



JUDICIAL COUNCIL OF CALIFORNIA

INFORMATION TECHNOLOGY
ADVISORY COMMITTEE

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INFORMATION TECHNOLOGY ADVISORY COMMITTEE

MINUTES OF OPEN MEETING

February 22, 2016

4:15 PM to 5:00 PM

Teleconference

Advisory Body Members Present: Hon. Terence L. Bruiniers, Chair; Hon. Robert B. Freedman, Vice Chair; Hon. Kyle S. Brodie; Mr. Brian Cotta; Hon. Julie R. Culver; Hon. Samantha P. Jessner; Hon. Jackson Lucky; Hon. Louis R. Mauro; Ms. Alison Merrilees in for Hon. Mark Stone; Mr. Terry McNally; Hon. James Mize; Mr. Snorri Ogata; Mr. Robert Oyung; Mr. Darrel Parker; Hon. Alan G. Perkins; Hon. Peter J. Siggins; Mr. Don Willenburg; Mr. David H. Yamasaki

Advisory Body Members Absent: Prof. Dorothy J. Glancy; Hon. Michael S. Groch; Hon. Sheila F. Hanson

Others Present: Hon. Daniel J. Buckley; Mr. Mark Dusman; Ms. Kathy Fink; Ms. Fati Farmanfarmaian; Ms. Jamel Jones; Mr. Patrick O'Donnell; Ms. Tara Lundstrom; Ms. Jackie Woods; Ms. Jessica Craven

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 4:15 PM, and took roll call.

Approval of Minutes

The advisory body reviewed and approved the minutes of the December 4, 2015, Information Technology Advisory Committee meeting.

Public Comment received from Mr. Jeff Karotkin, Executive Director, Coalition For Improving Court Access. Will discuss later in the appropriate agenda item.

DISCUSSION AND ACTION ITEMS (ITEMS 1-3)

Item 1

Review Rules and Form Proposal to Implement Assembly Bill 879 (Action Required)

Review and decide whether to recommend a rules and form proposal that would implement AB 879, which authorized electronic notices of hearing in certain juvenile dependency hearings. This proposal would amend California Rules of Court, rules 5.524, 5.534, 5.550, 5.708, and 5.815, and would create a new Judicial Council form.

Presenters: Hon. Peter Siggins, Chair, Rules and Policy Subcommittee

Ms. Tara Lundstrom, Attorney, Legal Services

Ms. Diana Glick, Attorney, Center for Families, Children, and the Courts

Update:

Hon. Peter J. Siggins and Ms. Tara Lundstrom provided an update on Assembly Bill 879. This rule has circulated for approval to Family and Juvenile Advisory Committee. It needs to go to RUPRO in March. To amend several rules in title 5. Ms. Lundstrom explained further details of the changes to the form and rule AB 879. All comments and approved materials included in the ITAC materials. This request for approval is asking for ITAC to approve to send to RUPRO.

Motion to Approve the recommendation to send to RUPRO for the council to adopt the rule amendments and forms to implement AB 879.

1st Hon. Louis R. Mauro

2nd Hon. Kyle S. Brodie

Approved

Item 2

Review Rules Proposal to Implement Assembly Bill 1519 (Action Required)

Review and decide whether to recommend a rules proposal that would amend California Rules of Court, rule 2.257, to implement AB 1519. AB 1519 created two exceptions for local child support agencies to the statutory authority governing the retention of original signatures on e-filed pleadings by local child support agencies.

Presenters: Hon. Peter Siggins, Chair, Rules and Policy Subcommittee

Ms. Tara Lundstrom, Attorney, Legal Services

Ms. Diana Glick, Attorney, Center for Families, Children, and the Courts

Update: Justice Siggins and Ms. Lundstrom explained this update allows the change of signatures on electronic documents for AB 1519. This is a modest change, introduces to exceptions. Comments were pro rule change, with only one slight modification. **Motion to Approve the recommendation to send to RUPRO for the council to adopt the rule amendments to implement AB 1519.**

1st Hon. Robert B. Freedman

2nd Hon. Kyle S. Brodie

Approved

Item 3

E-Filing Workstream

Provide an update on the progress of the E-Filing Workstream along with a preliminary discussion of their recommendations. Final recommendations are expected to be considered as part of the March ITAC meeting.

Presenters: Hon. Sheila Hanson, E-Filing Workstream Executive Co-Sponsor
Mr. Rob Oyung, E-Filing Workstream Executive Co-Sponsor
Mr. Snorri Ogata, E-Filing Workstream Project Manager

Update: Mr. Snorri Ogata provided status update on this workstream tasked with researching E-Filing Manager (EFM) and E-Filing Service Provider (EFSP) _ selection/certification options.

EFM Recommendations: To issue an RFP for an E-Filing Manager that:

- Selects more than one statewide EFM
- Covers all litigation types
- Integrates with “core” Case Management Systems (statewide vendors and other CMS)
- Requires EFM vendors to describe their *approach for integration* with “non standard” CMSs including a free-standing e-Delivery option
- Integrates with Judicial Council approved Financial gateway vendors
- Supports electronic payment types beyond credit card
- Provides a zero cost e-filing option for indigent and government filers
- Allows individual courts to retain authority as to which EFM they want
- Clearly discloses costs and services to EFSPs
- Requires compliance with NIEM/ECF as the new State of CA e-filing standard
- Requires option of electronic service of court generated documents

EFSP Recommendations: Create a framework for that:

- Requires all EFSPs to work with all “statewide” EFMs
- Requires all EFSPs to sign an agreement with JCC, individual trial courts, and EFMs
- Requires all EFSPs to integrate with JCC approved Financial gateway vendors
- Requires all EFSPs to be the entity to collect all monies due and distribute to: EFSP (convenience fees), EFM, and the court

Other E-Filing Recommendations:

- All e-filing in the state must adhere to a “consistent framework”
- EFM(s) must maintain and freely share “service list” for all cases
- EMFs may also be EFSPs.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 4:51pm.

Approved by the advisory body on .

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 1. CMS Data Exchanges

Summary	Develop Standardized Approaches to Case Management System (CMS) Interfaces and Data Exchanges with Critical State Justice Partners	
ITAC Resource	Workstream	
Sponsor(s) or Chair(s)	David Yamasaki, Judge Robert Freedman	Project Manager Alan Crouse
JCC Resources	JCIT (Neil Payne, Jackie Woods)	
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.	
Membership Established	<input checked="" type="checkbox"/> Approved by ITAC Chair (8/21/2015) and JCTC (9/15/2015); forwarded to E&P (staff).	
Project Active	<input checked="" type="checkbox"/> Court leads conducting vendor/justice partner sessions.	
Expected Outcomes	1. Documented data exchange elements and format standards 2. Documented governance and modification processes	
Expected Completion	March 2016	

MAJOR TASKS	STATUS	DESCRIPTION
(a) Identify a single data exchange standard between each justice partner and the judicial branch to use as a development target for case management system vendors.	In Progress	Primary requirements and needs were identified, with further confirmation and expansion occurring during justice partner and CMS vendor sessions in progress.
(b) Provide a lead court to act as a point of contact for all case management system vendors and justice partners for each justice partner exchange; and document the current implementation status of each exchange by each vendor.	In Progress	Designated court CIOs are facilitating sessions between justice partners and CMS vendors to refine information, processes, and identify issues for resolution.
(c) Identify the technical standards to be used for the implementation of all data exchanges between the judicial branch and justice partners.	In Progress	Implementation of CMS applications continues to be a discussion as part of the justice partner – CMS vendor sessions and as needed.
(d) Establish a formal governance process for exchange updates and modifications.	In Progress	Key objectives identified, with formal discussion and further decision-making in progress.
(e) Maintain a repository of required materials that support development of standardized exchanges.	In Progress	In the discussion and options review stage.

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 2. E-Filing Strategy

Summary	Update E-Filing Standards; Develop Provider Certification and a Deployment Strategy	
ITAC Resource	Workstream	
Sponsor(s) or Chair(s)	Hon. Sheila F. Hanson, Rob Oyung	Project Manager Snorri Ogata
JCC Resources	Legal Services (Patrick O'Donnell, Tara Lundstrom); no JCIT resources requested to-date.	
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.	
Membership Established	<input checked="" type="checkbox"/> Approved by ITAC Chair (8/21/2015) and JCTC (9/15/2015); forwarded to E&P (staff).	
Project Active	<input checked="" type="checkbox"/> Conducting bi-weekly meetings.	
Expected Outcomes	1. Updated Technical Standards 2. Certification Program	
Expected Completion	July 2016 (6 months)	

MAJOR TASKS	STATUS	DESCRIPTION
(a) Update the technical standards for court e-filing, namely, the XML specification and related schema.	In Progress	Standards recommendation is the NIEM/Oasis ECF specification (https://www.oasis-open.org/committees/legalxml-court filing).
(b) Develop the E-Filing Service Provider (EFSP) selection/certification process.	In Progress	See item (c) below.
(c) Develop the roadmap for an e-filing deployment strategy, approach, and branch solutions/alternatives.	In Progress	Workstream to present E-Filing and EFSP recommendations at March ITAC meeting.

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 3. Next Generation Hosting Strategy

Summary	Assess Alternatives for Transition to a Next-Generation Branchwide Hosting Model		
ITAC Resource	Workstream		
Sponsor(s) or Chair(s)	Hon. Kyle Brodie, Brian Cotta	Project Manager	Heather Pettit
JCC Resources	JCIT (Donna Keating)		
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.		
Membership Established	<input checked="" type="checkbox"/> Approved by ITAC Chair (8/21/2015) and JCTC (9/15/2015); forwarded to E&P (staff).		
Project Active	<input checked="" type="checkbox"/> 3 meetings held with the technical group. Expect next meeting in late March.		
Expected Outcomes	<ol style="list-style-type: none"> 1. Assessment Findings: Best practices, Solution Options 2. Educational Document for Courts 3. Host 1-Day Summit on Hosting 4. Recommendations For Branch-level Hosting 		
Expected Completion	December 2016		

MAJOR TASKS	STATUS	DESCRIPTION
(a) Define workstream project schedule and detailed tasks; gain approval of workstream membership.	In Progress	Membership approved. Project schedule/plan being determined.
(b) Outline industry best practices for hosting (including solution matrix with pros, cons, example applications, and costs).	In Progress	A few conference calls have been held with workstream participants. The initial calls included a “kick-off” and have centered on the workstream approach and beginning of technical discussions including various types of hosting models. Many more conference calls will follow to complete this deliverable.
(c) Produce a roadmap tool for use by courts in evaluating options.	Not Started	
(d) Consider educational summit on hosting options, and hold summit if appropriate.	Not Started	
(e) Identify requirements for centralized hosting.	Not Started	

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 4. Video Remote Interpreting (VRI) Pilot

Summary	Consult As Requested and Implement Video Remote Interpreting Pilot (VRI) Program	
ITAC Resource	Workstream	
Sponsor(s) or Chair(s)	Hon. Terence L. Bruiniers	Project Manager TBD - Seeking PM.
JCC Resources	Requested new PM resource; JCIT (Jenny Phu, Fati Farmanfarmaian, Nate Moore); Court Operations Special Services Office (Anne Marx)	
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.	
Membership Established	<input type="checkbox"/> TBD. Workstream formation is awaiting court and vendor selection for pilot.	
Project Active	<input type="checkbox"/>	
Expected Outcomes	1. Implementation of VRI Pilot Program	
Expected Completion	March 2017 (Phase I)	

MAJOR TASKS	STATUS	DESCRIPTION
(a) In cooperation with the Language Access Plan (LAP) Implementation Task Force Technological Solutions Subcommittee (TSS), assist with identifying participants for a video remote interpreting (VRI) pilot program. Steps include identification of a court participant and issuance of an RFP for a no-cost vendor partner, per the programmatic outline developed in 2015.	In Progress	Presented project concept at Court Executive and Presiding Judges Advisory Committee meetings; and received approval from the JCTC. Detailed pilot proposal is being reviewed and finalized, after which, the project proposal will be presented to the Judicial Council for approval.
(b) Implement Phase I of the VRI pilot program, in cooperation with the TSS.	Not Started	

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 5. SRL E-Services

Summary	Develop Requirements and a Request for Proposal (RFP) for Establishing Online Branchwide Self-Represented Litigants (SRL) E-Services	
ITAC Resource	Workstream	
Sponsor(s) or Chair(s)	Hon. Robert Freedman, Hon. James Mize	Project Manager Brett Howard
JCC Resources	JCIT (Fati Farmanfarmaian; Mark Gelade) and CFCC (Karen Cannata, Diana Glick)	
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.	
Membership Established	<input type="checkbox"/> TBD – Recruitment in progress.	
Project Active	<input type="checkbox"/>	
Expected Outcomes	1. SRL Portal Requirements Document 2. Request for Proposal (RFP)	
Expected Completion	December 2016 (12 months)	

MAJOR TASKS	STATUS	DESCRIPTION
(a) Develop requirements for branchwide SRL e-capabilities to facilitate interactive FAQ, triage functionality, and document assembly to guide SRLs through the process, and interoperability with the branchwide e-filing solution. The portal will be complementary to existing local court services.	Not Started	The workstream Project Manager and JCC resources have been identified. Recruitment for workstream membership is currently taking place, and a final list will be submitted to ITAC and the JCTC in late March for approval. A workstream kickoff meeting is being planned for shortly thereafter. On March 14, leads attended a guided demonstration of Orange Superior Court's new Self-Help portal.

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 6. Disaster Recovery (DR) Framework and Pilot

Summary	Document, Test, and Adopt a Court Disaster Recovery Framework	
ITAC Resource	Workstream	
Sponsor(s) or Chair(s)	Hon. Alan Perkins, Co-Sponsor TBD	Project Manager TBD
JCC Resources	None requested to date.	
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.	
Membership Established	<input type="checkbox"/> TBD – Recruitment for Project Manager in progress.	
Project Active	<input type="checkbox"/>	
Expected Outcomes	1. Disaster Recovery Framework Document and Checklist 2. Findings from Pilot	
Expected Completion	December 2016 (12 months)	

MAJOR TASKS	STATUS	DESCRIPTION
(a) Develop model disaster recovery guidelines, standard recovery times, and priorities for each of the major technology components of the branch.	Not Started	The Executive Sponsor has initiated recruitment for a Project Manager; thereafter, workstream members will be identified.
(b) Develop a disaster recovery framework document that could be adapted for any trial or appellate court to serve as a court's disaster recovery plan.	Not Started	
(c) Create a plan for providing technology components that could be leveraged by all courts for disaster recovery purposes.	Not Started	
(d) Pilot the framework by having one or more courts use it.	Not Started	

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 7. Modernize Rules of Court (Phase II)

Summary	Modernize Trial and Appellate Court Rules to Support E-Business
ITAC Resource	Rules & Policy Subcommittee, Joint Appellate Technology Subcommittee
Sponsor(s) or Chair(s)	Hon. Peter J. Siggins, Hon. Louis R. Mauro
JCC Resources	Legal Services (Patrick O'Donnell, Tara Lundstrom), JCIT (Julie Bagoye)
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.
Membership Established	<input checked="" type="checkbox"/> Rules & Policy Subcommittee
Project Active	<input checked="" type="checkbox"/> Yes. Meeting regularly.
Expected Outcomes	1. Rule and/or Legislative Proposal, if appropriate
Expected Completion	December 2018 (2 years)

MAJOR TASKS	STATUS	DESCRIPTION
<p>(a) In collaboration with other advisory committees, continue review of rules and statutes in a systematic manner and develop recommendations for more comprehensive changes to align with modern business practices (e.g., eliminating paper dependencies).</p> <p>Note: Projects may include rule proposals to amend rules to address formatting of electronic documents, a legislative proposal to provide express statutory authority for permissive e-filing and e-service in criminal cases, and changes to appellate forms to reflect e-filing practices.</p>	In Progress	<p>RPS has recommended for circulation for public comment three legislative proposals and one rules proposal. The legislative proposals would amend the Probate Code, the Welfare and Institutions Code, and the Penal Code to facilitate e-filing and e-service in the probate, juvenile, and criminal courts. They have been recommended for circulation by the Probate and Mental Health Advisory Committee, the Family and Juvenile Law Advisory Committee, and the Criminal Law Advisory Committee. The rules proposal would amend titles 2, 3, and 5 of the California Rules of Court. It has already been recommended by the Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee.</p> <p>JATS has developed and recommended for circulation for public comment a Phase 2 Appellate Rules Modernization proposal. The proposal would make modernizing changes throughout title 8 of the California Rules of Court, and one change in title 10, as well as making changes to numerous appellate forms. It would also create new proof of electronic service forms for use in the Courts of Appeal and the Appellate Division. The proposal has already been recommended by the Appellate Advisory Committee.</p>

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 8. Standards, Rules and/or Legislation for E-Signatures

Summary	Develop Legislation, Rules, and Standards for Electronic Signatures on Documents Filed by Parties and Attorneys
ITAC Resource	Rules & Policy Subcommittee
Sponsor(s) or Chair(s)	Hon. Peter J. Siggins
JCC Resources	Legal Services (Patrick O'Donnell, Tara Lundstrom), JCIT (TBD, as needed)
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.
Membership Established	<input checked="" type="checkbox"/> Rules & Policy Subcommittee
Project Active	<input checked="" type="checkbox"/> Yes. Meeting regularly.
Expected Outcomes	1. Rule and/or Legislative Proposal, if appropriate 2. Recommendation of Standards for Electronic Signatures (Update to the Trial Court Records Manual)
Expected Completion	December 2018(2 years)

MAJOR TASKS	STATUS	DESCRIPTION
(a) Develop legislative and rule proposal to amend Code of Civil Procedure section 1010.6(b)(2) and Cal. Rules of Court, rule 2.257, to authorize electronic signatures on documents filed by the parties and attorneys.	In Progress	RPS has developed and recommended a legislative proposal for circulation for public comment that would authorize electronic signatures on electronically filed documents.
(b) Develop standards governing electronic signatures to be included in the "Trial Court Records Manual."	Not Started	

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 9. Rules for Remote Access to Court Records by Local Justice Partners

Summary	Develop Rule Proposal to Facilitate Remote Access to Trial Court Records by Local Justice Partners
ITAC Resource	Rules & Policy Subcommittee
Sponsor(s) or Chair(s)	Hon. Peter J. Siggins
JCC Resources	Legal Services (Patrick O'Donnell, Tara Lundstrom), JCIT (TBD, as needed)
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.
Membership Established	<input checked="" type="checkbox"/> Rules & Policy Subcommittee
Project Active	<input type="checkbox"/>
Expected Outcomes	1. Rule Proposal
Expected Completion	December 2016

MAJOR TASKS	STATUS	DESCRIPTION
(a) Amend trial court rules to facilitate remote access to trial court records by local justice partners.	Not Started	

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 10. Rules for E-Filing

Summary	Evaluate Current E-Filing Laws and Rules, and Recommend Appropriate Changes
ITAC Resource	Rules & Policy Subcommittee
Sponsor(s) or Chair(s)	Hon. Peter J. Siggins
JCC Resources	Legal Services (Patrick O'Donnell, Tara Lundstrom), JCIT (TBD, as needed)
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.
Membership Established	<input checked="" type="checkbox"/> Rules & Policy Subcommittee
Project Active	<input checked="" type="checkbox"/> Yes. Meeting regularly.
Expected Outcomes	1. Legislative and Rule Proposals
Expected Completion	December 2016

MAJOR TASKS	STATUS	DESCRIPTION
(a) Evaluate current e-filing laws, rules, and amendments. Projects may include reviewing statutes and rules governing Electronic Filing Service Providers (EFSP) and filing deadlines.	In Progress	RPS's evaluation of the e-filing laws and rules informed its development of the legislative proposal.
(b) Develop legislative and rule proposals to amend e-filing laws and rules (Code of Civil Procedure section 1010.6 and California Rules of Court, rule 2.250 et seq.).	In Progress	RPS has developed and recommended a legislative proposal to amend the statutes governing e-filing and e-service in the Code of Civil Procedure.
Note: This effort will be informed by the E-Filing Workstream work.		

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 11. Privacy Policy

Summary	Develop Branch and Model Court Privacy Policies on Electronic Court Records and Access
ITAC Resource	Rules & Policy Subcommittee
Sponsor(s) or Chair(s)	Hon. Peter J. Siggins
JCC Resources	Legal Services (Patrick O'Donnell, Tara Lundstrom), JCIT (TBD, as needed)
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.
Membership Established	<input checked="" type="checkbox"/> Rules & Policy Subcommittee
Project Active	<input type="checkbox"/>
Expected Outcomes	1. Recommendation of Branch Privacy Policy 2. Recommendation of Model Local Court Privacy Policy
Expected Completion	December 2017 (2 years)

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

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 12. Standards for Electronic Court Records

Summary	Develop Standards for Electronic Court Records Maintained as Data
ITAC Resource	Rules & Policy Subcommittee
Sponsor(s) or Chair(s)	Hon. Peter J. Siggins
JCC Resources	Legal Services (Patrick O'Donnell, Tara Lundstrom), JCIT (TBD, as needed)
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.
Membership Established	<input checked="" type="checkbox"/> Rules & Policy Subcommittee
Project Active	<input type="checkbox"/> Being developed primarily by CEAC. ITAC expects to review in latter part of the year.
Expected Outcomes	1. Recommendation of Standards for Electronic Court Records as Data (Update to the Trial Court Records Manual)
Expected Completion	September 2016 (1 year)

MAJOR TASKS	STATUS	DESCRIPTION
(a) In collaboration with the CMS Data Exchange Workstream, develop standards and proposal to allow trial courts to maintain electronic court records as data in their case management systems.	Not Started	
(b) Include standards in update to the Trial Court Records Manual.		

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 13. Appellate Rules for E-Filing

Summary	Amend Rules to Ensure Consistency with E-Filing Practices of Appellate Courts
ITAC Resource	Joint Appellate Technology Subcommittee
Sponsor(s) or Chair(s)	Hon. Louis R. Mauro
JCC Resources	Legal Services (Katherine Sher, Heather Anderson), JCIT (Julie Bagoye)
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.
Membership Established	<input checked="" type="checkbox"/> Joint Appellate Technology Subcommittee
Project Active	<input checked="" type="checkbox"/> Meeting as needed.
Expected Outcomes	1. Rule Proposal, as appropriate
Expected Completion	December 2016 (Spring 2016 Rules Cycle)

MAJOR TASKS	STATUS	DESCRIPTION
(a) Review appellate rules and amend as needed to ensure consistency between the rules and current e-filing practices and to consider whether statewide uniformity in those practices would be desirable.	In Progress	JATS has developed, and recommends for circulation for public comment, a proposal comprehensively to revise the appellate e-filing rules in accordance with current e-filing practices. The proposal has been considered by the Appellate Advisory Committee and is recommended by that committee for circulation.

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 14. Consult on Appellate Court Technological Issues

Summary	Consult, as Requested, On Technological Issues Arising In Or Affecting the Appellate Courts
ITAC Resource	Joint Appellate Technology Subcommittee
Sponsor(s) or Chair(s)	Hon. Louis R. Mauro
JCC Resources	Legal Services (Katherine Sher, Heather Anderson), JCIT (Julie Bagoye)
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.
Membership Established	<input checked="" type="checkbox"/> Joint Appellate Technology Subcommittee
Project Active	<input checked="" type="checkbox"/> Meeting as needed.
Expected Outcomes	1. Recommendations, as needed
Expected Completion	December 2016 (availability as issues arise)

MAJOR TASKS	STATUS	DESCRIPTION
(a) The Joint Appellate Technology Subcommittee (JATS) will provide input on request on technology related proposals considered by other advisory bodies as to how those proposals may affect, or involve, the appellate courts. JATS will consult on appellate court technology aspects of issues, as requested.	As Needed	No JATS input has been sought by other advisory bodies thus far in 2016.

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 15. Tactical Plan for Technology

Summary	Update Tactical Plan for Technology for Effective Date 2017-2019	
ITAC Resource	Chair and Full Committee	
Sponsor(s) or Chair(s)	Hon. Terence L. Bruiniers	Project Manager Kathleen Fink
JCC Resources	JCIT (Kathleen Fink, Jamel Jones)	
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.	
Membership Established	<input type="checkbox"/> TBD	
Project Active	<input type="checkbox"/>	
Expected Outcomes	1. Tactical Plan for Technology 2017-2019	
Expected Completion	December 2016 (work to begin no later than mid-year 2016)	

MAJOR TASKS	STATUS	DESCRIPTION
(a) Review and update the Tactical Plan for Technology.	Not Started	
(b) Circulate for branch and public comment.	Not Started	
(c) Finalize and submit for approval.	Not Started	
Note: Futures Commission outcomes will provide inputs into Strategic and Tactical Plan.		

ITAC PROJECT STATUS REPORT

March 2016

Annual Agenda Project 16. Liaison Collaboration

Summary	Liaison with Advisory Bodies for Collaboration and Information Exchange
ITAC Resource	Liaisons
Sponsor(s) or Chair(s)	Hon. Terence L. Bruiniers
JCC Resources	JCIT (Jamel Jones, Jackie Woods)
Project Authorized	<input checked="" type="checkbox"/> Yes. Approved (1/11/2016) as part of 2016 Annual Agenda.
Membership Established	<input checked="" type="checkbox"/> Refer to liaisons roster.
Project Active	<input checked="" type="checkbox"/> Liaisons attending meetings.
Expected Outcomes	1. Liaison Reports at ITAC Meetings
Expected Completion	Ongoing

MAJOR TASKS	STATUS	DESCRIPTION
(a) Appoint ITAC members to serve as liaisons to identified advisory bodies.	In Progress	Selections complete and liaisons informed. Appointment letters e-mailed in March.
(b) Share ITAC status reports with advisory body chairs and attend liaison committee meetings.	Not Started	
(c) Identify opportunities to collaborate and share liaison feedback to ITAC, the JCTC, the Judicial Council, and the branch, as appropriate.		



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MEMORANDUM

<p>Date March 2, 2016</p> <p>To Members of the Information Technology Advisory Committee (ITAC)</p> <p>From Hon. Sheila Hanson and Rob Oyung Executive Co-Sponsors, ITAC E-Filing Workstream</p> <p>Subject Approve ITAC E-Filing Workstream Recommendations</p>	<p>Action Requested Please Review</p> <p>Deadline March 18, 2016</p> <p>Contact Snorri Ogata Project Manager, ITAC E-Filing Workstream Court Information Officer, Superior Court of California, Los Angeles County SOgata@LAcourt.org</p>
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Executive Summary

The E-Filing Workstream is seeking approval on a series of high-level functional recommendations related to establishing a Statewide E-Filing capability. Once finalized, we are also recommending that ITAC commission the E-Filing Workstream to manage the vendor selection process for a statewide E-Filing Manager (EFM) and statewide E-Filing Service Providers (EFSPs).

The functional recommendations fall into two broad categories:

- Requirements around E-Filing Management
- Requirements around E-Filing Service Providers

These high-level requirements define the major functionality being sought with both the intermediary system (EFM) that sits between Trial Court Case and Document Management Systems and the customer-facing E-Filing Service Provider (EFSP), as well as EFSP

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requirements. In addition, a comprehensive set of overall requirements will be defined as part of the Request for Proposal (RFP) process.

Recommendation

The E-Filing Workstream recommends approval of the high-level functional recommendations to serve as the basis for a statewide RFP to be initiated immediately.

Previous Council Action

The 2015 ITAC agenda called for the creation of a workstream to develop:

- A roadmap and implementation of an e-filing deployment strategy; and
- An E-Filing Service Provider (EFSP) selection/certification process.

The workstream formally kicked off in May 2015 with an E-Filing Summit where alternative E-Filing models were explored.

Rationale for Recommendation

E-filing is a key area of focus in the *Judicial Branch Strategic Plan for Technology (2014-2018)*. Presently e-filing is managed on a county-by-county basis. While this approach has been successful for many courts, it has created inconsistencies across the state in terms of access (most trial courts do not offer e-filing), pricing and availability of EFSPs, to name a few.

The E-Filing Workstream had a variety of court participants (judges, administrators, technologists, lawyers) from a number of courts, as well as members of the Judicial Council staff. The following courts participated in the workstream: Contra Costa, Los Angeles, Monterey, Orange, Sacramento, San Bernardino, San Diego, San Joaquin, San Mateo and Santa Clara.

In May 2015, the E-Filing Workstream kicked off with a meeting in San Francisco. At this meeting, interested trial courts and Judicial Council staff were invited to hear about e-filing experiences in three different courts' environments:

- The State of Texas (vendor-driven, statewide e-Filing)
- The State of Colorado (Court development, statewide e-Filing)
- Orange County of California (trial court implemented solution)

Over the next several months, the E-Filing Workstream refined its recommendations to a variation of the Texas (vendor-driven) approach with four (4) primary differences:

- Selection of "more than one" EFM.
- Requirement that all EFSPs work with all statewide EFMs.
- Requirement that all EFSPs provide services in all participating counties.
- Changes to how monies are managed (court fees, EFM fees, EFSP fees, merchant bank fees, and optional court cost-recovery fees).

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The balance of the high-level functional recommendations captures unique expectations and requirements for California. For example, unlike Texas, California has established an EFSP-friendly environment that encourages many EFSPs to differentiate themselves in the marketplace through other value-added services. This is most evident in Orange County, California which has 14 EFSPs. While all EFSPs can support the needs of all filers in the court, each company has unique areas of focus such as:

- Self-Represented Litigants (Legal Aid Society of Orange County, TurboCourt)
- Civil Collection Cases (ISD)
- Full service Civil (One Legal, Rapid Legal, First Legal)
- Complex Civil (File & Serve Express, formerly Lexis)

The Texas model, largely adopted by several California trial courts that have chosen the Tyler case management system (CMS), is very efficient for courts using Tyler Odyssey, but is not as EFSP friendly as many in the state would prefer. It allows very little differentiation on services by the EFSP community around money management, as an example. In Texas, Tyler the EFM (100% of all transactions) is also the market share EFSP leader (70% of all transactions).

A number of the recommendations brought forward by this workstream are intended to ensure a competitive e-filing marketplace that balances the needs of all four (4) constituencies: the court, the filers, the EFM, and the EFSPs.

Comments, Alternatives Considered, and Policy Implications

Comments on the recommendations were solicited from and received by Court Executive Officers, Court Information Officers, and the Trial Court Presiding Judges Advisory Committee/Court Executive Advisory Committee Joint Technology Subcommittee. Overall feedback was positive and supportive.

During the workstream process, feedback was solicited from 10 EFSPs that currently practice in California. In total, eight (8) companies responded to the following questions:

1. Do you have any concerns if the state chooses multiple e-filing managers?
2. What percentage of your customers would you guess file in multiple counties?
3. Would you object to the state requiring all “statewide” EFSPs to work with all “statewide EFMs”?
4. The state is considering a requirement that all EFMs accept all of the following payment types. Please rank (1-5, 1 being top) your priorities:
 - a. Filer’s Credit Card
 - b. Filer’s eCheck
 - c. EFSP’s Credit Card
 - d. ACH with EFSPs
 - e. Draw down accounts with EFSPs
 - f. If you have another idea, please add it here_____

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All but one EFSP expressed no/limited concerns about multiple EFMs with the general consensus that this was a “healthy model.” The lone dissenting EFSP was from a company that does not currently conduct business in California.

Not surprisingly, an EFSP focused on SRLs responded that 30-40% of their customers file in multiple counties, while the traditional full service EFSPs that cater to law firms responded that 90-100% of customers file in multiple counties. The majority of EFSPs also did not express concerns about all EFSPs working with all EFMs, although two (2) did express concerns about the return on investment (ROI) in such a model.

Payment types saw a wide variance in responses. The more full-service EFSPs wanting alternatives to credit card payments, in particular e-Checks and ACH payments.

In addition, the four (4) major CMS vendors were surveyed about their readiness to work with statewide EFMs and their support of national e-filing standards. All four (4) vendors are ready to begin working with EFMs and at least two (2) of them hope to be selected as statewide EFMs. All four (4) vendors support the [NIEM/ECF e-filing standards](#).

Over the course of the workstream activities, two (2) other e-filing models were given consideration but ultimately rejected.

The status quo alternative of every trial court forging their own path was primarily rejected because it lacked a consistent framework, failed to address the needs of filers that transact with multiple courts, and did not create synergistic economies of scale. There was also a concern that smaller courts would largely be ignored due to low ROI.

The “build” option, modeled after Colorado, was primarily rejected because branch capabilities have been severely reduced during the budget crisis, and the current capacity to build and support a statewide technical solution is limited. There is also no identifiable funding source for development of the overall e-filing environment.

Implementation Requirements, Costs, and Operational Impacts

Until the RFP process is completed, it will not be clear what implementation costs, if any, will be incurred with the recommended approach. It is highly possible that a zero implementation cost model could be created, with revenues (and profits) being achieved on the transactional e-filing activities.

Because e-filing is highly disruptive to individual trial courts, the ultimate solution must leave participation authority with the local court. Before implementing e-filing, a court must have a modern case management system, a document management capability, financial resources to navigate through the transition to a digital court record, and staff available to train and operate

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the new environment. In the long run, e-filing is proven to deliver operational efficiencies to courts. The timing of the transition, however, must be a local court decision.

Finally, a Coalition of EFSPs (and other interested groups) has been formed and is called the Coalition for Improving Court Access (CACI). CACI submitted comments/questions, which are attached. CACI is largely supportive of the recommendations of the workstream but seeks clarification in a few areas. It is recommended that the workstream that is commissioned to develop and manage the RFP process consider and respond to CACI feedback and incorporate appropriate suggestions into the final RFP.

