Redacted and unredacted versions*

7
8 If necessary to prevent disclosure, any motion or application, any opposition,
9 and any supporting documents must be filed in a public redacted version and
10 lodged in a complete, unredacted version conditionally under seal. The cover
11 of the redacted version must identify it as “Public—Redacts materials from
12 conditionally sealed record.” The cover of the unredacted version must
13 identify it as “May Not Be Examined Without Court Order—Contains
14 material from conditionally sealed record.”

15
16 (6) *Return of lodged record*

17
18 If the court denies the motion or application to seal, the clerk must return the
19 lodged record to the submitting party and must not place it in the case file
20 unless that party notifies the clerk in writing ~~within 10 days after the order~~
21 ~~denying the motion or application~~ that the record is to be filed. Unless
22 otherwise ordered by the court, the submitting party must notify the clerk
23 within 10 days after the order denying the motion or application.

24
25 (c) * * *

26
27 (d) **Procedure for lodging of records**

28
29 (1) A record that may be filed under seal must be transmitted to the court in a
30 secure manner that preserves the confidentiality of the records to be lodged.
31 If the record is transmitted in paper form, it must be put in an envelope or
32 other appropriate container, sealed in the envelope or container, and lodged
33 with the court.

34
35 (2) The materials to be lodged under seal must be clearly identified as
36 “CONDITIONALLY UNDER SEAL.” If the materials are transmitted in
37 paper form, the envelope or container lodged with the court must be labeled
38 “CONDITIONALLY UNDER SEAL.”

39
40 (3) The party submitting the lodged record must affix to the electronic
41 transmission, the envelope or the container a cover sheet that:

42
43 (A)–(B) * * *

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(4) * * *

(e) Order

(1) If the court grants an order sealing a record and if the sealed record is in paper format, the clerk must substitute on the envelope or container for the label required by (d)(2) a label prominently stating “SEALED BY ORDER OF THE COURT ON (DATE),” and must replace the cover sheet required by (d)(3) with a filed-endorsed copy of the court’s order. If the sealed record is in an electronic format, the clerk must file the court’s order, store the record ordered sealed in a secure electronic manner, and clearly identify the record as sealed by court order on a specified date.

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

(3) * * *

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

(f)–(g) * * *

(h) Motion, application, or petition to unseal records

(1)–(2) * * *

(3) If the court proposes to order a record unsealed on its own motion, the court must ~~mail~~ give notice to the parties stating the reason for unsealing the record therefor. Unless otherwise ordered by the court, any party may serve and file an opposition within 10 days after the notice is provided ~~mailed or within such time as the court specifies~~, and any other party may file a response within 5 days after the filing of an opposition.

(4) * * *

(5) The order unsealing a record must state whether the record is unsealed entirely or in part. If the court’s order unseals only part of the record or unseals the record only as to certain persons, the order must specify the particular records that are unsealed, the particular persons who may have access to the record, or

1 both. If, in addition to the records in the envelope, ~~or~~ container, or secure
2 electronic file, the court has previously ordered the sealing order, the register of
3 actions, or any other court records relating to the case to be sealed, the
4 unsealing order must state whether these additional records are unsealed.

5
6 **Rule 2.577. Procedures for filing confidential name change records under seal**

7
8 (a)–(c) * * *

9
10 (d) **Procedure for lodging of petition for name change**

11
12 (1) The records that may be filed under seal must be lodged with the court. If
13 they are transmitted on paper, they must be placed in a sealed envelope. If
14 they are transmitted electronically, they must be transmitted to the court in a
15 secure manner that preserves the confidentiality of the documents to be
16 lodged.

17
18 (2) If the petitioner is transmitting the petition on paper, the petitioner must
19 complete and affix to the envelope a completed *Confidential Cover Sheet—*
20 *Name Change Proceeding Under Address Confidentiality Program (Safe at*
21 *Home)* (form NC-400) and in the space under the title and case number mark
22 it “CONDITIONALLY UNDER SEAL.” If the petitioner is transmitting
23 electronically, the first page of the electronic transmission must be a
24 completed *Confidential Cover Sheet—Name Change Proceeding Under*
25 *Address Confidentiality Program (Safe at Home)* (form NC-400) with the
26 space under the title and case number marked “CONDITIONALLY UNDER
27 SEAL.”

28
29 (3) On receipt of a petition lodged under this rule, the clerk must endorse the
30 ~~affixed~~ cover sheet with the date of its receipt and must retain but not file the
31 record unless the court orders it filed.

32
33 (4) * * *

34
35 (e) * * *

36
37 (f) **Order**

38
39 (1)–(2) * * *

40
41 (3) For petitions transmitted in paper form, if the court grants an order sealing a
42 record, the clerk must strike out the notation required by (d)(2) on the
43 *Confidential Cover Sheet* that the matter is filed “CONDITIONALLY

1 UNDER SEAL,” and add a notation to that sheet prominently stating
2 “SEALED BY ORDER OF THE COURT ON (DATE),” and file the
3 documents under seal. For petitions transmitted electronically, the clerk must
4 file the court’s order, store the record ordered sealed in a secure electronic
5 manner, and clearly identify the record as sealed by court order on a specified
6 date.

7
8 (4)–(5) * * *

9
10 (g)–(h) * * *

11
12 **Rule 2.816. Stipulation to court-appointed temporary judge**

13
14 (a)–(d) * * *

15
16 (e) **Application or motion to withdraw stipulation**

17
18 An application or motion to withdraw a stipulation for the appointment of a
19 temporary judge must be supported by a declaration of facts establishing good
20 cause for permitting the party to withdraw the stipulation. In addition:

21
22 (1)–(2) * * *

23
24 (3) The application or motion must be served and filed, and the moving party
25 must ~~mail or deliver~~ provide a copy to the presiding judge.

26
27 (4) * * *

28
29 **Rule 2.831. Temporary judge—stipulation, order, oath, assignment, disclosure, and**
30 **disqualification**

31
32 (a)–(e) * * *

33
34 (f) **Motion to withdraw stipulation**

35
36 A motion to withdraw a stipulation for the appointment of a temporary judge must
37 be supported by a declaration of facts establishing good cause for permitting the
38 party to withdraw the stipulation, and must be heard by the presiding judge or a
39 judge designated by the presiding judge. A declaration that a ruling is based on
40 error of fact or law does not establish good cause for withdrawing a stipulation.
41 Notice of the motion must be served and filed, and the moving party must ~~mail or~~
42 ~~deliver~~ provide a copy to the temporary judge. If the motion to withdraw the
43 stipulation is based on grounds for the disqualification of the temporary judge first

1 learned or arising after the temporary judge has made one or more rulings, but
2 before the temporary judge has completed judicial action in the proceeding, the
3 provisions of rule 2.816(e)(4) apply. If a motion to withdraw a stipulation is
4 granted, the presiding judge must assign the case for hearing or trial as promptly as
5 possible.

6
7 **Rule 2.1055. Proposed jury instructions**

8
9 (a) * * *

10
11 (b) **Form and format of proposed instructions**

12
13 (1)–(3) * * *

14
15 (4) Each set of proposed jury instructions filed on paper must be bound loosely.

16
17 (c)–(e) * * *

18
19 **Rule 2.1100. Notice when statute or regulation declared unconstitutional**

20
21 Within 10 days after a court has entered judgment in a contested action or special
22 proceeding in which the court has declared unconstitutional a state statute or regulation,
23 the prevailing party, or as otherwise ordered by the court, must ~~mail~~ serve a copy of the
24 judgment and a notice of entry of judgment ~~to~~ on the Attorney General and file a proof of
25 service with the court.

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, of the California Rules of Court are amended, effective January 1, 2016, to read:

1 **Title 3. Civil Rules**

2
3 **Rule 3.254. List of parties**

4
5 **(a) Duties of first-named plaintiff or petitioner**

6
7 Except as provided under rule 2.251 for electronic service, if more than two parties
8 have appeared in a case and are represented by different counsel, the plaintiff or
9 petitioner named first in the complaint or petition must:

10
11 (1)–(2) * * *

12
13 **(b) Duties of each party**

14
15 Except as provided under rule 2.251 for electronic service, each party must:

16
17 (1)–(3) * * *

18
19 **Rule 3.524. Order assigning coordination motion judge**

20
21 **(a) Contents of order**

22
23 An order by the Chair of the Judicial Council assigning a coordination motion
24 judge to determine whether coordination is appropriate, or authorizing the presiding
25 judge of a court to assign the matter to judicial officers of the court to make the
26 determination in the same manner as assignments are made in other civil cases,
27 must include the following:

28
29 (1) The special title and number assigned to the coordination proceeding; and

30
31 (2) The court's address or electronic service address for submitting all
32 subsequent documents to be considered by the coordination motion judge.

33
34 **(b) * * ***

35
36 **Rule 3.544. Add-on cases**

37
38 **(a) Request to coordinate add-on case**

39
40 A request to coordinate an add-on case must comply with the requirements of rules
41 3.520 through 3.523, except that the request must be submitted to the coordination

1 trial judge under Code of Civil Procedure section 404.4, with proof of ~~mailing~~
2 service of one copy ~~to~~ on the Chair of the Judicial Council and proof of service as
3 required by rule 3.510.
4

5 (b)–(d) * * *

6
7 **Rule 3.670. Telephone appearance**
8

9 (a)–(g) * * *

10
11 **(h) Notice by party**
12

13 (1) Except as provided in (6), a party choosing to appear by telephone at a
14 hearing, conference, or proceeding, other than on an ex parte application,
15 under this rule must either:
16

17 (A) Place the phrase “Telephone Appearance” below the title of the
18 moving, opposing, or reply papers; or
19

20 (B) At least two court days before the appearance, notify the court and all
21 other parties of the party’s intent to appear by telephone. If the notice is
22 oral, it must be given either in person or by telephone. If the notice is in
23 writing, it must be given by filing a “Notice of Intent to Appear by
24 Telephone” with the court at least two court days before the appearance
25 and by serving the notice at the same time on all other parties by
26 personal delivery, fax transmission, express mail, ~~e-mail~~ electronic
27 service if such service is required by local rule or court order or agreed
28 to by the parties, or other means reasonably calculated to ensure
29 delivery to the parties no later than the close of the next business day.
30

31 (2)–(6) * * *

32
33 (i)–(q) * * *

34
35 **Rule 3.815. Selection of the arbitrator**
36

37 (a) * * *

38
39 **(b) Selection absent stipulation or local procedures**
40

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

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(1) * * *

(2) The administrator must select at random a number of names equal to the number of sides, plus one, and ~~mail~~ send the list of randomly selected names to counsel for the parties.

(3) Each side has 10 days from the date of ~~mailing~~ on which the list was sent to file a rejection, in writing, of no more than one name on the list; if there are two or more parties on a side, they must join in the rejection of a single name.

(4)–(5) * * *

(c)–(f) * * *

Rule 3.823. Rules of evidence at arbitration hearing

(a)–(c) * * *

(d) Delivery of documents

For purposes of this rule, “delivery” of a document or notice may be accomplished manually, by electronic means under Code of Civil Procedure section 1010.6 and rule 2.251, or by mail in the manner provided by Code of Civil Procedure section 1013. If service is by electronic means, the times prescribed in this rule for delivery of documents, notices, and demands are increased by two days. If service is by mail, the times prescribed in this rule ~~for delivery of documents, notices, and demands~~ are increased by five days.

Rule 3.827. Entry of award as judgment

(a) * * *

(b) Notice of entry of judgment

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

(c) * * *

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

2
3 (a) * * *

4
5 (b) **Notice regarding proceedings before referee**

6
7 (1) In each case in which he or she is appointed, a referee must file a statement
8 that provides the name, telephone number, e-mail address, and mailing
9 address of a person who may be contacted to obtain information about the
10 date, time, location, and general nature of all hearings scheduled in matters
11 pending before the referee that would be open to the public if held before a
12 judge. This statement must be filed at the same time as the referee's
13 certification under rule 3.904(a) or 3.924(a). If there is any change in this
14 contact information, the referee must promptly file a revised statement with
15 the court.

16
17 (2) In addition to providing the information required under (1), the statement
18 filed by a referee may also provide the address of a publicly accessible ~~Web~~
19 site website at which the referee will maintain a current calendar setting forth
20 the date, time, location, and general nature of any hearings scheduled in the
21 matter that would be open to the public if held before a judge.

22
23 (3) * * *

24
25 (c) * * *

26
27 **Rule 3.1010. Oral depositions by telephone, videoconference, or other remote**
28 **electronic means**

29
30 (a) * * *

31
32 (b) **Appearing and participating in depositions**

33
34 Any party may appear and participate in an oral deposition by telephone,
35 videoconference, or other remote electronic means, provided:

36
37 (1) Written notice of such appearance is served by personal delivery, e-mail, or
38 fax at least three court days before the deposition;

39
40 (2) The party so appearing makes all arrangements and pays all expenses
41 incurred for the appearance.
42

1 (c)–(e) * * *

2
3 **Rule 3.1109. Notice of determination of submitted matters**

4
5 **(a) Notice by clerk**

6
7 When the court rules on a motion or makes an order or renders a judgment in a
8 matter it has taken under submission, the clerk must immediately notify the parties
9 of the ruling, order, or judgment. The notification, which must specifically identify
10 the matter ruled on, may be given by servicing electronically or mailing the parties a
11 copy of the ruling, order, or judgment, and it constitutes service of notice only if
12 the clerk is required to give notice under Code of Civil Procedure section 664.5.

13
14 **(b)** * * *

15
16 **(c) Time not extended by failure of clerk to give notice**

17
18 The failure of the clerk to give the notice required by this rule does not extend the
19 time provided by law for performing any act except as provided in rules 8.104(a) or
20 ~~8.824~~ 8.822(a).

21
22 **Rule 3.1110. General format**

23
24 **(a)–(d)** * * *

25
26 **(e) Binding**

27
28 For motions filed on paper, all pages of each document and exhibit must be
29 attached together at the top by a method that permits pages to be easily turned and
30 the entire content of each page to be read.

31
32 **(f)–(g)** * * *

33
34 **Rule 3.1113. Memorandum**

35
36 **(a)–(h)** * * *

37
38 **(i) Copies of authorities**

39
40 (1) A judge may require that if any authority other than California cases, statutes,
41 constitutional provisions, or state or local rules is cited, a copy of the
42 authority must be lodged with the papers that cite the authority and tabbed or
43 separated as required by rule 3.1110(f).

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(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).

(3) * * *

(j)-(l) * * *

(m) Proposed orders or judgments

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

Rule 3.1202. Contents of application

(a) Identification of attorney or party

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

(b)-(c) * * *

Rule 3.1300. Time for filing and service of motion papers

(a) In general

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

(b)-(d) * * *

(e) Computation of time

1 A paper submitted before the close of the clerk’s office to the public on the day the
2 paper is due is deemed timely filed. Under rules 2.235(b)(7) and rule 2.259(c), a
3 court may provide by local rule that a paper that is required to be filed
4 electronically and that is received electronically by the court before midnight on a
5 court day is deemed filed on that court day.
6

7 **Rule 3.1302. Place and manner of filing**
8

9 **(a) Papers filed in clerk’s office**

10
11 Unless otherwise provided by local rule or specified in a court’s protocol for
12 electronic filing, all papers relating to a law and motion proceeding must be filed in
13 the clerk’s office.
14

15 **(b) Requirements for lodged material**

16
17 Material lodged physically with the clerk must be accompanied by an addressed
18 envelope with sufficient postage for mailing the material. Material lodged
19 electronically must clearly specify the electronic address to which the materials
20 may be returned. After determination of the matter, the clerk may mail or send the
21 material back to the party lodging it.
22

23 **Rule 3.1304. Time of hearing**
24

25 **(a) General schedule**

26
27 The clerk must post electronically and at the courthouse a general schedule
28 showing the days and departments for holding each type of law and motion
29 hearing.
30

31 **(b)–(d) * * ***
32

33 **Rule 3.1320. Demurrers**
34

35 **(a)–(b) * * ***
36

37 **(c) Notice of hearing**
38

39 A party filing a demurrer must serve and file therewith a notice of hearing that must
40 specify a hearing date in accordance with the provisions of Code of Civil Procedure
41 section 1005 and, if service is by electronic means, in accordance with the
42 requirements of Code of Civil Procedure section 1010.6(a)(4) and rule 2.251(h)(2).
43

1 (d)–(j) * * *

2
3 **Rule 3.1326. Motions for change of venue**

4
5 Following denial of a motion to transfer under Code of Civil Procedure section 396b,
6 unless otherwise ordered, 30 calendar days are deemed granted defendant to move to
7 strike, demur, or otherwise plead if the defendant has not previously filed a response. If a
8 motion to transfer is granted, 30 calendar days are deemed granted from the date the
9 receiving court ~~mails~~ sends notice of receipt of the case and its new case number.