Relevant Strategic Plan Goals and Operational Plan Objectives

E-filing is a key area of focus in the *Judicial Branch Strategic Plan for Technology (2014-2018)* and the *Judicial Branch Tactical Plan for Technology (2014-2016)*.

Attachments

1. E-Filing Workstream Recommendations slide presentation (Mar 4 2016)
2. Comments to ITAC from CICA (Feb 19 2016)

Date: February 19, 2016

To: Information Technology Advisory Committee

From: Coalition for Improving Court Access, Jeff Karotkin - Executive Director

Re: Comments regarding the Draft E-Filing work stream Recommendations being presented February 22, 2016 as Item 3 on the ITAC meeting agenda

Thank you for the opportunity to comment. I submit these comments on behalf of the Coalition for Improving Court Access or CICA. CICA is a registered lobbying coalition in California that is made up of approximately 14 litigation support providers including Electronic Filing Service Providers (EFSPs), attorney support services and a not for profit association California Association of Litigation Support Professionals (CALSPPro).

We have been tracking the activities of ITAC and the E-Filing workgroup to better understand its work product and its potential impact not just on coalition members but the several thousand law firm customers we support every day. Our comments and questions will focus on those items in the draft recommendations that we feel strongest about.

Let me start by saying we are pleased that the Branch and the local courts are addressing the challenges associated with modernizing the existing eFiling and eService rules, as well as, seeking to implement additional policies and procedures that are necessary for the courts and their constituents to benefit from a digital courthouse.

EFM Recommendations

1. **Selects more than one statewide EFM** – The Coalition for Improving Court Access (CICA) supports this objective as long as it doesn't place an undue technical burden and cost on the EFSP community and the filers. Does this recommendation mean that an individual court could opt to support multiple EFMs?
2. **Support electronic payment types beyond credit card** – CICA supports this requirement. We seek to ensure that any CMS/EFM providers and/or EFSPs are required to accept all forms of payment and are in strict compliance with [Government Code 6159](#) and [California Rule of Court 10.820](#). We can point the committee to instances where compliance with the government code and the rules are not being complied with.
3. **Provides a zero cost e-Filing option for Indigent and Government filers** – CICA supports this requirement. We recommend that this requirement apply to the EFSP community as well. The EFSP community in CA already supports free eFiling for Government filers and Indigent Filers. In Orange County Superior Court specifically, Government filers and Indigent filers are supported by the commercial EFSP community as a condition of certification.
4. **Allows individual Courts to retain authority as to which EFM they want to use** – If a court opts to only support one EFM, that EFM is guaranteed 100% of all transactions. CICA suggests that when there is only one (1) EFM the court seeks to ensure that the EFMs policies don't put the EFSPs at a competitive disadvantage. The model currently in place in California where the EFM is also an EFSP guarantees that the EFM/EFSP gets paid their EFSP fee even though the filing originates from the commercial EFSP community. In this example the EFSP community assumes all the cost of sales, marketing, on-boarding, training and

customer support, meaning the EFM/EFSP doesn't have to assume that cost but they get paid the retail rate as if they had assumed those costs. CICA recommends that the cost model supported by the EFM recognizes the value the EFSP community provides by charging the EFSPs less than the retail rate for a transaction.

EFSP Recommendations

1. **Requires all EFSPs to work with all "statewide" EFMs** – CICA supports this in concept as long as it doesn't place an undue technical burden and cost on the EFSP community and the filers.
2. **Requires the EFSPs to be the entity to collect all monies due and distributed monies to: EFSP (convenience fees)** – We are not sure we understand this requirement. Does this mean that the EFSP community is expected to collect the EFMs payment/credit card convenience fee and distribute it to the EFM?
3. **Requires the EFSPs to be the entity to collect all monies due and distributed monies to: EFM (EFM fee)** – As mentioned in a prior comment, CICA has concerns with the EFM business model currently in place in many CA courts. It is our contention that it is anti-competitive in that it ensures that the EFM gets paid for services they didn't provide. CICA recommends whatever the EFM business model is that it provides the EFSP community the ability to be a viable eFiling provider, thus ensuring that the filers have real choice.

Optional Recommendations

1. **EFM must maintain and freely share "service list" for all cases** – CICA supports this requirement. We recommend that the EFM host the eService list on behalf of the court ensuring compliance with CRC 2.251(d). Further, that list shall be made available to the EFSP community so they can perform the act of eService. Currently in the many EFM eFiling programs the EFM hosts the list and the EFM also performs the act of eService; not the EFSP that the filer has contracted with. The rules of court do not currently recognize an EFM as an entity that can perform eService. They do however recognize EFSPs as a provider of eService.

List of CICA questions:

1. Does the state intend to adopt a single set of specifications for electronic filing (e.g., Filing, Confirmations, Court Policy, Request-Response, Payment Reports, CMS-API)? Or will each court and vendor implement different specifications? Or will there be a limited set of specifications (e.g., three different specifications)?
2. If the specifications are the same, will an independent third party certify compliance with the specifications? Will the court certify?
3. If the specifications are not the same, will there be any governance over compliance of individual specifications?

4. The NIEM/ECF specification allows for "extensions". Most vendors, including Tyler, define, include, and often change significant extensions. The extensions, by definition, can be anything that the vendor defines, resulting in "proprietary" and "different" (forked) versions of NIEM/ECF. How does the state intend to manage the various versions of NIEM/ECF defined by different vendors?
5. What is the committee's position on courts not currently supporting NIEM/ECF? Will such courts now have to switch to NIEM/ECF?
6. Regarding the RFP to select more than one EFM, is there a desired number of EFMs? Also, is there any intention for the state to build its own (NEW) EFM, Clerk Review, and Request-Response web services?
7. Should there be a recommendation that the EFSPs meet a minimum set of requirements in order to work with EFMs?
8. Will there be a statewide standard for the amount court/court EFM vendors can charge per e-filing transaction?
9. Electronic service is an offering provided by most private service providers (EFSPs). While it is part of the NIEM/ECF specification, it is not an offering needed or required in a Court EFM for use by private process servers? Does the state intend to require eService through the Court's EFM or will this be optional?
10. The Tyler NIEM/ECF implementation requires EFSPs to provide customer lists to Tyler. If Tyler is also an EFSP, how does the state intend to handle this conflict of interest?
11. The recommendations state that (Court) EFMs (vendors) can also be EFSPs, but limited to free E-filing for fee waiver and government filers. If this is not the case and if the (Court) EFM is used for commercial filings, then does the state intend to set rules so that non-EFM-EFSPs are on equal footing with (Court) EFM-EFSPs (vendors) (which would not be limited to service fees, but also the ability of (Court) EFM-EFSPs to control and change specifications and release software faster than non-EFM-EFSPs?
12. What is the business / revenue model for case types with a large number of government filers (e.g., criminal, family)? Will commercial EFSPs participate in these systems?
13. Will there be a standard as to whether EFSPs are allowed to charge for filings that are ultimately rejected.
14. Will there be a standard as to the time (e.g., days) between the "court confirmation" and collection of money from EFSP customers and the time the EFSP must pay the court (e.g., 5 business days)?

15. Are there timetables established yet for determining the alternatives, approaches, and roadmaps referred to in the document? Will currently certified EFSPs be involved in this process?



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date	Action Requested
March 9th, 2016	Please read before March 18 th , 2016 meeting
To	Deadline
Members of the Information Technology Advisory Committee	March 18th, 2016
From	Contact
Katherine Sher, Attorney, Legal Services	Katherine Sher 415-865-8031 katherine.sher@jud.ca.gov
Subject	
Phase 2 Appellate Rules Modernization proposal	

Introduction

The Joint Appellate Technology Subcommittee (JATS) has, in continuation of the Rules Modernization project begun last year, developed a proposal for further changes to modernize the appellate rules as well as forms used in appellate courts, to facilitate modern e-business practices. This year's Phase 2 Appellate Rules Modernization proposal is a separate proposal for changes to appellate rules and forms, rather than being included in the same proposal with the Phase 2 Rules Modernization changes proposed for the trial courts.

The meeting materials for the March 18th meeting include a draft Invitation to Comment for the proposed changes as well as drafts of the rules and forms as proposed to be amended. The proposed changes have already been considered and approved by the Appellate Advisory Committee (AAC) at its February 29th meeting. If approved by ITAC, the proposal will then be considered by RUPRO for circulation for comment during the April 15th to June 14th comment period.

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The Invitation to Comment gives a detailed description of the proposed changes and the reasons for those changes. This memorandum highlights the most significant changes proposed and gives some background information on how JATS developed the proposals.

Phase 2 of the Appellate Rules Modernization Project

Proposed Rule Changes

The proposed changes to the rules take up where last year's Phase 1 Appellate Rules Modernization changes left off, continuing with technical changes to the rules and in some places, making more substantive changes to facilitate and encourage e-filing and e-service in the appellate courts.

Changes are made throughout the rules to facilitate the use of an electronic record on appeal, and to put in place a new standard for the format of a computer-readable copy of a reporter's transcript. With regard to the use of an electronic record, language is added to the advisory committee comments of rules regarding transmission of the record, stating that the clerk of the trial court may send the record to the reviewing court in electronic format where permitted by the reviewing court and not otherwise prohibited. This is consistent with the language of rule 8.72, which allows electronic filing of documents by trial courts.

This change arises out of a change proposed last year, but taken out of the Rules Modernization proposal after public comment. Last year, the Rules Modernization proposal proposed to add language to rule 8.144 and 8.838 and to the advisory committee comment for rule 8.122 stating that where the local rules of the reviewing court so allow, all or part of the record could be in electronic format. The State Bar Committee on Administration of Justice commented on these changes, urging consideration of the potential impact on indigent appellate litigants, in particular incarcerated litigants and others without access to computers.

The proposed changes were withdrawn, and this year JATS considered how best to encourage the trial courts to send the record to the reviewing court in electronic format where possible, without affecting the law or rules governing the form in which litigants receive their copies of the record. JATS first considered whether to make a change similar to that proposed last year, with the addition of express language creating protections for indigent or incarcerated parties or others who need to receive the record in paper form. However, in considering how to do this, JATS recognized that rule 8.72(a) already expressly allows a trial court to file documents electronically in the reviewing court, including, under the definition of document in rule 8.71, a clerk's or reporter's transcript. JATS therefore decided that the addition of advisory committee comment language to call attention to rule 8.72 would serve the purpose of encouraging trial courts to transmit the record to the reviewing court in electronic form where possible, without affecting how the parties receive the record.

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JATS further decided that because the new language in no way changes the existing rules and does not address the question of the format in which the parties receive the record, no additional language regarding the format in which parties receive the record was necessary. At some point in the future it may be desirable to clarify the rules governing the format in which the parties receive the record, but in the meantime the courts can move ahead to facilitate the use of electronic records by reviewing courts.

The proposed changes to the rules also add language to rule 8.144, regarding the form of the record, to state that a computer-readable copy of a reporter's transcript must be in a text-searchable format approved by the reviewing court. This sets the format standard for such computer-readable copies as allowed under Code of Civil Procedure section 271(b), and replaces the outdated statutory standard set in that code section. Corresponding changes are made throughout the rules where there are references to the existing statutory standard.

In addition, the rules are proposed to be changed to:

- Provide that an order signed electronically has the same effect as an order signed on paper, as provided in Government Code section 68150 (g).
- Replace the word "mail" with send in several rules, to allow e-mail to be used where otherwise permitted.
- Allow certain notices from the clerk of the reviewing court to the clerk of the respondent court to be sent by e-mail, where telephonic notice is now required.
- Allow the clerk of the Court of Appeal to keep a true and correct electronic copy of the reporter's transcript in criminal cases, in lieu of the original which is required by statute to be on paper.

Proposed Form Changes

Two new proof of electronic service forms are proposed to be created, APP-009E for use in the courts of appeal and APP-109E for use in the appellate division. The existing information sheets, APP-009-INFO and APP-109-INFO, regarding service and proof of service are proposed to be revised to explain the requirements for electronic service and to give instructions on the use of the new forms, and throughout the forms references to the new forms are added where there are references to the existing proof of service forms. JATS considered adding electronic service to the existing proof of service forms, but determined that it would be simpler for litigants to have a separate form when service is performed electronically.

In addition, the forms are proposed to be changed to:

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- Remove the words “optional” or “if available” where the forms now ask for e-mail or fax number.
- Remove the integrated proofs of service from APP-002, APP-005 and APP-007.
- Add a new integrated proof of service to form APP-004, the Civil Case Information Sheet. This is proposed to address concerns that the Courts of Appeal often see this form filed without it having been properly served. (Please note that this form is still undergoing editing. The version in your materials contains an error – on the fourth page, in number 3, the name of the document to be served is incorrect. Before the form is submitted to RUPRO, and before it is circulated that error will be corrected.)
- Add language to form MC-275, Petition for Writ of Habeas Corpus, to clarify the requirements as to the number of copies to be filed when the Petition is filed electronically.

Committee Task

Attached for the committee’s review is a draft invitation to comment reflecting JATS’s recommendation, the draft proposed amended rules, and the draft proposed amended forms.

The committee’s task is to review this draft invitation to comment with its rule and form attachments and:

- (1) ask staff or committee members for further information/analysis;
- (2) recommend to RUPRO that the invitation to comment, as proposed or as further revised by the committee, be approved for circulation; or
- (3) reject the proposal.

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

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Rules Modernization Project: Modernization of the Appellate Rules of Court	Review and submit comments by June 14, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend titles 8 and 10 (Cal. Rules of court, rules 8.104, 8.130, 8.144, 8.150, 8.336, 8.409, 8.416, 8.450, 8.452, 8.454, 8.456, 8.480, 8.482, 8.489, 8.619, 8.625, 8.834, 8.866, 8.919, 8.1007, and 10.1028); amend forms APP-002, APP-003, APP-004, APP-005, APP-006, APP-007, APP-008, APP-009, APP-009-INFO, APP-010, APP-011, APP-012, APP-101-INFO, APP-102, APP-103, APP-104, APP-106, APP-107, APP-109, APP-109-INFO, APP-110, APP-150-INFO, APP-151, CR-120, CR-126, CR-132, CR-133, CR-134, CR-135, CR-137, CR-141-INFO, CR-142, CR-143, CR-145, JV-810, JV-816, JV-817, JV-822, JV-825, and MC-275; and create forms APP-009E and APP-109E.	January 1, 2017
	Contact
	Katherine Sher, 415-865-8031 katherine.sher@jud.ca.gov
Proposed by	
Information Technology Advisory Committee	
Hon. Terence L. Bruiniers, Chair	
Appellate Advisory Committee	
Hon. Raymond J. Ikola, Chair	

Executive Summary and Origin

The Information Technology Advisory Committee (ITAC) and Appellate Advisory Committee (AAC) propose changes to the appellate rules and to appellate forms to facilitate modern e-business practices, e-filing, and e-service.

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

Background

Recognizing that courts are swiftly proceeding to a paperless world, ITAC is undertaking the Rules Modernization Project, a collaborative effort comprehensively to review and modernize the California Rules of Court so that they will be consistent with and foster modern e-business practices. Last year, the AAC assisted in Phase 1 of the Project by identifying technical changes to the appellate rules needed to eliminate rule language inconsistent with current e-filing, e-service, and other e-business practices of the appellate courts. This year, ITAC and the AAC propose more substantive changes to the rules to facilitate and encourage use of modern e-business practices by the appellate courts, as well as further technical changes to rules and forms that have been identified as necessary.

The Proposal

The proposal would make a number of changes affecting the appellate rules and appellate forms. These changes are needed to make the rules and forms consistent with modern e-filing and e-service practices in the appellate courts. In particular, the proposal would:

- Add language to rule 8.104 providing that an order signed electronically has the same effect as an order signed on paper. This is consistent with existing law under Government Code section 68150 (g), which provides that an order signed using a computer holds the same force and effect as an order signed on paper. Some appellate courts have interpreted “signed order” under rule 8.104 (c)(2) to require an order signed on paper. The change is intended to clarify that a signed paper order is not required.
- Add language in rule 8.144, subdivision (a), setting the format standard for computer-readable copies of reporters’ transcripts as any text-searchable format approved by the reviewing court. Corresponding changes are made throughout the rules to change references to the existing format standard, set by Code of Civil Procedure section 271, to instead refer to the new provision. This change is needed to replace the outdated format standard set under Code of Civil Procedure section 271(b) for computer readable copies of reporters’ transcripts, which currently requires that they be on disks in standard ASCII code. Section 271(b) expressly permits the Judicial Council to adopt a format standard to be used in lieu of the statutory standard. The new standard proposed to be set in rule 8.144 sets a baseline that the format must allow for text-searching capability and allow original document formatting to be maintained. However, it gives reviewing courts flexibility as to what specific formats are permitted, to allow for changes as new document-formatting programs are developed.
- Add language to the advisory committee comments to rules 8.150, 8.336, 8.409, 8.416, 8.450, 8.454, 8.480, 8.482, and 8.1007 stating that under rule 8.72(a), the superior court clerk may send the record to the reviewing court in electronic format where permitted by the reviewing court and not otherwise prohibited. Rule 8.72(a) allows electronic filing of documents by trial courts, including, under the definition of document in rule 8.71, a clerk’s or reporter’s transcript or other document transmitted from the trial court to the

reviewing court. As the appellate courts implement e-filing the use of electronically filed records will become more common. The rules should be clear that this is permitted where the reviewing court allows it and there is no other rule or statute applicable in the particular case that would disallow use of an electronic record.

- Replace the word “mail” with “send” and “mailed” with “sent” in Rules 8.450 and 8.454, and add e-mail to the list of ways the superior court clerk can send out notice as required. Rules 8.450 and 8.454 set out the procedures for filing and sending a notice of intent to file a writ petition in proceedings under specified Welfare and Institutions Code provisions. The proposed changes will allow for the possibility of e-mailing of notice where otherwise permitted.
- In Rules 8.452 and 8.456, allow notice from the clerk of the reviewing court to the clerk of the respondent court in specified urgent situations to be telephone or e-mail, where only telephonic notice is allowed under the existing rule. This is intended to aid the courts where e-mail notice may be more convenient and more effective both for the court sending notice and for the court receiving notice.
- In Rule 10.1028, allow the clerk of a Court of Appeal to keep a true and correct electronic copy of the reporter’s transcript in a criminal case in which the court affirms a judgment of conviction. The existing rule requires the original of the reporter’s transcript to be kept, for a period of twenty years. As the original of the reporter’s transcript must be on paper, as required by Code of Civil Procedure section 271, the change is needed to lessen the burden on the Courts of Appeal of having to provide for the long-term storage of numerous bulky paper transcripts.
- Make changes to forms APP-002, APP-003, APP-004, APP-005, APP-006, APP-007, APP-008, APP-010, APP-011, APP-012, APP-102, APP-103, APP-104, APP-106, APP-107, APP-110, APP-151, CR-126, CR-132, CR-133, CR-134, CR-135, CR-137, CR-142, CR-143, CR-145, JV-810, JV-816, JV-817, JV-822, and JV-825 to remove the words “optional” or “if available” where the forms ask for an e-mail address or fax number.
- Remove the integrated proof of service from forms APP-002, APP-005, and APP-007. This change is proposed to encourage litigants filing and serving these forms to use either the existing proof of service form, APP-009, or the proposed new form for proof of electronic service, proposed APP-009E.
- Add an integrated proof of service to form APP-004, the Civil Case Information Sheet, that would allow proof of service by mail, personal delivery, or electronic service.
- Add a note to form APP-009 noting that it should not be used for proof of electronic service, and that new form APP-009E should be used instead.

- Add information to form APP-009-INFO, Information Sheet for Proof of Service (Court of Appeal) regarding electronic service and the new form APP-009E, Proof of Electronic service.
- Create new form APP-009E, Proof of Electronic Service and add references to this new form throughout the forms whenever the existing APP-009, Proof of Service (Court of Appeal) is referenced.
- Change information on proof of service in form APP-101-INFO, Information on Appeal Procedures for Limited Civil Cases to reflect the possibility of electronic service and the proposed new form for proof of electronic service.
- Add language to form APP-109 noting that proposed new form APP-109E should be used for proof of electronic service.
- Add information to form APP-109-INFO, “What is Proof of Service?” regarding electronic service and the new form APP-109E, Proof of Electronic Service (Appellate Division).
- Create new form APP-109E, Proof of Electronic Service.
- Change information on proof of service in form APP-150-INFO, Information on Writ Proceedings in Misdemeanor, Infraction and Limited Civil Cases, to reflect the possibility of electronic service.
- Add a space for attorney e-mail on form CR-120, Notice of Appeal - Felony.
- Add language to form MC-275, Petition for Writ of Habeas Corpus, to reflect that different requirements as to the number of copies to be filed apply if the Petition is filed electronically.

Alternatives Considered

With regard to new language in rule 8.144, setting a format standard for computer-readable copies of reporters’ transcripts, the committees considered whether the transcripts should be required to be in text-searchable PDF format. Because new programs are coming into use that allow similar, and even enhanced, text-searching functions, the committees determined that a more open-ended standard was appropriate.

With regard to the new language added in multiple advisory committee comments stating that the record can be sent from the trial court to the reviewing court in electronic form, the committees considered whether substantive changes are needed in those rules addressing preparation of the record on appeal to put in place express protections for indigent, incarcerated, or other litigants who may not be able to access a record if it is in electronic form, such that those litigants would

be able to receive the record in paper form. Because the proposed changes are non-substantive, and simply re-state what is already permitted under the existing language of the rules, the committees decided that the proposed change should be made to encourage the use of records in electronic form.

With regard to the changes allowing use of e-mail for sending various notices in appeals of certain kinds of juvenile cases, the committees considered whether in these cases, non-electronic means of sending notices should continue to be required, although e-mail notice, where permitted as to the person receiving the notice, is now a possibility in other types of appeals. The committees consulted with the Family and Juvenile Law Advisory Committee, which determined that the change would be beneficial in those cases where e-mail could be used, without prejudicing those persons and parties who are unable to receive e-mail notices.

With regard to the change to rule 10.1028 the committees considered whether legislative action should be pursued so that the original of a reporter's transcript would no longer be required to be in paper form, addressing the storage problem faced by the Courts of Appeal. Because legislative change is uncertain, the committees determined that the change in the rule should be made.

With regard to removing the language from forms stating that e-mail addresses or fax numbers are "optional" or only to be provided "if available" the committees considered several options. Leaving those forms stating that these are "optional" was determined to be undesirable, because the courts want to have the e-mail addresses of parties and counsel whenever possible. Second, the committees considered whether the spaces provided for e-mail and fax should both state that these are to be provided "if available." The committees determined that this language is unnecessary; parties know to leave the spaces blank if they do not have fax or e-mail. Third, the committees considered whether to leave these changes until other changes are proposed to the forms where the changes are proposed. However, the committees determined that it was more efficient to address the issue on all forms through this proposal.

With regard to creation of new electronic proof of service forms, the committees considered whether to add electronic proof of service to the existing proof of service forms. However, using the trial court Proof of Electronic Service, form POS-050, as a model, the committees determined that creation of separate forms and information sheets would make it easier for litigants to understand the different requirements that apply when service is performed electronically. The committees also considered whether separate information sheets should be created for the new proof of electronic service forms, but determined that there would be less risk of confusion if litigants were able to get information on all means of service in one information sheet. The committees further considered whether to leave in place the integrated proofs of service on forms APP-002, APP-005 and APP-007, adding language to those forms to allow for electronic service. However, the committees determined that for purposes of changes that may be needed to proof of service forms in the future, it was advantageous to remove the integrated forms and refer litigants to the stand-alone proof of service forms.

Implementation Requirements, Costs, and Operational Impacts

ITAC and the AAC do not anticipate that the changes to the rules will incur new costs or require implementation on the part of the courts. Some of the changes should result in cost efficiencies as more documents are transmitted and stored in electronic format. The changes to the forms will require that the amended forms be posted online and made available in print to litigants; any increased cost resulting from the changes should be minimal.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Specific comments are invited on newly created subdivision 8.144(a)(4).
- Specific comments are invited on the change to the advisory committee comments to rules 8.150, 8.336, 8.409, 8.416, 8.450, 8.454, 8.480, 8.482, and 8.1007.
- Specific comments are invited on creation of separate proof of service forms for proof of electronic service.

The advisory committees also seeks comments from *courts* on the following cost and implementation matters:

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

Attachments and Links

1. Cal. Rules of Court, amendments to title 8, at pages __-__.
2. Cal. Rules of Court, amendments to title 10, at pages __-__.
3. Amended forms APP-002, APP-003, APP-004, APP-005, APP-006, APP-007, APP-008, APP-009, APP-009-INFO, APP-010, APP-011, APP-012, APP-101-INFO, APP-102, APP-103, APP-104, APP-106, APP-107, APP-109, APP-109-INFO, APP-110, APP-150-INFO, APP-151, CR-120, CR-126, CR-132, CR-133, CR-134, CR-135, CR-137, CR-141-INFO, CR-142, CR-143, CR-145, JV-810, JV-816, JV-817, JV-822, JV-825, and MC-275 at pages __-__.
4. Proposed new forms APP-009E and APP-109E at pages __-__.

Title 8. Appellate Rules

Division 1. Rules Relating to the Supreme Court and Courts of Appeal

Chapter 2. Civil Appeals

Article 1. Taking the Appeal

* * *

Rule 8.104. Time to appeal

(a)-(b) * * *

(c) What constitutes entry

For purposes of this rule:

- (1) The entry date of a judgment is the date the judgment is filed under Code of Civil Procedure section 668.5, or the date it is entered in the judgment book.
- (2) The entry date of an appealable order that is entered in the minutes is the date it is entered in the permanent minutes. But if the minute order directs that a written order be prepared, the entry date is the date the signed order is filed; a written order prepared under rule 3.1312 or similar local rule is not such an order prepared by direction of a minute order.
- (3) The entry date of an appealable order that is not entered in the minutes is the date the signed order is filed.
- (4) The entry date of a decree of distribution in a probate proceeding is the date it is entered at length in the judgment book or other permanent court record.
- (5) An order signed electronically has the same effect as an order signed on paper.

(d)-(e) * * *

Advisory Committee Comment

* * *

* * *

Article 2. Record on Appeal**Rule 8.130. Reporter's transcript**

(a)-(e) * * *

(f) Filing the transcript; copies; payment

(1)-(3) * * *

- (4) On request, and unless the superior court orders otherwise, the reporter must provide the Court of Appeal or any party with a copy of the reporter's transcript in computer-readable format. Each computer-readable copy must ~~comply with the format, labeling, content, and numbering requirements of Code of Civil Procedure section 271(b)~~ comply with the requirements of rule 8.144 (a)(4).

(g)-(h) * * *

Rule 8.144. Form of the record**(a) Paper and format**

- (1) In the clerk's and reporter's transcripts:
- (A) All documents filed must have a page size of 8½ by 11 inches. If filed in paper form, the paper must be white or unbleached and of at least 20-pound weight;
 - (B) The text must be reproduced as legibly as printed matter;
 - (C) The contents must be arranged chronologically;
 - (D) The pages must be consecutively numbered, except as provided in (e);
 - (E) The margin must be at least 1¼ inches from the left edge.
- (2) If filed in paper form, in the clerk's transcript only one side of the paper may be used; in the reporter's transcript both sides may be used, but the margins must then be 1¼ inches on each edge.
- (3) In the reporter's transcript the lines on each page must be consecutively numbered, and must be double-spaced or one-and-a-half-spaced; double-spaced means three lines to a vertical inch.

1 (4) A computer-readable copy of a reporter’s transcript must be in a text-
2 searchable format approved by the reviewing court while maintaining
3 original document formatting.

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

7
8 **(b)-(f) * * ***

9
10 **Advisory Committee Comment**

11
12 **Subdivisions (a) and (b).** Subdivision (a)(4) is adopted pursuant to Code of Civil Procedure
13 section 271(b), which allows the Judicial Council to adopt format requirements for computer-
14 readable copies of a reporter’s transcript. Subdivisions (a)~~(4)~~(5) and (b) refer to special
15 requirements concerning sealed and confidential records established by rules 8.45–8.47. Rule
16 8.45(c)(2) and (3) establish special requirements regarding references to sealed and confidential
17 records in the alphabetical and chronological indexes to clerk’s and reporter’s transcripts.

18
19 * * *

20
21 **Rule 8.150. Filing the record**

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

24
25 When the record is complete, the superior court clerk must promptly send the
26 original to the reviewing court and the copy to the appellant.

27
28 **(b) * * ***

29
30 **Advisory Committee Comment**

31
32 **Subdivision (a).** Under rule 8.72 (a), the superior court clerk may send the record to the
33 reviewing court in electronic form where permitted by the reviewing court and not otherwise
34 prohibited.

35
36 * * *

37
38 **Chapter 3. Criminal Appeals**

39
40 **Article 2. Record on Appeal**

41
42 **Rule 8.336. Preparing, certifying, and sending the record**

43
44 **(a)-(c) * * ***

45
46 **(d) Reporter’s transcript**
47

1 (1) * * *

2
3 (2) The reporter must prepare an original and the same number of copies of the
4 reporter's transcript as (c) requires of the clerk's transcript, and must certify
5 each as correct. On request, and unless the trial court orders otherwise, the
6 reporter must provide the Court of Appeal and any party with a copy of the
7 reporter's transcript in computer-readable format. Each computer-readable
8 copy must ~~comply with the format, labeling, content, and numbering~~
9 ~~requirements of Code of Civil Procedure section 271(b)~~ comply with the
10 requirements of rule 8.144(a)(4).

11
12 (3)-(5) * * *

13
14 *(Subd (d) amended effective January 1, 2016; previously amended effective January 1,*
15 *2007, and January 1, 2014.)*

16
17 (e)-(h) * * *

18
19 **Advisory Committee Comment**

20
21 **Subdivision (a).** Subdivision (a) implements Code of Civil Procedure section 269(b).

22
23 **Subdivision (d).** This subdivision is intended to implement Code of Civil Procedure section 271,
24 which allows any court, party, or other person entitled to a reporter's transcript to request that it
25 be delivered in computer-readable format (except that an original transcript must be on paper) and
26 requires the reporter to provide the transcript in that format upon request if the proceedings were
27 produced using computer-aided transcription equipment. This subdivision establishes procedures
28 relating to such requests and procedures for court reporters to apply to the superior court for relief
29 from this requirement if the proceedings were not produced using computer-aided transcription
30 equipment. Government Code section 69954 establishes the fees for reporter's transcripts in
31 computer-readable format.

32
33 **Subdivision (f).** Examples of confidential records include Penal Code section 1203.03 diagnostic
34 reports, records closed to inspection by court order under *People v. Marsden* (1970) 2 Cal.3d 118
35 or *Pitchess v. Superior Court* (1974) 11 Cal.3d 531, in-camera proceedings on a confidential
36 informant, and defense expert funding requests (Pen. Code, § 987.9; *Keenan v. Superior Court*
37 (1982) 31 Cal.3d 424, 430).

38
39 **Subdivision (g).** Under rule 8.72 (a), the superior court clerk may send the record to the
40 reviewing court in electronic form where permitted by the reviewing court and not otherwise
41 prohibited.

42
43 * * *

44
45
46 **Chapter 5. Juvenile Appeals and Writs**

47

1 **Article 2. Appeals**

2

3 **Rule 8.409. Preparing and sending the record**

4

5 **(a)-(b)** * * *

6

7 **(c) Preparing and certifying the transcripts**

8

9 Within 20 days after the notice of appeal is filed:

10

11 (1) The clerk must prepare and certify as correct an original of the clerk's

12 transcript and one copy each for the appellant, the respondent, the child's

13 Indian tribe if the tribe has intervened, and the child if the child is represented

14 by counsel on appeal or if a recommendation has been made to the Court of

15 Appeal for appointment of counsel for the child under rule 8.403(b)(2) and

16 that recommendation is either pending with or has been approved by the

17 Court of Appeal but counsel has not yet been appointed; and

18

19 (2) The reporter must prepare, certify as correct, and deliver to the clerk an

20 original of the reporter's transcript and the same number of copies as (1)

21 requires of the clerk's transcript. On request, and unless the trial court orders

22 otherwise, the reporter must provide the Court of Appeal and any party with a

23 copy of the reporter's transcript in computer-readable format. Each

24 computer-readable copy must ~~comply with the format, labeling, content, and~~

25 ~~numbering requirements of Code of Civil Procedure section 271(b)~~ comply

26 with the requirements of rule 8.144(a)(4).

27

28 **(d)-(e)** * * *

29

30

31 **Advisory Committee Comment**

32

33 **Subdivision (a)-Subdivision (b).** * * *

34

35 **Subdivision (c)(2).** This subdivision is intended to implement Code of Civil Procedure section

36 271, which allows any court, party, or other person entitled to a reporter's transcript to request

37 that it be delivered in computer-readable format (except that an original transcript must be on

38 paper) and requires the reporter to provide the transcript in that format upon request if the

39 proceedings were produced using computer-aided transcription equipment. This subdivision

40 establishes procedures relating to such requests and procedures for court reporters to apply to the

41 superior court for relief from this requirement if the proceedings were not produced using

42 computer-aided transcription equipment. Government Code section 69954 establishes the fees for

43 reporters' transcripts in computer-readable format.

44

45 **Subdivision (e).** Under rule 8.72 (a), the superior court clerk may send the record to the

46 reviewing court in electronic form where permitted by the reviewing court and not otherwise

47 prohibited. Subsection (1)(B) clarifies that when a child's Indian tribe has intervened in the

48 proceedings, the tribe is a party who must receive a copy of the appellate record. The statutes that

1 require notices to be sent to a tribe by registered or certified mail return receipt requested and
 2 generally be addressed to the tribal chairperson (25 U.S.C. § 1912 (a), 25 C.F.R. § 23.11, and
 3 Welf. & Inst. Code, § 224.2) do not apply to the sending of the appellate record.

4
 5 * * *

6
 7 **Rule 8.416. Appeals from all terminations of parental rights; dependency appeals in**
 8 **Orange, Imperial, and San Diego Counties and in other counties by local rule**
 9

10 (a)-(b) * * *

11
 12 (c) **Preparing, certifying, and sending the record**

13
 14 (1) Within 20 days after the notice of appeal is filed:

15
 16 (A) The clerk must prepare and certify as correct an original of the clerk's
 17 transcript and one copy each for the appellant, the respondent, the
 18 district appellate project, the child's Indian tribe if the tribe has
 19 intervened, and the child if the child is represented by counsel on
 20 appeal or if a recommendation has been made to the Court of Appeal
 21 for appointment of counsel for the child under rule 8.403(b)(2) and that
 22 recommendation is either pending with or has been approved by the
 23 Court of Appeal but counsel has not yet been appointed; and

24
 25 (B) The reporter must prepare, certify as correct, and deliver to the clerk an
 26 original of the reporter's transcript and the same number of copies as (A)
 27 requires of the clerk's transcript. On request, and unless the trial court orders
 28 otherwise, the reporter must provide the Court of Appeal and any party with a
 29 copy of the reporter's transcript in computer-readable format. Each
 30 computer-readable copy must ~~comply with the format, labeling, content, and~~
 31 ~~numbering requirements of Code of Civil Procedure section 271(b)~~ comply
 32 with the requirements of rule 8.144(a)(4).

33
 34 (2) When the clerk's and reporter's transcripts are certified as correct, the clerk
 35 must immediately send:

36
 37 (A) The original transcripts to the reviewing court by the most expeditious
 38 method, noting the sending date on each original; and

39
 40 (B) One copy of each transcript to the district appellate project and to the
 41 appellate counsel for the following, if they have appellate counsel, by
 42 any method as fast as United States Postal Service express mail:

43
 44 (i) The appellant;

45
 46 (ii) The respondent;
 47

1 (iii) The child’s Indian tribe if the tribe has intervened; and

2
3 (iv) The child.

- 4
5 (3) If appellate counsel has not yet been retained or appointed for the appellant or
6 the respondent or if a recommendation has been made to the Court of Appeal
7 for appointment of counsel for the child under rule 8.403(b)(2) and that
8 recommendation is either pending with or has been approved by the Court of
9 Appeal but counsel has not yet been appointed, when the transcripts are
10 certified as correct, the clerk must send that counsel’s copies of the
11 transcripts to the district appellate project. If a tribe that has intervened is not
12 represented by counsel when the transcripts are certified as correct, the clerk
13 must send that counsel’s copy of the transcripts to the tribe.

14
15 (d)-(h) * * *

16
17
18 **Advisory Committee Comment**

19
20 Subdivision (c). Under rule 8.72 (a), the superior court clerk may send the record to the
21 reviewing court in electronic form where permitted by the reviewing court and not otherwise
22 prohibited.

23
24 **Subdivision (g).** Effective January 1, 2007, revised rule 8.416 incorporates a new subdivision (g)
25 to address a failure to timely file a brief in all termination of parental rights cases and in
26 dependency appeals in Orange, Imperial, and San Diego Counties. Under the new subdivision,
27 appellants would not have the full 30-day grace period given in rule 8.412(d) in which to file a
28 late brief, but instead would have the standard 15-day grace period that is given in civil cases.
29 The intent of this revision is to balance the need to determine the appeal within 250 days with the
30 need to protect appellants’ rights in this most serious of appeals.

31
32 **Subdivision (h).** Subdivision (h)(1) recognizes certain reviewing courts’ practice of requiring
33 counsel to file any request for oral argument within a time period other than 15 days after the
34 appellant’s reply brief is filed or due to be filed. The reviewing court is still expected to determine
35 the appeal “within 250 days after the notice of appeal is filed.” (*Id.*, Subd 8.416(e).)

36
37 * * *

38
39 **Article 3. Writs**

40
41 **Rule 8.450. Notice of intent to file writ petition to review order setting hearing**
42 **under Welfare and Institutions Code section 366.26**

43
44 (a)-(f) * * *

45
46 (g) **Sending the notice of intent**

47

- 1 (1) When the notice of intent is filed, the superior court clerk must
2 immediately ~~mail~~ send a copy of the notice to:
3
- 4 (A) The attorney of record for each party;
5
- 6 (B) Each party, including the child if the child is 10 years of age or older;
7
- 8 (C) Any known sibling of the child who is the subject of the hearing if that
9 sibling either is the subject of a dependency proceeding or has been
10 adjudged to be a dependent child of the juvenile court as follows:
11
- 12 (i) If the sibling is under 10 years of age, on the sibling's attorney;
13
- 14 (ii) If the sibling is 10 years of age or over, on the sibling and the
15 sibling's attorney.
16
- 17 (D) The mother, the father, and any presumed and alleged parents;
18
- 19 (E) The child's legal guardian, if any;
20
- 21 (F) Any person currently awarded by the juvenile court the status of the
22 child's de facto parent;
23
- 24 (G) The probation officer or social worker;
25
- 26 (H) Any Court Appointed Special Advocate (CASA) volunteer;
27
- 28 (I) The grandparents of the child, if their address is known and if the
29 parents' whereabouts are unknown; and
30
- 31 (J) If the court knows or has reason to know that an Indian child is
32 involved, the Indian custodian, if any, and tribe of the child or the
33 Bureau of Indian Affairs as required under Welfare and Institutions
34 Code section 224.2.
35
- 36 (2) The clerk must promptly send by first-class mail, e-mail, or fax a copy of the
37 notice of intent and a list of those to whom the notice of intent was sent to:
38
- 39 (A) The reviewing court; and
40
- 41 (B) The petitioner if the clerk ~~mailed~~ sent the notice of intent to the Indian
42 custodian, tribe of the child, or the Bureau of Indian Affairs.
43
- 44 (3) If the party was notified of the order setting the hearing only by mail, the
45 clerk must include the date that the notification was mailed.
46

1 (h)-(j) * * *

2
3 **Advisory Committee Comment**
4

5 **Subdivision (d).** The case law generally recognizes that the reviewing courts may grant
6 extensions of time under these rules for exceptional good cause. (See, e.g., *Jonathan M. v.*
7 *Superior Court* (1995) 39 Cal.App.4th 1826, and *In re Cathina W.* (1998) 68 Cal.App.4th 716
8 [recognizing that a late notice of intent may be filed on a showing of exceptional circumstances
9 not under the petitioner’s control].) It may constitute exceptional good cause for an extension of
10 the time to file a notice of intent if a premature notice of intent is returned to a party shortly
11 before the issuance of an order setting a hearing under Welfare and Institutions Code section
12 366.26.

13
14 **Subdivision (e)(4).** See rule 8.25(b)(5) for provisions concerning the timeliness of documents
15 mailed by inmates or patients from custodial institutions.

16
17 **Subdivision (f)(1).** A party who prematurely attempts to file a notice of intent to file a writ
18 petition under Welfare and Institutions Code section 366.26 is not precluded from later filing
19 such a notice after the issuance of an order setting a hearing under Welfare and Institutions Code
20 section 366.26.

21
22 **Subdivision (i).** Under rule 8.72 (a), the superior court clerk may send the record to the reviewing
23 court in electronic form where permitted by the reviewing court and not otherwise prohibited.
24

25
26 **Rule 8.452. Writ petition to review order setting hearing under Welfare and**
27 **Institutions Code section 366.26**

28
29 (a)-(g) * * *

30
31 **(h) Decision**

- 32
33 (1) Absent exceptional circumstances, the reviewing court must decide the
34 petition on the merits by written opinion.
35
36 (2) The reviewing court clerk must promptly notify the parties of any decision
37 and must promptly send a certified copy of any writ or order to the court
38 named as respondent.
39
40 (3) If the writ or order stays or prohibits proceedings set to occur within 7 days
41 or requires action within 7 days—or in any other urgent situation—the
42 reviewing court clerk must make a reasonable effort to notify the clerk of the
43 respondent court by telephone or e-mail. The clerk of the respondent court
44 must then notify the judge or officer most directly concerned.
45
46 (4) The reviewing court clerk need not give telephonic or e-mail notice of the
47 summary denial of a writ, unless a stay previously issued will be dissolved.
48

1 (i) * * *

2
3 **Advisory Committee Comment**

4
5 * * *

6
7
8 **Rule 8.454. Notice of intent to file writ petition under Welfare and Institutions Code**
9 **section 366.28 to review order designating specific placement of a dependent**
10 **child after termination of parental rights**

11
12 (a)-(f) * * *

13
14 (g) **Sending the notice of intent**

15
16 (1) When the notice of intent is filed, the superior court clerk must
17 immediately ~~mail~~ send a copy of the notice to:

- 18 (A) The attorney of record for each party;
- 19 (B) Each party, including the child if the child is 10 years of age or older;
- 20 (C) Any known sibling of the child who is the subject of the hearing if that
21 sibling either is the subject of a dependency proceeding or has been
22 adjudged to be a dependent child of the juvenile court as follows:
 - 23 (i) If the sibling is under 10 years of age, on the sibling’s attorney;
 - 24 (ii) If the sibling is 10 years of age or over, on the sibling and the
25 sibling’s attorney;
- 26 (D) Any prospective adoptive parent;
- 27 (E) The child’s legal guardian if any;
- 28 (F) Any person currently awarded by the juvenile court the status of the
29 child’s de facto parent;
- 30 (G) The probation officer or social worker;
- 31 (H) The child’s Court Appointed Special Advocate (CASA) volunteer, if
32 any; and
- 33 (I) If the court knows or has reason to know that an Indian child is
34 involved, the Indian custodian, if any, and tribe of the child or the
35 Bureau of Indian Affairs as required under Welfare and Institutions
36 Code section 224.2.

- 1
2 (2) The clerk must promptly send by first-class mail, e-mail, or fax a copy of the
3 notice of intent and a list of those to whom the notice of intent was sent to:
4
5 (A) The reviewing court; and
6
7 (B) The petitioner if the clerk ~~mailed~~ sent a copy of the notice of intent to
8 the Indian custodian, tribe of the child, or the Bureau of Indian Affairs.
9
10 (3) If the party was notified of the post placement order only by mail, the clerk
11 must include the date that the notification was mailed.
12

13 (h)-(j) * * *

14
15 **Advisory Committee Comment**

16
17 **Subdivision (f)(2).** See rule 8.25(b)(5) for provisions concerning the timeliness of documents
18 mailed by inmates or patients from custodial institutions.
19

20 **Subdivision (i).** Under rule 8.72 (a), the superior court clerk may send the record to the reviewing
21 court in electronic form where permitted by the reviewing court and not otherwise prohibited.
22

23 **Rule 8.456. Writ petition under Welfare and Institutions Code section 366.28 to**
24 **review order designating or denying specific placement of a dependent child**
25 **after termination of parental rights**
26

27 (a)-(g) * * *

28
29 (h) **Decision**

- 30
31 (1) Absent exceptional circumstances, the reviewing court must review the
32 petition and decide it on the merits by written opinion.
33
34 (2) The reviewing court clerk must promptly notify the parties of any decision
35 and must promptly send a certified copy of any writ or order to the court
36 named as respondent.
37
38 (3) If the writ or order stays or requires action within 7 days—or in any other
39 urgent situation—the reviewing court clerk must make a reasonable effort to
40 notify the clerk of the respondent court by telephone or e-mail. The clerk of
41 the respondent court must then notify the judge or officer most directly
42 concerned.
43
44 (4) The reviewing court clerk need not give telephonic or e-mail notice of the
45 summary denial of a writ, unless a stay previously issued and will be
46 dissolved.
47

1 (5) Rule 8.490 governs the filing, modification, finality of decisions, and
 2 remittitur in writ proceedings under this rule.

3
 4 (i) * * *

5
 6 * * *

7
 8 **Rule 8.480. Appeal from order establishing conservatorship**

9
 10 (a)-(e) * * *

11
 12 **Advisory Committee Comment**

13
 14 **Subdivision (a).** Under rule 8.72 (a), the superior court clerk may send the record to the
 15 reviewing court in electronic form where permitted by the reviewing court and not otherwise
 16 prohibited.

17
 18 **Chapter 6. Conservatorship Appeals**

19
 20 **Rule 8.482. Appeal from judgment authorizing conservator to consent to**
 21 **sterilization of conservatee**

22
 23 (a)-(i) * * *

24
 25 **Advisory Committee Comment**

26
 27 **Subdivision (a).** Under rule 8.72 (a), the superior court clerk may send the record to the
 28 reviewing court in electronic form where permitted by the reviewing court and not otherwise
 29 prohibited.

30
 31 * * *

32 **Chapter 7. Writs of Mandate, Certiorari, and Prohibition in the Supreme Court**
 33 **and Court of Appeal**

34
 35
 36 **Rule 8.489. Notice to trial court**

37
 38 (a) * * *

39
 40 (b) **Notice by telephone**

41
 42 (1) If the writ or order stays or prohibits proceedings set to occur within 7 days
 43 or requires action within 7 days—or in any other urgent situation—the
 44 reviewing court clerk must make a reasonable effort to notify the clerk of the
 45 respondent court by telephone or e-mail. The clerk of the respondent court
 46 must then notify the judge or officer most directly concerned.
 47

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(2) The clerk need not give telephonic or e-mail notice of the summary denial of a writ, whether or not a stay previously issued.

Chapter 10. Appeals from Judgments of Death

Article 2. Record on Appeal

Rule 8.613. Preparing and certifying the record of preliminary proceedings

(a)-(h) ***

(i) Computer-readable copies

- (1) When the record of the preliminary proceedings is certified as complete and accurate, the clerk must promptly notify the reporter to prepare five computer-readable copies of the transcript and two additional computer-readable copies for each codefendant against whom the death penalty is sought.
- (2) Each computer-readable copy must ~~comply with the format, labeling, content, and numbering requirements of Code of Civil Procedure section 271(b)~~ comply with the requirements of rule 8.144(a)(4) and any additional requirements prescribed by the Supreme Court, and must be further labeled to show the date it was made.
- (3) A computer-readable copy of a sealed transcript must be placed on a separate disk and clearly labeled as confidential.
- (4) The reporter is to be compensated for computer-readable copies as provided in Government Code section 69954(b).
- (5) Within 20 days after the clerk notifies the reporter under (1), the reporter must deliver the computer-readable copies to the clerk.

(j)-(l) ***

Advisory Committee Comment

1 * * *

2 **Rule 8.619. Certifying the trial record for completeness**

3
4 (a)-(d) * * *

5
6 (e) **Computer-readable copies**

- 7
8 (1) When the record is certified as complete, the clerk must promptly notify the
9 reporter to prepare five computer-readable copies of the transcript and two
10 additional computer-readable copies for each codefendant sentenced to death.
11
12 (2) Each computer-readable copy must ~~comply with the format, labeling,~~
13 ~~content, and numbering requirements of Code of Civil Procedure section~~
14 ~~271(b)~~ comply with the requirements of rule 8.144(a)(4) and any additional
15 requirements prescribed by the Supreme Court, and must be further labeled to
16 show the date it was made.
17
18 (3) A computer-readable copy of a sealed transcript must be placed on a separate
19 disk and clearly labeled as confidential.
20
21 (4) The reporter is to be compensated for computer-readable copies as provided
22 in Government Code section 69954(b).
23
24 (5) Within 10 days after the clerk notifies the reporter under (1), the reporter
25 must deliver the computer-readable copies to the clerk.
26

27 (f)-(h) * * *

28 **Advisory Committee Comment**

29 * * *

30
31 * * *

32 **Rule 8.625. Certifying the record in pre-1997 trials**

33
34 (a) * * *

35
36 (b) **Sending the transcripts to counsel for review**

- 37
38 (1) When the clerk and the reporter certify that their respective transcripts are
39 correct, the clerk must promptly send a copy of each transcript to each
40 defendant's trial counsel, to the Attorney General, to the district attorney, to
41 the California Appellate Project in San Francisco, and to the Habeas Corpus
42 Resource Center, noting the sending date on the originals.
43
44 (2) The copies of the reporter's transcript sent to the California Appellate Project
45 and the Habeas Corpus Resource Center must be computer-readable copies

1 complying with ~~the format, labeling, content, and numbering requirements of~~
2 ~~Code of Civil Procedure section 271(b)~~ the requirements of rule
3 8.144(a)(4) and any additional requirements prescribed by the Supreme
4 Court, and must be further labeled to show the date it was made.

- 5
6 (3) When the clerk is notified of the appointment or retention of each defendant’s
7 appellate counsel, the clerk must promptly send that counsel copies of the
8 clerk’s transcript and the reporter’s transcript, noting the sending date on the
9 originals. The clerk must notify the Supreme Court, the Attorney General,
10 and each defendant’s appellate counsel in writing of the date the transcripts
11 were sent to appellate counsel.

12
13 (c)-(e) * * *

14
15 * * *

16 **Division 2. Rules Relating to the Superior Court Appellate Division**

17
18 **Chapter 2. Appeals and Records in Limited Civil Cases**

19
20 **Article 2. Record in Civil Appeals**

21
22
23 **Rule 8.834. Reporter’s transcript**

24
25 (a)-(c) * * *

26
27 (d) **Filing the reporter’s transcript; copies; payment**

28
29 (1)-(3) * * *

- 30
31 (4) On request, and unless the trial court orders otherwise, the reporter must
32 provide the reviewing court or any party with a copy of the reporter’s
33 transcript in computer-readable format. Each computer-readable copy
34 must ~~comply with the format, labeling, content, and numbering requirements~~
35 ~~of Code of Civil Procedure section 271(b)~~ comply with the requirements of
36 rule 8.144(a)(4).

37
38 (e)-(f) * * *

39
40 **Advisory Committee Comment**

41
42 * * *

43

1 * * *

2
3 **Chapter 3. Appeals and Records in Misdemeanor Cases**

4
5 **Article 2. Record in Misdemeanor Appeals**

6
7 **Rule 8.866. Preparation of reporter's transcript**

8
9 (a)-(c) * * *

10
11 (d) **When preparation must be completed**

12
13 (1) The reporter must deliver the original and all copies to the trial court clerk as
14 soon as they are certified but no later than 20 days after the reporter is required
15 to begin preparing the transcript under (a). Only the presiding judge of the
16 appellate division or his or her designee may extend the time to prepare the
17 reporter's transcript (see rule 8.810).

18 (2) On request, and unless the trial court orders otherwise, the reporter must
19 provide the reviewing court or any party with a copy of the reporter's transcript
20 in computer-readable format. Each computer-readable copy must comply with
21 the requirements of rule 8.144(a)(4).

22
23 (e)-(f) * * *

24
25
26 **Advisory Committee Comment**

27 * * *

28
29 * * *

30 **Chapter 5. Appeals in Infraction Cases**

31
32 **Article 2. Record in Infraction Appeals**

33
34 **Rule 8.919. Preparation of reporter's transcript**

35
36 (a)-(c) * * *

37
38 (d) **When preparation must be completed**

39
40 (1) The reporter must deliver the original and all copies to the trial court clerk as
41 soon as they are certified but no later than 20 days after the reporter is required
42 to begin preparing the transcript under (a). Only the presiding judge of the
43 appellate division or his or her designee may extend the time to prepare the
44 reporter's transcript (see rule 8.810).

45

1 maintenance of court records, including electronic formats, the original of a reporter's transcript
2 is required under Code of Civil Procedure section 271(a) to be on paper. Subdivision (d)
3 therefore specifies that an electronic copy may be kept, to clarify that the paper original need not
4 be kept by the Court.
5

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
Plaintiff/Petitioner: Defendant/Respondent:		
<input type="checkbox"/> NOTICE OF APPEAL <input type="checkbox"/> CROSS-APPEAL (UNLIMITED CIVIL CASE)		CASE NUMBER:

Notice: Please read *Information on Appeal Procedures for Unlimited Civil Cases* (Judicial Council form APP-001) before completing this form. This form must be filed in the superior court, not in the Court of Appeal. A copy of this form must also be served on the other party or parties to this appeal. You may use an applicable Judicial Council form (such as APP-009 or APP-009E) for the proof of service. When this document has been completed and a copy served, the original may then be filed with the court with proof of service.

1. NOTICE IS HEREBY GIVEN that (name):

appeals from the following judgment or order in this case, which was entered on (date):

- Judgment after jury trial
- Judgment after court trial
- Default judgment
- Judgment after an order granting a summary judgment motion
- Judgment of dismissal under Code of Civil Procedure, §§ 581d, 583.250, 583.360, or 583.430
- Judgment of dismissal after an order sustaining a demurrer
- An order after judgment under Code of Civil Procedure, § 904.1(a)(2)
- An order or judgment under Code of Civil Procedure, § 904.1(a)(3)–(13)
- Other (describe and specify code section that authorizes this appeal):

2. For cross-appeals only:

- a. Date notice of appeal was filed in original appeal:
- b. Date superior court clerk mailed notice of original appeal:
- c. Court of Appeal case number (if known):

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

ATTORNEY (name, State Bar number, and address): NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		
APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)		SUPERIOR COURT CASE NUMBER:
RE: Appeal filed on (date):		COURT OF APPEAL CASE NUMBER (if known):
Notice: Please read form APP-001 before completing this form. This form must be filed in the superior court, not in the Court of Appeal.		

1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

I elect to use the following method of providing the Court of Appeal with a record of the documents filed in the superior court (check a, b, c, d, or e and fill in any required information):

- a. A clerk's transcript under rule 8.122. (You must check (1) or (2) and fill out the clerk's transcript section on page 2 of this form.)
- (1) I will pay the superior court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.
- (2) I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (a) or (b)):
- (a) An order granting a waiver of court fees and costs under rule 3.50 et seq.; or
- (b) An application for a waiver of court fees and costs under rule 3.50 et seq. (Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)
- b. An appendix under rule 8.124.
- c. The original superior court file under rule 8.128. (NOTE: Local rules in the Court of Appeal, First, Third, Fourth, and Fifth Appellate Districts, permit parties to stipulate to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.)
- d. An agreed statement under rule 8.134. (You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)
- e. A settled statement under rule 8.137. (You must complete item 2b(3) below and attach to your proposed statement on appeal copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.137(b)(3).)

2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

I elect to proceed:

- a. WITHOUT a record of the oral proceedings in the superior court. I understand that without a record of the oral proceedings in the superior court, the Court of Appeal will not be able to consider what was said during those proceedings in determining whether an error was made in the superior court proceedings.

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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2. b. WITH the following record of the oral proceedings in the superior court:
- (1) A reporter's transcript under rule 8.130. *(You must fill out the reporter's transcript section on page 3 of this form.)* I have *(check all that apply)*:
- (a) Deposited the approximate cost of transcribing the designated proceedings with this notice as provided in rule 8.130(b)(1).
- (b) Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).
- (c) Attached the reporter's written waiver of a deposit for *(check either (i) or (ii))*:
- (i) all of the designated proceedings.
- (ii) part of the designated proceedings.
- (d) Attached a certified transcript under rule 8.130(b)(3)(C).
- (2) An agreed statement. *(Check and complete either (a) or (b) below.)*
- (a) I have attached an agreed statement to this notice.
- (b) All the parties have agreed in writing (stipulated) to try to agree on a statement. *(You must attach a copy of this stipulation to this notice.)* I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.
- (3) A settled statement under rule 8.137. *(You must attach the motion required under rule 8.137(a) to this form.)*

3. RECORD OF AN ADMINISTRATIVE PROCEEDING TO BE TRANSMITTED TO THE REVIEWING COURT

- I request that the clerk transmit to the reviewing court under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the superior court *(give the title and date or dates of the administrative proceeding)*:

Title of Administrative Proceeding	Date or Dates
------------------------------------	---------------

4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

(You must complete this section if you checked item 1a. above indicating that you elect to use a clerk's transcript as the record of the documents filed in the superior court.)

- a. **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed or, if that is not available, the date the document was signed.

Document Title and Description	Date of Filing
--------------------------------	----------------

- (1) Notice of appeal
- (2) Notice designating record on appeal *(this document)*
- (3) Judgment or order appealed from
- (4) Notice of entry of judgment *(if any)*
- (5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order *(if any)*
- (6) Ruling on one or more of the items listed in (5)
- (7) Register of actions or docket *(if any)*

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

- b. **Additional documents.** *(If you want any documents from the superior court proceeding in addition to the items listed in 4a. above to be included in the clerk's transcript, you must identify those documents here.)*

I request that the clerk include the following documents from the superior court proceeding in the transcript. *(You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)*

	Document Title and Description	Date of Filing
(8)		
(9)		
(10)		
(11)		
(12)		

See additional pages.

- c. **Exhibits to be included in clerk's transcript**

I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court *(for each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence):*

	Exhibit Number	Description	Admitted (Yes/No)
(1)			
(2)			
(3)			
(4)			
(5)			

See additional pages.

5. NOTICE DESIGNATING REPORTER'S TRANSCRIPT

(You must complete this section if you checked item 2b(1) above indicating that you elect to use a reporter's transcript as the record of the oral proceedings in the superior court. Please remember that you must pay for the cost of preparing the reporter's transcript.)

- a. I request that the reporters provide *(check one)*:

- (1) My copy of the reporter's transcript in paper format.
- (2) My copy of the reporter's transcript in computer-readable format.
- (3) My copy of the reporter's transcript in paper format and a second copy in computer-readable format.

(Code Civ. Proc., § 271; Cal. Rules of Court, rule 8.130(f)(4).)

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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5. b. **Proceedings**

I request that the following proceedings in the superior court be included in the reporter's transcript. *(You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings—for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions—the name of the court reporter who recorded the proceedings, and whether a certified transcript of the designated proceeding was previously prepared.)*

	Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(2)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(3)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(4)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(5)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(6)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(7)						<input type="checkbox"/> Yes <input type="checkbox"/> No

c. The proceedings designated in 5b include do not include all of the testimony in the superior court.

If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal (*rule 8.130(a)(2) provides that your appeal will be limited to these points unless, on motion, the reviewing court permits otherwise*).

Date:

 (TYPE OR PRINT NAME)


 (SIGNATURE OF APPELLANT OR ATTORNEY)

TO BE FILED IN THE COURT OF APPEAL

APP-004

COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____		COURT OF APPEAL CASE NUMBER (if known):
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):		FOR COURT USE ONLY
APPELLANT: RESPONDENT: SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: JUDGES (all who participated in case):		
CIVIL CASE INFORMATION STATEMENT		SUPERIOR COURT CASE NUMBER:
NOTE TO APPELLANT: You must file this form with the clerk of the Court of Appeal within 15 days after the clerk mails you the notification of the filing of the notice of appeal required under rule 8.100(e)(1). You must attach to this form a copy of the judgment or order being appealed that shows the date it was entered (see Cal. Rules of Court, rule 8.104 for definition of "entered"). A copy of this form must also be served on the other party or parties to this appeal. (CAUTION: An appeal in a limited civil case (Code Civ. Proc., § 85) may be taken ONLY to the appellate division of the superior court (Code Civ. Proc., § 904.2) or to the superior court (Code Civ. Proc., § 116.710 [small claims cases]).		

PART I – APPEAL INFORMATION

A. APPEALABILITY

1. Appeal is from:

- Judgment after jury trial
 Judgment after court trial
 Default judgment
 Judgment after an order granting a summary judgment motion
 Judgment of dismissal under Code Civ. Proc., § 581d, 583.250, 583.360, or 583.430
 Judgment of dismissal after an order sustaining a demurrer
 An order after judgment under Code Civ. Proc., § 904.1(a)(2)
 An order or judgment under Code Civ. Proc., § 904.1(a)(3)–(13)
 Other (describe and specify code section that authorizes this appeal):

2. Does the judgment appealed from dispose of all causes of action, including all cross-actions between the parties?

Yes No (If no, please explain why the judgment is appealable):

B. TIMELINESS OF APPEAL (Provide all applicable dates.)

1. Date of entry of judgment or order appealed from:
2. Date that notice of entry of judgment or a copy of the judgment was served by the clerk or by a party under California Rules of Court, rule 8.104:
3. Was a motion for new trial, for judgment notwithstanding the verdict, for reconsideration, or to vacate the judgment made and denied?
- Yes No (If yes, please specify the type of motion):

Date notice of intention to move for new trial (if any) filed:

Date motion filed:

Date motion denied:

Date denial served:

4. Date notice of appeal or cross-appeal filed:

C. BANKRUPTCY OR OTHER STAY

Is there a related bankruptcy case or a court-ordered stay that affects this appeal? Yes No
 (If yes, please attach a copy of the bankruptcy petition [without attachments] and any stay order.)

APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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D. APPELLATE CASE HISTORY (*Provide additional information, if necessary, on attachment I.D.*) Is there now, or has there previously been, any appeal, writ, or other proceeding related to this case pending in any California appellate court?

Yes No (If yes, insert name of appellate court):

Appellate court case no.:

Title of case:

Name of trial court:

Trial court case no.:

E. SERVICE REQUIREMENTS

Is service of documents in this matter, including a notice of appeal, petition, or brief, required on the Attorney General or other nonparty public officer or agency under California Rules of Court, rule 8.29 or a statute?

Yes No (*If yes, please indicate the rule or statute that applies*)

- | | |
|--|--|
| <input type="checkbox"/> Rule 8.29 (e.g., constitutional challenge; state or county party) | <input type="checkbox"/> Code Civ. Proc., § 1355 (Escheat) |
| <input type="checkbox"/> Bus. & Prof. Code, §16750.2 (Antitrust) | <input type="checkbox"/> Gov. Code, § 946.6(d) (Actions against public entities) |
| <input type="checkbox"/> Bus. & Prof. Code, § 17209 (Unfair Competition Act) | <input type="checkbox"/> Gov. Code, § 4461 (Disabled access to public buildings) |
| <input type="checkbox"/> Bus. & Prof. Code, § 17536.5 (False advertising) | <input type="checkbox"/> Gov. Code, § 12656(a) (False Claims Act) |
| <input type="checkbox"/> Civ. Code, § 51.1 (Unruh, Ralph, or Bane Civil Rights Acts; antiboycott cause of action; sexual harassment in business or professional relations; civil rights action by district attorney) | <input type="checkbox"/> Health & Saf. Code, § 19954.5 (Accessible seating and accommodations) |
| <input type="checkbox"/> Civ. Code, § 55.2 (Disabled access to public conveyances, accommodations, and housing) | <input type="checkbox"/> Health & Saf. Code, § 19959.5 (Disabled access to privately funded public accommodations) |
| | <input type="checkbox"/> Pub. Resources Code, § 21167.7 (CEQA) |
| | <input type="checkbox"/> Other (specify statute): |

NOTE: The rule and statutory provisions listed above require service of a copy of a party's notice of appeal, petition, or brief on the Attorney General or other public officer or agency. Other statutes requiring service on the Attorney General or other public officers or agencies may also apply.

PART II – NATURE OF ACTION

A. Nature of action (*check all that apply*):

1. Conservatorship
2. Contract
3. Eminent domain
4. Equitable action a. Declaratory relief b. Other (*describe*):
5. Family law
6. Guardianship
7. Probate
8. Real property rights a. Title of real property b. Other (*describe*):
9. Tort
 - a. Medical malpractice
 - b. Product liability
 - c. Other personal injury
 - d. Personal property
 - e. Other tort (*describe*):
10. Trust proceedings
11. Writ proceedings in superior court
 - a. Mandate (Code Civ. Proc., § 1085)
 - b. Administrative mandate (Code Civ. Proc., § 1094.5)
 - c. Prohibition (Code Civ. Proc., § 1102)
 - d. Other (*describe*):
12. Other action (*describe*):

B. This appeal is entitled to calendar preference/priority on appeal (*cite authority*):

APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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PART III – PARTY AND ATTORNEY INFORMATION

In the spaces below or on a separate page or pages, list all the parties and all their attorneys of record who will participate in the appeal. For each party, provide all of the information requested on the left side of the page. On the right side of the page, if a party is self-represented please check the appropriate box and provide the party's mailing address, telephone number, fax number, and e-mail address. If a party is represented by an attorney, on the right side of the page, check the appropriate box and provide all of the requested information about that party's attorney.

Responses to Part III are attached instead of below

Name of Party: Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (<i>specify</i>):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address: Telephone no.: Fax no: E-Mail address:
Name of Party: Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (<i>specify</i>):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address: Telephone no.: Fax no: E-Mail address:
Name of Party: Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (<i>specify</i>):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address: Telephone no.: Fax no: E-Mail address:
Name of Party: Appellate court designation: <input type="checkbox"/> Appellant <input type="checkbox"/> Respondent Trial court designation: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other (<i>specify</i>):	<input type="checkbox"/> Represented by attorney <input type="checkbox"/> Self-represented Name of attorney: State Bar no: Firm name: Mailing address: Telephone no.: Fax no: E-Mail address:

Additional pages attached

Date:

This statement is prepared and submitted by:



(SIGNATURE OF ATTORNEY OR SELF-REPRESENTED PARTY)

APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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NOTICE TO PARTIES: A copy of this must be served on the other party or parties to this appeal. If served by mail or personal delivery, A PARTY TO THE APPEAL MAY NOT PERFORM THE MAILING OR DELIVERY HIMSELF OR HERSELF. Electronic service is authorized only if ordered by the court or if the party served has agreed to accept electronic service. A person who is at least 18 years old must complete the information below and serve all pages of this document. When all pages of this document have been completed and a copy served, the original may then be filed with the court.