10
11 **Rule 3.1327. Motions to quash or to stay action in summary proceeding involving**
12 **possession of real property**

13
14 (a) **Notice**

15
16 In an unlawful detainer action or other action brought under chapter 4 of title 3 of
17 part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a
18 motion to quash service of summons on the ground of lack of jurisdiction or to stay
19 or dismiss the action on the ground of inconvenient forum must be given in
20 compliance with Code of Civil Procedure sections 1010.6 or 1013 and 1167.4.

21
22 (b) * * *

23
24 (c) **Written opposition in advance of hearing**

25
26 If a party seeks to have a written opposition considered in advance of the hearing,
27 the written opposition must be filed and served on or before the court day before
28 the hearing. Service must be by personal delivery, electronic service, ~~fax~~ ~~facsimile~~
29 transmission, express mail, or other means consistent with Code of Civil Procedure
30 sections 1010, 1010.6, 1011, 1012, and 1013, and reasonably calculated to ensure
31 delivery to the other party or parties no later than the close of business on the court
32 day before the hearing. The court, in its discretion, may consider written opposition
33 filed later.

34
35 **Rule 3.1330. Motion concerning arbitration**

36
37 A petition to compel arbitration or to stay proceedings pursuant to Code of Civil
38 Procedure sections 1281.2 and 1281.4 must state, in addition to other required
39 allegations, the provisions of the written agreement and the paragraph that provides for
40 arbitration. The provisions must be stated verbatim or a copy must be physically or
41 electronically attached to the petition and incorporated by reference.

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

3
4 (a) * * *

5
6 (b) **Notice of court's intention to dismiss**

7
8 If the court intends to dismiss an action on its own motion, the clerk must set a
9 hearing on the dismissal and ~~mail~~ send notice to all parties at least 20 days before
10 the hearing date.

11
12 (c) * * * *

13
14 **Rule 3.1346. Service of motion papers on nonparty deponent**

15
16 A written notice and all moving papers supporting a motion to compel an answer to a
17 deposition question or to compel production of a document or tangible thing from a
18 nonparty deponent must be personally served on the nonparty deponent unless the
19 nonparty deponent agrees to accept service by mail or electronic service at an address or
20 electronic service address specified on the deposition record.

21
22 **Rule 3.1347. Discovery motions in summary proceeding involving possession of real**
23 **property**

24
25 (a) **Notice**

26
27 In an unlawful detainer action or other action brought under chapter 4 of title 3 of
28 part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a
29 discovery motion must be given in compliance with Code of Civil Procedure
30 sections 1010.6 or 1013 and 1170.8.

31
32 (b) * * *

33
34 (c) **Written opposition in advance of hearing**

35
36 If a party seeks to have a written opposition considered in advance of the hearing,
37 the written opposition must be served and filed on or before the court day before
38 the hearing. Service must be by personal delivery, electronic service, ~~fax~~ ~~facsimile~~
39 transmission, express mail, or other means consistent with Code of Civil Procedure
40 sections 1010, 1010.6, 1011, 1012, and 1013, and reasonably calculated to ensure
41 delivery to the other party or parties no later than the close of business on the court
42 day before the hearing. The court, in its discretion, may consider written opposition
43 filed later.

1
2 **Rule 3.1350. Motion for summary judgment or summary adjudication**

3
4 (a)–(d) * * *

5
6 (e) **Documents in opposition to motion**

7
8 Except as provided in Code of Civil Procedure section 437c(r) and rule 3.1351, the
9 opposition to a motion must consist of the following separate documents,
10 ~~separately stapled and~~ titled as shown:

11
12 (1)–(4) * * *

13
14 (f)–(i) * * *

15
16 **Rule 3.1351. Motions for summary judgment in summary proceeding involving**
17 **possession of real property**

18
19 (a) **Notice**

20
21 In an unlawful detainer action or other action brought under chapter 4 of title 3 of
22 part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a
23 motion for summary judgment must be given in compliance with Code of Civil
24 Procedure sections 1010.6 or 1013 and 1170.7.

25
26 (b) * * *

27
28 (c) **Written opposition in advance of hearing**

29
30 If a party seeks to have a written opposition considered in advance of the hearing,
31 the written opposition must be filed and served on or before the court day before
32 the hearing. Service must be by personal delivery, electronic service, fax ~~facsimile~~
33 transmission, express mail, or other means consistent with Code of Civil Procedure
34 sections 1010, 1010.6, 1011, 1012, and 1013, and reasonably calculated to ensure
35 delivery to the other party or parties no later than the close of business on the court
36 day before the hearing. The court, in its discretion, may consider written opposition
37 filed later.

38
39 **Rule 3.1354. Written objections to evidence**

40
41 (a)–(b) * * *

1 (c) **Proposed order**

2
3 A party submitting written objections to evidence must submit with the objections a
4 proposed order. The proposed order must include places for the court to indicate
5 whether it has sustained or overruled each objection. It must also include a place
6 for the signature of the judge. The court may require that the proposed order be
7 provided in electronic form. The proposed order must be in one of the following
8 two formats:
9

10 *(First Format):*

11 **Objections to Jackson Declaration**

12
13 **Objection Number 1**

14
15 “Johnson told me that no widgets were ever received.” (Jackson declaration, page 3, lines
16 7–8.)

17
18 **Grounds for Objection 1:** Hearsay (Evid. Code, § 1200); lack of personal knowledge
19 (Evid. Code, § 702(a)).
20

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

21
22 **Objection Number 2**

23
24 “A lot of people find widgets to be very useful.” (Jackson declaration, page 17, line 5.)
25

26 **Grounds for Objection 2:** Irrelevant (Evid. Code, §§ 210, 350–351).
27

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

28
29 *(Second Format):*

30
31 **Objections to Jackson Declaration**

Material Objected to:	Grounds for Objection:	Ruling on the Objection
1. Jackson declaration, page 3, lines 7–	Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, §	Sustained: _____ Overruled: _____

8: “Johnson told me that no widgets were ever received.”	702(a)).	
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

1
2 **Rule 3.1590. Announcement of tentative decision, statement of decision, and**
3 **judgment**

4
5 (a)–(k) * * *

6
7 (l) **Signature and filing of judgment**

8
9 If a written judgment is required, the court must sign and file the judgment within
10 50 days after the announcement or service of the tentative decision, whichever is
11 later, or, if a hearing was held under (k), within 10 days after the hearing. An
12 electronic signature by the court is as effective as an original signature. The
13 judgment constitutes the decision on which judgment is to be entered under Code
14 of Civil Procedure section 664.

15
16 (m)–(n) ***

17
18 **Rule 3.1700. Prejudgment costs**

19
20 (a) **Claiming costs**

21
22 (1) *Trial costs*

23
24 A prevailing party who claims costs must serve and file a memorandum of
25 costs within 15 days after the date of ~~mailing~~ service of the notice of entry of
26 judgment or dismissal by the clerk under Code of Civil Procedure section
27 664.5 or the date of service of written notice of entry of judgment or
28 dismissal, or within 180 days after entry of judgment, whichever is first. The
29 memorandum of costs must be verified by a statement of the party, attorney,

1 or agent that to the best of his or her knowledge the items of cost are correct
2 and were necessarily incurred in the case.

3
4 (2) * * *

5
6 **(b) Contesting costs**

7
8 (1) *Striking and taxing costs*

9
10 Any notice of motion to strike or to tax costs must be served and filed 15
11 days after service of the cost memorandum. If the cost memorandum was
12 served by mail, the period is extended as provided in Code of Civil Procedure
13 section 1013. If the cost memorandum was served electronically, the period is
14 extended as provided in Code of Civil Procedure section 1010.6(a)(4).

15
16 (2)-(4) * * *

17
18 **Rule 3.1900. Notice of renewal of judgment**

19
20 A copy of the application for renewal of judgment must be physically or electronically
21 attached to the notice of renewal of judgment required by Code of Civil Procedure
22 section 683.160.

23
24 **Rule 3.2107. Request for court order**

25
26 **(a) Request before trial**

27
28 If a party files a written request for a court order before the hearing on the claim,
29 the requesting party must mail, ~~or~~ personally deliver, or if agreed on by the parties
30 electronically serve a copy to all other parties in the case. The other parties must be
31 given an opportunity to answer or respond to the request before or at the hearing.
32 This subdivision does not apply to a request to postpone the hearing date if the
33 plaintiff's claim has not been served.

34
35 **(b) Request after trial**

36
37 If a party files a written request for a court order after notice of entry of judgment,
38 the clerk must ~~mail~~ send a copy of the request to all other parties in the action. A
39 party has 10 calendar days from the date on which the clerk ~~mailed~~ sent the request
40 to file a response before the court makes an order. The court may schedule a
41 hearing on the request, except that if the request is to vacate the judgment for lack
42 of appearance by the plaintiff, the court must hold a hearing. The court may give

1 notice of any scheduled hearing with notice of the request, but the hearing must be
2 scheduled at least 11 calendar days after the clerk has ~~mailed~~ sent the request.

DRAFT

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 are amended, effective January 1, 2016, to read:

Title 5. Family and Juvenile Rules

Rule 5.50. Papers issued by the court

(a) * * *

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

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

(1)–(2) * * *

(c) **Individual restraining order**

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

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

Rule 5.83. Family centered case resolution

(a)–(c) * * *

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

(1)–(4) * * *

(5) Nothing in this rule prohibits an employee of the court from reviewing the file and notifying the parties of any deficiencies in their paperwork before the parties appear in front of a judicial officer at a family centered case resolution conference. This type of assistance can occur by telephone, in person, ~~or~~ in writing, or by other means approved by the court, on or before each scheduled family centered case resolution conference. However, this type of procedural assistance is not intended to replace family centered case resolution plan management or to create a barrier to litigants' access to a judicial officer.

1 (e)–(g) * * *

2
3 **Rule 5.91. Individual restraining order**

4
5 On a party’s request for order and as provided in the Family Code, a court may issue any
6 individual restraining order that appears to be reasonable or necessary, including those
7 automatic temporary restraining orders included ~~on the back of~~ in the family law
8 summons. Individual orders supersede the standard family law restraining orders ~~on the~~
9 ~~back of~~ in the Family Law and Uniform Parentage Act summonses.

10
11 **Rule 5.215. Domestic violence protocol for Family Court Services**

12
13 (a)–(c) * * *

14
15 **(d) Family Court Services: Description and duties**

16
17 (1)–(4) * * *

18
19 (5) *Providing information*

20
21 Family Court Services staff must provide information to families accessing
22 their services about the effects of domestic violence on adults and children.
23 Family Court Services programs, including but not limited to orientation
24 programs, must provide information and materials that describe Family Court
25 Services policy and procedures with respect to domestic violence. ~~Where~~
26 Whenever possible, the videotapes provided information delivered in video
27 or audiovisual format should be closed-captioned.

28
29 (6)–(8) * * *

30
31 (e)–(j) * * *

32
33 **Rule 5.242. Qualifications, rights, and responsibilities of counsel appointed to**
34 **represent a child in family law proceedings**

35
36 (a)–(j) * * *

37
38 **(k) Other considerations**

39
40 Counsel is not required to assume the responsibilities of a social worker, probation
41 officer, child custody evaluator, or mediator and is not expected to provide
42 nonlegal services to the child. Subject to the terms of the court’s order of
43 appointment, counsel for a child may take the following actions to implement his or
44 her statutory duties in representing a child in a family law proceeding:

45
46 (1)–(3) * * *

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

(A)–(F) * * *

(G) Reviewing relevant photographs, video or audiotapes recordings, and other evidence;

(H)–(L) * * *

(5) * * *

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

(a)–(f) * * *

(g) Definitions

As used in this rule chapter:

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

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

~~(2)~~(3) “Contains” means, with reference to software, that the material is either displayed by the program code itself or is found in written documents supplied with the software.

(h)–(j) * * *

Rule 5.534. General provisions—all proceedings

(a)–(m) * * *

(n) Caregiver notice and right to be heard (§§ 290.1–297, 366.21)

For cases filed under section 300 et seq.:

1 (1)–(5) * * *

2
3 (6) When form JV-290 or a caregiver letter is filed, the court clerk must provide
4 the social worker, all unrepresented parties and all attorneys with a copy of
5 the completed form or letter immediately upon receipt. The clerk also must
6 complete, file, and distribute *Proof of Service—Juvenile* (form JV-510). The
7 clerk may use any technology designed to speed the distribution process,
8 including drop boxes in the courthouse, e-mail ~~or~~, fax, or other electronic
9 transmission, as defined in rule 2.250, to distribute the JV-290 form or letter
10 and proof of service form.

11
12 (o)–(p) * * *

13
14 **Rule 5.906. Request by nonminor for the juvenile court to resume jurisdiction**
15 **(§§ 224.1(b), 303, 388(e))**

16
17 (a)–(b) * * *

18
19 (c) **Filing the request**

20
21 (1) * * *

22
23 (2) For the convenience of the nonminor, the form JV-466 and, if the nonminor
24 wishes to keep his or her contact information confidential, the *Confidential*
25 *Information—Request to Return to Juvenile Court Jurisdiction and Foster*
26 *Care* (form JV-468) may be:

27
28 (A) Filed with the juvenile court that maintained general jurisdiction; or

29
30 (B) Submitted to the juvenile court in the county in which the nonminor
31 currently resides, after which:

32
33 (i) The court clerk must record the date and time received on the
34 face of the originals submitted and provide a copy of the originals
35 marked as received to the nonminor at no cost to ~~the~~ him or her.

36
37 (ii)–(v) * * *

38
39 (C) * * *

40
41 (3)–(5) * * *

42
43 (d)–(i) * * *

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

1 **Title 7. Probate Rules**

2
3 **Chapter 17. Contested Hearings and Trials**

4
5 **Rule 7.802. Electronic filing and service in contested probate proceedings**

6
7 The provisions of Code of Civil Procedure 1010.6 and rules 2.250–2.261 of the
8 California Rules of Court concerning filing and service by electronic means apply to
9 contested proceedings under the Probate Code and the Probate Rules to the same extent
10 as they apply to other contested civil proceedings in each superior court in this state.

DRAFT

Rules 8.10, 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, 8.208, 8.212, 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, 8.804, 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, 8.874, 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 are amended, and rule 8.11 is adopted, effective January 1, 2016, to read:

Title 8. Appellate Rules

Rule 8.10. Definitions and use of terms

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

(1)–(7) * * *

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

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

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

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

Rule 8.11. Scope of rules

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

Rule 8.40. Form of filed documents

(a) * * *

(b) Cover color

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

Appellant’s opening brief or appendix	green
Respondent’s brief or appendix	yellow
Appellant’s reply brief or appendix	tan
Joint appendix	white
Amicus curiae brief	gray
Answer to amicus curiae brief	blue

1	Petition for rehearing	orange
2	Answer to petition for rehearing	blue
3	Petition for original writ	red
4	Answer (or opposition) to petition for original writ	red
5	Reply to answer (or opposition) to petition for original writ	red
6	Petition for transfer of appellate division case to Court	white
7	of Appeal	
8	Answer to petition for transfer of appellate division case	blue
9	to Court of Appeal	
10	Petition for review	white
11	Answer to petition for review	blue
12	Reply to answer to petition for review	white
13	Opening brief on the merits	white
14	Answer brief on the merits	blue
15	Reply brief on the merits	white

16
17
18 (2) In appeals under rule 8.216, the cover of a combined respondent’s brief and
19 appellant’s opening brief filed in paper form must be yellow, and the cover of a
20 combined reply brief and respondent’s brief filed in paper form must be tan.

21
22 (3) * * *

23
24 (c) * * *

25
26 **Rule 8.42. Requirements for signatures of multiple parties on filed documents**

27
28 When a document to be filed, in paper form, such as a stipulation, requires the signatures of
29 multiple parties, the original signature of at least one party must appear on the document filed in
30 the reviewing court; the other signatures may be in the form of copies of the signed signature
31 page of the document. Electronically filed documents must comply with the relevant provisions
32 of rule 8.77.

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

35
36 ~~Please note that rule 8.77 establishes different requirements for documents that are electronically filed.~~

37
38 **Rule 8.44. Number of copies of filed documents**

39
40 ~~Except as these rules provide otherwise, the number of copies of every brief, petition, motion,~~
41 ~~application, or other document that must be filed in a reviewing court is as follows:~~

42
43 (a) **Documents filed in the Supreme Court**

44
45 Except as these rules provide otherwise, the number of copies of every brief, petition,
46 motion, application, or other document that must be filed in the Supreme Court and that is
47 filed in paper form is as follows:

1
2 (1)–(6) * * *

3
4 **(b) Documents filed in a Court of Appeal**

5
6 Except as these rules provide otherwise, the number of copies of every brief, petition,
7 motion, application, or other document that must be filed in a Court of Appeal and that is
8 filed in paper form is as follows:

9
10 (1)–(7) * * *

11
12 **(c) Electronic copies**

13
14 A court that permits electronic filing will specify any requirements regarding
15 electronically filed documents in the electronic filing requirements published pursuant to
16 rule 8.74. In addition, a court may provide by local rule for the submission of an electronic
17 copy of a document that is not electronically filed either in addition to the copies of a
18 document required to be filed under (a) or (b) or as a substitute for one or more of these
19 copies. The local rule must specify the format of the electronic copy and provide for an
20 exception if it would cause undue hardship for a party to submit an electronic copy.