PROOF OF SERVICE

Mail Personal Service Electronic Service

1. At the time of service I was at least 18 years of age.
2. My residence or business address is (*specify*):

3. I mailed, personally delivered or electronically served a copy of the *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)* as follows (*complete a, b or c*):
 - a. **Mail.** I am a resident of or employed in the county where the mailing occurred and am not a party to this legal action.
 - (1) I enclosed a copy in an envelope **and**
 - (a) deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
 - (b) **placed** the envelope for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.
 - (2) The envelope was addressed and mailed as follows:
 - (a) Name of person served:
 - (b) Address on envelope:

 - (c) Date of mailing:
 - (d) Place of mailing (*city and state*):
 - b. **Personal delivery.** I am not a party to this legal action. I personally delivered a copy as follows:
 - (1) Name of person served:
 - (2) Address where delivered:

 - (3) Date delivered:
 - (4) Time delivered:
 - c. **Electronic service.** My electronic service address is (*specify*):

I electronically served a copy as follows:

 - (1) Name of person served:
 - (2) Electronic service address of person served:
 - (3) On (*date*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

TO BE FILED IN THE SUPERIOR COURT

APP-005

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	COURT OF APPEAL CASE NUMBER:
ABANDONMENT OF APPEAL (UNLIMITED CIVIL CASE)	SUPERIOR COURT CASE NUMBER:

The undersigned appellant hereby abandons the appeal filed on (*date*):

in the above-entitled action.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF APPELLANT OR ATTORNEY)

NOTE: File this form in the superior court if the record has not yet been filed in the Court of Appeal. If the record has already been filed in the Court of Appeal, you cannot use this form; you must file a request for dismissal in the Court of Appeal. You can use form APP-007 to file a request for dismissal in the Court of Appeal. A copy of this form must also be served on the other party or parties to this appeal, and proof of service filed with this form. You may use an applicable Judicial Council form (such as APP-009 or APP-009E) for the proof of service. When this document has been completed and a copy served, the original may then be filed with the court with proof of service.

TO BE FILED IN THE COURT OF APPEAL

APP-006

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER:
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	
TELEPHONE NO.:	FAX NO.:	
E-MAIL ADDRESS:		
ATTORNEY FOR (name):		
APPELLANT:		
RESPONDENT:		
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF (CIVIL CASE)		
Notice: Please read Judicial Council form APP-001 before completing this form.		

1. I (name): request that the time to file (check one):

- appellant's opening brief (AOB)
- respondent's brief (RB)
- combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)
- combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)
- appellant's reply brief (ARB)

now due on (date): be extended to (date):

2. I have have not received a rule 8.220 notice.

3. I have received:

- no previous extensions to file this brief.
 - the following previous extensions:
 - (number of extensions): extensions by stipulation totaling (total number of days):
 - (number of extensions): extensions from the court totaling (total number of days):
- Did the court mark any previous extension "no further?" Yes No

4. I am unable to file a stipulation to an extension because

- the other party is unwilling to stipulate to an extension.
- other reason (please specify):

5. The last brief filed by any party was: AOB RB RB and AOB ARB and RB
filed on (date):

6. The record in this case is:

	<u>Volumes (#)</u>	<u>Pages (#)</u>	<u>Date filed</u>
Appendix/Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____

7. The trial court has ordered the proceedings in this case stayed until this appeal is decided.

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
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8. The reasons that I need an extension to file this brief are stated

below

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

(Please specify; see Cal. Rules of Court, rule 8.63, for factors used in determining whether to grant extensions):

9. For attorneys filing application on behalf of client, I certify that I have delivered a copy of this application to my client (Cal. Rules of Court, rule 8.60).

10. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule 8.50). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

 (TYPE OR PRINT NAME)



 (SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS:

Granted to (date): _____

Denied

Date: _____



 (SIGNATURE OF PRESIDING JUSTICE)

TO BE FILED IN THE COURT OF APPEAL

APP-007

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER:
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE:	ZIP CODE:
TELEPHONE NO.:	FAX NO.:	
E-MAIL ADDRESS:		
ATTORNEY FOR (<i>name</i>):		
APPELLANT:		
RESPONDENT:		
REQUEST FOR DISMISSAL OF APPEAL (CIVIL CASE)		

The undersigned appellant hereby requests that the appeal filed on (*date*) _____ in the above entitled action be dismissed.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF APPELLANT OR ATTORNEY)

NOTE: File this form in the Court of Appeal if the record on appeal has already been filed in the Court of Appeal. If the record has not yet been filed in the Court of Appeal, you cannot use this form; you must file an *Abandonment of Appeal (Unlimited Civil Case)* (form APP-005) in the superior court. A copy of this form must also be served on the other party or parties to this appeal, and proof of service filed with this form. You may use an applicable Judicial Council form (such as APP-009 or APP-009E) for the proof of service. When this document has been completed and a copy served, the original may then be filed with the court with proof of service.

TO BE FILED IN THE COURT OF APPEAL

APP-008

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER:
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	
TELEPHONE NO.:	FAX NO.:	
E-MAIL ADDRESS:		
ATTORNEY FOR (<i>name</i>):		
APPELLANT/ PETITIONER:		
RESPONDENT/ REAL PARTY IN INTEREST:		
CERTIFICATE OF INTERESTED ENTITIES OR PERSONS		
(Check one): <input type="checkbox"/> INITIAL CERTIFICATE <input type="checkbox"/> SUPPLEMENTAL CERTIFICATE		
Notice: Please read rules 8.208 and 8.488 before completing this form. You may use this form for the initial certificate in an appeal when you file your brief or a prebriefing motion, application, or opposition to such a motion or application in the Court of Appeal, and when you file a petition for an extraordinary writ. You may also use this form as a supplemental certificate when you learn of changed or additional information that must be disclosed.		

1. This form is being submitted on behalf of the following party (*name*):
2. a. There are no interested entities or persons that must be listed in this certificate under rule 8.208.
- b. Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest (<i>Explain</i>):
(1)	
(2)	
(3)	
(4)	
(5)	

Continued on attachment 2.

The undersigned certifies that the above-listed persons or entities (corporations, partnerships, firms, or any other association, but not including government entities or their agencies) have either (1) an ownership interest of 10 percent or more in the party if it is an entity; or (2) a financial or other interest in the outcome of the proceeding that the justices should consider in determining whether to disqualify themselves, as defined in rule 8.208(e)(2).

Date:

(TYPE OR PRINT NAME)

▶

(SIGNATURE OF APPELLANT OR ATTORNEY)

PROOF OF SERVICE (Court of Appeal) <input type="checkbox"/> Mail <input type="checkbox"/> Personal Service	
Notice: This form may be used to provide proof that a document has been served in a proceeding in the Court of Appeal. Please read <i>Information Sheet for Proof of Service (Court of Appeal)</i> (form APP-009-INFO) before completing this form. Do not use this form for proof of electronic service. See form APP-009E.	
Case Name: Court of Appeal Case Number: Superior Court Case Number:	

1. At the time of service I was at least 18 years of age and **not a party to this legal action**.
 2. My residence business address is (*specify*):

 3. I mailed or personally delivered a copy of the following document as indicated below (*fill in the name of the document you mailed or delivered and complete either a or b*):
 - a. **Mail**. I mailed a copy of the document identified above as follows:
 - (1) I enclosed a copy of the document identified above in an envelope or envelopes **and**
 - (a) **deposited** the sealed envelope(s) with the U.S. Postal Service, with the postage fully prepaid.
 - (b) **placed** the envelope(s) for collection and mailing on the date and at the place shown in items below, following our ordinary business practices. I am readily familiar with this business's practice of collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope(s) with postage fully prepaid.
 - (2) Date mailed:
 - (3) The envelope was or envelopes were addressed as follows:
 - (a) Person served:
 - (i) Name:
 - (ii) Address:
 - (b) Person served:
 - (i) Name:
 - (ii) Address:
 - (c) Person served:
 - (i) Name:
 - (ii) Address:
- Additional persons served are listed on the attached page (*write "APP-009, Item 3a" at the top of the page*).
- (4) I am a resident of or employed in the county where the mailing occurred. The document was mailed from (city and state):

Case Name:	Court of Appeal Case Number:
	Superior Court Case Number:

3. b. **Personal delivery.** I personally delivered a copy of the document identified above as follows:

(1) Person served:

(a) Name:

(b) Address where delivered:

(c) Date delivered:

(d) Time delivered:

(2) Person served:

(a) Name:

(b) Address where delivered:

(c) Date delivered:

(d) Time delivered:

(3) Person served:

(a) Name:

(b) Address where delivered:

(c) Date delivered:

(d) Time delivered:

Names and addresses of additional persons served and delivery dates and times are listed on the attached page (*write "APP-009, Item 3b" at the top of the page*).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

 _____
(SIGNATURE OF PERSON COMPLETING THIS FORM)

PROOF OF ELECTRONIC SERVICE (Court of Appeal)	
Notice: This form may be used to provide proof that a document has been served in a proceeding in the Court of Appeal. Please read <i>Information Sheet for Proof of Service (Court of Appeal)</i> (form APP-009-INFO) before completing this form.	
Case Name: Court of Appeal Case Number: Superior Court Case Number:	

1. At the time of service I was at least 18 years of age.
 2. a. My residence business address is (*specify*):

 3. I electronically served the following documents (*exact titles*):

 4. I electronically served the documents listed in 3. as follows:
 - a. Name of person served:
On behalf of (*name or names of parties represented, if person served is an attorney*):

 - b. Electronic service address of person served:
 - c. On (*date*):
- The documents listed in 3. were served electronically on the persons and in the manner described in an attachment (*write "APP-009E, Item 4" at the top of the page*).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

 _____
(SIGNATURE OF PERSON COMPLETING THIS FORM)

INFORMATION SHEET FOR PROOF OF SERVICE (COURT OF APPEAL)

GENERAL INFORMATION ABOUT SERVICE AND PROOF OF SERVICE

This information sheet provides instructions for completing *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E). This information sheet is not part of the proof of service and does not need to be copied, served, or filed.

Rule 8.25 of the California Rules of Court provides that before filing any document in court in a case in the Court of Appeal, a party must serve, by any method permitted by the Code of Civil Procedure, one copy of the document on the attorney for each party separately represented, on each unrepresented party, and on any other person or entity when required by statute or rule. Other rules specifically require that certain documents be served, including the notice of appeal and notice designating the record on appeal in civil appeals and briefs in both civil and criminal appeals.

To “serve” a document on a person means to have that document delivered to the person. The general requirements concerning service are set out in Code of Civil Procedure sections 1010.6 -1013a. There are three main ways to serve documents: (1) by mail, (2) by personal delivery, or (3) by electronic service. Regardless of what method of service is used, the Code of Civil Procedure provides that a document in a court case can only be served by a person who is over 18 years of age. Service by mail or personal delivery must be by someone who is not a party in the case; electronic service may be performed directly by a party. Electronic service may be by electronic transmission, transmitting a document to the electronic service address of a person, or by electronic notification, sending a message to the electronic service address specifying the exact name of the document served and providing a hyperlink at which the served document may be viewed and downloaded.

If you are a party to the case, and wish to serve documents by mail or personal delivery, you must therefore have someone else who is over 18 and who is not a party to the case serve any documents in your case. You will need to give the person doing the serving (the server) the names and addresses of all those who must be served. You will also need to give the server one copy of each document that needs to be served for each person or entity that is being served.

If you are serving documents electronically, you can do this yourself or have another person over 18 do it for you. The person doing the serving (the server) will need the names and electronic service addresses of all those who must be served, and the document to be served in a form that allows it to be electronically transmitted or made available by hyperlink.

Rule 8.25 also requires the party filing a document in the court to attach to the document presented for filing a proof of service showing the required service. *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) may be used to provide this required proof of service in any proceeding in the Court of Appeal. The server should follow the instructions below for completing the *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E). If another person is serving the documents for you - as is required if the document will be served by mail or personal delivery - tell the server to give you the original form when it is completed. You will need to attach this original proof of service to the document you are filing.

INSTRUCTIONS FOR THE SERVER (THE PERSON WHO IS SERVING THE DOCUMENTS) IF SERVING BY MAIL OR PERSONAL DELIVERY

If you are serving a document for a party in a court case, it is your responsibility to prepare the proof of service. You can use *Proof of Service (Court of Appeal)* (form APP-009) to prepare this proof of service in any case in the Court of Appeal. The proof of service should be printed or typed. If you have Internet access, a fillable version of form APP-009 is available at www.courts.ca.gov/forms. You can fill out most of the form before you serve the document, but you should sign and date the form only after you have finished serving the document.

Complete the top section of *Proof of Service (Court of Appeal)* (form APP-009) as follows:

1. *First box, left side:* Check whether the document is being served by mail or by personal delivery.
2. *Third box, left side:* Print the name of the case in which the document is being filed, the Court of Appeal case number, and the superior court case number. Use the same case name and numbers as are on the top of the document that you are serving.
3. *Box, top of form, right side:* Leave this box blank for the court's use.

Complete items 1–3 as follows:

1. You are stating that you are over the age of 18 and that you are not a party to this action.
2. Check one of the boxes and provide your home or business address.

3. Fill in the name of the document that you are serving.
- a. If you are serving the document by mail, check box a. and BEFORE YOU SEAL AND MAIL THE ENVELOPE, fill in the following information:
- (1) Check box (1)(a) if you will personally deposit the document with the U.S. Postal Service such as at a U.S. Postal Service Office or U.S. Postal Service mailbox; Check box (1)(b) if you will put the document in the mail at your place of business.
 - (2) Provide the date the documents are being mailed.
 - (3) Provide the name and address of each person to whom you are mailing the document. If you need more space to list additional names and addresses, check the box after item (3)(c) and attach a page listing them. At the top of the page, write "APP-009, Item 3a."
 - (4) You are stating that you live or work in the county in which the document is being mailed. Provide the city and state from which the document is being mailed.

Once you have finished filling out these parts of the form, make one copy of *Proof of Service (Court of Appeal)* (form APP-009) with this information filled in for each person you are serving by mail and put this copy in the envelope with the document you are serving. Seal the envelope and mail the document as you have indicated on the proof of service.

- b. If you personally delivered the document, check box 3b. For a party represented by an attorney, delivery needs to be made by giving the document directly to the party's attorney or by leaving the document in an envelope or package clearly labeled to identify the attorney being served with a receptionist at the attorney's office or an individual in charge of the office. For a party who is not represented by an attorney, delivery needs to be made by giving the document directly to the party or by leaving the document at the party's residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening. Under b, for each person to whom you delivered the document, you need to provide:
- (1) The name of the person;
 - (2) The address at which you delivered the document;
 - (3) The date on which you delivered the document; and
 - (4) The time at which you delivered the document.

If you need more space to list additional names, addresses, and delivery dates and times, check the box under item 3b and attach a page listing this information. At the top of the page, write "APP-009, Item 3b."

At the bottom of the form, print your name, sign the form, and fill in the date on which you signed the form. **By signing, you are stating under penalty of perjury that all the information you have provided on *Proof of Service (Court of Appeal)* is true and correct.**

Give the original completed *Proof of Service* to the party for whom you served the document.

INSTRUCTIONS FOR THE SERVER (THE PERSON WHO IS SERVING THE DOCUMENTS) IF SERVING ELECTRONICALLY

If you are serving a document for a party in a court case, it is your responsibility to prepare the proof of service. If you are serving a document electronically, you can use *Proof of Electronic Service (Court of Appeal)* (form APP-009E) to prepare this proof of service in any case in the Court of Appeal. The proof of service should be printed or typed. A fillable version of form APP-009E is available at www.courtinfo.ca.gov/forms. You can fill out most of the form before you serve the document, but you should sign and date the form only after you have finished serving the document.

Complete the top section of *Proof of Service (Court of Appeal)* (form APP-009E) as follows:

1. *Third box, left side:* Print the name of the case in which the document is being filed, the Court of Appeal case number, and the superior court case number. Use the same case name and numbers as are on the top of the document that you are serving.
2. *Box, top of form, right side:* Leave this box blank for the court's use.

Complete items 1-4 as follows:

1. You are stating that you are over the age of 18.
2. *Box, top of form, right side:* Leave this box blank for the court's use.
 - a. Check one of the boxes and provide your home or business address.
 - b. Provide your electronic service address. This is the address at which you have agreed to accept electronic service.

Continued on the reverse

3. Fill in the name of the document that you are serving.
4. Fill in the information for the person to whom you are sending the document. If you are serving more than one person, check the box after item (4)(d) and attach a page listing the persons served, with the electronic service address and date and time of service for each person served. At the top of the page, write "APP-009E, Item 4."
 - a. Provide the name of the person being served. If the person being served is an attorney, also fill in the name or name of the parties represented.
 - b. Provide the electronic service address of the person to whom you are sending the document.
 - c. Provide the date on which you transmitted the document.

When you have filled in the information in items 1-4, create an electronic copy of the *Proof of Electronic Service (Court of Appeal)* (form APP-009E) with this information filled in. Transmit the filled in form with the document you are serving to each person served.

At the bottom of the form, print your name, sign the form, and fill in the date on which you signed the form. **By signing, you are stating under penalty of perjury that all the information you have provided on *Proof of Electronic Service (Court of Appeal)* is true and correct.**

If you are not the party for whom the documents are served, give the original completed Proof of Service to the party for whom you served the document.

ATTORNEY (name, State Bar number, and address): NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.: STATE: ZIP CODE: FAX NO.:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		
RESPONDENT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)		SUPERIOR COURT CASE NUMBER:
Re: Appeal filed on (date):		COURT OF APPEAL CASE NUMBER (if known):
Notice: Please read Judicial Council form APP-001 before completing this form. This form must be filed in the superior court, not in the Court of Appeal.		

1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

The appellant has elected to use a clerk's transcript under rule 8.122.

- a. **Additional documents.** (If you want any documents from the superior court proceedings in addition to the documents designated by the appellant to be included in the clerk's transcript, you must identify those documents here.)

In addition to the documents designated by the appellant, I request that the clerk include in the transcript the following documents from the superior court proceedings. (You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

	Document Title and Description	Date of Filing
(1)		
(2)		
(3)		

See additional pages.

- b. **Additional exhibits.** (If you want any exhibits from the superior court proceedings in addition to those designated by the appellant to be included in the clerk's transcript, you must identify these exhibits here.)

In addition to the exhibits designated by the appellant, I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. (For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence.)

	Exhibit Number	Description	Admitted (Yes/No)
(1)			
(2)			
(3)			

See additional pages.

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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1. c. Copy of clerk's transcript. I request a copy of the clerk's transcript. *(check (1) or (2).)*
- (1) I will pay the superior court clerk for this transcript when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, I will not receive a copy.
- (2) I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record *(check (a) or (b))*:
- (a) An order granting a waiver of court fees and costs under rule 3.50 et seq.; or
- (b) An application for a waiver of court fees and costs under rule 3.50 et seq. *(Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)*

2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

The appellant has elected to use a reporter's transcript under rule 8.130.

- a. **Designation of additional proceedings.** *(If you want any oral proceedings in addition to the proceedings designated by the appellant to be included in the reporter's transcript, you must identify those proceedings here.)*
- (1) In addition to the proceedings designated by the appellant, I request that the following proceedings in the superior court be included in the reporter's transcript. *(You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings—for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions—the name of the court reporter who recorded the proceedings, and whether a certified transcript of the designated proceeding was previously prepared.)*

	Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(a)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(b)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(c)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(d)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(e)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(f)						<input type="checkbox"/> Yes <input type="checkbox"/> No
(g)						<input type="checkbox"/> Yes <input type="checkbox"/> No

See additional pages.

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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2. a. (2) **Deposit for additional proceedings**

I have (*check a, b, c, or d*):

- (a) Deposited the approximate cost of transcribing the designated proceedings with this notice as provided in rule 8.130(b)(1).
- (b) Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(b)(3)(B).
- (c) Attached the reporter's written waiver of a deposit for (*check either (i) or (ii)*):
- (i) All of the designated proceedings.
- (ii) Part of the designated proceedings.
- (d) Attached a certified transcript under rule 8.130(b)(3)(C).

b. **Copy of reporter's transcript.**

- (1) I request a copy of the reporter's transcript.
- (2) I request that the reporters provide (*check (a), (b), or (c)*):
- (a) My copy of the reporter's transcript in paper format.
- (b) My copy of the reporter's transcript in computer-readable format.
- (c) My copy of the reporter's transcript in paper format and a second copy of the reporter's transcript in computer-readable format.

(*Code Civ. Proc., § 271; Cal. Rules of Court, rule 8.130(f)(4).*)

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF APPELLANT OR ATTORNEY)

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>):	STATE BAR NO.: STATE: ZIP CODE: FAX NO.:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:		
RESPONDENT'S NOTICE ELECTING TO USE AN APPENDIX (UNLIMITED CIVIL CASE)		SUPERIOR COURT CASE NUMBER:
RE: Appeal filed on (<i>date</i>):		COURT OF APPEAL CASE NUMBER (<i>if known</i>):
Notice: Please read Judicial Council form APP-001 before completing this form. This form must be filed within 10 days after the notice of appeal is filed. It must be filed in the superior court, not in the Court of Appeal.		

The appellant in this case has not been granted a waiver of the fees for preparing a clerk's transcript. I elect under rule 8.124(a) to use an appendix in lieu of a clerk's transcript.

Date: _____

(TYPE OR PRINT NAME)



(SIGNATURE OF RESPONDENT OR ATTORNEY)

TO BE FILED IN THE COURT OF APPEAL

APP-012

COURT OF APPEAL		APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (<i>name</i>):		STATE BAR NO.: STATE: ZIP CODE: FAX NO.:	SUPERIOR COURT CASE NUMBER:
APPELLANT: RESPONDENT:			
STIPULATION FOR EXTENSION OF TIME TO FILE BRIEF (CIVIL CASE)			
Notice: Please read Judicial Council form APP-001 before completing this form. Before a brief is due, parties may extend the time to file the brief <i>up to a maximum of 60 days</i> by filing one or more stipulations. However, parties may not stipulate to extend the time to file a brief if the court has previously granted an application to extend the time to file the brief. See California Rules of Court, rule 8.212(b).			

1. All parties to this appeal stipulate to extend the time under Cal. Rules of Court, rule 8.212(a), to file the following brief (*check one*):

- appellant's opening brief (AOB)
 respondent's brief (RB)
 combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)
 combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)
 appellant's reply brief (ARB)

2. This brief is now due on (*date*):

3. The parties agree to extend the due date by (*number*): days, so that the new date is (*date*):

4. The time to file this brief (*check one*):

- has not been extended by stipulations previously.
 has been extended previously by one or more stipulations totaling (*number*) days.

The combined extensions to file this brief by this stipulation and any previous stipulation do not exceed 60 days. (See rule 1.10 regarding the computation of time.)

5. For attorneys filing on behalf of a client, I certify that I have delivered a copy of this stipulation to my client. (See rule 8.60.)

6. A proof of service of this stipulation on all parties is attached (see rule 8.50). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(IF SIGNED BY AN ATTORNEY, NAME OF PARTY REPRESENTED)

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
---------------------------	------------------------------

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(IF SIGNED BY AN ATTORNEY, NAME OF PARTY REPRESENTED)

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(IF SIGNED BY AN ATTORNEY, NAME OF PARTY REPRESENTED)

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

(IF SIGNED BY AN ATTORNEY, NAME OF PARTY REPRESENTED)

APP-101-INFO**Information on Appeal Procedures for Limited Civil Cases****GENERAL INFORMATION****1 What does this information sheet cover?**

This information sheet tells you about appeals in limited civil cases. These are civil cases in which the amount of money claimed is \$25,000 or less.

If you are the party who is appealing (asking for the trial court's decision to be reviewed), you are called the APPELLANT, and you should read Information for the Appellant, starting on page 2. If you received notice that another party in your case is appealing, you are called the RESPONDENT and you should read Information for the Respondent, starting on page 11.

This information sheet does not cover everything you may need to know about appeals in limited civil cases. It is meant only to give you a general idea of the appeal process. To learn more, you should read rules 8.800–8.843 and 8.880–8.891 of the California Rules of Court, which set out the procedures for limited civil appeals. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

2 What is an appeal?

An appeal is a request to a higher court to review a decision made by a judge or jury in a lower court. **In a limited civil case, the court hearing the appeal is the appellate division of the superior court and the lower court—called the “trial court” in this information sheet—is the superior court.**

It is important to understand that **an appeal is NOT a new trial**. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits. The appellate division's job is to review a record of what happened in the trial court and the trial court's decision to see if certain kinds of legal errors were made:

For information about appeal procedures in other kinds of cases, see:

- *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001)
- *Information on Appeal Procedures for Infractions* (form CR-141-INFO)
- *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO)

You can get these forms at any courthouse or county law library or online at www.courts.ca.gov/forms.

- **Prejudicial error:** The appellant (the party who is appealing) may ask the appellate division to determine if an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called “prejudicial error”).

Prejudicial error can include things like errors made by the judge about the law, errors or misconduct by the lawyers, incorrect instructions given to the jury, and misconduct by the jury that harmed the appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. It is the responsibility of the appellant to show the appellate division that an error was made and that the error was harmful.

- **No substantial evidence:** The appellant may also ask the appellate division to determine if there was substantial evidence supporting the judgment, order, or other decision being appealed. When it conducts its review, the appellate division only looks to see if there was evidence that reasonably supports the decision. The appellate division generally will not reconsider the jury's or trial court's conclusion about which side had more or stronger evidence or whether witnesses were telling the truth or lying.

The appellate division generally will not overturn the judgment, order, or other decision being appealed unless the record clearly shows that one of these legal errors was made.

APP-101-INFO**Information on Appeal Procedures for Limited Civil Cases****3 Do I need a lawyer to represent me in an appeal?**

You do not *have* to have a lawyer; if you are an individual (rather than a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you decide not to use a lawyer, you must put your address, telephone number, fax number (if available), and e-mail address (if available) on the first page of every document you file with the court and let the court know if this contact information changes so that the court can contact you if needed.

4 Where can I find a lawyer to help me with my appeal?

You have to hire your own attorney if you want one. You can get information about finding an attorney on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp in the Getting Started section.

INFORMATION FOR THE APPELLANT

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in a limited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 11 of this information sheet.

5 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative unless you are a legally appointed representative of that person (such as the person’s guardian or conservator).

6 Can I appeal any decision the trial court made?

No. Generally, you can only appeal the final judgment—the decision at the end that decides the whole case. Other rulings made by the trial court before the final judgment generally cannot be separately appealed but can be reviewed only later as part of an appeal of the final judgment. There are a few exceptions to this general rule. Code of Civil Procedure section 904.2 lists a few types of orders in a limited civil case that can be appealed right away. These include orders that:

- Change or refuse to change the place of trial (venue)
- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum
- Grant a new trial or deny a motion for judgment notwithstanding the verdict
- Discharge or refuse to discharge an attachment or grant a right to attach
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction
- Appoint a receiver
- Are made after final judgment in the case

(You can get a copy of Code of Civil Procedure section 904.2 at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.)

7 How do I start my appeal?

First, you must serve and file a notice of appeal. The notice of appeal tells the other party or parties in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal/Cross-Appeal (Limited Civil Case)* (form APP-102) to prepare a notice of appeal in a limited civil case. You can get form APP-102 at any courthouse or county law library or online at www.courts.ca.gov/forms.

APP-101-INFO**Information on Appeal Procedures for Limited Civil Cases****8 How do I “serve and file” the notice of appeal?**

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver or electronically send (“serve”) the notice of appeal to the other party or parties in the way required by law. If the notice of appeal is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice of appeal has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the notice of appeal, who was served with the notice of appeal, how the notice of appeal was served (by mail, in person, or electronically), and the date the notice of appeal was served.
- Bring or mail the original notice of appeal and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice of appeal you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice of appeal to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

9 Is there a deadline to file my notice of appeal?

Yes. In a limited civil case, except in the very limited circumstances listed in rule 8.823, you must file your notice of appeal within **30 days** after the trial court clerk or a party serves either a document called a “Notice of Entry” of the trial court judgment or a file-stamped copy of the judgment or within 90 days after entry of the judgment, whichever is earlier.

This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.

10 Do I have to pay to file an appeal?

Yes. Unless the court waives this fee, you must pay a fee for filing your notice of appeal. You can ask the clerk of the court where you are filing the notice of appeal what the fee is or look up the fee for an appeal in a limited civil case in the current Statewide Civil Fee Schedule linked at www.courts.ca.gov/7646.htm (note that the “Appeal and Writ Related Fees” section is near the end of this schedule and that there are different fees for limited civil cases depending on the amount demanded in the case). If you cannot afford to pay the fee, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

11 If I file a notice of appeal, do I still have to do what the trial court ordered me to do?

Filing a notice of appeal does NOT automatically postpone most judgments or orders, such as those requiring you to pay another party money or to deliver property to another party (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at www.leginfo.ca.gov/calaw.html). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request. In most cases, other than unlawful detainer cases in which the trial court’s judgment gives a party possession of the property, if the trial court denies your request for a stay, you can apply to the appellate division for a stay. If you do not get a stay and you do not do what the trial court ordered you to do, court proceedings to collect the money or otherwise enforce the judgment or order may be started against you.

APP-101-INFO**Information on Appeal Procedures for Limited Civil Cases****12 What do I need to do after I file my notice of appeal?**

You must ask the clerk of the trial court to prepare and send the official record of what happened in the trial court in your case to the appellate division.

Since the appellate division judges were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the appellate division for its review. You can use *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to ask the trial court to prepare this record. You can get form APP-103 at any courthouse or county law library or online at www.courts.ca.gov/forms.

You must serve and file this notice designating the record on appeal within 10 days after you file your notice of appeal. “Serving and filing” this notice means that you must:

- Have somebody over 18 years old mail, deliver or electronically send (“serve”) the notice to the other party or parties in the way required by law. If the notice is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the notice, who was served with the notice, how the notice was served (by mail, in person or electronically), and the date the notice was served.
- Bring or mail the original notice and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the notice to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California

Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

13 What is the official record of the trial court proceedings?

There are three parts of the official record:

- A record of the documents filed in the trial court (other than exhibits)
- A record of what was said in the trial court (this is called the “oral proceedings”)
- Exhibits that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court

Read below for more information about these parts of the record.

a. Record of the documents filed in the trial court

The first part of the official record of the trial court proceedings is a record of the documents that were filed in the trial court. There are three ways in which a record of the documents filed in the trial court can be prepared for the appellate division:

- (1) A clerk’s transcript
- (2) The original *trial court file* or
- (3) An *agreed statement*

Read below for more information about these options.

(1) Clerk’s transcript

Description: A clerk’s transcript is a record of the documents filed in the trial court prepared by the clerk of the trial court.

Contents: Certain documents, such as the notice of appeal and the trial court judgment or order being appealed, must be included in the clerk’s transcript. These documents are listed in rule 8.832(a) of the California Rules of Court and in *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103).

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If you want any documents other than those listed in rule 8.832(a) to be included in the clerk's transcript, you must tell the trial court in your notice designating the record on appeal. You can use form APP-103 to do this. You will need to identify each document you want included in the clerk's transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.

If you—the appellant—request a clerk's transcript, the respondent also has the right to ask the clerk to include additional documents in the clerk's transcript. If this happens, you will be served with a notice saying what other documents the respondent wants included in the clerk's transcript.

Cost: The appellant is responsible for paying for preparing a clerk's transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk's transcript. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the clerk's transcript has been paid or waived, the trial court clerk will compile the requested documents into a transcript format and, when the record on appeal is complete, will forward the original clerk's transcript to the appellate division for filing. The trial court clerk will send you a copy of the transcript. If the

respondent bought a copy, the clerk will also send a copy of the transcript to the respondent.

(2) Trial court file

When available: If the court has a local rule allowing this, the clerk can send the appellate division the original trial court file instead of a clerk's transcript (see rule 8.833 of the California Rules of Court).

Cost: As with a clerk's transcript, the appellant is responsible for paying for preparing the trial court file. The trial court clerk will send you a bill for this preparation cost. You must do one of the following things within 10 days after the clerk sends this bill or the appellate division may dismiss your appeal:

- Pay the bill.
- Ask the court to waive the cost because you cannot afford to pay. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.
- Give the court a copy of a court order showing that your fees in this case have already been waived by the court.

Completion and delivery: After the cost of preparing the trial court file has been paid or waived and the record on appeal is complete, the trial court clerk will send the file and a list of the documents in the file to the appellate division. The trial court clerk will also send a copy of the list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order.

(3) Agreed statement

Description: An agreed statement is a summary of the trial court proceedings agreed to by the parties (see rule 8.836 of the California Rules of Court).

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When available: If you and the respondent agree to this, you can use an agreed statement instead of a clerk’s transcript. To do this, you must attach to your agreed statement all of the documents that are required to be included in a clerk’s transcript. If you choose this alternative, you must file with your notice designating the record on appeal either the agreed statement or a written agreement with the respondent (a “stipulation”), stating that you are trying to agree on a statement. Within the next 30 days, you must then file the agreed statement or tell the court that you were unable to agree on a statement and file a new notice designating the record.

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

The second part of the official record of the trial court proceedings is a record of what was said in the trial court (this is called a record of the “oral proceedings”). You do not *have* to send the appellate division a record of the oral proceedings. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of those oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings.

You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying for preparing this record or for preparing an initial draft of the record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. **If the appellate division does not receive this record, it will not be able to review any issues that are based on what was said in the trial court and it may dismiss your appeal.**

In a limited civil case, you can use *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to tell the court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get form APP-103 at any

courthouse or county law library or online at www.courts.ca.gov/forms.

There are four ways in which a record of the oral proceedings can be prepared for the appellate division:

- (1) If you or the other party arranged to have a court reporter there during the trial court proceedings, the reporter can prepare a record, called a “*reporter’s transcript*.”
- (2) If the proceedings were officially electronically recorded, the trial court can have a transcript prepared from that recording or, if the court has a local rule permitting this and you and the other party agree (“stipulate”) to this, you can use the *official electronic recording* itself instead of a transcript.
- (3) You can use an *agreed statement*.
- (4) You can use a *statement on appeal*.

Read below for more information about these options.

(1) Reporter’s transcript

Description: A reporter’s transcript is a written record (sometimes called a “verbatim” record) of the oral proceedings in the trial court prepared by a court reporter. Rule 8.834 of the California Rules of Court establishes the requirements relating to reporter’s transcripts.

When available: If a court reporter was there in the trial court and made a record of the oral proceedings, you can choose (“elect”) to have the court reporter prepare a reporter’s transcript for the appellate division. In most limited civil cases, however, a court reporter will not have been there unless you or another party in your case made specific arrangements to have a court reporter there. Check with the court to see if a court reporter made a record of the oral proceedings in your case before choosing this option.

Contents: If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want to be included in the reporter’s transcript. You can use

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the same form you used to tell the court you wanted to use a reporter's transcript—*Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this.

If you elect to use a reporter's transcript, the respondent also has the right to designate additional proceedings to be included in the reporter's transcript. If you elect to proceed without a reporter's transcript, however, the respondent may not designate a reporter's transcript without first getting an order from the appellate division.

Cost: The appellant is responsible for paying for preparing a reporter's transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter's transcript. You must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule 8.834 with the trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at: www.courtreportersboard.ca.gov/consumers/index.shtml#rtf. If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a statement on appeal, which are described below.

Completion and delivery: After the cost of preparing the reporter's transcript or a permissible substitute has been deposited, the court reporter will prepare the transcript and submit it to the trial court clerk. When the record is complete, the trial court clerk will submit the original transcript to the appellate division and send you a copy of the transcript. If the respondent has purchased it, a

copy of the reporter's transcript will also be mailed to the respondent.

(2) Official electronic recording or transcript

When available: In some limited civil cases, the trial court proceedings were officially recorded on approved electronic recording equipment. If your case was officially recorded, you can choose ("elect") to have a transcript prepared from the recording. Check with the trial court to see if the oral proceedings in your case were officially electronically recorded before you choose this option. If the court has a local rule permitting this and all the parties agree ("stipulate"), a copy of an official electronic recording itself can be used as the record, instead of preparing a transcript. If you choose this option, you must attach a copy of this agreement ("stipulation") to your notice designating the record on appeal.

Cost: The appellant is responsible for paying for preparing this transcript or making a copy of the official electronic recording. If you cannot afford to pay this cost, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application to determine if you are eligible for a fee waiver.

Completion and delivery: After the estimated cost of the transcript or official electronic recording has been paid or waived, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared and the rest of the record is complete, the clerk will send it to the appellate division.

(3) Agreed statement

Description: An agreed statement is a written summary of the trial court proceedings agreed to by all the parties.

When available: If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you

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do not want to use one of these options, you can choose (“elect”) to use an agreed statement as the record of the oral proceedings (please note that it may take more of your time to prepare an agreed statement than to use either a reporter’s transcript or official electronic recording, if they are available).

Contents: An agreed statement must explain what the trial court case was about, describe why the appellate division is the right court to consider an appeal in this case (why the appellate division has “jurisdiction”), and describe the rulings of the trial court relating to the points to be raised on appeal.

The statement should include only those facts that you and the other parties think are needed to decide the appeal.

Preparation: If you elect to use this option, you must file the agreed statement with your notice designating the record on appeal or, if you and the other parties need more time to work on the statement, you can file a written agreement with the other parties (called a “stipulation”) stating that you are trying to agree on a statement. If you file this stipulation, within the next 30 days you must either file the agreed statement or tell the court that you and the other parties were unable to agree on a statement and file a new notice designating the record.

(4) Statement on appeal

Description: A statement on appeal is a summary of the trial court proceedings that is approved by the trial court judge who conducted those proceedings (the term “judge” includes commissioners and temporary judges).

When available: If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use one of these options, you can choose (“elect”) to use a statement on appeal as the record of the oral proceedings (please note that it may take more of your time to prepare a statement on appeal than to use either a reporter’s transcript or official electronic recording, if they are available).

Contents: A statement on appeal must include:

- A statement of the points you (the appellant) are raising on appeal;
- A summary of the trial court’s rulings and judgment; and
- A summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal.

(See rule 8.837 of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)

Preparing a proposed statement: If you elect to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use *Proposed Statement on Appeal (Limited Civil Case)* (form APP-104) to prepare your proposed statement. You can get form APP-104 at any courthouse or county law library or online at www.courts.ca.gov/forms.

Serving and filing a proposed statement: You must serve and file the proposed statement with the trial court within 20 days after you file your notice designating the record. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver or electronically send (“serve”) the proposed statement to the respondent in the way required by law. If the proposed statement is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed statement has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail, in person or electronically), and the date the proposed statement was served.

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- File the original proposed statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

Review and modifications: The respondent has 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial court judge then reviews both your proposed statement and any proposed amendments filed by the respondent. The trial judge will either make or order you (the appellant) to make any corrections or modifications to the statement that are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal.

Completion and certification: If the judge makes any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you and the respondent for your review. If the judge orders you to make any corrections or modifications to the proposed statement, you must serve and file the corrected or modified statement within the time ordered by the judge. If you or the respondent disagree with anything in the modified or corrected statement, you have 10 days from the date the modified or corrected statement is sent to you to serve and file objections to the statement. The judge then reviews any objections, makes or orders you to make any additional corrections to the statement, and certifies the statement as an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal.

Sending statement to the appellate division: Once the trial court judge certifies the statement on

appeal, the trial court clerk will send the statement to the appellate division along with any record of the documents filed in the trial court.

c. Exhibits

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk’s transcript unless you ask that they be included in your notice designating the record on appeal. *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103), includes a space for you to make this request.

You also can ask the trial court to send original exhibits to the appellate division at the time briefs are filed (see rule 8.843 for more information about this procedure and see below for information about briefs).

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for that exhibit to be included in the clerk’s transcript or sent to the appellate division, the party who has the exhibit must deliver that exhibit to the trial court clerk as soon as possible.

14 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives the record, it will send you a notice telling you when you must file your brief in the appellate division.

15 What is a brief?

Description: A “brief” is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a

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lawyer, you will have to prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get copies of these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

Contents: If you are the appellant, your brief, called an “appellant’s opening brief,” must clearly explain what you believe are the legal errors made in the trial court. Your brief must refer to the exact places in the clerk’s transcript and the reporter’s transcript (or the other forms of the record you are using) that support your argument. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits so do not include any new evidence in your brief.

Serving and filing: You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver or electronically send (“serve”) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person or electronically), and the date the brief was served.
- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 30 days (see rule 8.882(b) for requirements for these agreements). You can also ask the court to extend the time for filing this brief if you can show good cause for an extension (see rule 8.811(b) for a list of the factors the court will consider in deciding whether there is good cause for an extension). You can use *Application for Extension of Time to File Brief (Limited Civil Case)* (form APP-106) to ask the court for an extension.

If you do not file your brief by the deadline set by the appellate division, the court may dismiss your appeal.

16 What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent may, but is not required to, respond by serving and filing a respondent’s brief. If the respondent does not file a brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant’s brief, and any oral argument by the appellant.

If the respondent files a brief, within 20 days after the respondent’s brief was filed, you may, but are not required to, file another brief replying to the respondent’s brief. This is called a “reply brief.”

17 What happens after all the briefs have been filed?

Once all the briefs have been filed or the time to file them has passed, the appellate division will notify you of the date for oral argument in your case.

18 What is “oral argument?”

“Oral argument” is the parties’ chance to explain their arguments to the appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to “waive” oral argument. If all parties waive oral argument, the judges will decide your appeal based on the briefs and the record that were submitted. But if

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one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to 10 minutes for your argument unless the appellate division orders otherwise. Remember that the judges will have already read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in your appeal or ask the judges if they have any questions you could answer.

19 What happens after oral argument?

After oral argument is held (or the date it was scheduled passes if all the parties waive oral argument), the judges of the appellate division will make a decision about your appeal. The appellate division has 90 days after the date scheduled for oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division's decision.

20 What should I do if I want to give up my appeal?

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called “abandoning”) your appeal. You can use *Abandonment of Appeal (Limited Civil Case)* (form APP-107) to file this notice in a limited civil case. You can get form APP-107 at any courthouse or county law library or online at www.courts.ca.gov/forms.

INFORMATION FOR THE RESPONDENT

This section of this information sheet is written for the respondent—the party responding to an appeal filed by another party. It explains some of the rules and procedures relating to responding to an appeal in a limited civil case. The information may also be helpful to the appellant.

21 I have received a notice of appeal from another party. Do I need to do anything?

You do not *have* to do anything. The notice of appeal simply tells you that another party is appealing the trial court's decision. However, this would be a good time to get advice from a lawyer, if you want it. You do not *have* to have a lawyer; if you are an individual (not a corporation, for example), you are allowed to represent yourself in an appeal in a limited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm.

22 If the other party appealed, can I appeal too?

Yes. Even if another party has already appealed, you may still appeal the same judgment or order. This is called a “cross-appeal.” To cross-appeal, you must serve and file a notice of appeal. You can use *Notice of Appeal/Cross-Appeal (Limited Civil Case)* (form APP-102) to file this notice in a limited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 2 of this information sheet, if you are considering filing a cross-appeal.

23 Is there a deadline to file a cross-appeal?

Yes. You must serve and file your notice of appeal within either the regular time for filing a notice of appeal (generally 30 days after mailing or service of Notice of Entry of the judgment or a file-stamped copy of the judgment) or within 10 days after the clerk of the trial court mails notice of the first appeal, whichever is later.

24 I have received a notice designating the record on appeal from another party. Do I need to do anything?

You do not *have* to do anything. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the appellate

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division. Depending on the kind of record chosen by the appellant, however, you may have the option to:

- Add to what is included in the record
- Participate in preparing the record *or*
- Ask for a copy of the record

Look at the appellant's notice designating the record on appeal to see what kind of record the appellant has chosen and read about that form of the record in the response to question (13) above. Then read below for what your options are when the appellant has chosen that form of the record.

(a) Clerk's transcript

If the appellant is using a clerk's transcript, you have the option of asking the clerk to include additional documents in the clerk's transcript.

To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk's transcript.

Whether or not you ask for additional documents to be included in the clerk's transcript, you must pay a fee if you want a copy of the clerk's transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk's transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk's notice was sent. If you cannot afford to pay this cost, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk's transcript for you unless you deposit payment for the cost or obtain a fee waiver.

(b) Reporter's transcript

If the appellant is using a reporter's transcript, you have the option of asking for additional proceedings to be included in the reporter's transcript. To do this, within 10 days after the appellant files its notice designating the record

on appeal, you must serve and file a notice designating additional proceedings to be included in the reporter's transcript.

Whether or not you ask for additional proceedings to be included in the reporter's transcript, you must generally pay a fee if you want a copy of the reporter's transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter's transcript. If you want a copy of the reporter's transcript, you must deposit this amount (and a fee for the trial court) or one of the substitutes allowed by rule 8.834 with the trial court clerk within 10 days after this notice is sent. (See rule 8.834 for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. A special fund, called the Transcript Reimbursement Fund, may be able to help pay for the transcript. You can get information about this fund at:

www.courtreportersboard.ca.gov/consumers/index.shtml#trf. The reporter will not prepare a copy of the reporter's transcript for you unless you deposit the cost of the transcript, or one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

If the appellant elects not to use a reporter's transcript, you may not designate a reporter's transcript without first getting an order from the appellate division.

(c) Agreed statement

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 30 days after the appellant files its notice designating the record.

(d) Statement on appeal

If the appellant elects to use a statement on appeal (a summary of the trial court proceedings that is approved by the trial court), the appellant

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will send you a proposed statement to review. You will have 10 days from the date the appellant sent you this proposed statement to serve and file suggested changes (called “amendments”) that you think are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues the appellant indicated he or she is raising on appeal. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver or electronically send (“serve”) the proposed amendments to the appellant in the way required by law. If the proposed amendments are mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed amendments have been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the proposed amendments, who was served with the proposed amendments, how the proposed amendments were served (by mail, in person or electronically), and the date the proposed amendments were served.
- File the original proposed amendments and the proof of service with the trial court. You should make a copy of the proposed amendments you are planning to file for your own records before you file them with the court. It is a good idea to bring or mail an extra copy of the proposed amendments to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

25 What happens after the official record has been prepared?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

A brief is a party’s written description of the facts in the case, the law that applies, and the party’s argument about the issues being appealed. If you are represented by a lawyer, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to prepare your brief yourself. You should read rules 8.882–8.884 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.htm.

The appellant serves and files the first brief, called an “appellant’s opening brief.” You may, but are not required to, respond by serving and filing a respondent’s brief within 30 days after the appellant’s opening brief is filed. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver or electronically send (“serve”) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person or electronically), and the date the brief was served.
- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

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You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 30 days (see rule 8.882(b) for requirements for these agreements). You can also ask the court to extend the time for filing this brief if you can show good cause for an extension (see rule 8.811(b) for a list of the factors the court will consider in deciding whether there is good cause for an extension). You can use *Application for Extension of Time to File Brief (Limited Civil Case)* (form APP-106) to ask the court for an extension.

If you do not file a respondent's brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant's brief, and any oral argument by the appellant. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

If you file a respondent's brief, the appellant then has an opportunity to serve and file another brief within 20 days replying to your brief.

26 What happens after all the briefs have been filed?

Once all the briefs have been filed or the time to file them has passed, the court will notify you of the date for oral argument in your case.

“Oral argument” is the parties’ chance to explain their arguments to appellate division judges in person. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to “waive” oral argument. If all parties waive oral argument, the judges will decide the appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to 10 minutes for your argument unless the appellate division orders otherwise. Remember that the

judges will have already read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in the appeal or ask the judges if they have any questions you could answer.

After oral argument is held (or the scheduled date passes if all parties waive argument), the judges of the appellate division will make a decision about the appeal. The appellate division has 90 days after oral argument to decide the appeal. The clerk of the court will mail you a notice of the appellate division's decision.

APP-102**Notice of Appeal/Cross-Appeal
(Limited Civil Case)**

Clerk stamps date here when form is filed.

Instructions

- This form is only for appealing in a **limited civil case**. You can get other forms for appealing in unlimited civil cases at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- You must serve and file this form **no later than 30 days** after the trial court or a party serves a document called a Notice of Entry of the trial court judgment or a file-stamped copy of the judgment or 90 days after entry of judgment, whichever is earlier (see rule 8.823 of the California Rules of Court for very limited exceptions). **If your notice of appeal is late, your appeal will be dismissed.**
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the original completed form and proof of service on the other parties to the clerk's office for the same court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

The clerk will fill in the number below

Appellate Division Case Number:**1 Your Information**

a. Name of appellant (the party who is filing this appeal):

b. Appellant's contact information (*skip this if the appellant has a lawyer for this appeal*):

Street address: _____

Street

City

State

Zip

Mailing address (*if different*): _____

Street

City

State

Zip

Phone: _____ E-mail: _____

c. Appellant's lawyer (*skip this if the appellant does not have a lawyer for this appeal*):

Name: _____ State Bar number: _____

Street address: _____

Street

City

State

Zip

Mailing address (*if different*): _____

Street

City

State

Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

② This is (check a or b):

- a. The first appeal in this case.
- b. A cross-appeal (an appeal filed after the first appeal in this case (complete (1), (2), and (3))).
- (1) The notice of appeal in the first appeal was filed on (fill in the date that the other party filed its notice of appeal in this case): _____
- (2) The trial court clerk served notice of the first appeal on (fill in the date that the clerk served the notice of the other party's appeal in this case): _____
- (3) The appellate division case number for the first appeal is (fill in the appellate division case number of the other party's appeal, if you know it): _____

③ **Judgment or Order You Are Appealing**

I am/My client is appealing (check a or b):

- a. The final judgment in the trial court case identified in the box on page 1 of this form.
The date the trial court entered this judgment was (fill in the date): _____
- b. Other:
- (1) An order made after final judgment in the case.
The date the trial court entered this order was (fill in the date): _____
- (2) An order changing or refusing to change the place of trial (venue).
The date the trial court entered this order was (fill in the date): _____
- (3) An order granting a motion to quash service of summons.
The date the trial court entered this order was (fill in the date): _____
- (4) An order granting a motion to stay or dismiss the action on the ground of inconvenient forum.
The date the trial court entered this order was (fill in the date): _____
- (5) An order granting a new trial.
The date the trial court entered this order was (fill in the date): _____
- (6) An order denying a motion for judgment notwithstanding the verdict.
The date the trial court entered this order was (fill in the date): _____
- (7) An order granting or dissolving an injunction or refusing to grant or dissolve an injunction.
The date the trial court entered this order was (fill in the date): _____



Trial Court Case Name: _____

Trial Court Case Number: _____

3 (continued)

- (8)
-
- An order appointing a receiver.

The date the trial court entered this order was (fill in the date): _____

- (9)
-
- Other action (please describe and indicate the date the trial court took the action you are appealing):

4 Record Preparation Election

Complete this section only if you are filing the first appeal in this case. If you are filing a cross-appeal, skip this section and go to the signature line.

Check a or b if you are filing the first appeal in this case:

- a. I have/My client has completed *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) and attached it to this notice of appeal.
- b. I/My client will complete *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) later. I understand that I must file this notice in the trial court within 10 days of the date I file this notice of appeal.

REMINDER: Except in the very limited circumstances listed in rule 8.823, you must serve and file this form no later than (1) 30 days after the trial court clerk or a party serves either a document called a Notice of Entry of the trial court judgment or a file-stamped copy of the judgment or (2) within 90 days after entry of judgment, whichever is earlier. If your notice of appeal is late, your appeal will be dismissed.

Date: _____

Type or print your name


Signature of appellant/cross-appellant or attorney

APP-103

Appellant's Notice Designating Record on Appeal (Limited Civil Case)

Instructions

- This form is only for choosing (“designating”) the record on appeal in a **limited civil case**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- This form can be attached to your notice of appeal. If it is not attached to your notice of appeal, you must serve and file this form within 10 days after you file your notice of appeal. **If you do not file this form on time, the court may dismiss your appeal.**
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service on the California Courts Online Self-Help Center site at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the original completed form and proof of service on the other parties to the clerk’s office for the same court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

Clerk stamps date here when form is filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:

Trial Court Case Name:

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:

1 Your Information

- a. Name of Appellant (the party who is filing this appeal):

Name: _____

- b. Appellant’s contact information (*skip this if the appellant has a lawyer for this appeal*):

Street address: _____
Street City State Zip

Mailing address (*if different*): _____
Street City State Zip

Phone: _____ E-mail: _____

- c. Appellant’s lawyer (*skip this if the appellant does not have a lawyer for this appeal*):

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

Mailing address (*if different*): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name:

Trial Court Case Number:

Information About Your Appeal

- ② On (fill in the date): _____ I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.

Record of the Documents Filed in the Trial Court

- ③ I elect (choose)/My client elects to use the following record of the documents filed in the trial court (check a or b and fill in any required information):

- a. **Clerk's Transcript.** (Fill out (1)–(4).) Note that, if the appellate division has adopted a local rule permitting this, the clerk may prepare and send the original court file to the appellate division instead of a clerk's transcript.

- (1) **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed or, if that is not available, the date the document was signed.

Document Title and Description	Date of Filing
(a) Notice of appeal	
(b) Notice designating record on appeal (this document)	
(c) Judgment or order appealed from	
(d) Notice of entry of judgment (if any)	
(e) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (if any)	
(f) Ruling on any item included under (e)	
(g) Register of actions or docket	

- (2) **Additional documents.** If you want any documents in addition to the required documents listed in (1) above to be included in the clerk's transcript, you must identify those documents here.

- I request that the clerk include in the transcript the following documents that were filed in the trial court. (Identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

Document Title and Description	Date of Filing
(a)	
(b)	
(c)	
(d)	
(e)	

- Check here if you need more space to list other documents and attach a separate page or pages listing those documents. At the top of each page, write "APP-103, item 3a(2)."



Trial Court Case Name: _____

Trial Court Case Number: _____

③ a. (continued)

(3) Exhibits.

- I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the trial court. (For each exhibit, give the exhibit number (such as Plaintiff's #1 or Defendant's A) and a brief description of the exhibit and indicate whether or not the court admitted the exhibit into evidence. If the trial court has returned a designated exhibit to a party, the party who has that exhibit must deliver it to the trial court clerk as soon as possible.)

Exhibit Number	Description	Admitted Into Evidence	
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No

- Check here if you need more space to list other exhibits and attach a separate page or pages listing those exhibits. At the top of each page, write "APP-103, item 3a(3)."

(4) Payment for clerk's transcript. (Check a or b.)

- (a) I will pay the trial court clerk for this transcript myself when I receive the clerk's estimate of the costs of the transcript. I understand that if I do not pay for the transcript, it will not be prepared and provided to the appellate division.
- (b) I am asking that the clerk's transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (i) or (ii) and submit the checked document):
- (i) An order granting a waiver of the cost under rules 3.50–3.58.
- (ii) An application for a waiver of court fees and costs under rules 3.50–3.58 (Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.)

OR

- b. Agreed statement. (You must complete item ⑤d, below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in 3a(1) above and in rule 8.832 of the California Rules of Court.)

Record of Oral Proceedings in the Trial Court

You do not have to provide the appellate division with a record of what was said in the trial court (this is called a record of the "oral proceedings"). But, if you do not, the appellate division will not be able to consider what was said during the trial court proceedings in deciding whether a legal error was made in those proceedings.

④ I elect (choose)/My client elects to proceed (check a or b):

- a. WITHOUT a record of the oral proceedings in the trial court (skip item ⑤); sign and date this form). I understand that if I proceed without a record of the oral proceedings, the appellate division will not be able to consider what was said in the trial court during those proceedings in deciding whether a legal error was made.

(Write initials here): _____



Trial Court Case Name: _____

Trial Court Case Number: _____

4 (continued)

- b. WITH a record of the oral proceedings in the trial court (*complete item 5 below*). I understand that if I elect (choose) to proceed WITH a record of the oral proceedings in the trial court, I have to choose the record I want to use and take the actions described below to make sure this record is provided to the appellate division. I understand that if I do not take the actions described below and the appellate division does not receive this record, I am not likely to succeed in my appeal.

(Write initials here): _____

5 I want to use the following record of what was said in the trial court proceedings in my case (*check and complete only one of the following below—a, b, c, d, or e*):

- a. **Reporter’s Transcript.** *This option is available only if there was a court reporter in the trial court who made a record of what was said in court. Check with the trial court to see if there was a court reporter in your case before choosing this option. (Complete (1) and (2).):*

(1) **Designation of proceedings to be included in reporter’s transcript.** I request that the following proceedings in the trial court be included in the reporter’s transcript. (*You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings [for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions], the name of the court reporter who recorded the proceedings, and whether a certified transcript of the designated proceeding was previously prepared.*)

Date	Department	Description	Reporter’s Name	Prev. prepared?
(a)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(b)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(c)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(d)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(e)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(f)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(g)				<input type="checkbox"/> Yes <input type="checkbox"/> No

Check here if you need more space to list other proceedings and attach a separate page or pages listing those proceedings. At the top of each page, write “APP-103, item 5a.”

- (2) The proceedings designated in (1) include do not include all of the testimony in the trial court. If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal. (*Rule 8.834(a)(2) provides that your appeal will be limited to these points unless, on motion, the appellate division permits otherwise.*)

Check here if you need more space to list other points and attach a separate page or pages listing those points. At the top of each page, write “APP-103, item 5a(2).”



Trial Court Case Name: _____

Trial Court Case Number: _____

5 a. (continued)

- (3) **Payment for reporter's transcript.** I will pay for this transcript myself or request payment from the Transcript Reimbursement Fund when I receive the court reporter's estimate of the costs of this transcript. I understand that if I do not pay the trial court clerk's office for this transcript, file with the court a written waiver of this deposit signed by the reporter, or receive approval of my Transcript Reimbursement Fund application, the transcript will not be prepared and provided to the appellate division.

(Write initials here): _____

- I request that the reporters provide (*check one*):
- (i) My copy of the reporter's transcript in paper format.
- (ii) My copy of the reporter's transcript in computer-readable format.
- (iii) My copy of the reporter's transcript in paper format and a second copy of the reporter's transcript in computer-readable format.

OR

- b. **Transcript From Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. (Check and complete (1) or (2).):*
- (1) I will pay the trial court clerk for this transcript myself when I receive the clerk's estimate of the costs of the transcript. I understand that if I do not pay for the transcript, it will not be prepared and provided to the appellate division.
- (2) I am asking that the transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (*check (a) or (b) and submit the appropriate document*):
- (a) An order granting a waiver of the cost under rules 3.50–3.58.
- (b) An application for a waiver of court fees and costs under rules 3.50–3.58. (*Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.*)

OR

- c. **Copy of Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court, the court has a local rule for the appellate division permitting the use of the official electronic recording itself as the record of the proceedings, and all of the parties have agreed (stipulated) that they want to use the recording itself as the record of what was said in the case. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. You must attach a copy of your agreement (stipulation) with the other parties to this notice. (Check and complete (1) or (2).):*
- (1) I will pay the trial court clerk for this copy of the recording myself when I receive the clerk's estimate of the costs of this copy. I understand that if I do not pay for this copy of the recording, it will not be prepared and provided to the appellate division.
- (2) I am asking that a copy of the recording be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (*check (a) or (b) and submit the appropriate document*):
- (a) An order granting a waiver of the cost under rules 3.50–3.58.
- (b) An application for a waiver of court fees and costs under rules 3.50–3.58. (*Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.*)



Trial Court Case Name:

Trial Court Case Number:

⑤ (continued)

OR

- d. **Agreed Statement.** *An agreed statement is a summary of the trial court proceedings agreed to by the parties. See form APP-101-INFO for information about preparing an agreed statement. (Check (1) or (2).):*
- (1) I have attached an agreed statement to this notice.
- (2) All the parties have agreed in writing (stipulated) to try to agree on a statement (*you must attach a copy of this agreement (stipulation) to this notice*). I understand that, within 30 days after I file this notice, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.

OR

- e. **Statement on Appeal.** *A statement on appeal is a summary of the trial court proceedings approved by the trial court. See form APP-101-INFO for information about preparing a proposed statement. (Check (1) or (2).):*
- (1) I have attached my proposed statement on appeal to this notice. (*If you are not represented by a lawyer in this appeal, you must use Proposed Statement on Appeal (Limited Civil Case) (form APP-104) to prepare and file this proposed statement. You can get a copy of form APP-104 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm.*)
- (2) I have NOT attached my proposed statement on appeal to this notice. I understand that I must serve and file this proposed statement in the trial court within 20 days of the date I file this notice and that if I do not file the proposed statement on time, the court may dismiss my appeal.

Date: _____

*Type or print your name*_____
Signature of appellant or attorney

APP-104**Proposed Statement on Appeal
(Limited Civil Case)**

Clerk stamps date here when form is filed.

Instructions

- This form is only for preparing a proposed statement on appeal in a **limited civil case**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- This form can be attached to your *Appellant's Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103). If it is not attached to that notice, this form must be filed **no later than 20 days after you file that notice. If you have chosen to prepare a statement on appeal and do not file this form on time, the court may dismiss your appeal.**
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the original completed form and proof of service on the other parties to the clerk's office for the same court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Name of Appellant (
- the party who is filing this appeal*
-):

Name: _____

- b. Appellant's contact information (
- skip this if the appellant has a lawyer for this appeal*
-):

Street address: _____
Street City State ZipMailing address (*if different*): _____
Street City State Zip

Phone: _____ E-mail: _____

- c. Appellant's lawyer (
- skip this if the appellant does not have a lawyer for this appeal*
-):

Name: _____ State Bar number: _____

Street address: _____
Street City State ZipMailing address (*if different*): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

Information About Your Appeal

- ② On (fill in the date): _____, I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.
- ③ On (fill in the date): _____, I/my client filed a notice designating the record on appeal, electing to use a statement on appeal.

Proposed Statement**④ Reasons for Your Appeal**

Remember, in an appeal, the appellate division can only review a case for whether certain kinds of legal errors were made (read form APP-101-INFO to learn about these legal errors):

- *There was not “substantial evidence” supporting the judgment, order, or other decision you are appealing.*
- *A “prejudicial error” was made during the trial court proceedings.*

The appellate division:

- *Cannot retry your case or take new evidence.*
- *Cannot consider whether witnesses were telling the truth or lying.*
- *Cannot consider whether there was more or stronger evidence supporting your position than there was supporting the trial court’s decision.*

(Check all that apply and describe the legal error or errors you believe were made that are the reason for this appeal.)

- a. There was not substantial evidence that supported the judgment, order, or other decision that I/my client indicated in the notice of appeal is being appealed in this case. *(Explain why you think the judgment, order, or other decision was not supported by substantial evidence):* _____

- b. The following error or errors about either the law or court procedure was/were made that caused substantial harm to me/my client. *(Describe each error and how you were/your client was harmed by that error.)*

- (1) *Describe the error:* _____

Describe how you were/your client was harmed by the error: _____



Trial Court Case Number: _____

Trial Court Case Name: _____

(2) Describe the error: _____

Describe how you were/your client was harmed by the error: _____

(3) Describe the error: _____

Describe how you were/your client was harmed by the error: _____

Check here if you need more space to describe these or other errors and attach a separate page or pages describing the errors. At the top of each page, write "APP-104, item 4."

5 The Dispute

a. In the trial court, I/my client was the (check one):

- plaintiff (the party who filed the complaint in the case).
- defendant (the party against whom the complaint was filed).

b. The plaintiff's complaint in this case was about (briefly describe what was claimed in the complaint filed with the trial court): _____

c. The defendant's response to this complaint was (briefly describe how the defendant responded to the complaint filed with the trial court): _____

Check here if you need more space to describe the dispute and attach a separate page or pages describing it. At the top of each page, write "APP-104, Item 5."



Trial Court Case Name: _____

Trial Court Case Number: _____

6 Summary of Any Motions and the Court's Order on the Motion

a. Were any motions (requests for the trial court to issue an order) made in this case that are relevant to the reasons you gave in **4** for this appeal?

Yes (*fill out b*) No (*skip to 7*)

b. *In the spaces below, describe any motions (requests for orders) that were made in the trial court that are relevant to the reasons you gave in 4 for this appeal. Write a complete and accurate summary of what was said at any hearings on these motions and indicate how the trial court ruled on these motions.*

(1) *Describe the first motion:* _____

The motion was filed by the plaintiff. defendant.

There was was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: _____

The trial court granted this motion. did not grant this motion.

Other (*describe any other action the trial court took concerning this motion*): _____

Check here if you need more space to describe this motion and attach a separate page or pages describing this motion. At the top of each page, write "APP-104, Item 6b(1)."

(2) *Describe the second motion:* _____

The motion was filed by the plaintiff. defendant.

There was was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: _____

The trial court granted this motion. did not grant this motion.



Trial Court Case Number:

Trial Court Case Name: _____

- Other (*describe any other action the trial court took concerning this motion*): _____

- Check here if you need more space to describe this motion and attach a separate page or pages describing this motion. At the top of each page, write "APP-104, item 6b(2)."
- (3) Check here if any other motions were filed that are relevant to the reasons you gave in (4) for this appeal and attach a separate page describing each motion, identifying who made the motion and whether there was a hearing on the motion, summarizing what was said at the hearing on the motion, and indicating whether the trial court granted or denied the motion. At the top of each page, write "APP-104, item 6b(3)."

7 Summary of Testimony and Other Evidence

a. Was there a trial in your case?

- No (*skip items b, c, d, and e and go to item (8)*)
- Yes (*check (1) or (2) and complete items b, c, d, and e*)
- (1) Jury trial
- (2) Trial by judge only

b. Did you/your client testify at the trial?

- No
- Yes (*Write a complete and accurate summary of the testimony you/your client gave that is relevant to the reasons you gave in (4) for this appeal. Include only what you actually said; do not comment or give your opinion about what was said. Please indicate whether any objections were made concerning your/your client's testimony or any exhibits you/your client asked to present and whether these objections were sustained.*): _____

Check here if you need more space to summarize your/your client's testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write "APP-104, Item 7b."

c. Were there any other witnesses at the trial whose testimony is relevant to the reasons you gave in (4) for this appeal?

- No
- Yes (*complete items (1), (2), and (3)*):
- (1) The witness's name is (*fill in the witness's name*): _____
- (2) The witness testified on behalf of the (*check one*): plaintiff. defendant.