21
22 **Rule 8.45. General provisions**

23
24 **(a)** * * *

25
26 **(b) Definitions**

27
28 As used in this article:

29
30 (1) “Record” means all or part of a document, paper, exhibit, transcript, or other thing
31 filed or lodged with the court by electronic means or otherwise.

32
33 (2)–(7) * * *

34
35 **(c) Format of sealed and confidential records**

36
37 (1) Unless otherwise provided by law or court order, sealed or confidential records that
38 are part of the record on appeal or the supporting documents or other records
39 accompanying a motion, petition for a writ of habeas corpus, other writ petition, or
40 other filing in the reviewing court must be kept separate from the rest of a clerk’s or
41 reporter’s transcript, appendix, supporting documents, or other records sent to the
42 reviewing court and in a secure manner that preserves their confidentiality.

43
44 (A)–(D) * * *

45
46 (2) * * *

1
2 (3) Records relating to a request for funds under Penal Code section 987.9 or other
3 proceedings the occurrence of which is not to be disclosed under the court order or
4 applicable law must not be bound together with, or electronically transmitted as a
5 single document with, other sealed or confidential records and must not be listed in
6 the index required under (1)(D) or the alphabetical or chronological indexes to a
7 clerk’s or reporter’s transcript, appendix, supporting documents to a petition, or other
8 records sent to the reviewing court.
9

10 (d) * * *

11
12 **Rule 8.46. Sealed records**

13
14 (a)–(c) * * *

15
16 (d) **Record not filed in the trial court; motion or application to file under seal**

17
18 (1)–(2) * * *

19
20 (3) To lodge a record, the party must transmit the record to the court in a secure manner
21 that preserves the confidentiality of the record to be lodged. The record must be
22 transmitted separate from the rest of a clerk’s or reporter’s transcript, appendix,
23 supporting documents, or other records sent to the reviewing court with a cover sheet
24 that complies with rule 8.40(c) and labels the contents as “CONDITIONALLY
25 UNDER SEAL.” If the record is in paper format, it must be placed in a sealed
26 envelope or other appropriate sealed container.
27

28 (4)–(9) * * *

29
30 (e) **Unsealing a record in the reviewing court**

31
32 (1)–(2) * * *

33
34 (3) If the reviewing court proposes to order a record unsealed on its own motion, the
35 court must send mail notice to the parties. Unless otherwise ordered by the court, any
36 party may serve and file an opposition within 10 days after the notice is sent mailed,
37 and any other party may serve and file a response within 5 days after an opposition is
38 filed.
39

40 (4)–(7) * * *

41
42 (f) * * *

43
44 **Rule 8.47. Confidential records**
45

1 (a) * * *

2
3 (b) **Records of *Marsden* hearings and other in-camera proceedings**

4
5 (1)–(2) * * *

6
7 (3) A defendant may serve and file a motion or application in the reviewing court
8 requesting permission to file under seal a brief, petition, or other filing that raises a
9 *Marsden* issue or an issue related to another in-camera hearing covered by this
10 subdivision and requesting an order maintaining the confidentiality of the relevant
11 material from the reporter’s transcript of or documents filed or lodged in connection
12 with the in-camera hearing.

13
14 (A)–(B) * * *

15
16 (C) At the time the motion or application is filed, the defendant must:

17
18 (i) * * *

19
20 (ii) Lodge an unredacted version of the brief, petition, or other filing that he
21 or she is requesting be filed under seal. The filing must be transmitted in
22 a secure manner that preserves the confidentiality of the filing being
23 lodged. If this version is in paper format, it must be placed in a sealed
24 envelope or other appropriate sealed container. The cover of the
25 unredacted version of the document, and if applicable the envelope or
26 other container, must identify it as “May Not Be Examined Without
27 Court Order—Contains material from conditionally sealed record.”

28
29 (D) * * *

30
31 (c) **Other confidential records**

32
33 Except as otherwise provided by law or order of the reviewing court:

34
35 (1) * * *

36
37 (2) To maintain the confidentiality of material contained in a confidential record, if it is
38 necessary to disclose such material in a filing in the reviewing court, a party may
39 serve and file a motion or application in the reviewing court requesting permission
40 for the filing to be under seal.

41
42 (A)–(B) * * *

43
44 (C) At the time the motion or application is filed, the party must:

45
46 (i) * * *

- 1
2 (ii) Lodge an unredacted version of the brief, petition, or other filing that he
3 or she is requesting be filed under seal. The filing must be transmitted in
4 a secure manner that preserves the confidentiality of the filing being
5 lodged. If this version is in paper format, it must be placed in a sealed
6 envelope or other appropriate sealed container. The cover of the
7 unredacted version of the document, and if applicable the envelope or
8 other container, must identify it as “May Not Be Examined Without
9 Court Order—Contains material from conditionally sealed record.”
10 Material from a confidential record disclosed in this version must be
11 identified and accompanied by a citation to the statute, rule of court,
12 case, or other authority establishing that the record is required by law to
13 be closed to inspection in the reviewing court.
14

15 (D) * * *

16
17 **Rule 8.50. Applications**

18
19 (a)–(b) * * *

20
21 (e) **Envelopes**

22
23 ~~An application to a Court of Appeal must be accompanied by addressed, postage prepaid~~
24 ~~envelopes for the clerk’s use in mailing copies of the order on the application to all parties.~~

25
26 ~~(d)~~(c) **Disposition** * * *

27
28 **Rule 8.100. Filing the appeal**

29
30 (a) * * *

31
32 (b) **Fee and deposit**

- 33
34 (1) Unless otherwise provided by law, the notice of appeal must be accompanied by the
35 \$775 filing fee under Government Code sections 68926 and 68926.1(b), an
36 application for a waiver of court fees and costs on appeal under rule 8.26, or an order
37 granting such an application. The fee ~~should~~ may be paid by check or money order
38 payable to “Clerk, Court of Appeal”; if the fee is paid in cash, the clerk must give a
39 receipt. The fee may also be paid by any method permitted by the court pursuant to
40 rules 2.258 and 8.78.
41

42 (2)–(3) * * *

43
44 (c)–(d) * * *

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

2
3 (1) The superior court clerk must promptly ~~mail~~ send a notification of the filing of the
4 notice of appeal to the attorney of record for each party, to any unrepresented party,
5 and to the reviewing court clerk.

6
7 (2) The notification must show the date it was ~~mailed~~ sent and must state the number
8 and title of the case and the date the notice of appeal was filed. If the information is
9 available, the notification must include:

10
11 (A) The name, address, telephone number, e-mail address, and California State Bar
12 number of each attorney of record in the case;

13
14 (B) * * *

15
16 (C) The name, address, ~~and~~ and telephone number and e-mail address of any
17 unrepresented party.

18
19 (3) * * *

20
21 (4) The ~~mailing~~ sending of a notification under (1) is a sufficient performance of the
22 clerk’s duty despite the death of the party or the discharge, disqualification,
23 suspension, disbarment, or death of the attorney.

24
25 (5)–(6) * * *

26
27 (f) * * *

28
29 (g) **Civil case information statement**

30
31 (1) Within 15 days after the superior court clerk ~~mails~~ sends the notification of the filing
32 of the notice of appeal required by (e)(1), the appellant must serve and file in the
33 reviewing court a completed *Civil Case Information Statement* (form APP-004),
34 attaching a copy of the judgment or appealed order that shows the date it was
35 entered.

36
37 (2) If the appellant fails to timely file a case information statement under (1), the
38 reviewing court clerk must notify the appellant by mail in writing that the appellant
39 must file the statement within 15 days after the clerk’s notice is ~~mailed~~ sent and that
40 if the appellant fails to comply, the court may either impose monetary sanctions or
41 dismiss the appeal. If the appellant fails to file the statement as specified in the
42 notice, the court may impose the sanctions specified in the notice.

43
44 **Advisory Committee Comment**

45
46 **Subdivision (a).** * * *

1 **Subdivision (b).** * * *

2
3 **Subdivision (c)(2).** * * *

4
5 **Subdivision (e).** Under subdivision (e)(2), a notification of the filing of a notice of appeal must show the
6 date that the clerk ~~mailed~~ sent the document. This provision is intended to establish the date when the 20-
7 day extension of the time to file a cross-appeal under rule 8.108(e) begins to run.

8
9 Subdivision (e)(1) requires the clerk to ~~mail~~ send a notification of the filing of the notice of appeal to the
10 appellant's attorney or to the appellant if unrepresented. Knowledge of the date of that notification allows
11 the appellant's attorney or the appellant to track the running of the 20-day extension of time to file a
12 cross-appeal under rule 8.108(e).

13
14 **Rule 8.104. Time to appeal**

15
16 **(a) Normal time**

17
18 (1) Unless a statute, rule 8.108, or rule 8.702 provides otherwise, a notice of appeal must
19 be filed on or before the earliest of:

20
21 (A) 60 days after the superior court clerk serves on the party filing the notice of
22 appeal a document entitled "Notice of Entry" of judgment or a filed-
23 ~~stamped~~ endorsed copy of the judgment, showing the date either was served;

24
25 (B) 60 days after the party filing the notice of appeal serves or is served by a party
26 with a document entitled "Notice of Entry" of judgment or a filed-
27 ~~stamped~~ endorsed copy of the judgment, accompanied by proof of service; or

28
29 (C) * * *

30
31 (2) * * *

32
33 (3) If the parties stipulated in the trial court under Code of Civil Procedure section
34 1019.5 to waive notice of the court order being appealed, the time to appeal under
35 (1)(C) applies unless the court or a party serves notice of entry of judgment or a
36 filed-~~stamped~~ endorsed copy of the judgment to start the time period under (1)(A) or
37 (B).

38
39 **(b)–(e)** * * *

40
41 **Rule 8.108. Extending the time to appeal**

42
43 **(a)–(e)** * * *

44
45 **(f) Public entity actions under Government Code section 962, 984, or 985**

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

- 7
- 8 (1) 90 days after the superior court clerk serves the party filing the notice of appeal with
9 a document entitled “Notice of Entry” of judgment, or a filed-~~stamped~~endorsed copy
10 of the judgment, showing the date either was served;
- 11
- 12 (2) 90 days after the party filing the notice of appeal serves or is served by a party with a
13 document entitled “Notice of Entry” of judgment or a filed-~~stamped~~endorsed copy of
14 the judgment, accompanied by proof of service; or
- 15
- 16 (3) * * *

17

18 **(g)–(h) * * ***

19

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

21

22 **(a) Petition**

23

24 (1)–(3) * * *

25

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

27

28 (A)–(B) * * *

29

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

- 31
- 32 (i) If filed in paper form, they must be bound together at the end of the
33 petition or in separate volumes not exceeding 300 pages each. The pages
34 must be consecutively numbered;
- 35
- 36 (ii) If filed in paper form, they must be index-tabbed by number or letter,
37 and
- 38
- 39 (iii) They must begin with a table of contents listing each document by its
40 title and its index-~~tab~~ number or letter.

41

42 (5) * * *

43

44 **(b)–(d) * * ***

1 **Rule 8.123. Record of administrative proceedings**

2
3 (a)–(b) * * *

4
5 (c) **Transmittal to the reviewing court**

6
7 Except as provided in (d), if any administrative record is designated by a party, the
8 superior court clerk must transmit the original administrative record, or electronic
9 administrative record, with any clerk’s or reporter’s transcript sent to the reviewing court
10 under rule 8.150. If the appellant has elected under rule 8.121 to use neither a clerk’s
11 transcript nor a reporter’s transcript, the superior court clerk must transmit any
12 administrative record designated by a party to the reviewing court no later than 45 days
13 after the respondent files a designation under (b)(2) or the time for filing it expires,
14 whichever first occurs.

15
16 (d)–(e) * * *

17
18 **Rule 8.124. Appendixes**

19
20 (a)–(b) * * *

21
22 (c) **Document or exhibit held by other party**

23
24 If a party preparing an appendix wants it to contain a copy of a document or an exhibit in
25 the possession of another party:

26
27 (1)–(2) * * *

28
29 (3) If the party possessing the document or exhibit sends it to the requesting party non-
30 electronically, that party must copy and return it to the possessing party within 10
31 days after receiving it.

32
33 (4) * * *

34
35 (5) On request, the reviewing court may return a document or an exhibit to the party that
36 sent it non-electronically. When the remittitur issues, the reviewing court must return
37 all documents or exhibits to the party that sent them, if they were sent non-
38 electronically.

39
40 (d) **Form of appendix**

41
42 (1) An appendix must comply with the requirements of rule 8.144(~~ab~~)–(~~ed~~) for a clerk’s
43 transcript.

44
45 (2) * * *

1 (3) An appendix must not be bound or transmitted electronically as one document with a
2 brief.

3
4 (e)–(g) * * *

5
6 **Rule 8.128. Superior court file instead of clerk’s transcript**

7
8 (a) * * *

9
10 (b) **Cost estimate; preparation of file; transmittal**

11
12 (1) Within 10 days after a stipulation under (a) is filed, the superior court clerk must
13 send mail the appellant an estimate of the cost to prepare the file, including the cost
14 of sending the index under (3). The appellant must deposit the cost or file an
15 application for, or an order granting, a waiver of the cost within 10 days after the
16 clerk sends mails the estimate.

17
18 (2)–(4) * * *

19
20 **Rule 8.130. Reporter’s transcript**

21
22 (a) * * *

23
24 (b) **Deposit or substitute for cost of transcript**

25
26 (1) * * *

27
28 (2) If the reporter believes the deposit is inadequate, within 15 days after the clerk mails
29 sends the notice under (d)(1) the reporter may file with the clerk and send mail to the
30 designating party an estimate of the transcript’s total cost at the statutory rate,
31 showing the additional deposit required. The party must deposit the additional sum
32 within 10 days after the reporter mails sends the estimate.

33
34 (3) * * *

35
36 (c) * * *

37
38 (d) **Superior court clerk’s duties**

39
40 (1) * * *

41
42 (2) The clerk must promptly mail send the reporter notice of the designation and of the
43 deposit or substitute and notice to prepare the transcript, showing the date the notice
44 was sent mailed to the reporter, when the court receives:

45
46 (A)–(C) * * *

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

5
6 (A) The clerk must promptly notify the appellant in writing ~~by mail~~ that, within 15
7 days after the notice is sent ~~mailed~~, the appellant must take one of the
8 following actions or the court may dismiss the appeal:

9
10 (i)–(v) * * *

11
12 (B) * * *

13
14 (4)–(5) * * *

15
16 (e) * * *

17
18 **(f) Filing the transcript; copies; payment**

19
20 (1) Within 30 days after notice is ~~mailed~~ sent under (d)(2), the reporter must prepare and
21 certify an original of the transcript and file it in superior court. The reporter must
22 also file one copy of the original transcript, or more than one copy if multiple
23 appellants equally share the cost of preparing the record (see rule 8.147(a)(2)). Only
24 the reviewing court can extend the time to prepare the reporter’s transcript (see rule
25 8.60).

26
27 (2)–(4) * * *

28
29 (g) * * *

30
31 **(h) Agreed or settled statement when proceedings cannot be transcribed**

32
33 (1) If any portion of the designated proceedings cannot be transcribed, the superior court
34 clerk must so notify the designating party in writing ~~by mail~~; the notice must show
35 the date it was sent ~~mailed~~. The party may then substitute an agreed or settled
36 statement for that portion of the designated proceedings by complying with either
37 (A) or (B):

38
39 (A) Within 10 days after the notice is sent ~~mailed~~, the party may file in superior
40 court, under rule 8.134, an agreed statement or a stipulation that the parties are
41 attempting to agree on a statement. If the party files a stipulation, within 30
42 days thereafter the party must file the agreed statement, move to use a settled
43 statement under rule 8.137, or proceed without such a statement; or

44
45 (B) Within 10 days after the notice is sent ~~mailed~~, the party may move in superior
46 court to use a settled statement. If the court grants the motion, the statement

1 must be served, filed, and settled as rule 8.137 provides, but the order granting
2 the motion must fix the times for doing so.

3
4 (2)–(3) * * *

5
6 **Advisory Committee Comment**

7
8 **Subdivision (a).** * * *

9
10 **Subdivision (b).** * * *

11
12 **Subdivision (c).** * * *

13
14 **Subdivision (d).** Under subdivision (d)(2), the clerk’s notice to the reporter must show the date on which
15 the clerk sent ~~mailed~~ the notice. This provision is intended to establish the date when the period for
16 preparing the reporter’s transcript under subdivision (f)(1) begins to run.

17
18 **Subdivision (e).** * * *

19
20 **Subdivision (f).** * * *

21
22
23 **Rule 8.137. Settled statement**

24
25 **(a) Motion to use settled statement**

26
27 (1)–(2) * * *

28
29 (3) If the court denies the motion, the appellant must file a new notice designating the
30 record on appeal under rule 8.121 within 10 days after the superior court clerk sends
31 ~~mails~~, or a party serves, the order of denial.

32
33 **(b) Time to file; contents of statement**

34
35 (1) Within 30 days after the superior court clerk sends ~~mails~~, or a party serves, an order
36 granting a motion to use a settled statement, the appellant must serve and file in
37 superior court a condensed narrative of the oral proceedings that the appellant
38 believes necessary for the appeal. Subject to the court’s approval in settling the
39 statement, the appellant may present some or all of the evidence by question and
40 answer.

41
42 (2)–(5) * * *

43
44 **(c)** * * *

45
46 **Rule 8.140. Failure to procure the record**

1 (a) **Notice of default**

2
3 Except as otherwise provided by these rules, if a party fails to timely do an act required to
4 procure the record, the superior court clerk must promptly notify the party in writing by
5 ~~mail~~ that it must do the act specified in the notice within 15 days after the notice is sent
6 ~~mailed~~, and that if it fails to comply, the reviewing court may impose one of the following
7 sanctions:

8
9 (1)–(2) * * *

10
11 (b)–(c) * * *

12
13 **Rule 8.144. Form of the record**

14
15 (a) **Paper and format**

16
17 (1) In the clerk’s and reporter’s transcripts:

18
19 (A) All documents filed must have a page size of 8½ by 11 inches. If filed in paper
20 form, the paper must be white or unbleached, 8½ by 11 inches, and of at least
21 20-pound weight;

22
23 (B)–(D) * * *

24
25 (E) The margin must be at least 1¼ inches from the left edge ~~on the bound side of~~
26 ~~the page.~~

27
28 ~~(2)~~(3) If filed in paper form, in the clerk’s transcript only one side of the paper may be
29 used; in the reporter’s transcript both sides may be used, but the margins must then
30 be 1¼ inches on each edge.

31
32 ~~(3)~~(4) In the reporter’s transcript the lines on each page must be consecutively numbered,
33 and must be double-spaced or one-and-a-half-spaced; double-spaced means three
34 lines to a vertical inch.

35
36 ~~(4)~~(5) The clerk’s and reporter’s transcripts must comply with rules 8.45–8.47 relating to
37 sealed and confidential records.

38
39 (b) **Indexes**

40
41 Except as provided in rule 8.45, at the beginning of the first volume of each:

42
43 (1) The clerk’s transcript must contain alphabetical and chronological indexes listing
44 each document and the volume, where applicable, and page where it first appears;
45

- 1 (2) The reporter’s transcript must contain alphabetical and chronological indexes listing
- 2 the volume, where applicable, and page where each witness’s direct, cross, and any
- 3 other examination, begins; and
- 4
- 5 (3) The reporter’s transcript must contain an index listing the volume, where applicable,
- 6 and page where any exhibit is marked for identification and where it is admitted or
- 7 refused. The index must identify each exhibit by number or letter and a brief
- 8 description of the exhibit.
- 9

10 **(c) Binding and cover**

- 11
- 12 (1) If filed in paper form, clerk’s and reporter’s transcripts must be bound on the left
- 13 margin in volumes of no more than 300 sheets.
- 14

15 (2)–(3) * * *

16

17 **(d)–(f) * * ***

18 **Advisory Committee Comment**

19

20 **Subdivisions (a) and (b).** Subdivisions (a)(45) and (b)(4) refer to special requirements concerning sealed

21 and confidential records established by rules 8.45–8.47. Rule 8.45(c)(2) and (3) establish special

22 requirements regarding references to sealed and confidential records in the alphabetical and chronological

23 indexes to clerk’s and reporter’s transcripts.

24

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

26

27 **(a) * * ***

28

29 **(b) Later appeal**

30

31 In an appeal in which the parties are using either a clerk’s transcript under rule 8.122 or a

32 reporter’s transcript under rule 8.130:

- 33
- 34 (1) A party wanting to incorporate by reference all or parts of a record in a prior appeal
- 35 in the same case must specify those parts in its designation of the record.
- 36
- 37 (A) The prior appeal must be identified by its case name and number. If only part
- 38 of a record is being incorporated by reference, that part must be identified by
- 39 citation to the volume, where applicable, and page numbers of the record
- 40 where it appears and either the title of the document or documents or the date
- 41 of the oral proceedings to be incorporated. The parts of any record
- 42 incorporated by reference must be identified in a separate section at the end of
- 43 the designation of the record.
- 44

45 (B)–(C) * * *

46

47 (2) * * *

1
2 **Rule 8.150. Filing the record**

3
4 (a) * * *

5
6 (b) **Reviewing court clerk's duties**

7
8 On receiving the record, the reviewing court clerk must promptly file the original and send
9 ~~mail~~ notice of the filing date to the parties.

10
11 **Rule 8.204. Contents and form of briefs**

12
13 (a) * * *

14
15 (b) **Form**

16
17 (1) A brief may be reproduced by any process that produces a clear, black image of
18 letter quality. All documents filed must have a page size of 8½ by 11 inches. If filed
19 in paper form, the paper must be white or unbleached, ~~8½ by 11 inches,~~ and of at
20 least 20-pound weight.

21
22 (2) Any conventional font typeface may be used. The font typeface may be either
23 proportionally spaced or monospaced.

24
25 (3) The font type style must be roman; but for emphasis, italics or boldface may be used
26 or the text may be underscored. Case names must be italicized or underscored.
27 Headings may be in uppercase letters.

28
29 (4) Except as provided in (11), the font type size, including footnotes, must not be
30 smaller than 13-point, and both sides of the paper may be used.

31
32 (5)–(7) * * *

33
34 (8) If filed in paper form, the brief must be bound on the left margin. If the brief is
35 stapled, the bound edge and staples must be covered with tape.

36
37 (9) * * *

38
39 (10) If filed in paper form, the cover must be in the color prescribed by rule 8.40(b), ~~and,~~
40 ~~in~~ In addition to providing the cover information required by rule 8.40(c), the cover
41 must state:

42
43 (A)–(D) * * *

44
45 (11) * * *

1 (c)–(e) * * *

2
3 **Advisory Committee Comment**
4

5 **Subdivision (b).** The first sentence of subdivision (b)(1) confirms that any method of reproduction is
6 acceptable provided it results in a clear black image of letter quality. The provision is derived from
7 subdivision (a)(1) of rule 32 of the Federal Rules of Appellate Procedure (28 U.S.C.) (FRAP 32).
8

9 Paragraphs (2), (3), and (4) of subdivision (b) state requirements of *font typeface*, *font type style*, and
10 *font type-size* (see also subd. (b)(11)(C)). ~~The first two terms are defined in *The Chicago Manual of Style*~~
11 ~~(15th ed., 2003) p. 839. Note that computer programs often refer to typeface as “font.”~~
12

13 Subdivision (b)(2) allows the use of any conventional *font typeface*—e.g., Times New Roman, Courier,
14 Arial, Helvetica, etc.—and permits the *font typeface* to be either proportionally spaced or monospaced.
15

16 Subdivision (b)(3) requires the *font type style* to be roman, but permits the use of italics, boldface, or
17 underscoring for emphasis; it also requires case names to be italicized or underscored. These provisions
18 are derived from FRAP 32(a)(6).
19

20 Subdivision (b)(5) allows headings to be single-spaced; it is derived from FRAP 32(a)(4). The provision
21 also permits quotations of any length to be block-indented and single-spaced at the discretion of the brief
22 writer.
23

24 See also rule 1.200 concerning the format of citations. Brief writers are encouraged to follow the citation
25 form of the *California Style Manual* (4th ed., 2000).
26

27 **Subdivision (c).** * * *

28
29 **Subdivision (d).** * * *

30
31 **Subdivision (e).** * * *

32
33 **Rule 8.208. Certificate of Interested Entities or Persons**
34

35 (a)–(c) * * *

36
37 **(d) Serving and filing a certificate**
38

39 (1)–(2) * * *

40
41 (3) If a party fails to file a certificate as required under (1), the clerk must notify the
42 party in writing ~~by mail~~ that the party must file the certificate within 15 days after
43 the clerk’s notice is sent ~~mailed~~ and that if the party fails to comply, the court may
44 impose one of the following sanctions:
45

46 (A)–(B) * * *

47
48 (4) * * *

1
2 (e)–(f) * * *

3
4 **Rule 8.212. Service and filing of briefs * * ***

5
6 **Advisory Committee Comment**

7
8 **Subdivision (a).** * * *

9
10 **Subdivision (b).** Extensions of briefing time are limited by statute in some cases. For example, under
11 Public Resources Code section 21167.6(h) in cases under section 21167, extensions are limited to one 30-
12 day extension for the opening brief and one 30-day extension for “preparation of responding brief.”

13
14 Under rule 8.42, the original signature of only one party is required on the stipulation filed with the court;
15 the signatures of the other parties may be in the form of copies of the signed signature page of the
16 document. Signatures on electronically filed documents are subject to the requirements of rule 8.77.

17
18 Subdivision (b)(2) clarifies that a party seeking an extension of time from the presiding justice must
19 proceed by application under rule 8.50 rather than by motion under rule 8.54.

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

22
23 **Rule 8.220. Failure to file a brief**

24
25 **(a) Notice to file**

26
27 If a party fails to timely file an appellant’s opening brief or a respondent’s brief, the
28 reviewing court clerk must promptly notify the party in writing ~~by mail~~ that the brief must
29 be filed within 15 days after the notice is sent ~~mailed~~ and that if the party fails to comply,
30 the court may impose one of the following sanctions:

31
32 (1)–(2) * * *

33
34 **(b)–(d)** * * *

35
36 **Rule 8.224. Transmitting exhibits**

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

39
40 **(b) Transmittal**

41
42 Unless the reviewing court orders otherwise, within 20 days after the first notice under (a)
43 is filed:

44
45 (1) The superior court clerk must put any designated exhibits in the clerk’s possession
46 into numerical or alphabetical order and send them to the reviewing court ~~with two~~
47 copies of a list of the exhibits sent. The superior court clerk must also send a list of

1 the exhibits sent. If the exhibits are not transmitted electronically, the superior court
2 clerk must send two copies of the list. If the reviewing court clerk finds the list
3 correct, the clerk must sign and return ~~one~~ a copy to the superior court clerk.
4

- 5 (2) Any party in possession of designated exhibits returned by the superior court must
6 put them into numerical or alphabetical order and send them to the reviewing court
7 ~~with two copies of a list of the exhibits sent. The party must also send a list of the~~
8 exhibits sent. If the exhibits are not transmitted electronically, the party must send
9 two copies of the list. If the reviewing court clerk finds the list correct, the clerk must
10 sign and return ~~one~~ a copy to the party.
11

12 (c) * * *

13
14 **(d) Request and return by reviewing court**
15

16 At any time the reviewing court may direct the superior court or a party to send it an
17 exhibit. On request, the reviewing court may return an exhibit to the superior court or to
18 the party that sent it. When the remittitur issues, the reviewing court must return all
19 exhibits not transmitted electronically to the superior court or to the party that sent them.

20 **Rule 8.248. Prehearing conference**
21

22 (a)–(c) * * *

23
24 **(d) Time to file brief**
25

26 The time to file a party’s brief under rule 8.212(a) is tolled from the date the Court of
27 Appeal sends mails notice of the conference until the date it sends mails notice that the
28 conference is concluded.
29

30 **Advisory Committee Comment**
31

32 **Subdivision (a).** * * *
33

34 **Subdivision (d).** If a prehearing conference is ordered before the due date of the appellant’s opening
35 brief, the time to file the brief is not *extended* but *tolled*, in order to avoid unwarranted lengthening of the
36 briefing process. For example, if the conference is ordered 15 days after the start of the normal 30-day
37 briefing period, the rule simply *suspends* the running of that period; when the period resumes, the party
38 will not receive an automatic extension of a full 30 days but rather the remaining 15 days of the original
39 briefing period, unless the period is otherwise extended.
40

41 Under subdivision (d) the tolling period continues “until the date [the Court of Appeal] sends mails notice
42 that the conference is *concluded*” (italics added). This provision is intended to accommodate the
43 possibility that the conference may not conclude on the date it begins.
44

45 Whether or not the conference concludes on the date it begins, subdivision (d) requires the Court of
46 Appeal clerk to send mail the parties a notice that the conference is concluded. This provision is intended
47 to facilitate the calculation of the new briefing due dates.
48

1 **Rule 8.252. Judicial notice; findings and evidence on appeal**

2
3 (a)–(b) * * *

4
5 (c) **Evidence on appeal**

6
7 (1)–(2) * * *

8
9 (3) For documentary evidence, a party may offer the original, a certified copy, ~~or~~ a
10 photocopy, or, in a case in which electronic filing is permitted, an electronic copy.
11 The court may admit the document in evidence without a hearing.
12

13 **Rule 8.264. Filing, finality, and modification of decision**

14
15 (a)–(c) * * *

16
17 (d) **Consent to increase or decrease in amount of judgment**

18
19 If a Court of Appeal decision conditions the affirmance of a money judgment on a party's
20 consent to an increase or decrease in the amount, the judgment is reversed unless, before
21 the decision is final under (b), the party serves and files ~~two copies~~ a copy of a consent in
22 the Court of Appeal. If a consent is filed, the finality period runs from the filing date of the
23 consent. The clerk must send one filed ~~stamped~~ endorsed copy of the consent to the
24 superior court with the remittitur.
25

26 **Rule 8.272. Remittitur**

27
28 (a) * * *

29
30 (b) **Clerk's duties**

31
32 (1) If a Court of Appeal decision is not reviewed by the Supreme Court:

33
34 (A) * * *

35
36 (B) The clerk must send the lower court or tribunal the Court of Appeal remittitur
37 and a filed ~~stamped~~ endorsed copy of the opinion or order.
38

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

40
41 (A) * * *

42
43 (B) The clerk must send the lower court or tribunal the Court of Appeal remittitur,
44 a copy of the Supreme Court remittitur, and a filed ~~stamped~~ endorsed copy of
45 the Supreme Court opinion or order.
46

1 (c)–(d) * * *

2
3 **Rule 8.278. Costs on appeal**

4
5 (a)–(d) * * *

6
7 **Advisory Committee Comment**

8
9 This rule is not intended to expand the categories of appeals subject to the award of costs. See rule 8.493
10 for provisions addressing costs in writ proceedings.

11
12 **Subdivision (c).** * * *

13
14 **Subdivision (d).** Subdivision (d)(1)(B) is intended to refer not only to a normal record prepared by the
15 clerk and the reporter under rules 8.122 and 8.130 but also, for example, to an appendix prepared by a
16 party under rule 8.124 and to a superior court file to which the parties stipulate under rule 8.128.

17
18 Subdivision (d)(1)(D), allowing recovery of the “costs to notarize, serve, mail, and file the record, briefs,
19 and other papers,” is intended to include fees charged by electronic filing service providers for electronic
20 filing and service of documents.

21
22 “Net interest expenses” in subdivisions (d)(1)(F) and (G) means the interest expenses incurred to borrow
23 the funds that are deposited minus any interest earned by the borrower on those funds while they are on
24 deposit.

25
26 **Rule 8.304. Filing the appeal; certificate of probable cause**

27
28 (a)–(b) * * *

29
30 (c) **Notification of the appeal**

31
32 (1) When a notice of appeal is filed, the superior court clerk must promptly send mail a
33 notification of the filing to the attorney of record for each party, to any unrepresented
34 defendant, to the reviewing court clerk, to each court reporter, and to any primary
35 reporter or reporting supervisor. If the defendant also files a statement under (b)(1),
36 the clerk must not send mail the notification unless the superior court files a
37 certificate under (b)(2).

38
39 (2) The notification must show the date it was sent mailed, the number and title of the
40 case, and the dates the notice of appeal and any certificate under (b)(2) were filed. If
41 the information is available, the notification must also include:

42
43 (A) The name, address, telephone number, e-mail address, and California State Bar
44 number of each attorney of record in the case;

45
46 (B) * * *

1 (C) The name, address, ~~and~~ telephone number and e-mail address of any
2 unrepresented defendant.

3
4 (3)–(4) * * *

5
6 (5) The sending mailing of a notification under (1) is a sufficient performance of the
7 clerk’s duty despite the discharge, disqualification, suspension, disbarment, or death
8 of the attorney.

9
10 (6) * * *

11
12 **Rule 8.308. Time to appeal**

13
14 (a) * * *

15
16 (b) **Cross-appeal**

17
18 If the defendant or the People timely appeals from a judgment or appealable order, the time
19 for any other party to appeal from the same judgment or order is either the time specified
20 in (a) or 30 days after the superior court clerk sends mails notification of the first appeal,
21 whichever is later.