Trial Court Case Name: _____

Trial Court Case Number: _____

- (3) This witness testified that *(Write a complete and accurate summary of the witness's testimony that is relevant to the reasons you gave in ④ for this appeal. Include only what the witness actually said; do not comment on or give your opinion about what the witness said. Please indicate whether any objections were made concerning this witness's testimony or any exhibits this witness asked to present and whether these objections were sustained.)*: _____
- _____
- _____
- _____

Check here if you need more space to summarize this witness's testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write "APP-104, Item 7c."

- d. Check here if any other witnesses gave testimony at the trial that is relevant to the reasons you gave in ④ for this appeal. Attach a separate page or pages identifying each witness and who the witness testified for, summarizing what that witness said in his or her testimony that is relevant to the reasons you gave in ④ for this appeal, and indicating whether any objections were made concerning this witness's testimony or any exhibits the witness asked to present and whether these objections were sustained. At the top of each page, write "APP-104, Item 7d."

- e. Summarize the evidence, other than testimony, that was given during the trial that is relevant to the reasons you gave in ④ for this appeal. *(Write a complete and accurate summary of the evidence given by both you and the respondent. Include only the evidence given; do not comment on or give your opinion about this evidence.)*:
- _____
- _____
- _____
- _____
- _____

Check here if you need more space to describe the evidence and attach a separate page or pages describing the evidence. At the top of each page, write "APP-104, Item 7e."

⑧ The Trial Court's Findings

Did the trial court make findings in the case?

No

Yes *(describe the findings made by the trial court)*: _____

Check here if you need more space to describe the trial court's findings and attach a separate page or pages describing these findings. At the top of each page, write "APP-104, Item 8."



Trial Court Case Name: _____

Trial Court Case Number: _____

9 The Trial Court's Final Judgment

The trial court issued the following final judgment in this case (*check all that apply and fill in any required information*):

a. I/My client was required to:

pay the other party damages of (*fill in the amount of the damages*): \$ _____

do the following (*describe what you were ordered to do*): _____

b. The other party was required to:

pay me/my client damages of (*fill in the amount of the damages*): \$ _____

do the following (*describe what the other party was ordered to do*): _____

c. Other (*describe*): _____

Check here if you need more space to describe the trial court's judgment or order and attach a separate page or pages describing this judgment or order. At the top of each page, write "APP-104, Item 9."

Date: _____

Type or print your name



Signature of appellant or attorney

APP-106**Application for Extension of Time
to File Brief (Limited Civil Case)****Instructions**

- This form is only for requesting an extension of time to file a brief in an appeal in a **limited civil case**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courtinfo.ca.gov/forms.
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving.
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

Clerk stamps date here when form is filed.

You fill in the name and street address of the court that issued the judgment or order that is being appealed:

Superior Court of California, County of

You fill in the number and name of the trial court case in which the judgment or order is being appealed:

Trial Court Case Number:**Trial Court Case Name:**

You fill in the appellate division case number:

Appellate Division Case Number:**1 Your Information**

- a. Name of party requesting extension of time to file brief:

- b. Party's contact information (
- skip this if the appellant has a lawyer for this appeal*
-):

Street address: _____

Street

City

State

Zip

Mailing address (*if different*): _____

Street

City

State

Zip

Phone: _____

E-mail: _____

- c. Party's lawyer (
- skip this if the appellant does not have a lawyer for this appeal*
-):

Name: _____

State Bar number: _____

Street address: _____

Street

City

State

Zip

Mailing address (*if different*): _____

Street

City

State

Zip

Phone: _____

E-mail: _____**Fax:** _____

Appellate Division Case Name:	Appellate Division Case Number:
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- ② I am requesting an extension on the time to file:
- Appellant's opening brief, which is now due on *(date)*: _____
- Respondent's brief, which is now due on *(date)*: _____
- Appellant's reply brief, which is now due on *(date)*: _____
- ③ I am requesting that the time to file the brief identified in ② be extended to *(date)*: _____
- ④ I have have not received a notice under rule 8.882(c) from the clerk that this brief must be filed in 1 days.
- ⑤ The time to file the brief: *(check all that apply)*:
- Has not been extended before
- Has been extended before by the stipulation of the parties. The parties stipulated to *(number of extensions)* _____ totaling *(number of days)* _____
- Has been extended before by the court. The court granted *(number of extensions)* _____ totaling *(number of days)* _____
- I am not able to stipulate to an extension to file this brief because *(check one)*:
- The other party is not willing to stipulate to an extension.
- Other reason *(please describe the reason)*:

- ⑦ The reason I need an extension to file this brief is *(describe the reason you need an extension; see rule 8.811(b), for the factors the court will consider in deciding whether there is good cause to grant an extension)*:

- ⑧ The last brief filed by any party in this case was:
- The appellant's opening brief, filed on *(date)*: _____
- The respondent's brief, filed on *(date)*: _____
- ⑨ If this extension is being requested by a lawyer on behalf of a client, the lawyer must complete this item.
- I certify that I have delivered a copy of this application to my client (rule 8.810(e)). I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

Type or print your name

Signature of party or attorney

APP-107**Abandonment of Appeal
(Limited Civil Case)**

Clerk stamps date here when form is filed.

Instructions

- This form is only for abandoning (giving up) an appeal in a **limited civil case**.
- *Limited Civil Cases* Before you fill out this form, read *Information on Appeal Procedures for* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courtinfo.ca.gov/forms.
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courtinfo.ca.gov/selfhelp-serving/lowcost/getready.htm.
- Take or mail the completed form and proof of service on the other parties to the appellate division clerk's office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Name of appellant (the party who is filing this appeal):

- b. Appellant's contact information (*skip this if the appellant has a lawyer for this appeal*):

Street address: _____

Mailing address (*if different*): _____
Street City State Zip

Phone: _____ **E-mail:** _____
Street City State Zip

- c. Appellant's lawyer (*skip this if the appellant does not have a lawyer for this appeal*):

Name: _____ State Bar number: _____

Street address: _____

Mailing address (*if different*): _____
Street City State Zip

Phone: _____ **E-mail:** _____
Street City State Zip

Fax: _____

Appellate Division Case Number:

Appellate Division Case Name: _____

2 On (*fill in the date*) _____, I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.

3 By signing and filing this form, I abandon/my client abandons that appeal.

Date: _____

Type or print your name

 _____
Signature of appellant or attorney

APP-109**Proof of Service
(Appellate Division)****Instructions**

- This form is only for providing proof that a document has been served (delivered) in a proceeding in the superior court appellate division. If you are serving a document electronically, please use *Proof of Electronic Service (Appellate Division)* (form APP-109E).
- The person who serves (delivers) a document in this case and who fills out this form:
 - Must be at least 18 years old
 - Must NOT be a party in this case
- Before you fill out this form, read *What Is Proof of Service?* (form APP-109-INFO) to understand your responsibilities.

① At the time I served the documents listed in ④, I was at least 18 years old.

② I am not a party in the case identified in the box on the right side of this page.

③ My home business address is:

Street City State Zip

④ I mailed or personally delivered the following document, as indicated below (*check or fill in the name of the document you are serving and check and complete either a or b*).

- Notice of Appeal/Cross Appeal (Limited Civil Case)
- Notice Designating Record on Appeal (Limited Civil Case)
- Proposed Statement on Appeal* (*Limited Civil Case* *Misdemeanor* *Infraction*)
- Appellant's Opening Brief
- Respondent's Brief
- Appellant's Reply Brief
- Abandonment of Appeal (Limited Civil Case)
- Petition for Writ (Misdemeanor, Infraction, or Limited Civil Case)
- Other (*write in the name of the document*):
- _____
- _____

a. Service by Mail

- (1) I put one copy of the document identified ④ in an envelope addressed to each person listed in (2), sealed the envelope, and put first-class postage on the envelope.

Clerk stamps date here when form is filed.

You fill in the name and street address of the court that issued the decision that is being challenged in this case:

Superior Court of California, County of

You fill in the number and name of the trial court case in which the decision being challenged was issued:

Trial Court Case Number:

Trial Court Case Name:

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:



Appellate Division Case Name:	Appellate Division Case Number:
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(2) The envelope or envelopes were addressed as follows:

(a) Name of person served:

Address on envelope: _____

Street

City

State Zip

(b) (Name of person served):

Address on envelope: _____

Street

City

State Zip

Check here if you mailed copies of the document identified in (4) to more people. Attach a separate page listing the names and addresses on each additional envelope you mailed. Write "APP-109, Item 4a" on the top of the page.

(3) I mailed the envelope or envelopes on (*date*): _____ from (*city*): _____

(*state*): _____ by depositing the envelope or envelopes (*check one*):

(a) With the U.S. Postal Service or

(b) At an office or business mail drop where I know the mail is picked up every day and deposited with the U.S. Postal Service.

b. Service by Personal Delivery

I personally gave one copy of the document identified in (4) to each of the following people:

(1) (a) Name of person served:

(b) (Address where you gave the documents to this person:

Street

City

State Zip

(c) Date when you gave the documents to this person:

(d) Time when you gave the documents to this person:

(2) (a) Name of person served:

(b) (Address where you gave the documents to this person:

Street

City

State Zip

(c) Date when you gave the documents to this person:

(d) Time when you gave the documents to this person:

Check here if you gave copies of the document identified in (4) to more people. Attach a separate page listing the names of each of these people, the address where you gave each of them the document, and the date and time you gave them the document. Write "APP-109, Item 4b" on the top of the page.

(5) I declare under penalty of perjury under California state law that the information above is true and correct.

Date: _____

Type or print server's name

Server signs here after serving

APP-109E**Proof of Electronic Service
(Appellate Division)****Instructions**

- This form is only for providing proof that a document has been electronically served (delivered) in a proceeding in the superior court appellate division.
- The person who serves (delivers) a document in this case and who fills out this form must be at least 18 years old.
- Before you fill out this form, read *What Is Proof of Service?* (form APP-109-INFO) to understand your responsibilities.

① At the time I served the documents listed in ③, I was at least 18 years old.

② a. My home business address is:

Street City State Zip

b. My electronic service address is:

③ I electronically served the following document, as indicated below (check or fill in the name of the document you are serving).

- Notice of Appeal/Cross Appeal (Limited Civil Case)
- Notice Designating Record on Appeal (Limited Civil Case)
- Proposed Statement on Appeal* (*Limited Civil Case* *Misdemeanor* *Infraction*)
- Appellant's Opening Brief
- Respondent's Brief
- Appellant's Reply Brief
- Abandonment of Appeal (Limited Civil Case)
- Petition for Writ (Misdemeanor, Infraction, or Limited Civil Case)
- Other (write in the name of the document):

Clerk stamps date here when form is filed.

You fill in the name and street address of the court that issued the decision that is being challenged in this case:

Superior Court of California, County of

You fill in the number and name of the trial court case in which the decision being challenged was issued:

Trial Court Case Number:

Trial Court Case Name:

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:



Appellate Division Case Name:	Appellate Division Case Number:
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④ I electronically served the document checked in ③ as follows

a. (1) Name of person served:

On behalf of (name or names of parties represented, if person served is an attorney):

(2) Electronic service address of person served: _____

(3) On (date): _____

b. (1) Name of person served:

On behalf of (name or names of parties represented, if person served is an attorney):

(2) Electronic service address of person served: _____

(3) On (date): _____

- Check here if you gave copies of the document listed in ③ to more people. Attach a separate page listing the names of these people, the names of parties represented if the person served is an attorney, the electronic service address used for each person served, and the date you electronically served the document. Write "APP-109E, Item 4" on top of the page.

④ I declare under penalty of perjury under California state law that the information above is true and correct.

Date: _____

Type or print server's name



Server signs here after serving

APP-109-INFO**What Is Proof of Service?****GENERAL INFORMATION****What does this information sheet cover?**

This information sheet tells you how to fill out *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E). This information sheet is not part of the proof of service and does not need to be copied, served, or filed.

① What is “serving” a document?

“Serving” a document on a person means having the document delivered to that person. The general requirements for serving documents are set out in California Code of Civil Procedure sections 1010.6–1013a (you can get a copy of these laws at any county law library or online at www.leginfo.ca.gov/calaw.html). There are three main ways to serve documents: (1) by mail, (2) by personal delivery and (3) by electronic service.

When a document is served by mail, it must be put in a sealed envelope or package that is addressed to the person who is being served and that has the postage fully prepaid. The envelope then has to be deposited with the U.S. Postal Service by leaving it at a U.S. Postal Service office or mail drop or at an office or business mail drop where the person serving the document knows the mail is picked up every day and deposited with the U.S. Postal Service.

When a document is personally delivered to a party who is represented by an attorney, the document must either be given directly to the attorney representing that party or the document can be placed in an envelope or package addressed to the attorney and left with the receptionist at the attorney’s office or with a person who is in charge of the attorney’s office. When a document is personally served on a party who is not represented by an attorney, the document must either be given directly to the party or the document can be given to someone who is at least 18 years old at the party’s residence between the hours of eight in the morning and six in the evening.

You may be able to serve a document electronically if the person being served has agreed to accept electronic service or if the court has ordered the person to accept electronic service. The requirements for electronic service are set out in California Code of Civil Procedure section 1010.6.

When a document is electronically served, it must be served either by electronic transmission or by electronic notification. “Electronic transmission” means sending the document to the person’s electronic service address, an e-mail address the person has given the court and the other parties to the case for this purpose. “Electronic notification” means sending a notice to the person with the exact name of the document and a hyperlink—a link to a web address—at which the document may be viewed and downloaded.

② What documents have to be served?

Rule 8.817 of the California Rules of Court requires that before you file any document with the court in a case in the appellate division of the superior court, you must serve one copy of the document on each of the other parties in the case and on anyone else when required by law (statute or rule of court). Other rules require that certain documents in cases in the appellate division be served, including the notice of appeal and the notice designating the record on appeal in appeals in limited civil cases and briefs in all appeals. (For more information about appeals in general and about these documents, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO), *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO), and *Information on Appeal Procedures for Infractions* (form CR-141-INFO).)

③ Who can serve a document?

State law (the Code of Civil Procedure) says that a document in a court case can only be served by a person who is over 18 years old. Service by mail or by personal delivery must be by someone who is not a party in the case; electronic service may be performed directly by a party.

If you are a party in a case and wish to serve documents by mail or by personal delivery **you must have someone else who is over 18 and who is not a party in your case serve any documents in your case for you.** You will need to give the person who is serving the document for you (the server) the names and addresses of all the people who need to be served with that document. You will also need to give the server one copy of each document that needs to be served for each person who is being served.

APP-109-INFO What Is Proof of Service?

If you are serving documents electronically, you can do this yourself or have another person over 18 do it for you. The person doing the serving (the server) will need the names and electronic service addresses of all those who must be served, and the document to be served in a form that allows it to be electronically transmitted or made available by hyperlink.

4 What is proof of service?

A “proof of service” shows the court that a document was served as required by the law. Rule 8.817 also requires a party who is filing a document with the court in a case in the appellate division to attach a proof of service to the document he or she wants to file. You can use *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) to give the court this proof of service in any case in the appellate division of the superior court. The server should follow the instructions below for completing the *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E). If another person is serving the documents for you – as is required if the document will be served by mail or personal delivery – tell the server to give you the original form when it is filled out and signed. You will need to attach the original proof of service to the document you want to file.

If you are electronically filing the document, the proof of service may also be filed electronically. However, the original signed proof of service must be kept by the party filing the document and produced upon request.

INFORMATION FOR THE SERVER

5 Who fills out the *Proof of Service* or *Proof of Electronic Service*?

If you are the server (the person who serves a document for a party in a court case), you must prepare and sign the proof of service. If you served the document by mail or personal delivery, you can use *Proof of Service (Appellate Division)* (form APP-109) to prepare this proof of service in any case in the appellate division. If you served the document electronically, you can use *Proof of Electronic Service (Appellate Division)* to prepare the proof of service.

6 How do I fill out the *Proof of Service*?

These instructions are for *Proof of Service (Appellate Division)* (form APP-109), if you are serving the document by mail or personal delivery. If you are serving the document electronically, please see (7), below, for instructions on how to fill out *Proof of Electronic Service (Appellate Division)* (form APP-109E).

You can fill out most of the information on *Proof of Service (Appellate Division)* (form APP-109) by copying the information from the document you are serving before you serve that document. However, you should not sign and date the form until after you have finished serving the document. **By signing form APP-109, you are swearing, under penalty of perjury, that the information that you put in the form is true and correct.**

When you fill out the *Proof of Service (Appellate Division)* (form APP-109), you should print neatly or use a typewriter. If you have Internet access, you can fill out the form online at www.courts.ca.gov/forms (use the “fillable” version of the form).

Filling in the top section of form APP-109:

First box, right side of form: Leave this box blank for the court’s use.

Second box, right side of form: Fill in the name of the county in which the case is filed and the street address of the court. You can copy this information from the first page of the document that you are serving. If the document you are serving is another Judicial Council form, this information will be in the second box on the right-hand side of the form.

Third box, right side of form: Fill in the trial court case name and number. You can copy this information from the first page of the document that you are serving. If the document you are serving is another Judicial Council form, this information will be in the third box on the right-hand side of the form.

Fourth box, right side of form: Fill in the appellate division case number, if you know it. If this number is available, it will be on the first page of the document that you are serving. If the document you are serving is

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another Judicial Council form, this number will be in the fourth box on the right-hand side of the form.

Filling in items 1–5:

Items ① and ②: You are stating, under penalty of perjury, that you are over the age of 18 and that you are not a party in this court case.

Item ③: Check one of the boxes and provide your home or business address. This information is important because, if you serve the document by mail, you must live or work in the county from which the document was mailed.

Item ④: Check or fill in the name of the document that you are serving. If the document you are serving is another Judicial Council form, the name of the document is located on both the top and the bottom of the first page of the form. If the document you are serving is not a Judicial Council form, the name of the document should be on the top of the first page of the document.

a. Check box 4a. if you are serving the document by mail. **BEFORE YOU SEAL AND MAIL THE ENVELOPE WITH THE DOCUMENT YOU ARE SERVING**, fill in the following parts of the form.

- (1) You are stating, under penalty of perjury, that you are putting one copy of the document you identified in item 4 in an envelope addressed to each person listed in 4a.(2), sealing the envelope, and putting first-class postage on the envelope.
- (2) Fill in the name and address of each person to whom you are mailing the document. You can copy this information from the list of people to be served or the envelopes provided by the party for whom you are serving the document. If you need more space to list names and addresses, check the box under item 4a.(2) and attach a page listing them. At the top of the page, write “APP-109, Item 4a.”
- (3) Fill in the date you are mailing the document and the city and state from which you are mailing it. **REMEMBER:** You must live or work

in the county from which the document is mailed.

- (a) Check box 4a.(3)(a) if you are personally depositing the document with the U.S. Postal Service, such as at a U.S. Post Office or U.S. Postal Service mailbox.
- (b) Check box 4a.(3)(b) if you are putting the document in the mail at your place of business.

Once you have finished filling out these parts of the form, make one copy of *Proof of Service (Appellate Division)* (form APP-109) with this information filled in for each person you are serving by mail. Put this copy of *Proof of Service (Appellate Division)* (form APP-109) in the envelope with the document you are serving. Seal the envelope and mail it as you have indicated on the *Proof of Service*.

- b. Check box 4b. If you personally delivered the documents. Remember, when a document is personally delivered to a party who is represented by an attorney, the document must either be given directly to the party’s attorney or the document can be placed in an envelope or package addressed to the attorney and left with the receptionist at the attorney’s office or with a person who is in charge of the attorney’s office. When a document is personally served on a party who is not represented by an attorney, the document must either be given directly to the party or the document can be given to someone who is at least 18 years old at the party’s residence between the hours of eight in the morning and six in the evening.

For each person to whom you personally delivered the document, fill in:

- (a) The person’s name.
- (b) The address at which you delivered the document to this person.
- (c) The date on which you delivered the document to this person.
- (d) The time at which you delivered the document.



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If you need space to list more names, addresses, and delivery dates and times, check the box under 4b. and attach a page listing this information. At the top of the page, write “APP-109, Item 4b.”

Item ⑤: At the bottom of the form, type or print your name, sign the form, and fill in the date that you signed the form. **By signing this form, you are stating under penalty of perjury that all the information you filled in on Proof of Service (Appellate Division) (form APP-109) is true and correct.**

After you have finished serving the document and filled in, signed, and dated *Proof of Service (Appellate Division)* (form APP-109), give the original completed form to the party for whom you served the document.

⑦ How do I fill out the Proof of Electronic Service?

You can fill out most of the information on *Proof of Electronic Service (Appellate Division)* (form APP-109E) by copying the information from the document you are serving before you serve that document. However, you should not sign and date the form until after you have finished serving the document. **By signing form APP-109E you are swearing, under penalty of perjury, that the information you have put in the form is true and correct.**

You can fill out the *Proof of Electronic Service (Appellate Division)* (form APP-109E) online at www.courtinfo.ca.gov/forms (use the “fillable” version of the form), or you can print it out and fill it in, printing neatly or using a typewriter.

Filling in the top section of form APP-109E:

First box, right side of form: Leave this box blank for the court’s use.

Second box, right side of form: Fill in the name of the county in which the case is filed and the street address of the court. You can copy this information from the first page of the document that you are

serving. If the document you are serving is another Judicial Council form, this information will be in the second box on the right-hand side of the form. Third box, right side of form: Fill in the trial court case name and number. You can copy this information from the first page of the document that you are serving. If the document you are serving is another Judicial Council form, this information will be in the third box on the right-hand side of the form.

Fourth box, right side of form: Fill in the appellate division case number, if you know it. If this number is available, it will be on the first page of the document that you are serving. If the document you are serving is another Judicial Council form, this information will be in the fourth box on the right-hand side of the form.

Filling in items 1-5:

Item ①: You are stating, under penalty of perjury, that you are over the age of 18.

Item ②:
a. Check one of the boxes and provide your home or business address.

b. Fill in your electronic service address. This is the address at which you have agreed to accept electronic service, usually an e-mail address.

Item ③: Check or fill in the name of the document that you are serving. If the document you are serving is another judicial Council form, the name of the document is located on both the top and the bottom of the first page of the form. If the document you are serving is not a Judicial Council form, the name of the document should be on the top of the first page of the document.

Item ④: Fill in the name of each person served, and the name or name of the parties represented, if the person served is an attorney. For each person served, fill in that person’s electronic service address and the date you served the person. If you

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need more space to list additional persons served, check the box under item 4 (2) and attach a page listing them, with their electronic service addresses and the date each person was served. At the top of the page, write “APP-109E, Item 4.”

When you have filled in the information in items 1-4, create an electronic copy of the *Proof of Electronic Service (Appellate Division)* (form APP-109E) with this information filled in. Transmit the filled in form with the document you are serving to each person served.

Item ⑤: At the bottom of the form, type or print your name, sign the form, and fill in the date that you signed the form. **By signing this form, you are stating under penalty of perjury that all the information you filled in on the *Proof of Electronic Service (Appellate Division)* (form APP-109E) is true and correct.** If you are not the party for whom the documents are served, give the original completed *Proof of Electronic Service (Appellate Division)* (form APP-109E) to the party for whom you served the document.

If you are electronically filing the document that is served, the proof of service may also be filed electronically. However, the original signed proof of service must be kept by the party filing it and produced upon request.

APP-110

Respondent's Notice Designating Record on Appeal (Limited Civil Case)

Clerk stamps date here when form is filed.

Instructions

- This form is only for choosing (“designating”) the record on appeal in a **limited civil case**.
- Before you fill out this form, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to know your rights and responsibilities. You can get form APP-101-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) or on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the original completed form and proof of service on the other parties to the clerk’s office for the same court that issued the judgment or order that is being appealed. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:

Trial Court Case Name:

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:

1 Your Information

- a. Name of respondent (the party who is responding to an appeal filed by another party):

Name: _____

- b. Respondent’s contact information (*skip this if the respondent has a lawyer for this appeal*):

Street address: _____
Street City State Zip

Mailing address (*if different*): _____
Street City State Zip

Phone: _____ E-mail: _____

- c. Respondent’s lawyer (*skip this if the respondent does not have a lawyer for this appeal*):

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

Mailing address (*if different*): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

Information About the Appeal

- ② On (fill in the date): _____ another party filed a notice of appeal in the trial court case identified in the box on page 1 of this form.
- ③ On (fill in the date): _____ the appellant filed an appellant's notice designating the record on appeal.

Record of the Documents Filed in the Trial Court

- ④ The appellant elected (chose) to use a clerk's transcript under rule 8.832 as the record of the documents filed in the trial court.
- a. **Additional documents or exhibits.** *If you want any documents or exhibits in addition to those designated by the appellant to be included in the clerk's transcript, you must identify those documents here.*

(1) Documents

- In addition to the documents designated by the appellant, I request that the clerk include in the transcript the following documents that were filed in the trial court. *(Identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed).*

Document Title and Description	Date of Filing
(a)	
(b)	
(c)	
(d)	

- Check here if you need more space to list other documents and attach a separate page or pages listing those documents. At the top of each page, write "APP-110, item 4a(1)."

(2) Exhibits

- I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the trial court. *(For each exhibit, give the exhibit number [such as Plaintiff's #1 or Defendant's A] and a brief description of the exhibit and indicate whether or not the court admitted the exhibit into evidence. If the trial court has returned a designated exhibit to a party, the party who has that exhibit must deliver it to the trial court clerk as soon as possible.)*

Exhibit Number	Description	Admitted Into Evidence	
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No
		<input type="checkbox"/> Yes	<input type="checkbox"/> No

- Check here if you need more space to list other exhibits and attach a separate page or pages listing those exhibits. At the top of each page, write "APP-110, item 4a(2)."



Trial Court Case Name: _____

Trial Court Case Number: _____

④ (continued)

- b. **Copy of clerk's transcript.** I request a copy of the clerk's transcript. (*Check (1) or (2).*)
- (1) I will pay the trial court clerk for this transcript myself when I receive the clerk's estimate of the costs of the transcript.
- (2) I am asking that a copy of the clerk's transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (*check (a) or (b) and submit the checked document*):
- (a) An order granting a waiver of the cost under rules 3.50–3.58.
- (b) An application for a waiver of court fees and costs under rules 3.50–3.58. (*Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.*)

Record of Oral Proceedings in the Trial Court

⑤ The appellant elected to use the following record of what was said in the trial court proceedings (*check and complete only one of the following below—a, b, or c*):

a. **Reporter's Transcript.** The appellant elected to use a reporter's transcript under rule 8.834 as the record of the oral proceedings in the trial court.

- (1) **Designation of additional proceedings to be included in the reporter's transcript.** (*If you want any proceedings in addition to the proceedings designated by the appellant to be included in the reporter's transcript, you must identify those proceedings here.*)

In addition to the proceedings designated by the appellant, I request that the following proceedings in the trial court be included in the reporter's transcript. (*You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings [for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions], the name of the court reporter who recorded the proceedings, and whether a certified transcript of the designated proceeding was previously prepared.*)

Date	Department	Description	Reporter's Name	Prev. prepared?
(a)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(b)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(c)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(d)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(e)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(f)				<input type="checkbox"/> Yes <input type="checkbox"/> No
(g)				<input type="checkbox"/> Yes <input type="checkbox"/> No

Check here if you need more space to list other proceedings and attach a separate page or pages listing those proceedings. At the top of each page, write "APP-110, item 5a(1)."



Trial Court Case Name: _____

Trial Court Case Number: _____

5 a. (continued)

(2) **Copy of reporter's transcript.**

- (a) I request a copy of the reporter's transcript. I will pay for this transcript myself or request payment from the Transcript Reimbursement Fund when I receive the court reporter's estimate of the costs of this transcript. I understand that if I do not pay the trial court clerk's office for this transcript or file with the court a waiver of this deposit signed by the court reporter or receive approval of my Transcript Reimbursement Fund application, I will not receive a copy.
- (b) I request that the court reporter provide (*check one*):
- (i) My copy of the reporter's transcript in paper format.
- (ii) My copy of the reporter's transcript in computer-readable format.
- (iii) My copy of the reporter's transcript in paper format and a second copy of the reporter's transcript in computer-readable format.

OR

b. **Transcript From Official Electronic Recording.** The appellant elected to use the transcript from an official electronic recording as the record of the oral proceedings in the trial court under rule 8.835(b). I request a copy of this transcript. (*Check and complete (1) or (2).*):


- (1) I will pay the trial court clerk for this transcript myself when I receive the clerk's estimate of the cost of the transcript.
- (2) I am asking that the transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (*check (a) or (b) and submit the appropriate document*):
- (a) An order granting a waiver of the cost under rules 3.50–3.58.
- (b) An application for a waiver of court fees and costs under rules 3.50–3.58 (*Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.*)

OR

c. **Copy of Official Electronic Recording.** The appellant and I have agreed to use the official electronic recording itself as the record of the oral proceedings in the trial court under rule 8.835(a). I request a copy of this recording. (*Check and complete (1) or (2).*):

- (1) I will pay the trial court clerk for this copy of the recording myself when I receive the clerk's estimate of the costs of this copy.
- (2) I am asking that the transcript be provided at no cost to me because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (*check (a) or (b) and submit the appropriate document*):
- (a) An order granting a waiver of the cost under rules 3.50–3.58
- (b) An application for a waiver of court fees and costs under rules 3.50–3.58 (*Use Request to Waive Court Fees (form FW-001). The court will review this form to decide if you are eligible for a fee waiver.*)

Date: _____

Type or print your name


Signature of respondent or attorney

APP-150-INFO**Information on Writ Proceedings in Misdemeanor, Infraction, and Limited Civil Cases****GENERAL INFORMATION****1 What does this information sheet cover?**

This information sheet tells you about **writ proceedings**—proceedings in which a person is asking for a writ of mandate, prohibition, or review—in misdemeanor, infraction, and limited civil cases, and in certain small claims cases. Please read this information sheet before you fill out *Petition for Writ (Misdemeanor, Infraction, or Limited Civil Case)* (form APP-151). This information sheet does not cover everything you may need to know about writ proceedings. It is only meant to give you a general idea of the writ process. To learn more, you should read rules 8.930–8.936 of the California Rules of Court, which set out the procedures for writ proceedings in the appellate division. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

This information sheet does NOT provide information about appeals or proceedings for writs of supersedeas or habeas corpus, or for writs in certain small claims cases.

- For information about appeals, please see the box on the right side of this page.
- For information about writs of habeas corpus, please see rules 4.550–4.552 of the California Rules of Court and *Petition for Writ of Habeas Corpus* (form MC-275).
- For information about writs of supersedeas, please see rule 8.824 of the California Rules of Court. This information sheet applies to writs relating to *postjudgment enforcement actions* of the small claims division. For information about writs relating to other actions by the small claims division, see rules 8.930–8.936 of the California Rules of Court and *Petition for Writ (Small Claims)* (form SC-300). For information about writs relating to actions of the superior court on small claims appeals, see rules 8.485–8.493 of the California Rules of Court.

You can get these rules and forms at any courthouse or county law library or online at www.courts.ca.gov/rules for the rules or www.courts.ca.gov/forms for the forms.

2 What is a writ?

A writ is an order from a higher court telling a lower court to do something the law says the lower court must do or not to do something the law says the lower court does not have the power to do. In writ proceedings in the appellate division, the lower court is the superior court that took the action or issued the order being challenged.

For information about appeal procedures, see:

- *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO)
- *Information on Appeal Procedures for Infractions* (form CR-141-INFO)
- *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO)

You can get these forms at any courthouse or county law library or online at www.courts.ca.gov/forms.

In this information sheet, we call the lower court the “trial court.”

3 Are there different kinds of writs?

Yes. There are three main kinds of writs:

- Writs of mandate (sometimes called “mandamus”), which are orders telling the trial court to do something.
- Writs of prohibition, which are orders telling the trial court not to do something.
- Writs of review (sometimes called “certiorari”), which are orders telling the trial court that the appellate division will review certain kinds of actions already taken by the trial court.

There are laws (statutes) that you should read concerning each type of writ: see California Code of Civil Procedure sections 1084–1097 about writs of mandate, sections 1102–1105 about writs of prohibition, and sections 1067–1077 about writs of review. You can get copies of these statutes at any county law library or online at leginfo.legislature.ca.gov/faces/codes.xhtml.



APP-150-INFO**Information on Writ Proceedings in Misdemeanor, Infraction, and Limited Civil Cases****4 Is a writ proceeding the same as an appeal?**

No. In an **appeal**, the appellate division *must* consider the parties' arguments and decide whether the trial court made the legal error claimed by the appealing party and whether the trial court's decision should be overturned based on that error (this is called a "decision on the merits"). In a **writ proceeding**, the appellate division is *not* required to make a decision on the merits; even if the trial court made a legal error, the appellate division can decide not to consider that error now, but to wait and consider the error as part of any appeal from the final judgment. Most requests for writs are denied without a decision on the merits (this is called a "summary denial"). Because of this, appeals are the ordinary way that decisions made by a trial court are reviewed and writ proceedings are often called proceedings for "extraordinary" relief.

Appeals and writ proceedings are also used to review different kinds of decisions by the trial court. Appeals can be used only to review a trial court's final judgment and a few kinds of orders. Most rulings made by a trial court before it issues its final judgment cannot be appealed right away; they can only be appealed after the trial court case is over, as part of an appeal of the final judgment. Unlike appeals, writ proceedings can be used to ask for review of certain kinds of important rulings made by a trial court before it issues its final judgment.