22
23 (c)–(d) * * *

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

26
27 (a)–(c) * * *

28
29 (d) **Reporter’s transcript**

30
31 (1)–(3) * * *

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

38
39 (5) * * *

40
41 (e)–(h) * * *

42
43 **Rule 8.344. Agreed statement**

44
45 If the parties present the appeal on an agreed statement, they must comply with the relevant
46 provisions of rule 8.134, but the appellant must file an original and, if the statement is filed in

1 paper form, three copies of the statement in superior court within 25 days after filing the notice
2 of appeal.

3
4 **Rule 8.346. Settled statement**

5
6 (a)–(b) * * *

7
8 (c) **Serving and filing the settled statement**

9
10 The applicant must prepare, serve, and file in superior court an original and, if the
11 statement is filed in paper form, three copies of the settled statement.

12
13 **Rule 8.360. Briefs by parties and amici curiae**

14
15 (a)–(b) * * *

16
17 (c) **Time to file**

18
19 (1)–(4) * * *

20
21 (5) If a party fails to timely file an appellant’s opening brief or a respondent’s brief, the
22 reviewing court clerk must promptly notify the party in writing ~~by mail~~ that the brief
23 must be filed within 30 days after the notice is sent mailed, and that failure to comply
24 may result in one of the following sanctions:

25
26 (A)–(B) * * *

27
28 (6) * * *

29
30 (d)–(f) * * *

31
32 **Rule 8.380. Petition for writ of habeas corpus filed by petitioner not represented by an**
33 **attorney**

34
35 (a)–(b) * * *

36
37 (c) **Number of copies**

38
39 In the Court of Appeal, the petitioner must file the original of the petition under (a) and
40 one set of any supporting documents. In the Supreme Court the petitioner must file an
41 original and, if the petition is filed in paper form, 10 copies of the petition and an original
42 and, if the document is filed in paper form, 2 copies of any supporting document
43 accompanying the petition unless the court orders otherwise.

44
45 **Rule 8.384. Petition for writ of habeas corpus filed by an attorney for a party**

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

2
3 (1)–(2) * * *

4
5 (3) The petition and any memorandum must support any reference to a matter in the
6 supporting documents by a citation to its index number or letter ~~tab~~ and page.

7
8 (b)–(d) * * *

9
10 **Rule 8.385. Proceedings after the petition is filed**

11
12 (a) * * *

13
14 (b) **Informal response**

15
16 (1) * * *

17
18 (2) The response must be served and filed within 15 days or as the court specifies. If the
19 petitioner is not represented by counsel in the habeas corpus proceeding, one copy of
20 the informal response and any supporting documents must be served on the
21 petitioner. If the petitioner is represented by counsel in the habeas corpus
22 proceeding, ~~two copies~~ the response must be served on the petitioner's counsel. If the
23 response is served in paper form, two copies must be served on the petitioner's
24 counsel. If the petitioner is represented by court-appointed counsel other than the
25 State Public Defender's Office or Habeas Corpus Resource Center, one copy must
26 also be served on the applicable appellate project.

27
28 (3) * * *

29
30 (c)–(f) * * *

31
32 **Rule 8.386. Proceedings if the return is ordered to be filed in the reviewing court**

33
34 (a) * * *

35
36 (b) **Serving and filing return**

37
38 (1)–(2) * * *

39
40 (3) ~~Two copies of the~~ The return and any supporting documents must be served on the
41 petitioner's counsel, and if the return is served in paper form, two copies must be
42 served on the petitioner's counsel. If the petitioner is represented for the habeas
43 corpus proceeding by court-appointed counsel other than the State Public Defender's
44 Office or Habeas Corpus Resource Center, one copy must be served on the
45 applicable appellate project.

1 (c) **Form and content of return**

2
3 (1) * * *

4
5 (2) Rule 8.486(c)(1) and (2) govern the form of any supporting documents
6 accompanying the return. The return must support any reference to a matter in the
7 supporting documents by a citation to its index ~~tab~~ number or letter and page.

8
9 (3) * * *

10
11 (d)–(g) * * *

12
13 **Rule 8.405. Filing the appeal**

14
15 (a) * * *

16
17 (b) **Superior court clerk’s duties**

18
19 (1) When a notice of appeal is filed, the superior court clerk must immediately:

20
21 (A) ~~Mail~~ Send a notification of the filing to:

22
23 (i)–(vi) * * *

24
25 (B) * * *

26
27 (2) The notification must show the name of the appellant, the date it was ~~mailed~~ sent, the
28 number and title of the case, and the date the notice of appeal was filed. If the
29 information is available, the notification must also include:

30
31 (A) The name, address, telephone number, e-mail address, and California State Bar
32 number of each attorney of record in the case;

33
34 (B) * * *

35
36 (C) The name, address, ~~and~~ telephone number and e-mail address of any
37 unrepresented party.

38
39 (3)–(4) * * *

40
41 (5) The sending ~~mailing~~ of a notification is a sufficient performance of the clerk’s duty
42 despite the discharge, disqualification, suspension, disbarment, or death of the
43 attorney.

44
45 (6) * * *

46
47 **Advisory Committee Comment**

1
2 **Subdivision (a).** *Notice of Appeal—Juvenile (California Rules of Court, Rule 8.400)* (form JV-800) may
3 be used to file the notice of appeal required under this rule. This form is available at any courthouse or
4 county law library or online at www.courtinfo.ca.gov/forms ~~www.courts.ca.gov/forms~~.

5
6 **Rule 8.406. Time to appeal**

7
8 (a) * * *

9
10 (b) **Cross-appeal**

11
12 If an appellant timely appeals from a judgment or appealable order, the time for any other
13 party to appeal from the same judgment or order is either the time specified in (a) or 20
14 days after the superior court clerk sends ~~mails~~ notification of the first appeal, whichever is
15 later.

16
17 (c)–(d) * * *

18
19 **Rule 8.411. Abandoning the appeal**

20
21 (a)–(b) * * *

22
23 (c) **Clerk’s duties**

24
25 (1) If the abandonment is filed in the superior court, the clerk must immediately send
26 ~~mail~~ a notification of the abandonment to:

27
28 (A)–(C) * * *

29
30 (2) If the abandonment is filed in the reviewing court and the reviewing court orders the
31 appeal dismissed, the clerk must immediately send ~~mail~~ a notification of the order of
32 dismissal to every party.

33
34 **Rule 8.412. Briefs by parties and amici curiae**

35
36 (a)–(c) * * *

37
38 (d) **Failure to file a brief**

39
40 (1) Except in appeals governed by rule 8.416, if a party fails to timely file an appellant’s
41 opening brief or a respondent’s brief, the reviewing court clerk must promptly notify
42 the party’s counsel or the party, if not represented, in writing ~~by mail~~ that the brief
43 must be filed within 30 days after the notice is sent ~~mailed~~ and that failure to comply
44 may result in one of the following sanctions:

45
46 (A)–(B) * * *

1 (2)–(3) * * *

2
3 (e) * * *

4
5 **Rule 8.474. Procedures and data**

6
7 (a) * * *

8
9 (b) **Data**

10
11 The clerks of the superior courts and the reviewing courts must ~~the~~ provide the data
12 required to assist the Judicial Council in evaluating the effectiveness of the rules governing
13 appeals and writs in juvenile cases.

14
15 **Rule 8.482. Appeal from judgment authorizing conservator to consent to sterilization of**
16 **conservatee**

17
18 (a)–(b) * * *

19
20 (c) **Superior court clerk’s duties**

21
22 After entering the judgment, the clerk must immediately:

23
24 (1) * * *

25
26 (2) Send Mail certified copies of the judgment to the Court of Appeal and the Attorney
27 General.

28
29 (d)–(f) * * *

30
31 (g) **Confidential material**

32
33 (1) * * *

34
35 (2) Material under (1) must be sent to the reviewing court in a secure manner that
36 preserves its confidentiality. If the material is in paper format, it must be sent to the
37 reviewing court in a sealed envelope marked “CONFIDENTIAL—MAY NOT BE
38 EXAMINED WITHOUT A COURT ORDER.”

39
40 (h)–(i) * * *

41
42 **Rule 8.486. Petitions**

43
44 (a)–(b) * * *

1 (c) **Form of supporting documents**

2
3 (1) Documents submitted under (b) must comply with the following requirements:

4
5 (A) If submitted in paper form, they must be bound together at the end of the
6 petition or in separate volumes not exceeding 300 pages each. The pages must
7 be consecutively numbered.

8
9 (B) If submitted in paper form, they must be index-tabbed by number or letter.

10
11 (C) They must begin with a table of contents listing each document by its title and
12 its index-~~tab~~ number or letter. If a document has attachments, the table of
13 contents must give the title of each attachment and a brief description of its
14 contents.

15
16 (2) The clerk must file any supporting documents not complying with (1), but the court
17 may notify the petitioner that it may strike or summarily deny the petition if the
18 documents are not brought into compliance within a stated reasonable time of not
19 less than 5 days.

20
21 (3) Rule 8.44(a) governs the number of copies of supporting documents to be filed in the
22 Supreme Court. Rule 8.44(b) governs the number of supporting documents to be
23 filed in the Court of Appeal.

24
25 (d)–(e) * * *

26
27 **Rule 8.488. Certificate of Interested Entities or Persons**

28
29 (a)–(c) * * *

30
31 (d) **Failure to file a certificate**

32
33 (1) If a party fails to file a certificate as required under (b) and (c), the clerk must notify
34 the party in writing ~~by mail~~ that the party must file the certificate within 10 days
35 after the clerk's notice is sent ~~mailed~~ and that if the party fails to comply, the court
36 may impose one of the following sanctions:

37
38 (A)–(B) * * *

39
40 (2) * * *

41
42 **Rule 8.495. Review of Workers' Compensation Appeals Board cases**

43
44 (a) **Petition**

45
46 (1)–(2) * * *

1
2 (3) The petition must be accompanied by proof of service of ~~two copies~~ a copy of the
3 petition on the Secretary of the Workers' Compensation Appeals Board in San
4 Francisco, or two copies if the petition is served in paper form, and one copy on each
5 party who appeared in the action and whose interest is adverse to the petitioner.
6 Service on the board's local district office is not required.
7

8 (b) * * *

9
10 (c) **Certificate of Interested Entities or Persons**

11
12 (1)–(2) * * *

13
14 (3) If a party fails to file a certificate as required under (1) and (2), the clerk must notify
15 the party in writing ~~by mail~~ that the party must file the certificate within 10 days
16 after the clerk's notice is ~~mailed~~ sent and that failure to comply will result in one of
17 the following sanctions:
18

19 (A)–(B) * * *

20
21 (4) * * *

22
23 **Rule 8.496. Review of Public Utilities Commission cases**

24
25 (a)–(b) * * *

26
27 (c) **Certificate of Interested Entities or Persons**

28
29 (1)–(2) * * *

30
31 (3) If a party fails to file a certificate as required under (1) and (2), the clerk must notify
32 the party ~~by mail~~ in writing that the party must file the certificate within 10 days
33 after the clerk's notice is ~~mailed~~ sent and that failure to comply will result in one of
34 the following sanctions:
35

36 (A)–(B) * * *

37
38 (4) * * *

39
40 **Rule 8.498. Review of Agricultural Labor Relations Board and Public Employment**
41 **Relations Board cases**

42
43 (a)–(c) * * *

44
45 (d) **Certificate of Interested Entities or Persons**
46

1 (1)–(2) * * *

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

7
8 (A)–(B) * * *

9
10 (4) * * *

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

13
14 (a) * * *

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

17
18 (1)–(3) * * *

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

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

28
29 (6)–(7) * * *

30
31 (c)–(e) * * *

32
33 **Rule 8.512. Ordering review**

34
35 (a) **Transmittal of record**

36
37 On receiving a copy of a petition for review or on request of the Supreme Court, whichever
38 is earlier, the Court of Appeal clerk must promptly send the record to the Supreme Court.
39 If the petition is denied, the Supreme Court clerk must promptly return the record to the
40 Court of Appeal if the record was transmitted in paper form.

41
42 (b)–(d) * * *

43
44 **Rule 8.540. Remittitur**

1 (a) * * *

2
3 (b) **Clerk's duties**

4
5 (1) * * *

6
7 (2) After review of a Court of Appeal decision, the Supreme Court clerk must address
8 the remittitur to the Court of Appeal and send that court ~~two copies~~ a copy of the
9 remittitur and ~~two~~ a filed-stamped-endorsed ~~copies~~ copy of the Supreme Court
10 opinion or order. The clerk must send two copies of any document sent in paper
11 form.

12
13 (3) After a decision in an appeal from a judgment of death or in a cause transferred to
14 the court under rule 8.552, the clerk must send the remittitur and a filed-
15 stamped-endorsed copy of the Supreme Court opinion or order to the lower court or
16 tribunal.

17
18 (4) * * *

19
20 (c) * * *

21
22 **Rule 8.548. Decision on request of a court of another jurisdiction**

23
24 (a)-(c) * * *

25
26 (d) **Serving and filing the request**

27
28 The requesting court clerk must file an original, and if the request is filed in paper form, 10
29 copies, of the request in the Supreme Court with a certificate of service on the parties.

30
31 (e) * * *

32
33 (f) **Proceedings in the Supreme Court**

34
35 (1)-(5) * * *

36
37 (6) After filing the opinion, the clerk must promptly send filed-stamped-endorsed copies
38 to the requesting court and the parties and must notify that court and the parties when
39 the decision is final.

40
41 (7) * * *

42
43 **Rule 8.610. Contents and form of the record**

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

1 (c) **Juror-identifying information**

2
3 Any document in the record containing juror-identifying information must be edited in
4 compliance with rule 8.332. Unedited copies of all such documents and a copy of the table
5 required by the rule, under seal and bound together if filed in paper form, must be included
6 in the record sent to the Supreme Court.
7

8 (d) * * *

9
10 **Rule 8.616. Preparing the trial record**

11
12 (a) * * *

13
14 (b) **Reporter's duties**

15
16 (1) * * *

17
18 (2) Any portion of the transcript transcribed during trial must not be retyped unless
19 necessary to correct errors, but must be repaginated and ~~bound~~ combined with any
20 portion of the transcript not previously transcribed. Any additional copies needed
21 must not be retyped but, if the transcript is in paper form, must be prepared by
22 photocopying or an equivalent process.
23

24 (3) * * *

25
26 (c)–(d) * * *

27
28 **Rule 8.630. Briefs by parties and amicus curiae**

29
30 (a)–(f) * * *

31
32 (g) **Service**

33
34 (1) * * *

35
36 (2) The Attorney General must serve two paper copies or one electronic copy of the
37 respondent's brief on each defendant's appellate counsel and, for each defendant
38 sentenced to death, one copy on the California Appellate Project in San Francisco.
39

40 (3) * * *

41
42 (h) * * *

43
44 **Rule 8.702. Appeals**

45

1 (a) * * *

2
3 (b) **Notice of appeal**

4
5 (1) *Time to appeal*

6
7 The notice of appeal must be served and filed on or before the earlier of:

8
9 (A) Five court days after the superior court clerk serves on the party filing the
10 notice of appeal a document entitled “Notice of Entry” of judgment or a filed-
11 ~~stamped~~endorsed copy of the judgment, showing the date either was served; or

12
13 (B) Five court days after the party filing the notice of appeal serves or is served by
14 a party with a document entitled “Notice of Entry” of judgment or a filed-
15 ~~stamped~~endorsed copy of the judgment, accompanied by proof of service.

16
17 (2) * * *

18
19 (c)–(g) * * *

20
21 **Rule 8.703. Writ proceedings**

22
23 (a) * * *

24
25 (b) **Petition**

26
27 (1) *Time for filing petition*

28
29 A petition for a writ challenging a superior court judgment or order governed by the
30 rules in this chapter must be served and filed on or before the earliest of:

31
32 (A) Thirty days after the superior court clerk serves on the party filing the petition
33 a document entitled “Notice of Entry” of judgment or order, or a filed-
34 ~~stamped~~endorsed copy of the judgment or order, showing the date either was
35 served; or

36
37 (B) Thirty days after the party filing the petition serves or is served by a party with
38 a document entitled “Notice of Entry” of judgment or order, or a filed-
39 ~~stamped~~endorsed copy of the judgment or order, accompanied by proof of
40 service.

41
42 (2) * * *

43
44 **Rule 8.800. Application of division and scope of rules**

1 **(a) Application**

2
3 The rules in this division apply to:

4
5 (1)–(2) * * *

6
7 **(b) Scope of rules**

8
9 The rules in this division apply to documents filed and served electronically as well as in paper
10 form, unless otherwise provided.

11
12 **Rule 8.804 8.803. Definitions**

13
14 As used in this division, unless the context or subject matter otherwise requires:

15
16 (1)–(22) * * *

17
18 (23) The words “attach” or “attachment” may refer to either physical attachment or electronic
19 attachment, as appropriate.