5 Is a writ proceeding a new trial?

No. A **writ proceeding is NOT a new trial**. The appellate division will not consider new evidence, such as the testimony of new witnesses. Instead, if it does not summarily deny the request for a writ, the appellate division reviews a record of what happened in the trial court and the trial court's ruling to see if the trial court made the legal error claimed by the person asking for the writ. When it conducts its review, the appellate division presumes that the trial court's ruling is correct; the person who requests the writ must show the appellate division that the trial court made the legal error the person is claiming.

6 Can a writ be used to address any errors made by a trial court?

No.

Writs can only address certain legal errors. Writs can only address the following types of legal errors made by a trial court:

- The trial court has a legal duty to act but:
 - Refuses to act
 - Has not done what the law says it must do
 - Has acted in a way the law says it does not have the power to act
- The trial court has performed or says it is going to perform a judicial function (like deciding a person's rights under law in a particular case) in a way that the court does not have the legal power to do.

There must be no other adequate remedy. The trial court's error must also be something that can be fixed only with a writ. The person asking for the writ must show the appellate division that there is no adequate way to address the trial court's error other than with the writ (this is called having "no adequate remedy at law"). As mentioned above, appeals are the ordinary way that trial court decisions are reviewed. If the trial court's ruling can be appealed, the appellate division will generally consider an appeal to be good enough (an "adequate remedy") unless the person asking for the writ can show the appellate division that he or she will be harmed in a way that cannot be fixed by the appeal if the appellate division does not issue the writ (this is called "irreparable" injury or harm).

Statutory writs: There are laws (statutes) that provide that certain kinds of rulings can or must be challenged using a writ proceeding. These are called "statutory writs." Here is a list of some of the most common rulings that a statute says can or must be challenged using a writ:

- A ruling on a motion to disqualify a judge (see California Code of Civil Procedure section 170.3(d))
- Denial of a motion for summary judgment (see California Code of Civil Procedure section 437c(m)(1))
- A ruling on a motion for summary adjudication of issues (see California Code of Civil Procedure section 437c(m)(1))

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- Denial of a stay in an unlawful detainer matter (see California Code of Civil Procedure section 1176)
- An order disqualifying the prosecuting attorney (see California Penal Code section 1424)

You can get copies of these statutes at any county law library or online at leginfo.legislature.ca.gov/faces/codes.xhtml. You will need to check whether there is a statute providing that the specific ruling you want to challenge can or must be reviewed using a writ proceeding. (Note that just because there is a statute requiring or allowing you to ask for a writ to challenge a ruling does not mean that the court must grant your request; the appellate division can still deny a request for a statutory writ.)

Common law writs: Even if there is not a statute specifically providing for a writ proceeding to challenge a particular ruling, most trial court rulings other than the final judgment can potentially be challenged using a writ proceeding if the trial court made the type of legal error described above and the petitioner has no other adequate remedy at law. These writs are called “common law” writs.

7 Can the appellate division consider a request for a writ in *any* case?

No. Different courts have the power (called “jurisdiction”) to consider requests for writs in different types of cases. The appellate division can only consider requests for writs in limited civil, misdemeanor, and infraction cases, and certain small claims cases. A limited civil case is a civil case in which the amount claimed is \$25,000 or less (see California Code of Civil Procedure sections 85 and 88). Misdemeanor cases are cases in which a person has been charged with or convicted of a crime for which the punishment can include jail time of up to one year but not time in state prison (see California Penal Code sections 17 and 19.2). (If the person was also charged with or convicted of a felony in the same case, it is considered a felony case, not a misdemeanor case.) Infraction cases are cases in which a person has been charged with or convicted of a crime for which the punishment can be a fine, traffic school, or some form of community service but cannot include any time in jail or prison (see California Penal Code sections 17 and 19.8). Examples of infractions include traffic tickets or citations for violations of some

city or county ordinances. (If a person was also charged with or convicted of a misdemeanor in the same case, it is considered a misdemeanor case, not an infraction case.) You can get copies of these statutes at any county law library or online at leginfo.legislature.ca.gov/faces/codes.xhtml. The appellate division can consider requests for writs in small claims actions relating to postjudgment enforcement orders.

The appellate division does NOT have jurisdiction to consider requests for writs in either unlimited civil cases (civil cases in which the amount claimed is more than \$25,000) or felony cases (cases in which a person has been charged with or convicted of a crime for which the punishment can include time in state prison). Requests for writs in these cases can be made in the Court of Appeal. The appellate division also does NOT have jurisdiction to consider requests for writs of habeas corpus; requests for these writs can be made in the superior court.

Requests for writs relating to actions of the small claims division *other* than postjudgment enforcement orders are considered by a single judge in the appellate division. (See form SC-300-INFO.) Requests for writs relating to superior court actions in small claims cases on appeal may be made to the Court of Appeal.

8 Who are the parties in a writ proceeding?

If you are asking for the writ, you are called the PETITIONER. You should read “Information for the Petitioner,” beginning on page 4.

The court the petitioner is asking to be ordered to do or not to do something is called the RESPONDENT. In appellate division writ proceedings, the trial court is the respondent.

Any other party in the trial court case who would be affected by a ruling regarding the request for a writ is a REAL PARTY IN INTEREST. If you are a real party in interest, you should read “Information for a Real Party in Interest,” beginning on page 10.

9 Do I need a lawyer to represent me in a writ proceeding?

You do not *have* to have a lawyer; you are allowed to represent yourself in a writ proceeding in the appellate division. But writ proceedings can be very complicated



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and you will have to follow the same rules that lawyers have to follow. If you have any questions about the writ procedures, you should talk to a lawyer. In limited civil cases and infraction cases, you must hire a lawyer at your own expense if you want one (the court cannot provide one). You can get information about finding a lawyer on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm.

INFORMATION FOR THE PETITIONER

This part of the information sheet is written for the petitioner—the party asking for the writ. It explains some of the rules and procedures relating to asking for a writ. The information may also be helpful to a real party in interest. There is more information for a real party in interest starting on page 10 of this information sheet.

10 Who can ask for a writ?

Only a party in the trial court proceeding—the plaintiff or defendant in a civil case or the defendant or prosecuting agency in a misdemeanor or infraction case—can ask for a writ challenging a ruling on a motion to disqualify a judge (see California Code of Civil Procedure section 170.3(d)). Parties are also usually the only ones that ask for writs challenging other kinds of trial court rulings. However, in most cases, a person who was not a party does have the legal right to ask for a writ if that person has a “beneficial interest” in the trial court’s ruling. A “beneficial interest” means that the person has a specific right or interest affected by the ruling that goes beyond the general rights or interests the public may have in the ruling.

11 How do I ask for a writ?

To ask for a writ you must serve and file a petition for a writ (see below for an explanation of how to “serve and file” a petition). A petition is a formal request that the appellate division issue a writ. A petition for a writ explains to the appellate division what happened in the trial court, what legal error you (the petitioner) believe the trial court made, why you have no other adequate

remedy at law, and what order you are requesting the appellate division to make.

12 How do I prepare a writ petition?

If you are represented by a lawyer, your lawyer will prepare your petition for a writ. If you are not represented by a lawyer, you must use *Petition for Writ (Misdemeanor, Infraction, or Limited Civil Case)* (form APP-151) to prepare your petition. You can get form APP-151 at any courthouse or county law library or online at www.courts.ca.gov/forms. This form asks you to fill in the information that needs to be in a writ petition.

a. Description of your interest in the trial court’s ruling

Your petition needs to tell the appellate division why you have a right to ask for a writ in the case. As discussed above, usually only a person who was a party in the trial court case—the plaintiff or defendant in a civil case or the defendant or prosecuting agency in a misdemeanor or infraction case—asks for a writ challenging a ruling in that case. If you were a party in the trial court case, say that in your petition. If you were not a party, you will need to describe what “beneficial interest” you have in the trial court’s ruling. A “beneficial interest” means that you have a specific right or interest affected by the ruling that goes beyond the general rights or interests the public may have in the ruling. To show the appellate division that you have a beneficial interest in the ruling you want to challenge, you must describe how the ruling will affect you in a direct and negative way.

b. Description of the legal error you believe the trial court made

Your petition will need to tell the appellate division what legal error you believe the trial court made. Not every mistake a trial court might make can be addressed by a writ. You must show that the trial court made one of the following types of legal errors:

- The trial court has a legal duty to act but:
 - Refuses to act
 - Has not done what the law says it must do



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- Has acted in a way the law says it does not have the power to act
- The trial court has performed or says it is going to perform a judicial function (like deciding a person's rights under law in a particular case) in a way that the court does not have the legal power to do.

To show the appellate division that the trial court made one of these legal errors, you will need to:

- Show that the trial court has the legal duty or the power to act or not act in a particular way. You will need to tell the appellate division what legal authority—what constitutional provision, statute, rule, or published court decision—establishes the trial court's legal duty or power to act or not act in that way.
- Show the appellate division that the trial court has not acted in the way that this legal authority says the court is required to act. You will need to tell the appellate division exactly where in the record of what happened in the trial court it shows that the trial court did not act in the way it was required to.

c. Description of why you need the writ

One of the most important parts of your petition is explaining to the appellate division why you need the writ you have requested. Remember, the appellate division does not have to grant your petition just because the trial court made an error. You must convince the appellate division that it is important for it to issue the writ.

Your petition needs to show that a writ is the only way to fix the trial court's error. To convince the court you need the writ, you will need to show the appellate division that you have no way to fix the trial court's error other than through a writ (this is called having “no adequate remedy at law”).

This will be hard if the trial court's ruling can be appealed. If the ruling you are challenging can be appealed, either immediately or as part of an appeal of the final judgment in your case, the appellate division will generally consider this appeal to be a good enough way to fix the trial court's ruling (an “adequate remedy”). To be able to explain to the appellate division why you do not have an adequate remedy at law, you will need to find out if the ruling you want to challenge

can be appealed, either immediately or as part of an appeal of the final judgment.

Here are some trial court rulings that can be appealed.

There are laws (statutes) that say that certain kinds of trial court rulings (“orders”) can be appealed immediately. In limited civil cases, California Code of Civil Procedure section 904.2 lists orders that can be appealed immediately, including orders:

- Changing or refusing to change the place of trial (venue)
- Granting a motion to quash service of summons
- Granting a motion to stay or dismiss the action on the ground of inconvenient forum
- Granting a new trial
- Denying a motion for judgment notwithstanding the verdict
- Granting or dissolving an injunction or refusing to grant or dissolve an injunction
- Appointing a receiver
- Made after final judgment in the case

In misdemeanor and infraction cases, orders made after the final judgment that affect the substantial rights of the defendant can be appealed immediately (California Penal Code section 1466).

In misdemeanor cases, orders granting or denying a motion to suppress evidence can also be appealed immediately (California Penal Code section 1538.5(j)).

You can get copies of these statutes at any county law library or online at leginfo.legislature.ca.gov/faces/codes.xhtml. You should also check to see if there are published court decisions that indicate whether you can or must use an appeal or a writ petition to challenge the type of ruling you want to challenge in your case.

If the ruling can be appealed, you will need to show that an appeal will not fix the trial court's error. If the trial court ruling you want to challenge can be appealed, you will need to show the appellate division why that appeal is not good enough to fix the trial court's error. To do that, you will need to show the appellate division how you will be harmed by the trial court's error in a way that cannot be fixed by the appeal if the appellate division does not issue the writ (this is called “irreparable” injury or harm). For example, because of



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the time it takes for an appeal, the harm you want to prevent may happen before an appeal can be finished.

d. Description of the order you want the appellate division to make

Your petition needs to describe what you are asking the appellate division to order the trial court to do or not do. Writ petitions usually ask that the trial court be ordered to cancel (“vacate”) its ruling, issue a new ruling, or not take any steps to enforce its ruling.

If you want the appellate division to order the trial court not to do anything more until the appellate division decides whether to grant the writ you are requesting, you must ask for a “stay.” If you want a stay, you should first ask the trial court for a stay. You should tell the appellate division whether you asked the trial court for a stay. If you did not ask the trial court for a stay, you should tell the appellate division why you did not do this.

If you ask the appellate division for a stay, make sure you also fill out the “Stay requested” box on the first page of the *Petition for Writ (Misdemeanor, Infraction, or Limited Civil Case)* (form APP-151).

e. Verifying the petition

Petitions for writs must be “verified.” This means that either the petitioner or the petitioner’s attorney must declare under penalty of perjury that the facts stated in the petition are true and correct, must sign the petition, and must indicate the date that the petition was signed. On the last page of the *Petition for Writ (Misdemeanor, Infraction, or Limited Civil Case)* (form APP-151), there is a place for you to verify your petition.

13 Is there anything else that I need to serve and file with my petition?

Yes. Along with the petition, you must serve and file a record of what happened in the trial court (see below for an explanation of how to serve and file the petition). Since the appellate division judges were not there in the trial court, a record of what happened must be sent to the appellate division for its review. The materials that make up this record are called “supporting documents.”

What needs to be in the supporting documents. The supporting documents must include:

- A record of what was said in the trial court about the ruling that you are challenging (this is called the “oral proceedings”) and
- Copies of certain important documents from the trial court.

Read below for more information about these two parts of the supporting documents.

Record of the oral proceedings. There are several ways a record of what was said in the trial court may be provided to the appellate division:

- **A transcript**—A transcript is a written record (often called the “verbatim” record) of the oral proceedings in the trial court. If a court reporter was in the trial court and made a record of the oral proceedings, you can have the court reporter prepare a transcript of those oral proceedings, called a “reporter’s transcript,” for the appellate division. If a reporter was not there, but the oral proceedings were officially recorded on approved electronic recording equipment, you can have a transcript prepared for the appellate division from the official electronic recording of these proceedings. You (the petitioner) must pay for preparing a transcript, unless the court orders otherwise.
- **A copy of an electronic recording**—If the oral proceedings were officially recorded on approved electronic recording equipment, the court has a local rule for the appellate division permitting this recording to be used as the record of the oral proceedings, and all the parties agree (“stipulate”), a copy of the official electronic recording itself can be used as the record of the oral proceedings instead of a transcript. You (the petitioner) must pay for preparing a copy of the official electronic recording, unless the court orders otherwise.
- **A summary**—If a transcript or official electronic recording of what was said in the trial court is not available, your petition must include a declaration (a statement signed by the petitioner under penalty of perjury) either:
 - Explaining why the transcript or official electronic recording is not available and providing a fair summary of the proceedings, including the petitioner’s arguments and any statement by the court supporting its ruling or



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- o Stating that the transcript or electronic recording has been ordered, the date it was ordered, and the date it is expected to be filed.

Copies of documents from the trial court. Copies of the following documents from the trial court must also be included in the supporting documents:

- The trial court ruling being challenged in the petition
- All documents and exhibits submitted to the trial court supporting and opposing the petitioner’s position
- Any other documents or portions of documents submitted to the trial court that are necessary for a complete understanding of the case and of the ruling being challenged

What if I cannot get copies of the documents from the trial court because of an emergency? Rule 8.931 of the California Rules of Court provides that in extraordinary circumstances the petition may be filed without copies of the documents from the trial court. If the petition is filed without these documents, you must explain in your petition the urgency and the circumstances making the documents available.

Format of the supporting documents. Supporting documents must be put in the format required by rule 8.931 of the California Rules of Court. Among other things, there must be a tab for each document and an index listing the documents that are included. You should carefully read rule 8.931. You can get a copy of rule 8.931 at any courthouse or county law library or online at www.courts.ca.gov/rules.

14 Is there a deadline to ask for a writ?

Yes. For statutory writs, the statute usually sets the deadline for serving and filing the petition. Here is a list of the deadlines for filing petitions for some of the most common statutory writs (you can get copies of these statutes at any county law library or online at leginfo.ca.gov/faces/codes.xhtml).

Statutory Writ	Filing Deadline
Writ challenging a ruling on a motion to disqualify a judge (see California Code of Civil Procedure section 170.3(d))	10 days after notice to the parties of the decision
Writ challenging the denial of a motion for summary judgment (see California Code of Civil Procedure section 437c(m)(1))	20 days after service of written notice of entry of the order
Writ challenging a ruling on a motion for summary adjudication of issues (see California Code of Civil Procedure section 437c(m)(1))	20 days after service of written notice of entry of the order

For common law writs or statutory writs where the statute does not set a deadline, you should file the petition as soon as possible and not later than 30 days after the court makes the ruling that you are challenging in the petition. While there is no absolute deadline for filing these petitions, writ petitions are usually used when it is urgent that the trial court’s error be fixed. Remember, the court is not required to grant your petition even if the trial court made an error. If you delay in filing your petition, it may make the appellate division think that it is not really urgent that the trial court’s error be fixed and the appellate division may deny your petition. If there are extraordinary circumstances that delayed the filing of your petition, you should explain these circumstances to the appellate division in your petition.

15 How do I “serve” my petition?

Rule 8.931(d) requires that the petition and one set of supporting documents be served on any named real party in interest and that just the petition be served on the respondent trial court. “Serving” a petition on a party means that you must:

- Have somebody over 18 years old mail, deliver or electronically send (“serve”) the petition to the real party in interest and the respondent court in the way required by law. If the petition is mailed or



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personally delivered, it must be by someone who is not a party to the case—so not you.

- Make a record that the petition has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the petition, who was served with the petition, how the petition was served (by mail, in person or electronically), and the date the petition was served.

You can get more information about how to serve court documents and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

16 How do I file my petition?

To file a petition for a writ in the appellate division, you must bring or mail the original petition, including the supporting documents, and the proof of service to the clerk for the appellate division of the superior court that made the ruling you are challenging. If the superior court has more than one courthouse location, you should call the clerk at the courthouse where the ruling you are challenging was made to ask where to file your petition.

You should make a copy of all the documents you are planning to file for your own records before you file them with the court. It is a good idea to bring or mail an extra copy of the petition to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

17 Do I have to pay to file a petition?

There is no fee to file a petition for a writ in a misdemeanor or infraction case, but there is a fee to file a petition for a writ in a limited civil case. You should ask the clerk for the appellate division where you are filing the petition what this fee is. If you cannot afford to pay this filing fee, you can ask the court to waive this fee. To do this, you must fill out a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at www.courts.ca.gov/forms. You can file this application

either before you file your petition or with your petition. The court will review this application and decide whether to waive the filing fee.

18 What happens after I file my petition?

Within 10 days after you serve and file your petition, the respondent or any real party in interest can serve and file preliminary opposition to the petition. Within 10 days after an opposition is filed, you may serve and file a reply to that opposition.

The appellate division does not have to wait for an opposition or reply before it can act on a petition for a writ, however. Without waiting, the appellate division can:

- Issue a stay
- Summarily deny the petition
- Issue an alternative writ or order to show cause
- Notify the parties that it is considering issuing a preemptory writ in the first instance
- Issue a preemptory writ in the first instance if such relief was expressly requested in the petition.

Read below for more information about these options.

a. Stay of trial court proceedings

A stay is an order from the appellate division telling the trial court not to do anything more until the appellate division decides whether to grant your petition. A stay puts the trial court proceedings on temporary hold.

b. Summary denial

A “summary denial” means that the appellate division denies the petition without deciding whether the trial court made the legal error claimed by the petitioner or whether the writ requested by the petitioner should be issued based on that error. Remember, even if the trial court made a legal error, the appellate division can decide not to consider that error now but to wait and consider the error as part of any appeal from the final judgment. No reasons need to be given for a summary denial. Most petitions for writs are denied in this way.



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An “alternative writ” is an order telling the trial court either to do what the petitioner has requested in the petition (or some modified form of what the petitioner requested) or to show the appellate division why the trial court should not be ordered to do what the petitioner requested. An “order to show cause” is similar; it is an order telling the trial court to show the appellate division why the trial court should not be ordered to do what the petitioner requested in the petition (or some modified form of what the petitioner requested). The appellate division will issue an alternative writ or an order to show cause only if the petitioner has shown that he or she has no adequate remedy at law and the appellate division has decided that the petitioner may have shown that the trial court made a legal error that needs to be fixed.

If the appellate division issues an alternative writ and the trial court does what the petitioner requested (or a modified form of what the petitioner requested as ordered by the appellate division), then no further action by the appellate division is needed and the appellate division may dismiss the petition.

If the trial court does not comply with an alternative writ, however, or if the appellate division issues an order to show cause, then the respondent court or a real party in interest can file a response to the appellate division’s order (called a “return”) that explains why the trial court should not be ordered to do what the petitioner requested. The return must be served and filed within the time specified by the appellate division or, if no time is specified, within 30 days from the date the alternative writ or order to show cause was issued. The petitioner will then have an opportunity to serve and file a reply within 15 days after the return is filed. The appellate division may set the matter for oral argument. When all the papers have been served and filed (or the time to serve and file them has passed) and oral argument is completed, the appellate division will decide the case.

d. Peremptory writ in the first instance

A “peremptory writ in the first instance” is an order telling the trial court to do what the petitioner has requested (or some modified form of what the petitioner requested) that is issued without the appellate division first issuing an alternative writ or order to show cause. It is very rare for the appellate division to issue a peremptory writ in the first instance, and it will not do so

unless the respondent and real parties in interest have received notice that the court might do so, either through the petitioner expressly asking for such relief in the petition, or by the court first notifying the parties and giving the respondent court and any real party in interest a chance to file an opposition.

The respondent court or a real party in interest can file a response to the appellate division’s notice (called an “opposition”) that explains why the trial court should not be ordered to do what the petitioner has requested. The opposition must be served and filed within the time specified by the appellate division or, if no time is specified, within 30 days from the date the notice was issued. The petitioner will then have a chance to serve and file a reply within 15 days after the opposition is filed. The appellate division may then set the matter for oral argument. When all the papers have been served and filed (or the time to serve and file them has passed) and oral argument is completed, the appellate division will decide the case.

19 What should I do if the court denies my petition?

If the court denies your petition, it may be helpful to talk to a lawyer. In a limited civil or infraction case, you must hire a lawyer at your own expense if you want one (the court cannot provide one). You can get information about finding an attorney on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm.

INFORMATION FOR A REAL PARTY IN INTEREST

This part of the information sheet is written for a real party in interest—a party from the trial court case other than the petitioner who will be affected by a ruling on a petition for a writ. It explains some of the rules and procedures relating to responding to a petition for a writ. The information may also be helpful to the petitioner.



APP-150-INFO**Information on Writ Proceedings in Misdemeanor, Infraction, and Limited Civil Cases****20 I have received a copy of a petition for a writ in a case in which I am a party. Do I need to do anything?**

You do not *have* to do anything. The California Rules of Court give you the right to file a preliminary opposition to a petition for a writ within 10 days after the petition is served and filed, but you are not required to do this. The appellate division can take certain actions without waiting for any opposition, including:

- Summarily denying the petition
- Issuing an alternative writ or order to show cause
- Notifying the parties that it is considering issuing a peremptory writ in the first instance
- Issuing a peremptory writ in the first instance if such relief was expressly requested in the petition.

Read the response to question 18 for more information about these options.

Most petitions for writs are summarily denied, often within a few days after they are filed. If you have not already received something from the appellate division saying what action it is taking on the petition, it is a good idea to call the appellate division to see if the petition has been denied before you decide whether and how to respond.

This would be a good time to talk to a lawyer. You do not *have* to have a lawyer; you are allowed to represent yourself in a writ proceeding in the appellate division. But writ proceedings can be very complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about writ proceedings or about whether and how you should respond to a writ petition, you should talk to a lawyer. In a limited civil case or infraction case, you must hire a lawyer at your own expense if you want one (the court cannot provide one). You can get information about finding an attorney on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm.

If the petition has not already been summarily denied, you may, but are not required to, serve and file a preliminary opposition to the petition within 10 days after the petition was served and filed. In general, it is a good idea to consider filing a preliminary opposition if the petition misstates the facts or if you think the petition shows that the trial court made a legal error that may

need to be fixed. However, the appellate division will seldom grant a writ without first issuing an alternative writ, an order to show cause, or a notice that it is considering issuing a peremptory writ. In all these circumstances, you will get notice from the court and have a chance to file a response. Note that the appellate division may issue a peremptory writ without notice if the petitioner expressly asked the court, in the petition, to issue a peremptory writ in the first instance. If the petitioner did that, you may want to consider whether to file a preliminary opposition, to explain why you believe the small claims court made no legal error and why the petitioner is not entitled to a writ.

If you decide to file a preliminary opposition, you must serve that preliminary opposition on all the other parties to the writ proceeding. “Serving and filing” an opposition means that you must:

- Have somebody over 18 years old mail, deliver or electronically send (“serve”) the preliminary opposition to the other parties in the way required by law. If the preliminary opposition is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the preliminary opposition has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the preliminary opposition, who was served with the preliminary opposition, how the preliminary opposition was served (by mail, in person or electronically), and the date the preliminary opposition was served.
- File the original preliminary opposition and the proof of service with the appellate division. You should make a copy of the preliminary opposition for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the preliminary opposition to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court documents and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California



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Courts Online Self-Help Center at
www.courts.ca.gov/selfhelp-serving.htm.

21 I have received a copy of an alternative writ or an order to show cause issued by the appellate division. Do I need to do anything?

Yes. Unless the trial court has already done what the alternative writ told it to do, you should serve and file a response called a “return.”

As explained above, the appellate division will issue an alternative writ or an order to show cause if the appellate division has decided that the petitioner may have shown that the trial court made a legal error that needs to be fixed. An “alternative writ” is an order telling the trial court either to do what the petitioner has requested in the petition (or some modified form of what the petitioner requested) or to show the appellate division why the trial court should not be ordered to do what the petitioner requested. An “order to show cause” is similar; it is an order telling the trial court to show the appellate division why the trial court should not be ordered to do what the petitioner requested in the petition (or some modified form of what the petitioner requested).

If the appellate division issues an alternative writ and the trial court does what the petitioner requested (or a modified form of what the petitioner requested as ordered by the appellate division), then no further action by the appellate division is needed and the appellate division may dismiss the petition. If the trial court does not comply with an alternative writ, however, or if the appellate division issues an order to show cause, then the respondent court or the real party in interest may serve and file a response to the appellate division’s order, called a “return.”

A return is your argument to the appellate division about why the trial court should not be ordered to do what the petitioner has requested. If you are represented by a lawyer in the writ proceeding, your lawyer will prepare your return. If you are not represented by a lawyer, you will need to prepare your own return. A return is usually a legal response called an “answer.” An answer is used to admit or deny the facts alleged in the petition, to add to or correct the facts, and to explain any legal defenses to the legal arguments made by the petitioner. You

should read California Code of Civil Procedure sections 430.10–430.80 for more information about answers. You can get copies of these statutes at any county law library or online at leginfo.legislature.ca.gov/faces/codes.xhtml. A return can also include additional supporting documents not already filed by the petitioner.

If you do not file a return when the appellate division issues an alternative writ or order to show cause, it does not mean that the appellate division is required to issue the writ requested by the petitioner. However, the appellate division will treat the facts stated by the petitioner in the petition as true, which makes it more likely the appellate division will issue the requested writ.

Unless the appellate division sets a different filing deadline in its alternative writ or order to show cause, you must serve and file your return within 30 days after the appellate division issues the alternative writ or order to show cause. The return must be served on all the other parties to the writ proceeding. “Serving and filing” the return means that you must:

- Have somebody over 18 years old mail, deliver or electronically send (“serve”) the return to the other parties in the way required by law. If the return is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the return has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the return, who was served with the return, how the return was served (by mail, in person or electronically), and the date the return was served.
- File the original return and the proof of service with the appellate division. You should make a copy of the return you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the return to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court documents and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California



APP-150-INFO**Information on Writ Proceedings in Misdemeanor, Infraction, and Limited Civil Cases**

Courts Online Self-Help Center at
www.courts.ca.gov/selfhelp-serving.htm.

22 I have received a copy of a notice from the appellate division indicating it is considering issuing a peremptory writ in the first instance. Do I need to do anything?

Yes. You should serve and file a response called an “opposition.”

As explained in the answer to question **18**, a “peremptory writ in the first instance” is an order telling the trial court to do what the petitioner has requested (or some form of what the petitioner requested as ordered by the appellate division) that is issued without the appellate division first issuing an alternative writ or order to show cause. The appellate division will not issue a peremptory writ in the first instance without first giving the parties notice and a chance to file an opposition. However, when the appellate division issues such a notice, it means that the appellate division is strongly considering granting the writ requested by the petitioner.

An opposition is your argument to the appellate division about why the trial court should not be ordered to do what the petitioner has requested. If you are represented by a lawyer in the writ proceeding, your lawyer will prepare your opposition. If you are not represented by a lawyer, you will need to prepare your own opposition. Like a return discussed above, an opposition is usually a legal response called an “answer.” An answer is used to admit or deny the facts alleged in the petition, to add to or correct the facts, and to explain any legal defenses to the legal arguments made by the petitioner. You should read California Code of Civil Procedure sections 430.10–430.80 for more information about answers. You can get copies of these statutes at any county law library or online at leginfo.legislature.ca.gov/faces/codes.xhtml.

Unless the appellate division sets a different deadline in its notice that it is considering issuing a peremptory writ, you must serve and file your opposition within 30 days after the appellate division issues the notice. The opposition must be served on all the other parties to the writ proceeding. “Serving and filing” the opposition means that you must:

- Have somebody over 18 years old mail, deliver or electronically send (“serve”) the opposition to the

other parties in the way required by law. If the opposition is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.

- Make a record that the opposition has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the opposition, who was served with the opposition, how the opposition was served (by mail, in person or electronically), and the date the opposition was served.
- File the original opposition and the proof of service with the appellate division. You should make a copy of the opposition you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the opposition to the clerk when you file your original, and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court documents and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

23 What happens after I serve and file my return or opposition?

After you file a return or opposition, the petitioner has 15 days to serve and file a reply. The appellate division may also set the matter for oral argument. When all the papers have been filed (or the time to file them has passed) and oral argument is completed, the appellate division will decide the case.

APP-151**Petition for Writ (Misdemeanor,
Infraction, or Limited Civil Case)**

Clerk stamps date here when form is filed.

Petitioner*(fill in the name of the person asking for the writ)*

v.

Superior Court of California, County of _____

Respondent*(fill in the name of the court whose action or ruling you are challenging)***Real Party in Interest***(fill in the name of any other parties in the trial court case)*

Clerk will fill in the number below:

Appellate Division Case Number: **Stay requested***(see item 12 c. on page 6)***Instructions**

- This form is only for requesting a **writ** in a misdemeanor, infraction, or limited civil case, or a writ challenging a postjudgment enforcement order in a small claims case (see below*).
 - Do *not* use this form for other writs and for appeals. You can get forms to use for those at any courthouse or county law library or online at www.courts.ca.gov/forms.
 - Before you fill out this form, read *Information on Writ Proceedings in Misdemeanor, Infraction, and Limited Civil Cases* (form APP-150-INFO) to know your rights and responsibilities. You can get form APP-150-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
 - Unless a special statute sets an earlier deadline, you should file this form no later than **30 days** after the date the trial court took the action or issued the ruling you are challenging in this petition (see form APP-150-INFO, page 7, for more information about the deadline for filing a writ petition). It is your responsibility to find out if a special statute sets an earlier deadline. If your petition is filed late, the appellate division may deny it.
 - Fill out this form and make a copy of the completed form for your records and for the respondent (the trial court whose action or ruling you are challenging) and each of the real parties in interest (the other party or parties in the trial court case).
 - Serve a copy of the completed form on the respondent and on each real party in interest and keep proof of this service. *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
 - Take or mail the completed form and your proof of service on the respondent and each real party in interest to the clerk's office for the appellate division of the superior court that took the action or issued the ruling you are challenging.
- * **Small Claims cases.** If you are a party in a small claims case, this form is only to be used for requesting a writ relating to a postjudgment enforcement order of a small claims division. For writs relating to other acts of a small claims division, the form to use is the *Petition for Writ (Small Claims)* (form SC-300). See also Cal. Rules of Court, rules 8.970–8.977. For writs relating to acts of a superior court in a small claims appeal, see Cal. Rules of Court, rules 8.485–8.493.



Appellate Division Case Name:	Appellate Division Case Number:
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1 Your Information

a. Petitioner (the party who is asking for the writ):

Name: _____

Street address: _____
Street City State Zip

Mailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

b. Petitioner's lawyer (skip this if the petitioner does not have a lawyer for this petition):

Name: _____ State Bar number: _____

Street address: _____
Street City State Zip

Mailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____

The Trial Court Action or Ruling You Are Challenging

2 I am/My client is filing this petition to challenge an action taken or ruling made by the trial court in the following case:

a. Case name (fill in the trial court case name): _____

b. Case number (fill in the trial court case number): _____

3 The trial court action or ruling I am/my client is challenging is (describe the action taken or ruling made by the trial court): _____

4 The trial court took this action or made this ruling on the following date (fill in the date): _____

5 If you are filing this petition more than 30 days after the date that you listed in 4, explain the extraordinary circumstances that caused the delay in filing this petition: _____



Appellate Division Case Name:

Appellate Division Case Number:

The Parties in the Trial Court Case6 I/My client (*check and fill in a or b*):

- a. was a party in the case identified in ②.
- b. was not a party in the case identified in ② but will be directly and negatively affected in the following way by the action taken or ruling made by the trial court (*describe how you/your client will be directly and negatively affected by the trial court's action or ruling*):

7 The other party or parties in the case identified in ② was/were (*fill in the names of the parties*):

Appeals or Other Petitions for Writs in This Case8 Did you or anyone else file an appeal about the same trial court action or ruling you are challenging in this petition? (*Check and fill in a or b*):

- a. No
- b. Yes (*fill in the appellate division case number of the appeal*): _____

9 Have you filed a previous petition for a writ challenging this trial court action or ruling? (*Check and fill in a or b*):

- a. No
- b. Yes (*Please provide the following information about this previous petition*).