20
21 (24) The words “copy” or “copies” may refer to electronic copies, as appropriate.

22
23 (25) The word “cover” includes the cover page of a document filed electronically.

24
25 (26) “Written” and “writing” include electronically created written materials, whether or not
26 those materials are printed on paper.

27
28 **Rule 8.804. Requirements for signatures on documents**

29
30 Except as otherwise provided, or required by order of the court, signatures on electronically filed
31 documents must comply with the requirements of rule 8.77.

32
33 **Rule 8.806. Applications**

34
35 **(a)–(b) * * ***

36
37 **(c) Envelopes**

38
39 If any party or parties in the case are served in paper form, an application must be
40 accompanied by addressed, postage-prepaid envelopes for the clerk’s use in mailing copies
41 of the order on the application to ~~at~~ those parties.

42
43 **(d) * * ***

44
45 **Rule 8.814. Substituting parties; substituting or withdrawing attorneys**

1 (a)–(b) * * *

2
3 (c) **Withdrawing attorney**

4
5 (1) * * *

6
7 (2) The proof of service need not include the address of the party represented. But if the
8 court grants the motion, the withdrawing attorney must promptly provide the court
9 and the opposing party with the party’s current or last known address, e-mail
10 address, and telephone number.

11
12 (3) * * *

13
14 **Rule 8.821. Notice of appeal**

15
16 (a)–(c) * * *

17
18 (d) **Notification of the appeal**

19
20 (1) When the notice of appeal is filed, the trial court clerk must promptly mail send a
21 notification of the filing of the notice of appeal to the attorney of record for each
22 party and to any unrepresented party. The clerk must also mail send or deliver this
23 notification to the appellate division clerk.

24
25 (2) The notification must show the date it was mailed sent and must state the number
26 and title of the case and the date the notice of appeal was filed.

27
28 (3) * * *

29
30 (4) The mailing sending of a notification under (1) is a sufficient performance of the
31 clerk’s duty despite the death of the party or the discharge, disqualification,
32 suspension, disbarment, or death of the attorney.

33
34 (5) * * *

35
36 (e) * * *

37
38 **Rule 8.822. Time to appeal**

39
40 (a) **Normal time**

41
42 (1) Unless a statute or rule 8.823 provides otherwise, a notice of appeal must be filed on
43 or before the earliest of:
44

- 1 (A) 30 days after the trial court clerk serves the party filing the notice of appeal a
2 document entitled “Notice of Entry” of judgment or a filed-~~stamped~~endorsed
3 copy of the judgment, showing the date it was served;
4
5 (B) 30 days after the party filing the notice of appeal serves or is served by a party
6 with a document entitled “Notice of Entry” of judgment or a filed-
7 ~~stamped~~endorsed copy of the judgment, accompanied by proof of service; or
8
9 (C) * * *
- 10
11 (2) * * *
- 12
13 (3) If the parties stipulated in the trial court under Code of Civil Procedure section
14 1019.5 to waive notice of the court order being appealed, the time to appeal under
15 (1)(C) applies unless the court or a party serves notice of entry of judgment or a
16 filed-~~stamped~~endorsed copy of the judgment to start the time period under (1)(A) or
17 (B).
18

19 (b)–(d) * * *

20
21 **Rule 8.823. Extending the time to appeal**

22
23 (a)–(e) * * *

24
25 (f) **Public entity actions under Government Code section 962, 984, or 985**

26
27 If a public entity defendant serves and files a valid request for a mandatory settlement
28 conference on methods of satisfying a judgment under Government Code section 962, an
29 election to pay a judgment in periodic payments under Government Code section 984 and
30 rule 3.1804, or a motion for a posttrial hearing on reducing a judgment under Government
31 Code section 985, the time to appeal from the judgment is extended for all parties until the
32 earliest of:
33

- 34 (1) 60 days after the superior court clerk serves the party filing the notice of appeal with
35 a document entitled “Notice of Entry” of judgment or a filed-~~stamped~~endorsed copy
36 of the judgment, showing the date either was served;
37
38 (2) 60 days after the party filing the notice of appeal serves or is served by a party with a
39 document entitled “Notice of Entry” of judgment or a filed-~~stamped~~endorsed copy of
40 the judgment, accompanied by proof of service; or
41
42 (3) * * *
43

1 (g)–(h) * * *

2
3 **Rule 8.824. Writ of supersedeas**

4
5 **(a) Petition**

6
7 (1)–(3) * * *

8
9 (4) If the record has not been filed in the reviewing court:

10
11 (A)–(B) * * *

12
13 (C) The documents listed in (B) must comply with the following requirements:

- 14
15 (i) If filed in paper form, they must be bound together at the end of the
16 petition or in separate volumes not exceeding 300 pages each. The pages
17 must be consecutively numbered;
- 18
19 (ii) If filed in paper form, they must be index-tabbed by number or letter;
20 and
- 21
22 (iii) They must begin with a table of contents listing each document by its
23 title and its index-tab number or letter.

24
25 (5) * * *

26
27 **(b)–(d) * * ***

28
29 **Rule 8.833. Trial court file instead of clerk’s transcript**

30
31 **(a) * * ***

32
33 **(b) Cost estimate; preparation of file; transmittal**

34
35 (1) Within 10 days after the appellant serves a notice under rule 8.831 indicating that the
36 appellant elects to use a clerk’s transcript, the trial court clerk may ~~mail~~ send the
37 appellant a notice indicating that the appellate division for that court has elected by
38 local court rule to use the original trial court file instead of a clerk’s transcript and
39 providing the appellant with an estimate of the cost to prepare the file, including the
40 cost of sending the index under (4).

41
42 (2) Within 10 days after the clerk ~~mails~~ sends the estimate under (1), the appellant must
43 deposit the estimated cost with the clerk, unless otherwise provided by law or the
44 party submits an application for a waiver of the cost under rule 8.818 or an order
45 granting a waiver of this cost.

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)–(C) * * *

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 **Rule 8.835. Record when trial proceedings were officially electronically recorded**

12
13 (a)–(c) * * *

14
15 (d) **Notice when proceedings were not officially electronically recorded or cannot be**
16 **transcribed**

17
18 (1) If the appellant elects under rule 8.831 to use a transcript prepared from an official
19 electronic recording or the recording itself, the trial court clerk must notify the
20 appellant ~~by mail~~ in writing if any portion of the designated proceedings was not
21 officially electronically recorded or cannot be transcribed. The notice must:

22
23 (A) * * *

24
25 (B) Show the date it was ~~mailed~~ sent.

26
27 (2) Within 10 days after the notice under (1) is ~~mailed~~ sent, the appellant must file a new
28 election notifying the court whether the appellant elects to proceed with or without a
29 record of the oral proceedings that were not recorded or cannot be transcribed. If the
30 appellant elects to proceed with a record of these oral proceedings, the notice must
31 specify which form of the record listed in rule 8.830(a)(2) the appellant elects to use.

32
33 (A)–(C) * * *

34
35 **Rule 8.838. Form of the record**

36
37 (a) * * *

38
39 (b) **Indexes**

40
41 At the beginning of the first volume of each:

42
43 (1) The clerk's transcript must contain alphabetical and chronological indexes listing
44 each document and the volume, where applicable, and page where it first appears;

1 (2) The reporter's transcript must contain alphabetical and chronological indexes listing
2 the volume, where applicable, and page where each witness's direct, cross, and any
3 other examination, begins; and
4

5 (3) The reporter's transcript must contain an index listing the volume, where applicable,
6 and page where any exhibit is marked for identification and where it is admitted or
7 refused.
8

9 **(c) Binding and cover**

10
11 (1) If filed in paper form, clerk's and reporter's transcripts must be bound on the left
12 margin in volumes of no more than 300 sheets, except that transcripts may be bound
13 at the top if required by a local rule of the appellate division.
14

15 (2)–(3) * * *

16
17 **Rule 8.840. Completion and filing of the record**

18
19 **(a)** * * * *

20
21 **(b) Filing the record**

22
23 When the record is complete, the trial court clerk must promptly send the original to the
24 appellate division and send to the appellant and respondent copies of any certified
25 statement on appeal and any copies of transcripts or official electronic recordings that they
26 have purchased. The appellate division clerk must promptly file the original and ~~mail~~ send
27 notice of the filing date to the parties.
28

29 **Rule 8.842. Failure to procure the record**

30
31 **(a) Notice of default**

32
33 Except as otherwise provided by these rules, if a party fails to do any act required to
34 procure the record, the trial court clerk must promptly notify that party ~~by mail~~ in writing
35 that it must do the act specified in the notice within 15 days after the notice is ~~mailed~~ sent
36 and that, if it fails to comply, the reviewing court may impose the following sanctions:
37

38 (1)–(2) * * *

39
40 **(b)** * * *

41
42 **Rule 8.843. Transmitting exhibits**

43
44 **(a)–(c)** * * *
45

1 **(d) Transmittal**

2
3 Unless the appellate division orders otherwise, within 20 days after notice under (a) is filed
4 or after the appellate division directs that an exhibit be sent:

5
6 (1) The trial court clerk must put any designated exhibits in the clerk’s possession into
7 numerical or alphabetical order and send them to the appellate division ~~with two~~
8 ~~copies of a list of the exhibits sent.~~ The trial court clerk must also send a list of the
9 exhibits sent. If the exhibits are not transmitted electronically, the trial court clerk
10 must send two copies of the list. If the appellate division clerk finds the list correct,
11 the clerk must sign and return ~~one~~ a copy to the trial court clerk.

12
13 (2) Any party in possession of designated exhibits returned by the trial court must put
14 them into numerical or alphabetical order and send them to the appellate division
15 ~~with two copies of a list of the exhibits sent.~~ The party must also send a list of the
16 exhibits sent. If the exhibits are not transmitted electronically, the party must send
17 two copies of the list. If the appellate division clerk finds the list correct, the clerk
18 must sign and return ~~one~~ a copy to the party.

19
20 **(e) Return by appellate division**

21
22 On request, the appellate division may return an exhibit to the trial court or to the party that
23 sent it. When the remittitur issues, the appellate division must return all exhibits not
24 transmitted electronically to the trial court or to the party that sent them.

25
26 **Rule 8.852. Notice of appeal**

27
28 **(a) * * ***

29
30 **(b) Notification of the appeal**

31
32 (1) When a notice of appeal is filed, the trial court clerk must promptly ~~mail~~ send a
33 notification of the filing to the attorney of record for each party and to any
34 unrepresented defendant. The clerk must also ~~mail~~ send or deliver this notification to
35 the appellate division clerk.

36
37 (2) The notification must show the date it was ~~mailed~~ sent or delivered, the number and
38 title of the case, the date the notice of appeal was filed, and whether the defendant
39 was represented by appointed counsel.

40
41 (3)–(4) * * *

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

1 (6) * * *

2
3 **Advisory Committee Comment**
4

5 *Notice of Appeal (Misdemeanor)* (form CR-132) may be used to file the notice of appeal required under
6 this rule. This form is available at any courthouse or county law library or online at
7 www.courtinfo.ca.gov/forms www.courts.ca.gov/forms.
8

9 **Subdivision (a).** The only orders that a defendant can appeal in a misdemeanor case are (1) orders
10 granting or denying a motion to suppress evidence (Penal Code section 1538.5(j)); and (2) orders made
11 after the final judgment that affects the substantial rights of the defendant (Penal Code section 1466)
12

13 **Rule 8.853. Time to appeal**

14 (a) * * *

15
16 (b) **Cross-appeal**
17

18
19 If the defendant or the People timely appeal from a judgment or appealable order, the time
20 for any other party to appeal from the same judgment or order is either the time specified
21 in (a) or 15 days after the trial court clerk ~~mails~~ sends notification of the first appeal,
22 whichever is later.
23

24 (c)–(d) * * *

25
26 **Rule 8.862. Preparation of clerk’s transcript**
27

28 (a)–(b) * * *

29 (c) **Probation officer’s reports**
30

31
32 A probation officer’s report included in the clerk’s transcript under rule 8.861(12)(D) must
33 appear in only the copies of the appellate record that are sent to the reviewing court, to
34 appellate counsel for the People, and to appellate counsel for the defendant who was the
35 subject of the report or to the defendant if he or she is self-represented. If the report is in
36 paper form, it must be placed in a sealed envelope. The reviewing court’s copy of the report,
37 and if applicable, the envelope, must be placed in a sealed envelope marked
38 “CONFIDENTIAL—MAY NOT BE EXAMINED WITHOUT COURT ORDER—
39 PROBATION OFFICER REPORT.”
40

41 (d)–(e) * * *

42
43 **Rule 8.864. Record of oral proceedings**
44

45 (a) **Appellant’s election**
46

1 The appellant must notify the trial court whether he or she elects to proceed with or
2 without a record of the oral proceedings in the trial court. If the appellant elects to proceed
3 with a record of the oral proceedings in the trial court, the notice must specify which form
4 of the record of the oral proceedings in the trial court the appellant elects to use:
5

6 (1) A reporter's transcript under rules 8.865–8.867 or a transcript prepared from an
7 official electronic recording of the proceedings under rule 8.868(b). If the appellant
8 elects to use a reporter's transcript, the clerk must promptly ~~mail~~ send a copy of
9 appellant's notice making this election and the notice of appeal to each court
10 reporter;
11

12 (2)–(3) * * *

13
14 **(b)–(c) * * ***

15
16 **Rule 8.866. Preparation of reporter's transcript**

17
18 **(a) When preparation begins**

19
20 (1) * * *

21
22 (2) If the notice sent to the reporter by the clerk under rule 8.864(a)(1) indicates that the
23 appellant is the defendant and that the defendant was not represented by appointed
24 counsel at trial:

25
26 (A) Within 10 days after the date the clerk ~~mailed~~ sent the notice under rule
27 8.864(a)(1), the reporter must file with the clerk the estimated cost of preparing
28 the reporter's transcript.

29
30 (B) The clerk must promptly notify the appellant and his or her counsel of the
31 estimated cost of preparing the reporter's transcript. The notification must
32 show the date it was ~~mailed~~ sent.

33
34 (C) Within 10 days after the date the clerk ~~mailed~~ sent the notice under (B), the
35 appellant must do one of the following:

36
37 (i)–(vii) * * *

38
39 (D) If the trial court determines that the appellant is not indigent, within 10 days
40 after the date the clerk ~~mails~~ sends notice of this determination to the appellant,
41 the appellant must do one of the following:

42
43 (i)–(vi) * * *

44
45 (E) * * *

1 (b)–(e) * * *

2
3 (f) **Notice when proceedings were not reported or cannot be transcribed**

4
5 (1) If any portion of the oral proceedings to be included in the reporter’s transcript was
6 not reported or cannot be transcribed, the trial court clerk must so notify the parties
7 ~~by mail~~ in writing. The notice must:

8
9 (A) * * *

10
11 (B) Show the date it was ~~mailed~~ sent.

12
13 (2) Within 15 days after this notice is ~~mailed~~ sent by the clerk, the appellant must serve
14 and file a notice with the court stating whether the appellant elects to proceed with or
15 without a record of the identified proceedings. When the party elects to proceed with
16 a record of these oral proceedings:

17
18 (A)–(B) * * *

19
20 **Rule 8.868. Record when trial proceedings were officially electronically recorded**

21
22 (a)–(d) * * *

23
24 (e) **When preparation begins**

25
26 (1) * * *

27
28 (2) If the appellant is the defendant and the defendant was not represented by appointed
29 counsel at trial:

30
31 (A) Within 10 days after the date the defendant files the election under rule
32 8.864(a)(1), the clerk must notify the appellant and his or her counsel of the
33 estimated cost of preparing the transcript or the copy of the recording. The
34 notification must show the date it was ~~mailed~~ sent.

35
36 (B) Within 10 days after the date the clerk ~~mailed~~ sent the notice under (A), the
37 appellant must do one of the following:

38
39 (i)–(v) * * *

40
41 (C) If the trial court determines that the appellant is not indigent, within 10 days
42 after the date the clerk ~~mails~~ sends notice of this determination to the appellant,
43 the appellant must do one of the following:

44
45 (i)–(iv) * * *

1 (D) * * *

2
3 **(f) Notice when proceedings were not officially electronically recorded or cannot be**
4 **transcribed**

5
6 (1) If any portion of the oral proceedings to be included in the transcript was not
7 officially electronically recorded under Government Code section 69957 or cannot
8 be transcribed, the trial court clerk must so notify the parties ~~by mail~~ in writing. The
9 notice must:

10
11 (A) * * *

12
13 (B) Show the date it was ~~mailed~~ sent.

14
15 (2) Within 15 days after this notice is ~~mailed~~ sent by the clerk, the appellant must serve
16 and file a notice with the court stating whether the appellant elects to proceed with or
17 without a record of the identified oral proceedings. When the party elects to proceed
18 with a record of these oral proceedings:

19
20 (A)–(B) * * *

21
22 **Rule 8.870. Exhibits**

23
24 **(a)–(c) * * ***

25
26 **(d) Transmittal**

27
28 Unless the appellate division orders otherwise, within 20 days after the first notice under
29 (b) is filed or after the appellate division directs that an exhibit be sent:

30
31 (1) The trial court clerk must put any designated exhibits in the clerk's possession into
32 numerical or alphabetical order and send them to the appellate division ~~with two~~
33 ~~copies of a list of the exhibits.~~ The trial court clerk must also send a list of the
34 exhibits sent. If the exhibits are not transmitted electronically, the trial court clerk
35 must send two copies of the list. If the appellate division clerk finds the list correct,
36 the clerk must sign and return ~~one~~ a copy to the trial court clerk.

37
38 (2) Any party in possession of designated exhibits returned by the trial court must put
39 them into numerical or alphabetical order and send them to the appellate division
40 ~~with two copies of a list of the exhibits sent.~~ The party must also send a list of the
41 exhibits sent. If the exhibits are not transmitted electronically, the party must send
42 two copies of the list. If the appellate division clerk finds the list correct, the clerk
43 must sign and return ~~one~~ a copy to the party.

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 **Rule 8.872. Sending and filing the record in the appellate division**

6
7 (a)–(b) * * *

8
9 (c) **Filing the record**

10
11 On receipt, the appellate division clerk must promptly file the original record and ~~mail~~
12 send notice of the filing date to the parties.
13

14 **Rule 8.874. Failure to procure the record**

15
16 (a) **Notice of default**

17
18 If a party fails to do any act required to procure the record, the trial court clerk must
19 promptly notify that party ~~by mail~~ in writing that it must do the act specified in the notice
20 within 15 days after the notice is ~~mailed~~ sent and that, if it fails to comply, the appellate
21 division may impose the following sanctions:
22

23 (1)–(2) * * *

24
25 (b) * * *

26
27 **Rule 8.881. Notice of briefing schedule**

28
29 When the record is filed, the clerk of the appellate division must promptly ~~mail~~ send a notice to
30 each appellate counsel or unrepresented party giving the dates the briefs are due.
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.
46

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 sent 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
31 **Rule 8.883. Contents and form of briefs**
32

33 **(a)–(b) * * ***
34

35 **(c) Form**
36

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

42
43 (2) Any conventional ~~typeface~~ font may be used. The ~~typeface~~ font may be either
44 proportionally spaced or monospaced.
45

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 **Rule 8.888. Finality and modification of decision**
19

20 (a)–(b) * * *

21
22 (c) **Consent to increase or decrease in amount of judgment**
23

24 If an appellate division decision conditions the affirmance of a money judgment on a
25 party's consent to an increase or decrease in the amount, the judgment is reversed unless,
26 before the decision is final under (a), the party serves and files ~~two copies~~ a copy of a
27 consent in the appellate division. If a consent is filed, the finality period runs from the
28 filing date of the consent. The clerk must send one ~~filed-stamped~~ endorsed copy of the
29 consent to the trial court with the remittitur.
30

31 **Rule 8.890. Remittitur**
32

33 (a) * * *

34
35 (b) **Clerk's duties**
36

37 (1) If an appellate division case is not transferred to the Court of Appeal under rule
38 8.1000 et seq., the appellate division clerk must:

39
40 (A) * * *

41
42 (B) Send the remittitur to the trial court with a ~~filed-stamped~~ endorsed copy of the
43 opinion or order; and

44
45 (C) Return to the trial court with the remittitur all original records, exhibits, and
46 documents sent non-electronically to the appellate division in connection with

1 the appeal, except any certification for transfer under rule 8.1005, the
2 transcripts or statement on appeal, briefs, and the notice of appeal.

3
4 (2) * * *

5
6 (c)–(d) * * *

7
8 **Rule 8.891. Costs and sanctions in civil appeals**

9
10 (a)–(e) * * *

11 **Advisory Committee Comment**

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

17
18 Subdivision (d)(1)(D), allowing recovery of the “costs to notarize, serve, mail, and file the record, briefs,
19 and other papers,” is intended to include fees charged by electronic filing service providers for electronic
20 filing and service of documents.

21
22 **Rule 8.901. Notice of appeal**

23
24 (a) * * *

25
26 (b) **Notification of the appeal**

27
28 (1) When a notice of appeal is filed, the trial court clerk must promptly ~~mail~~ send a
29 notification of the filing to the attorney of record for each party and to any
30 unrepresented defendant. The clerk must also ~~mail~~ send or deliver this notification to
31 the appellate division clerk.

32
33 (2) The notification must show the date it was ~~mailed~~ sent or delivered, the number and
34 title of the case, and the date the notice of appeal was filed.

35
36 (3)–(4) * * *

37
38 (5) The ~~mailing~~ sending of a notification under (1) is a sufficient performance of the
39 clerk’s duty despite the discharge, disqualification, suspension, disbarment, or death
40 of the attorney.

41
42 (6) * * *

43
44 **Rule 8.902. Time to appeal**

45
46 (a) * * *

1 **(b) Cross-appeal**

2
3 If the defendant or the People timely appeals from a judgment or appealable order, the time
4 for any other party to appeal from the same judgment or order is either the time specified
5 in (a) or 30 days after the trial court clerk ~~mails~~ sends notification of the first appeal,
6 whichever is later.
7

8 **(c)–(d) * * ***

9
10 **Rule 8.911. Prosecuting attorney’s notice regarding the record**

11
12 If the prosecuting attorney does not want to receive a copy of the record on appeal, within 10
13 days after the notification of the appeal under rule 8.901(b) is ~~mailed~~ sent to the prosecuting
14 attorney, the prosecuting attorney must serve and file a notice indicating that he or she does not
15 want to receive the record.
16

17 **Rule 8.915. Record of oral proceedings**

18
19 **(a) Appellant’s election**

20
21 The appellant must notify the trial court whether he or she elects to proceed with or
22 without a record of the oral proceedings in the trial court. If the appellant elects to proceed
23 with a record of the oral proceedings in the trial court, the notice must specify which form
24 of the record of the oral proceedings in the trial court the appellant elects to use:
25

26 **(1)–(2) * * ***

27
28 **(3)** A reporter’s transcript under rules 8.918–8.920 or a transcript prepared from an
29 official electronic recording of the proceedings under rule 8.917(b). If the appellant
30 elects to use a reporter’s transcript, the clerk must promptly ~~mail~~ send a copy of
31 appellant’s notice making this election and the notice of appeal to each court
32 reporter.
33

34 **(b)–(c) * * ***

35
36 **Rule 8.917. Record when trial proceedings were officially electronically recorded**

37
38 **(a)–(d) * * ***

39
40 **(e) When preparation begins**

41
42 **(1) * * ***

43
44 **(2)** If the appellant is the defendant:
45

1 (A) Within 10 days after the date the appellant files the election under rule
2 8.915(a), the clerk must notify the appellant and his or her counsel of the
3 estimated cost of preparing the transcript or the copy of the recording. The
4 notification must show the date it was ~~mailed~~ sent.

5
6 (B) Within 10 days after the date the clerk ~~mailed~~ sent the notice under (A), the
7 appellant must do one of the following:

8
9 (i)–(v) * * *

10
11 (C) If the trial court determines that the appellant is not indigent, within 10 days
12 after the date the clerk ~~mailed~~ sends notice of this determination to the appellant,
13 the appellant must do one of the following:

14
15 (i)–(iv) * * *

16
17 (D) * * *

18
19 **(f) Notice when proceedings were not officially electronically recorded or cannot be**
20 **transcribed**

21
22 (1) If any portion of the oral proceedings to be included in the transcript were not
23 officially electronically recorded under Government Code section 69957 or cannot
24 be transcribed, the trial court clerk must so notify the parties ~~by mail~~ in writing. The
25 notice must:

26
27 (A) * * *

28
29 (B) Show the date it was ~~mailed~~ sent.

30
31 (2) Within 15 days after this notice is ~~mailed~~ sent by the clerk, the appellant must serve
32 and file a notice with the court stating whether the appellant elects to proceed with or
33 without a record of the identified proceedings. When the party elects to proceed with
34 a record of these oral proceedings:

35
36 (A)–(B) * * *

37
38 **Rule 8.919. Preparation of reporter's transcript**

39
40 **(a) When preparation begins**

41
42 (1) * * *

43
44 (2) If the notice sent to the reporter by the clerk under rule 8.915(a)(3) indicates that the
45 appellant is the defendant:

- 1 (A) Within 10 days after the date the clerk ~~mailed~~ sent the notice under rule
2 8.915(a)(3), the reporter must file with the clerk the estimated cost of preparing
3 the reporter's transcript; and
4
5 (B) The clerk must promptly notify the appellant and his or her counsel of the
6 estimated cost of preparing the reporter's transcript. The notification must
7 show the date it was ~~mailed~~ sent.
8
9 (C) Within 10 days after the date the clerk ~~mailed~~ sent the notice under (B), the
10 appellant must do one of the following:
11
12 (i)–(vii) * * *
13
14 (D) If the trial court determines that the appellant is not indigent, within 10 days
15 after the date the clerk ~~mails~~ sends notice of this determination to the appellant,
16 the appellant must do one of the following:
17
18 (i)–(vi) * * *
19
20 (E) * * *

21
22 **(b)–(e) * * ***

23
24 **(f) Notice when proceedings cannot be transcribed**

- 25
26 (1) If any portion of the oral proceedings to be included in the reporter's transcript was
27 not reported or cannot be transcribed, the trial court clerk must so notify the parties
28 by mail in writing. The notice must:
29
30 (A) * * *
31
32 (B) Show the date it was ~~mailed~~ sent.
33
34 (2) Within 15 days after this notice is ~~mailed~~ sent by the clerk, the appellant must serve
35 and file a notice with the court stating whether the appellant elects to proceed with or
36 without a record of the identified proceedings. When the party elects to proceed with
37 a record of these oral proceedings:
38
39 (A)–(B) * * *

40
41 **Rule 8.921. Exhibits**

42
43 **(a)–(c) * * ***

44
45 **(d) Transmittal**

1 Unless the appellate division orders otherwise, within 20 days after notice under (b) is filed
2 or after the appellate division directs that an exhibit be sent:
3

4 (1) The trial court clerk must put any designated exhibits in the clerk's possession into
5 numerical or alphabetical order and send them to the appellate division ~~with two~~
6 ~~copies of a list of the exhibits sent.~~ The trial court clerk must also send a list of the
7 exhibits sent. If the exhibits are not transmitted electronically, the trial court clerk
8 must send two copies of the list. If the appellate division clerk finds the list correct,
9 the clerk must sign and return ~~one~~ a copy to the trial court clerk.

10
11 (2) Any party in possession of designated exhibits returned by the trial court must put
12 them into numerical or alphabetical order and send them to the appellate division
13 ~~with two copies of a list of the exhibits sent.~~ The party must also send a list of the
14 exhibits sent. If the exhibits are not transmitted electronically, the party must send
15 two copies of the list. If the appellate division clerk finds the list correct, the clerk
16 must sign and return ~~one~~ a copy to the party.

17
18 **(e) Return by appellate division**

19
20 On request, the appellate division may return an exhibit to the trial court or to the party that
21 sent it. When the remittitur issues, the appellate division must return all exhibits not
22 transmitted electronically to the trial court or to the party that sent them.
23

24 **Rule 8.922. Sending and filing the record in the appellate division**

25
26 **(a)–(b) * * ***

27
28 **(c) Filing the record**

29
30 On receipt, the appellate division clerk must promptly file the original record and ~~mail~~
31 send notice of the filing date to the parties.
32

33 **Rule 8.924. Failure to procure the record**

34
35 **(a) Notice of default**

36
37 If a party fails to do any act required to procure the record, the trial court clerk must
38 promptly notify that party ~~by mail~~ in writing that it must do the act specified in the notice
39 within 15 days after the notice is ~~mailed~~ sent and that, if it fails to comply, the reviewing
40 court may impose the following sanctions:
41

42 **(1)–(2) * * ***
43

1 (b) * * *

2
3 **Rule 8.926. Notice of briefing schedule**

4
5 When the record is filed, the clerk of the appellate division must promptly ~~mail~~ send, to each
6 appellate counsel or unrepresented party, a notice giving the dates the briefs are due.
7

8 **Rule 8.927. Briefs**

9
10 (a) * * *

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

13
14 (1) If the appellant fails to timely file an opening brief, the appellate division clerk must
15 promptly notify the appellant ~~by mail~~ in writing that the brief must be filed within 20
16 days after the notice is ~~mailed~~ sent and that if the appellant fails to comply, the court
17 may dismiss the appeal.
18

19 (2) If the respondent fails to timely file a brief, the appellate division clerk must
20 promptly notify the respondent ~~by mail~~ in writing that the brief must be filed within
21 20 days after the notice is ~~mailed~~ sent and that if the respondent fails to comply, the
22 court will decide the appeal on the record, the appellant's opening brief, and any oral
23 argument by the appellant.
24

25 (3) * * *

26
27 (c) * * *

28
29 **Rule 8.928. Contents and form of briefs**

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

32
33 (c) **Form**

34
35 (1) A brief may be reproduced by any process that produces a clear, black image of
36 letter quality. All documents filed must have a page size of 8 1/2 by 11 inches. If
37 filed in paper form, the paper must be white or unbleached, 8 1/2 by 11 inches, and of
38 at least 20-pound weight. Both sides of the paper may be used if the brief is not
39 bound at the top.
40

41 (2) Any conventional ~~typeface~~ font may be used. The ~~typeface~~ font may be either
42 proportionally spaced or monospaced.
43

44 (3) The ~~type~~ font style must be roman; but for emphasis, italics or boldface may be used
45 or the text may be underscored. Case names must be italicized or underscored.
46 Headings may be in uppercase letters.

1
2 (4) Except as provided in (11), the ~~type~~ font size, including footnotes, must not be
3 smaller than 13-point.

4
5 (5)–(8) * * *

6
7 (9) If filed in paper form, the brief must be bound on the left margin, except that briefs
8 may be bound at the top if required by a local rule of the appellate division. If the
9 brief is stapled, the bound edge and staples must be covered with tape.

10
11 (10)–(11) * * *

12
13 (d) * * *

14
15 **Rule 8.931. Petitions filed by persons not represented by an attorney**

16
17 (a)–(b) * * *

18
19 (c) **Form of supporting documents**

20
21 (1) Documents submitted under (b) must comply with the following requirements:

22
23 (A) If submitted in paper form, they must be bound together at the end of the
24 petition or in separate volumes not exceeding 300 pages each. The pages must
25 be consecutively numbered.

26
27 (B) If submitted in paper form, they must be index-tabbed by number or letter.

28
29 (C) They must begin with a table of contents listing each document by its title and
30 its index-~~tab~~ number or letter. If a document has attachments, the table of
31 contents must give the title of each attachment and a brief description of its
32 contents.

33
34 (2) * * *

35
36 (3) Unless the court provides otherwise by local rule or order, only one set of ~~any~~
37 ~~separately bound~~ the supporting documents needs to be filed in support of a petition,
38 an answer, an opposition, or a reply.

39
40 (d) * * *

41
42 **Rule 8.1018. Finality and remittitur**

43

1 (a)–(b) * * *

2
3 (c) **When the Court of Appeal issues a decision**

4
5 If the Court of Appeal issues a decision on a case it has ordered transferred from the
6 appellate division of the superior court, filing, finality, and modification of that decision
7 are governed by rule 8.264 and remittitur is governed by rule 8.272, except that the clerk
8 must address the remittitur to the appellate division and send that court ~~two copies~~ a copy
9 of the remittitur and ~~two file-stamped copies~~ a filed-endorsed copy of the Court of Appeal
10 opinion or order. If the remittitur and opinion are sent in paper format, two copies must be
11 sent. On receipt of the Court of Appeal remittitur, the appellate division clerk must
12 promptly issue a remittitur if there will be no further proceedings in that court.
13

14 (d) **Documents to be returned**

15
16 When the Court of Appeal denies or vacates transfer or issues a remittitur under (c), the
17 Court of Appeal clerk must return to the appellate division any part of the record sent non-
18 electronically to the Court of Appeal under rule 8.1007 and any exhibits that were sent
19 non-electronically.

SPR15-32**Rules Modernization Project: Modernize the Rules of Court to Facilitate E-Business, E-Filing, and E-Service Executive Summary and Origin**

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

List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
1.	Robin Brandes-Gibbs Superior Court of Orange County Santa Ana	AM	See comments on specific provisions below.	See responses to comments below.
2.	California Department of Child Support Services by Alisha A. Griffin, Director Rancho Cordova	A	DCSS supports modernizing and increasing efficiencies with our justice partners including the proposed technical amendments to address language in the rules that is incompatible with the current statutes and rules governing e-filing, e-service, and e-business processes in general. Overall, the proposed changes meet the business needs of DCSS. See comments on specific provisions below.	DCSS's support is noted.
3.	Civil Unit Managers Superior Court of Orange County by Deborah Coel, Operations Analyst	AM	Position on proposal: Agree with the proposed changes with the following recommendation noted below.	See responses to comments below.
4.	Law Office of Azar Elihu by Azar Elihu, Attorney Los Angeles	A	No specific comment.	No response required.
5.	The State Bar of California Committee on Administrative Justice by Saul Bercovitch, Legislative Counsel	AM	CAJ supports this proposal in general, but has the following comments. See comments on specific provisions below.	CAJ's support is noted.
6.	The State Bar of California Committee on Appellate Courts by John Derrick, Chair	NI	See comments on specific provisions below.	See responses to comments below.

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List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
7.	Superior Court of Los Angeles County by Janet Garcia, Court Operations Manager	A	No specific comment.	No response required.
8.	Superior Court of Riverside County by Marita Ford	A	No specific comment.	No response required.
9.	Superior Court of Sacramento County by Elaine Flores, Administrative Services Officer II, Communications – Court Executive Office	NI	See comments on specific provisions below.	See responses to comments below.
10.	Superior Court of San Diego County by Michael M. Roddy, Executive Officer	AM	See comments on specific provisions below.	See responses to comments below.
11.	Trial Court Presiding Judges Advisory Committee (TCPJAC)/Court Executives Advisory Committees (CEAC), Joint Rules Subcommittee and Joint Technology Subcommittee	A	<p>The subcommittees agree that the proposed rule changes are necessary to begin facilitating an e-business environment in the trial courts.</p> <p>The subcommittees determined that the proposal will result in additional training, which requires the commitment of staff time and court resources.</p>	<p>The TCPJAC/CEAC Joint Rules Subcommittee and Joint Technology Subcommittee’s support is noted.</p> <p>The TCPJAC/CEAC Joint Rules Subcommittee and Joint Technology Subcommittee’s comment is noted. To the extent that this rules proposal, as circulated, recommends only technical, non-substantive changes to the rules, ITAC and CSCAC anticipate that training should not be too burdensome for the courts and would be otherwise necessary as courts modernize by adopting e-filing, e-service, and e-business practices already authorized by relevant statutes and rules.</p>

SPR15-32

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

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List of All Commentators, Overall Positions on the Proposal, and General Comments				
	Commentator	Position	Comment	Committee Response
			<p>The subcommittees would like to note that it would be helpful if ITAC would, in the future, consider whether filing parties should be required to bookmark electronic exhibits or attachments submitted with electronic documents filed with the courts.</p> <p>See comments on specific provisions below.</p>	<p>The TCPJAC/CEAC Joint Rules Subcommittee and Joint Technology Subcommittee’s recommendation is noted. It will be considered next year during phase II of the Rules Modernization Project.</p>

Comments Applicable to Multiple Rules			
	Commentator	Comment	Committee Response
12.	<p>The State Bar of California Committee on Administrative Justice by Saul Bercovitch, Legislative Counsel</p>	<p>This proposal would replace references to “file-stamped” with “filed-endorsed” throughout the rules. CAJ recommends retaining the term “file-stamped.” The term “filed-endorsed” is unclear, and does not correspond to the way documents are actually file-stamped by clerks in various California courts, which do not appear to use the terminology “filed-endorsed.”</p>	<p>ITAC, CSCAC, and AAC note CAJ’s objection. However, they recommend retaining the proposal to change all references to “file-stamped” to “filed-endorsed” because the term “filed-endorsed” is used in relation to both paper and electronic documents and is generally understood and used by the courts, including those that have not converted to a paperless case management system.</p>
13.	<p>The State Bar of California Committee on Appellate Courts by John Derrick, Chair</p>	<p>The Committee notes that “electronic form” and “electronic format” are used in the appellate rules as well as other rules. The Committee believes that more experience by both litigants and the courts may be needed before those terms are defined, but recommends that consideration be given to defining those terms sooner rather than later.</p>	<p>ITAC and CSCAC note the CAC’s recommendation to define electronic form and formatting in the trial and appellate rules in the future. This recommendation will be considered next year during phase II of the Rules Modernization Project.</p>

SPR15-32

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

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Comments Applicable to Multiple Rules			
	Commentator	Comment	Committee Response
14.	Superior Court of Sacramento County by Elaine Flores, Administrative Services Officer II, Communications – Court Executive Office	<p>Please note that many of the comments on SPR15-16 are “global”:</p> <ul style="list-style-type: none"> • Consistency with the use of singular v. plural – i.e., we prefer “party” to “parties” • Over use of the word “also” • Consistency when identifying JC forms – i.e., we prefer stating “form FL-xxx” v. “FL-xxx” • Use of old language “child visitation” or “visitation” v. new language “parenting time” <p>[*General comment made in response to three Invitations to Comment, including SPR15-32]</p>	ITAC and CSCAC decline to pursue the general suggestions regarding the use of the words “also” and “parties,” which appear to be directed beyond the rules covered in this proposal. The comments referring to Judicial Council forms and to the terms “visitation” and “parenting time” do not apply to SPR15-32.

Title Two—Trial Court Rules			
	Commentator	Comment	Committee Response
15.	California Department of Child Support Services by Alisha A. Griffin, Director Rancho Cordova	That said, DCSS would encourage the Judicial Council to review California Rules of Court, Rule 2.257 as part of its ongoing modernization effort. The current retention requirements of Rule 2.257 pose three problems, two of which may require statutory changes to California Code of Civil Procedure section 1010.6. First, the absence of directions regarding the amount of time original signatures must be retained encourages divergent practices. Second, the rule imposes burdens on individuals in excess of that imposed on the court since the court need not maintain originals indefinitely under Government Code section 68152. Third, the rule does not provide parties with the option to electronically store signed documents as the	<p>ITAC and CSAC decline to pursue DCSS’s recommendation; it is outside the scope of this rules proposal, as circulated, because it involves substantive, non-technical changes to the rules. It may be considered by the committees during phase II of the Rules Modernization Project.</p> <p>ITAC and CSCAC agree that changing the retention requirements in rule 2.257(a) may require amending Code of Civil Procedure section 1010.6(b)(2)(B), which requires maintaining “the printed form of the document bearing the original signatures” where any electronically filed</p>

SPR15-32

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

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Title Two—Trial Court Rules			
	Commentator	Comment	Committee Response
		court is permitted to do under Government Code section 68150.	documents are signed under penalty of perjury.
16.	Civil Unit Managers Superior Court of Orange County by Deborah Coel, Operations Analyst	<p>Recommendation: Amend California Rule of Court rule 2.111(1) Format of First Page</p> <p>In addition to the proposed rule 2.111(3) change, the Court respectfully requests that the Judicial Council amend California Rule of Court 2.111(1) by deleting the words “if available” in the first sentence and replacing them with “if available and / or required if submitting electronically”. Thus, the sentence would read as follows:</p> <p>“In the space commencing 1 inch from the top of the page with line 1, to the left of the center of the page, the name, office address or, if none, residence address or mailing address (if different), telephone number, fax number and e-mail address (if available and / or required if submitting electronically), and State Bar membership number of the attorney for the party in whose behalf the paper is presented, or of the party if he or she is appearing in person.”</p> <p>The Court believes that this change would result in the Court’s ability to capture accurate data for eService because it would require every e-filer to provide the Court with its email address. Currently, there is no requirement to have email addresses placed on the document. Further, there is no mechanism to have email addresses placed on the document. Modifying the language in this rule falls in line with the Judicial Council’s objective of modernizing rules to facilitate e-business practices as well as e-filing.</p>	<p>Recommendation: Amend California Rule of Court rule 2.111(1) Format of First Page</p> <p>ITAC and CSCAC decline to pursue this recommendation. Under rule 2.111(1), an e-mail address may be provided on the first page, if available, as a convenience to the court and parties. However, this email address is not necessarily the electronic service address.</p> <p>Parties consent to permissive electronic service by filing form EFS-500, <i>Consent to Electronic Service and Notice of Electronic Service Address</i>, which requires that the party specify his or her electronic service address. In addition, rule 2.256(a)(4) requires parties to provide one or more electronic service addresses, in the manner specified by the court, at which the filer agrees to accept service. So courts already have the ability to require parties to provide their electronic service addresses.</p>

SPR15-32

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

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

Title Three—Civil Rules			
	Commentator	Comment	Committee Response
18.	Robin Brandes-Gibbs Superior Court of Orange County Santa Ana	<p>The wording of the proposed modification to California Rule of Court, rule 3.1300(c) should track the language of rules 2.253(b)(7) and 2.259(c) to refer to the document as being “received by the court” instead of “filed.”</p> <p>In addition, do all three of these rules contradict the language of Code of Civil Procedure section 1010.6 subdivision (b)(3)? “Any document that is electronically filed with the court after the close of business on any day shall be deemed to have been filed on the next court day. “Close of business,” as used in this paragraph, shall mean 5 p.m. or the time at which the court would not accept filing at the court’s filing counter, whichever is earlier.” (Id.) The statute does not authorize a local court rule to allow a later filing.</p>	<p>This rules proposal, as circulated, does not contemplate modifying subdivision (c) of rule 3.1300. However, ITAC and CSCAC agree that the proposed language in subdivision (e) of rule 3.1300 should be modified by replacing “filed” with “received by the court.”</p> <p>Code of Civil Procedure section 1010.6(b)(3) governs for cases involving <i>permissive</i> electronic filing. Under subdivisions (f) and (g) of section 1010.6, <i>mandatory</i> electronic filing rules are exempt from complying with subdivision (b)(3). ITAC and CSCAC recommend additional language to clarify that the proposed amendment to rule 3.1300(e) only applies to mandatory electronic filing.</p> <p>To address the concerns of Ms. Brandes-Gibbs, the proposed amendment to rule 3.1300(e) would be revised as follows:</p> <p>(e). “A paper submitted before the close of the clerk’s office to the public on the day the paper is due is deemed timely filed. <u>Under rules 2.253(b)(7) and 2.259(c), a court may provide by local rule that a paper that is required to be filed electronically and that is received electronically by the court before midnight on a court day is deemed filed on that court day.</u>”</p>

SPR15-32

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

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19.	The State Bar of California Committee on Administrative Justice by Saul Bercovitch, Legislative Counsel	<p><u>Rule 3.1302</u></p> <p>As proposed, this rule would create an unnecessary procedure for a clerk to “return” a digital copy of lodged material. The rule should be edited to state: “Material lodged physically with the clerk must be accompanied by an addressed envelope with sufficient postage for mailing the material. After determination of the matter, the clerk may mail the material back to the party lodging it. If the material was lodged electronically, the clerk may delete it.”</p> <p><u>Rule 3.1304</u></p> <p>CAJ recommends that this rule be edited to state: “The clerk must post both on the court’s website and at the courthouse a general schedule showing the days and departments for holding each type of law and motion hearing.”</p>	<p><u>Rule 3.1302</u></p> <p>ITAC and CSCAC decline to pursue CAJ’s recommendation at this time. The group foresees that potential issues may arise by instructing clerks only to delete the materials. Having clerks return the materials would provide the parties with notice. The committees will give further consideration to this rule during phase II of the Rules Modernization Project.</p> <p><u>Rule 3.1304</u></p> <p>ITAC and CSCAC decline to pursue this recommendation because it would narrow the scope of the proposed rule amendment. By requiring courts to post the schedules “electronically,” the proposed amendment is intended to encompass posting the schedules not only on court websites, but also by other electronic means.</p>
20.	Superior Court of Sacramento County by Elaine Flores, Administrative Services Officer II, Communications – Court Executive Office	<p>We would recommend not encouraging inconsistency throughout the State.</p> <p>[*Comment provided in response to proposed amendment to rule 3.1300(e): “A paper submitted before the close of the clerk’s office to the public on the day the paper is due is deemed timely filed. <u>Under rule 2.259(c), a court may provide by local rule that a paper filed electronically before midnight on a court day is deemed filed on that court day.</u>”]</p>	<p>ITAC and CSCAC decline to pursue this recommendation at this time because it falls outside of the scope of this rules proposal, as circulated. The proposed amendment to rule 3.1300(e) is a technical, non-substantive amendment that brings this rule into line with rule 2.259(c). The committees may consider the court’s suggestion during phase II of the Rules Modernization Project.</p>

SPR15-32

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

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21.	Superior Court of San Diego County by Michael M. Roddy, Executive Officer	<p>Our court objects to the amendment that seeks to limit application of the tabbing requirement contained in California Rule of Court 3.1110 (f) to motions filed in paper unless a similar requirement can be added that would apply bookmarking, or something similar, to electronically filed documents. Our court utilizes that rule to require litigants to bookmark their e-file motions, which is the equivalent to tabbing, so that documents filed with a motion are able to be located easily. We have found without the ability to require bookmarking to locate documents and exhibits filed within a motion, attempting to navigate a 100+ page summary judgment filing or anything similar thereto can be almost impossible. We recommend language be added to subsection (f) of the rule that states: “For motions filed electronically, court’s may adopt, via there E-file procedures, a requirement that exhibits be bookmarked or similarly identified in place of physically tabbing the documents.”</p>	<p>ITAC and CSCAC note the court’s objection and agree that it is prudent to wait until phase II to amend rule 3.1110(f). Postponing this amendment for further consideration during phase II will allow the court to continue relying on this rule in requiring that parties bookmark electronic documents.</p> <p>The court’s specific recommendation for an electronic bookmarking rule will be considered next year during phase II of the Rules Modernization Project.</p>
22.	TCPJAC/CEAC Joint Rules Subcommittee and Joint Technology Subcommittee	<p><u>Suggested modification</u> The subcommittees propose one amendment to the proposal. Given the extensive nature of the changes in this proposal, the subcommittee members solicited input from a number of court executive officers whose courts could be impacted by the proposed changes. This input is a contributing factor to the modification that is proposed here.</p> <p>The subcommittees recommend that the new provisions contained in Rule 3.1300(e) should read as follows (see highlighted text):</p> <p>(e) Computation of time</p>	<p><u>Suggested modification</u> ITAC and CSCAC agree that the proposed amendment to rule 3.1300(e) should be revised to clarify that electronically filed papers are initially “received,” not “filed.” As discussed above in response to Ms. Brandes-Gibbs comment, the proposed amendment has been changed to track the language in rule 2.259(c).</p> <p>ITAC and CSCAC decline the suggested language as unnecessary. The proposed amendment to rule 3.1300(e) cross-references rule 2.259(c), which provides in relevant part: “This provision concerns only the effective date of filing. Any document that is electronically filed must be processed and satisfy</p>

SPR15-32

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

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		<p>A paper submitted before the close of the clerk’s office to the public on the day the paper is due is deemed timely filed. <u>Under rule 2.259(c), a court may provide by local rule that a paper filed electronically before midnight on a court day is deemed filed on that court day if, after review by the clerk, it is accepted for filing.</u></p>	<p>all other legal filing requirements to be filed as an official court record.”</p> <p>(e) Computation of time A paper submitted before the close of the clerk’s office to the public on the day the paper is due is deemed timely filed. <u>Under rules 2.253(b)(7) and 2.259(c), a court may provide by local rule that a paper that is required to be filed electronically and that is received electronically by the court before midnight on a court day is deemed filed on that court day.”</u></p>
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Title Eight—Appellate Rules			
	Commentator	Comment	Committee Response
23	<p>The State Bar of California Committee on Administrative Justice by Saul Bercovitch, Legislative Counsel</p>	<p><u>Rules 8.122, 8.144 and 8.336, and 8.838</u></p> <p>CAJ urges consideration regarding the potential impact of these proposed changes on indigent appellate litigants, including, in particular, incarcerated appellants and individuals who do not have access to computers.</p>	<p>ITAC and AAC agree with CAJ regarding the importance of considering the potential impact on indigent litigants of authorizing use of a trial court record in electronic form. Where the appellate rules authorize the appellate courts to require parties to file or serve documents electronically, they include protections for self-represented litigants. (See Cal. Rules of Court, rule 8.73(a)(2)(A).) The committees agree that, where express authorization for the record to be in electronic form is included in the rules, consideration should be given to including include similar protections. The amendments expressly authorizing use of a record in electronic form have been withdrawn from this rules proposal. ITAC and</p>

SPR15-32

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

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Title Eight—Appellate Rules		
Commentator	Comment	Committee Response
		<p>AAC may consider amendments to these rules, including protections for self-represented litigants, during phase II of the Rules Modernization Project. While this process continues, those appellate courts that accept part or all of the record in electronic form will be able to continue their practices, as they have under the existing rules.</p> <p>However, ITAC and AAC do not propose modifying those parts of the proposed amendments to rules 8.144, 8.336, and 8.838 that clarify application of those rules to documents in electronic format.</p>

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