- (1) Petition title (*fill in the title of the petition*): _____
- (2) Date petition filed (*fill in the date you filed this petition*): _____
- (3) Case number (*fill in the case number of the petition*): _____

If you/your client filed more than one previous petition, attach another page providing this information for each additional petition. At the top of each page, write "APP-151, item 9."

Reasons for This Petition10 The trial court made the following legal error or errors when it took the action or made the ruling described in ③ (*check and fill in at least one*):

- a. The trial court has not done or has refused to do something that the law says it *must* do.

(1) *Describe what you believe the law says the trial court must do*: _____

(2) *Identify the law (the section of the Constitution or statute, published court decision, or other legal authority) that says the trial court must do this*: _____



Appellate Division Case Name:

Appellate Division Case Number:

⑩ (continued)

- (3) *Identify where in the supporting documents (the record of what was said in the trial court and the documents from the trial court) it shows that the court did not do or refused to do this:*

Check here if you need more space to describe the reason for your petition and attach a separate page or pages describing it. At the top of each page, write "APP-151, item 10a."

- b. The trial court has done something that the law says the court *cannot or must not* do.

- (1) *Describe what the trial court did:* _____

- (2) *Identify where in the supporting documents (the record of what was said in the trial court and the documents from the trial court) it shows that the court did this:* _____

- (3) *Identify the law (the section of the Constitution or statute, published court decision, or other legal authority) that says the trial court cannot or must not do this:* _____

Check here if you need more space to describe the reason for your petition and attach a separate page or pages describing it. At the top of each page, write "APP-151, item 10b."

- c. The trial court has performed or said it is going to perform a judicial function (like deciding a person's rights under law in a particular situation) in a way the court does not have the legal power to do.

- (1) *Describe what the trial court did or said it is going to do:* _____

- (2) *Identify where in the supporting documents (the record of what was said in the trial court and the documents from the trial court) it shows that the court did or said it was going to do this:*



Appellate Division Case Name:

Appellate Division Case Number:

10 (continued)

- (3) *Identify the law (the section of the Constitution or statute, published court decision, or other legal authority) that says the trial court does not have the power to do this:*

- Check here if you need more space to describe this reason for your petition and attach a separate page or pages describing it. At the top of each page, write “APP-151, item 10c.”*
- Check here if there are more reasons for this petition and attach an additional page or pages describing these reasons. At the top of each page, write “APP-151, item 10d.”*

11 This petition will be granted only if there is no other adequate way to address the trial court’s action or ruling other than by issuing the requested writ.

- a. *Explain why there is no way other than through this petition for a writ—through an appeal, for example—for your arguments to be adequately presented to the appellate division:*

- b. *Explain how you/your client will be irreparably harmed if the appellate division does not issue the writ you are requesting:*

Order You Are Asking the Appellate Division to Make

12 I request that this court (*check and fill in all that apply*):

- a. order the trial court to do the following (*describe what, if anything, you want the trial court to be ordered to do*):

- b. order the trial court not to do the following (*describe what, if anything, you want the trial court to be ordered NOT to do*):



Appellate Division Case Name:	Appellate Division Case Number:
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12 (continued)

- c. issue a stay ordering the trial court not to take any further action in this case until this court decides whether to grant or deny this petition (*describe below why it is urgent that the trial court not take any further action and check the Stay requested box on page 1 of this form*):

I/My client:

- (1) asked the trial court to stay these proceedings, but the trial court denied this request (*include in your supporting documents a copy of the trial court's order denying your request for a stay*).
- (2) did not ask the trial court to stay these proceedings for the following reasons (*describe below why you did not ask the trial court to stay these proceedings*):

- d. take other action (*describe*): _____

- e. grant any additional relief that the appellate division decides is fair and appropriate.

Supporting Documents

13 Is a record of what was said in the trial court about the action or ruling you are challenging attached as required by rule 8.931(b)(1)(D) of the California Rules of Court?

- a. Yes, a transcript or an official electronic recording of what was said in the trial court is attached.
- b. No, a transcript or official electronic recording is not attached, but I have attached a declaration (a statement signed under penalty of perjury) (*Check (1) or (2)*):
- (1) stating the transcript or electronic recording has been ordered, the date it was ordered, and the date it is expected to be filed.
- (2) explaining why the transcript or official electronic recording is not available and providing a fair summary of what was said in the trial court, including the petitioner's arguments and any statement by the trial court supporting its ruling.



Appellate Division Case Name:	Appellate Division Case Number:
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- 14 Are the following documents attached as required by rule 8.931(b)(1)(A)–(C):
- The trial court ruling being challenged in this petition
 - All documents and exhibits submitted to the trial court supporting and opposing the petitioner’s position
 - Any other documents or portions of documents submitted to the trial court that are necessary for a complete understanding of the case and the ruling being challenged? (*Check a or b*):
 - a. Yes, these documents are attached.
 - b. No, these documents are not attached for the following reasons (*explain why these documents are not attached and give a fair summary of the substance of these documents. Note that rule 8.931 provides that, in extraordinary circumstances, the petition may be filed without these documents, but the petitioner must explain the urgency and the circumstances making the documents unavailable*):

Verification

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

Type or print your name

▶

Signature of petitioner or attorney

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
PEOPLE OF THE STATE OF CALIFORNIA VS.		
Defendant: Date of birth: _____ Cal. Dept. of Corrections and Rehabilitation No. (if any): _____		
NOTICE OF APPEAL—FELONY (DEFENDANT) (Pen. Code, §§ 1237, 1237.5, 1538.5(m); Cal. Rules of Court, rule 8.304)		CASE NUMBER:

NOTICE

- **You must file this form in the SUPERIOR COURT WITHIN 60 DAYS** after the court rendered the judgment or made the order you are appealing.
- **IMPORTANT:** If your appeal challenges the validity of a guilty plea, a no-contest plea, or an admission of a probation violation, you must also complete the Request for Certificate of Probable Cause on page 2 of this form. (Pen. Code, § 1237.5.)

1. Defendant appeals from a judgment rendered or an order made by the superior court.

NAME of defendant:

DATE of the order or judgment:

2. **Complete either item a. or item b. Do not complete both.**

a. *If this appeal is after entry of a plea of guilty or no contest or an admission of a probation violation, check all that apply:*

- (1) This appeal is based on the sentence or other matters occurring after the plea that do not affect the validity of the plea. (Cal. Rules of Court, rule 8.304(b).)
- (2) This appeal is based on the denial of a motion to suppress evidence under Penal Code section 1538.5.
- (3) This appeal challenges the validity of the plea or admission. (*You must complete the Request for Certificate of Probable Cause on page 2 of this form and submit it to the court for its signature.*)
- (4) Other basis for this appeal (*you must complete the Request for Certificate of Probable Cause on page 2 of this form and submit it to the court for its signature*) (*specify*):

b. *For all other appeals, check one:*

- (1) This appeal is after a jury or court trial. (Pen. Code, § 1237(a).)
- (2) This appeal is after a contested violation of probation. (Pen. Code, § 1237(b).)
- (3) Other (*specify*):

3. Defendant requests that the court appoint an attorney for this appeal. Defendant was was not represented by an appointed attorney in the superior court.

4. Defendant's mailing address is: same as in attorney box above.
 as follows:

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DEFENDANT OR ATTORNEY)

PEOPLE OF THE STATE OF CALIFORNIA vs.	CASE NUMBER:
Defendant:	

REQUEST FOR CERTIFICATE OF PROBABLE CAUSE

I request a certificate of probable cause. The reasonable constitutional, jurisdictional, or other grounds going to the legality of the guilty plea, no-contest plea, or probation violation admission proceeding are (*specify*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DEFENDANT OR ATTORNEY)

COURT ORDER

This Request for Certificate of Probable Cause is (*check one*): granted denied.

Date:

JUDGE

TO BE FILED IN THE COURT OF APPEAL

CR-126

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:	
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER:	
NAME:			
FIRM NAME:			
STREET ADDRESS:			
CITY:	STATE:		ZIP CODE:
TELEPHONE NO.:	FAX NO.:		
E-MAIL ADDRESS:			
ATTORNEY FOR (name):			
APPELLANT:			
RESPONDENT:			
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF (CRIMINAL CASE)			

1. I (name): _____ request that the time to file (check one)

- appellant's opening brief (AOB)
- respondent's brief (RB)
- combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)
- combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)
- appellant's reply brief (ARB)

now due on (date): _____ be extended to (date): _____

2. I have have not received a rule 8.360(c)(5) notice.

3. I have received

- no previous extensions to file this brief.
- the following previous extensions:

(number of extensions): _____ extensions from the court totaling (total number of days): _____

Did the court mark any previous extension "no further?" Yes No

4. The last brief filed by any party was: AOB RB RB and AOB ARB and RB
filed on (date): _____

5. The record in this case is:

	<u>Volumes (#)</u>	<u>Pages (#)</u>	<u>Date filed</u>
Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____

6. Defendant was convicted of (specify): _____

7. The conviction is based on a (check one):

- jury verdict
- plea of guilty or no contest

APPELLANT: RESPONDENT	COURT OF APPEAL CASE NUMBER:
--------------------------	------------------------------

8. The court imposed the following punishment:

9. The defendant is is not on bail pending appeal.

10. The reasons that I need an extension to file this brief are stated

below.

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

(Please specify; see rule 8.63 for factors used in determining whether to grant extensions):

11. A proof of service of this application on all those entitled to receive a copy of the brief under rule 8.360(d)(1), (2), and (3) is attached (see rule 8.360(d)). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____



(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS:

Granted to (date): _____

Denied

Date: _____

(SIGNATURE OF PRESIDING JUSTICE)

CR-132**Notice of Appeal
(Misdemeanor)**

Clerk stamps date here when form is filed.

Instructions

- This form is only for appealing in a **misdemeanor case**. You can get other forms for appealing in a civil or infraction case at any courthouse or county law library or online at *www.courts.ca.gov/forms*.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at *www.courts.ca.gov/forms*.
- **You must file this form no later than 30 days after the trial court issued the judgment or order you are appealing** (see rule 8.853(b) of the California Rules of Court for very limited exceptions). **If your notice of appeal is late, the court will not take your appeal.**
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the clerk's office for the same trial court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Name of Appellant (the party who is filing this appeal):

Name: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

- b. Appellant's lawyer (skip this if the appellant is filling out this form):

The lawyer filling out this form is (check (1) or (2)):

(1) was the appellant's lawyer in the trial court. (2) is the appellant's lawyer for this appeal.

Name: _____ State Bar number: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name:

Trial Court Case Number:

2 Judgment or Order You Are AppealingI am/My client is appealing (*check one*):

- a. The final judgment of conviction in this case (Penal Code section 1466(b)(1)).
 I am/My client is contesting only the conditions of the probation.
- b. The following order made after the judgment in this case that affects an important right of mine/my client (for example, an order after a probation violation) (Penal Code section 1466(b)(1)).
 An order modifying the conditions of probation.
 Other(*describe the action you are appealing and give the date the trial court took the action*):

- c. The trial court has not yet issued a final judgment in this case. I am appealing before final judgment an order that denied a motion to suppress evidence in this case (Penal Code section 1538.5(j)).
- d. Other action (*describe the action you are appealing and give the date the trial court took the action*):

3 Record on Appeal*See form CR-131-INFO for information about the record on appeal.*

- a. I have attached a completed *Notice Regarding Record on Appeal (Misdemeanor)* (form CR-134).
- b. I have **not** attached a *Notice Regarding Record on Appeal (Misdemeanor)* (form CR-134). I understand that I must file this notice in the trial court within either: (1) 20 days after I file this notice of appeal; or, if it is later, (2) 10 days after the court appoints a lawyer for me (if I file a request for a court-appointed lawyer within 20 days after I file my notice of appeal). I also understand that if I do not file the notice on time, the court will not be able to consider what was said in the trial court in deciding whether an error was made in the trial court proceedings.

4 Court-Appointed Lawyer

- a. I/My client was was not represented by the public defender or another court-appointed lawyer in the trial court.
- b. I am/My client is (*check (1) or (2)*):
- (1) asking the court to appoint a lawyer to represent me/my client in this appeal. I have completed *Request for Court-Appointed Lawyer in Misdemeanor Appeal* (form CR-133) and attached it to this notice of appeal.
- (2) **not** asking the court to appoint a lawyer to represent me/my client in this appeal.

REMINDER—Except in the very limited circumstances listed in rule 8.853, you must file this form no later than 30 days after the trial court issued the judgment or order you are appealing in your case. If your notice of appeal is late, the court will not take your appeal.

Date: _____

Type or print your name_____
Signature of appellant or attorney

CR-133**Request for Court-Appointed
Lawyer in Misdemeanor Appeal**

Clerk stamps date here when form is filed.

Instructions

- This form is only for requesting that the court appoint a lawyer to represent a person appealing in a **misdemeanor** case.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- The court is required to appoint a lawyer to represent you on appeal only if you cannot afford to hire a lawyer and
 - (1) your punishment includes going to jail or paying a fine of more than \$500 (including penalty and other assessments), or
 - (2) you are likely to suffer other significant harm as a result of being convicted.
- This form can be filed at the same time as your notice of appeal.
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the clerk's office for the same trial court where you filed your notice of appeal. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Name of Appellant (the party who is filing this appeal):

Name: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

- b. Appellant's lawyer (skip this if the appellant is filling out this form):

Name: _____ State Bar number: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

Information About Your Case

- ② Were you/was your client represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case? (Check a or b.)
- a. Yes
- b. No (*Complete and attach Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense (form MC-210) showing that you/your client cannot afford to hire a lawyer. You can get form MC-210 at any courthouse or county law library or online at www.courts.ca.gov/forms.*)
- ③ Describe the punishment the trial court gave you/your client in this case (*check all that apply and fill in any required information*):
- a. Jail time
- b. A fine (including penalty and other assessments) (*fill in the amount of the fine*): \$ _____
- c. Restitution (*fill in the amount of the restitution*): \$ _____
- d. Probation (*fill in the amount of time on probation*): _____
- e. Other punishment (*describe any other punishment that the trial court gave you/your client in this case*):

- ④ Describe any significant harm that you are/your client is likely to suffer because of this conviction:
- _____
- _____
- _____
- _____

Notice to Appellant: If you were represented by appointed counsel in the trial court and the trial court finds that you are able to pay all or part of the cost of that counsel, at the conclusion of the proceedings, the court may also determine after a hearing whether you are able to pay all or a portion of the cost of any attorney appointed to represent you in this appeal. If the court determines that you are at that time able to pay, the court will order you to pay all or part of such cost. Such orders will have the same force and effect as a judgment in a civil action and will be subject to enforcement.

Date: _____

Type or print name_____
Signature of appellant or attorney

CR-134**Notice Regarding Record on Appeal
(Misdemeanor)**

Clerk stamps date here when form is filed.

Instructions

- This form is only for giving the court notice about the record on appeal in a **misdemeanor case**.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- This form can be filed with your notice of appeal. If it is not filed with your notice of appeal, this form must be filed within either:
 - (1) 20 days after you file your notice of appeal, or, if it is later
 - (2) 10 days after the court appoints a lawyer to represent you on appeal (if you file a request for a court-appointed lawyer within 20 days after you file your notice of appeal).
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the clerk's office for the same trial court where you filed your notice of appeal. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Name of Appellant (the party who is filing this appeal):

Name: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

- b. Appellant's lawyer (skip this if the appellant is filling out this form):

The lawyer filling out this form is (check (1) or (2)):

- (1)
-
- was the appellant's lawyer in the trial court. (2)
-
- is the appellant's lawyer for this appeal.

Name: _____ State Bar number: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

Information About Your Appeal

- ② On (*fill in the date*): _____ I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.

Your Choices About the Record on Appeal**Stipulation for Limited Record**

- ③ The respondent and I/my client have agreed (“stipulated”) under rule 8.860 that parts of the normal record on appeal are not required for proper determination of this appeal. A copy of our stipulation identifying those parts of the record that are not required is attached.

Record of Oral Proceedings

You do not have to provide the appellate division with a record of what was said in the trial court (this is called a record of the “oral proceedings”). But, if you do not, the appellate division will not be able to consider what was said during the trial court proceedings in deciding whether a legal error was made in those proceedings.

- ④ I elect (choose)/My client elects to proceed (*check a or b*):
- a. WITHOUT a record of the oral proceedings in the trial court (*skip item ⑤*; *sign and date this form*). I understand that if I proceed without a record of the oral proceedings, the appellate division will not be able to consider what was said in the trial court during those proceedings in deciding whether a legal error was made.
- (Write initials here):* _____
- b. WITH a record of the oral proceedings in the trial court (*complete item ⑤ below*). I understand that if I elect (choose) to proceed WITH a record of the oral proceeding in the trial court, I have to choose the record I want to use and take the actions described below to make sure this record is provided to the appellate division. I understand that if I do not take the actions described below and the appellate division does not receive this record, I am not likely to succeed in my appeal.

(Write initials here): _____



Trial Court Case Name: _____

Trial Court Case Number: _____

5 I want to use the following record of what was said in the trial court proceedings in my case (*check and complete only one—a, b, c, or d*):

- a. **Reporter's Transcript.** *This option is available only if there was a court reporter in the trial court who made a record of what was said in court. Check with the trial court to see if there was a court reporter in your case before choosing this option. Some courts also have local rules that establish procedures for determining whether only a portion of a reporter's transcript or a different form of the record will be sufficient for an effective appeal. Check with the trial court to see if it has such a local rule. (Check and complete (1) or (2)):*
- (1) I will pay the trial court clerk's office for this transcript myself when I receive the court reporter's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the appellate division.
- (2) I am asking that this transcript be prepared at no cost to me because I cannot afford to pay this cost.
- (a) I was represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case.
- (b) I was not represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case, but I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210). (*You can get form MC-210 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a free reporter's transcript.*)

OR

- b. **Transcript From Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. Some courts also have local rules that establish procedures for determining whether only a portion of a transcript or a different form of the record will be sufficient for an effective appeal. Check with the trial court to see if it has such a local rule. (Check and complete (1) or (2).):*
- (1) I will pay the trial court clerk's office for this transcript myself. I understand that if I do not pay for this transcript, it will not be prepared and provided to the appellate division.
- (2) I am asking that this transcript be provided at no cost to me because I cannot afford to pay this cost.
- (a) I was represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case.
- (b) I was not represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case, but I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210). (*You can get form MC-210 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a free reporter's transcript.*)

OR



Trial Court Case Name: _____

Trial Court Case Number: _____

⑤ (continued)

- c. **Copy of Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court, the court has a local rule for the appellate division permitting the use of the official electronic recording itself as the record of the court proceedings, and you and the respondent (the prosecuting agency) have agreed (stipulated) that you want to use the recording itself as the record of what was said in your case. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. You must attach a copy of your agreement (stipulation) with the respondent to this notice. (Check and complete (1) or (2).):*
- (1) I will pay the trial court clerk's office for this official electronic recording myself. I understand that if I do not pay for this recording, it will not be prepared and provided to the appellate division.
- (2) I am asking that this official electronic recording be provided at no cost to me because I cannot afford to pay this cost.
- (a) I was represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case.
- (b) I was not represented by the public defender or another court-appointed lawyer in the trial court proceedings in this case, but I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210). (You can get form MC-210 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a free reporter's transcript.)

OR

- d. **Statement on Appeal.** A statement on appeal is a summary of the trial court proceedings approved by the trial court. See form CR-131-INFO for information about preparing a proposed statement. (Check and complete (1) or (2).):
- (1) I have attached my proposed statement on appeal to this notice. (If you are not represented by a lawyer in this appeal, you must use Proposed Statement on Appeal (Misdemeanor) (form CR-135) to prepare and file this proposed statement. You can get a copy of form CR-135 at any courthouse or county law library or online at www.courts.ca.gov/forms.)
- (2) I have NOT attached my proposed statement on appeal to this notice. I understand that I must serve and file this proposed statement in the trial court within 20 days of the date I file this notice and that if I do not file the proposed statement on time, the court may dismiss my appeal.

Date: _____

Type or print your name_____
Signature of appellant or attorney

CR-135**Proposed Statement on Appeal
(Misdemeanor)****Instructions**

- This form is only for preparing a proposed statement on appeal in an **misdemeanor** case.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- This form can be attached to your *Notice Regarding Record on Appeal (Misdemeanor)* (form CR-134). If it is not attached to that notice, this form must be filed **no later than 20 days after you file that notice. If you have chosen to prepare a statement on appeal and do not file this form on time, the court may dismiss your appeal.**
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the completed form and proof of service on each of the other parties to the clerk's office for the same court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

Clerk stamps date here when form is filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:***The People of the State of California*
v.

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Appellant (the party who is filing this appeal):

Name: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

- b. Appellant's lawyer (skip this if the appellant is filling out this form):

The lawyer filling out this form (check (1) or (2)):

(1) was the appellant's lawyer in the trial court. (2) is the appellant's lawyer for this appeal.

Name: _____ State Bar number: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

Information About Your Appeal

- ② On (fill in the date): _____, I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.
- ③ On (fill in the date): _____, I/my client filed a *Notice Regarding Record on Appeal*, choosing to use a statement on appeal as the record of what was said in this case.

Proposed Statement**④ Reasons for Your Appeal**

Remember, in an appeal, the appellate division can only review a case for whether certain kinds of legal errors were made in the trial court proceedings (read form CR-131-INFO to learn about these legal errors):

- *There was not “substantial evidence” supporting the judgment, order, or other decision you are appealing.*
- *A “prejudicial error” was made during the trial court proceedings.*

The appellate division:

- *Cannot retry your case or take new evidence.*
- *Cannot consider whether witnesses were telling the truth or lying.*
- *Cannot consider whether there was more or stronger evidence supporting your position than there was supporting the trial court’s decision.*

(Check all that apply and describe in detail the legal error or errors you believe were made that are the reason for this appeal.)

- a. There was not substantial evidence that supported the judgment, order, or other decision that I/my client indicated in the notice of appeal that is being appealed in this case. *(Explain why you think the judgment, order, or other decision was not supported by substantial evidence.):* _____
- _____
- _____
- _____

- b. The following error or errors about either the law or court procedure was/were made that caused substantial harm to me/my client. *(Describe each error and how you were/your client was harmed by that error.)*

(1) *Describe the error:* _____

Describe how this error harmed you/your client: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

4 b. (continued)(2) Describe the error: _____

_____Describe how this error harmed you/your client: _____

_____(3) Describe the error: _____

_____Describe how this error harmed you/your client: _____

- Check here if you need more space to describe these or other errors and attach a separate page or pages describing the errors. At the top of each page, write "CR-135, item 4."

5 The Charges Against Me/My Client

- a. The charges against me/my client were (list all of the charges indicated on the citation or complaint filed with the court by the prosecutor): _____

- b. I/My client (check (1), (2), or (3))

(1) pleaded not guilty to all of the charges.(2) pleaded guilty to only the following charges: _____

_____(3) pleaded guilty to all of these charges.

Trial Court Case Name: _____

Trial Court Case Number: _____

6 Summary of Any Motions and the Court's Order on the Motion

a. Were any motions (requests for the trial court to issue an order) made in this case that are relevant to the reasons you gave in **4** for this appeal?

Yes (fill out b) No (skip to item **7**)

b. In the spaces below, describe any motions (requests for orders) that were made in the trial court that are relevant to the reasons you gave in **4** for this appeal. Write a complete and accurate summary of what was said at any hearings on these motions and indicate how the trial court ruled on these motions:

(1) Describe the first motion: _____

The motion was filed by the prosecutor. defendant.

There was was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: _____

The trial court granted this motion. did not grant this motion.

Other (describe any other action the trial court took concerning this motion): _____

Check here if you need more space to describe this motion and attach a separate page or pages describing it. At the top of each page, write "CR-135, Item 6b(1)."

(2) Describe the second motion: _____

The motion was filed by the prosecutor. defendant.

There was was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: _____

The trial court granted this motion. did not grant this motion.

Other (describe any other action the trial court took concerning this motion): _____

Check here if you need more space to describe this motion and attach a separate page or pages describing this motion. At the top of each page, write "CR-135, item 6b(2)."



Trial Court Case Number:

Trial Court Case Name: _____

- (3) Check here if any other motions were filed that are relevant to the reasons you gave in (4) for this appeal, and attach a separate page or pages describing each motion, identifying who made the motion and whether there was a hearing on the motion, summarizing what was said at the hearing on the motion, and indicating whether the trial court granted or denied the motion. At the top of each page, write CR-135, item 6b(3).”

7 Summary of Testimony and Other Evidence

a. Was there a trial in your case?

No (skip items b, c, d, e, and f, and go to item (8))

Yes (complete items b, c, d, e, and f)

(1) Jury trial

(2) Trial by judge only

b. Did you/your client testify at the trial?

No

Yes (Write a complete and accurate summary of the testimony you/your client gave that is relevant to the reasons you gave in (4) for this appeal. Include only what you actually said; do not comment on or give your opinion about what you said. Please indicate whether any objections were made concerning your/your client's testimony or any exhibits you/your client asked to present and whether these objections were sustained.): _____

Check here if you need more space to summarize your/your client's testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write "CR-135, Item 7b."

c. Did an officer from the police department, sheriff's office, or other government agency that charged you/your client testify at the trial? (Check one):

No

Yes (complete (1) and (2)):

(1) The name of the officer who testified is (fill in the officer's name): _____

(2) This officer testified that (Write a complete and accurate summary of the officer's testimony that is relevant to the reasons you gave in (4) for this appeal. Include only what the officer actually said; do not comment on or give your opinion about what the officer said. Please indicate whether any objections were made concerning the officer's testimony or any exhibits the officer asked to present and whether these objections were sustained.): _____

Check here if you need more space to summarize the officer's testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write "CR-135, Item 7c."



Trial Court Case Number:

Trial Court Case Name: _____

⑦ (continued)

d. Were there any other witnesses at the trial whose testimony is relevant to the reasons you gave in ④ for this appeal?

No

Yes (fill out (1)–(4)):

(1) The witness's name is (fill in the witness's name): _____

(2) The witness was was not an officer from the police department, sheriff's office, or other government agency that charged me/my client.

(3) The witness testified on behalf of me/my client. the prosecution.

(4) This witness testified that (Write a complete and accurate summary of the witness's testimony that is relevant to the reasons you gave in ④ for this appeal. Include only what the witness actually said; do not comment on or give your opinion about what the witness said. Please indicate whether any objections were made concerning the witness's testimony or any exhibits the witness asked to present and whether these objections were sustained.): _____

Check here if you need more space to summarize this witness's testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write "CR-135, Item 7d."

e. Check here if any other witnesses gave testimony at the trial that is relevant to the reasons you gave in ④ for this appeal. Attach a separate page or pages identifying each witness, whether the witness testified on your/your client's behalf or the prosecution's behalf, summarizing what that witness said in his or her testimony that is relevant to the reasons you gave in ④ for this appeal, and indicating whether any objections were made concerning the witness's testimony or any exhibits the witness asked to present and whether these objections were sustained. At the top of each page, write "CR-135, item 7e."

f. Summarize the evidence, other than the testimony, that was given during the trial that is relevant to the reasons you gave in ③ for this appeal (Write a complete and accurate summary of the evidence given by both you and the respondent. Include only the evidence; do not comment or give your opinion about this evidence.):

Check here if you need more space to summarize the evidence and attach a separate page or pages summarizing this evidence. At the top of each page, write "CR-135, Item 7f."



Trial Court Case Name: _____

Trial Court Case Number: _____

8 The Trial Court's Findings

- a. I/My client was found guilty of the following offenses (*list all of the offenses for which you were/your client was found guilty*): _____

- b. I/My client was found not guilty of the following offenses (*list all of the offenses for which you were/your client was found not guilty*): _____

9 The Sentence

The trial court imposed the following fine or other punishment on me/my client (*check all that apply and fill in any required information*):

- a. Jail time (*fill in the amount of time you are/your client is required to spend in jail*): _____

- b. A fine (including penalty and other assessments) (*fill in the amount of the fine*): \$ _____
- c. Restitution (*fill in the amount of the restitution*): \$ _____
- d. Probation (*fill in the amount of time you are/your client is required to be on probation*): _____

- e. Other punishment (*describe any other punishment that the trial court imposed in this case*): _____

REMINDER: You must serve and file this form no later than 20 days after you file your notice regarding the oral proceedings. If you do not file this form on time, the court may dismiss your appeal.

Date: _____

Type or print name_____
Signature of appellant or attorney

CR-137**Abandonment of Appeal
(Misdemeanor)**

Clerk stamps date here when form is filed.

Instructions

- This form is only for abandoning (giving up) an appeal in a **misdemeanor** case.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the appellate division clerk's office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:***The People of the State of California v.*

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Name of appellant (the party who is filing this appeal):

Street address: _____

*Street**City**State**Zip*

Mailing address (if different): _____

*Street**City**State**Zip*

Phone: _____

E-mail: _____

- b. Appellant's lawyer (skip this if the appellant does not have a lawyer for this appeal):

Name: _____

State Bar number: _____

Street address: _____

*Street**City**State**Zip*

Mailing address (if different): _____

*Street**City**State**Zip*

Phone: _____

E-mail: _____**Fax:** _____

Appellate Division Case Name:	Appellate Division Case Number:
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2 On (*fill in the date*): _____ I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.

3 By signing and filing this form, I abandon/my client abandons that appeal.

Date: _____

Type or print your name

 _____
Signature of appellant or attorney

CR-141-INFO**Information on Appeal Procedures for Infractions****1 What does this information sheet cover?**

This information sheet tells you about appeals in infraction cases. It is only meant to give you a general idea of the appeal process, so it does not cover everything you may need to know about appeals in infraction cases. To learn more, you should read rules 8.900–8.929 of the California Rules of Court, which set out the procedures for infraction appeals. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

2 What is an infraction?

Infractions are crimes that can be punished by a fine, traffic school, or some form of community service but not by time in jail or prison. (See Penal Code sections 17, 19.6, and 19.8. You can get a copy of these laws at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.) Examples of infractions are many traffic violations for which you can get a ticket or violations of some city or county ordinances for which you can get a citation. If you were also charged with or convicted of a misdemeanor, then your case is a misdemeanor case, not an infraction case.

3 What is an appeal?

An appeal is a request to a higher court to review a ruling or decision made by a lower court. **In an infraction case, the court hearing the appeal is the appellate division of the superior court, and the lower court—called the “trial court” in this information sheet—is the superior court.**

It is important to understand that **an appeal is NOT a new trial**. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits. The appellate division’s job is to review a record of what happened in the trial court and the trial court’s decision to see if certain kinds of legal errors were made in the case:

- **Prejudicial error:** The party that appeals (called the “appellant”) may ask the appellate division to determine if an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called

For information about appeal procedures in other cases, see:

- *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO)
- *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO)

You can get these forms at any courthouse or county law library or online at www.courts.ca.gov/forms.

“prejudicial error”). Prejudicial error can include things like errors made by the judge about the law or errors or misconduct by the lawyers that harmed the appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. It is the responsibility of the appellant to show the appellate division that an error was made and that the error was harmful.

- **No substantial evidence:** The appellant may also ask the appellate division to determine if there was substantial evidence supporting the judgment, order, or other decision being appealed. When it conducts its review, the appellate division only looks to see if there was evidence that reasonably supports the decision. The appellate division generally will not reconsider the trial court’s conclusion about which side had more or stronger evidence or whether witnesses were telling the truth or lying.

The appellate division generally will not overturn the judgment, order, or other decision being appealed unless the record clearly shows that one of these legal errors was made.

4 Do I need a lawyer to appeal?

You do not *have* to have a lawyer; you are allowed to represent yourself in an appeal in an infraction case. But appeals can be complicated, and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer. You will need to hire a lawyer yourself if you want one. You can get information about finding a lawyer on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-lowcosthelp.htm.



CR-141-INFO**Information on Appeal Procedures for Infractions**

If you are representing yourself, you must put your address, telephone number, fax number (if available), and e-mail address (if available) on the cover of every document you file with the court and let the court know if this contact information changes so that the court can contact you if needed.

5 Who can appeal?

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative.

The party that is appealing is called the APPELLANT; in an infraction case, this is usually the party convicted of committing the infraction. The other party is called the RESPONDENT; in an infraction case, this is usually the government agency that filed the criminal charges (on court papers, this party is called the People of the State of California).

6 Can I appeal any decision that the trial court made?

No. Generally, you may appeal only a final judgment of the trial court—the decision at the end that decides the whole case. The final judgment includes the punishment that the court imposed. Other rulings made by the trial court before final judgment cannot be separately appealed, but can be reviewed only later as part of an appeal of the final judgment. In an infraction case, the party that was convicted of committing an infraction usually appeals that conviction or the sentence (the fine or other punishment) ordered by the trial court. In an infraction case, a party can also appeal from an order made by the trial court after judgment that affects a substantial right of the appellant (Penal Code section 1466(2)(B)). You can get a copy of this law at <http://leginfo.legislature.ca.gov/faces/codes.xhtml>.

7 How do I start my appeal?

First, you must file a notice of appeal. The notice of appeal tells the other party in the case and the trial court that you are appealing the trial court's decision. You may use *Notice of Appeal and Record on Appeal (Infraction)* (form CR-142) to prepare and file a notice of appeal in an infraction case. You can get

form CR-142 at any courthouse or county law library or online at www.courts.ca.gov/forms.htm.

8 Is there a deadline for filing my notice of appeal?

Yes. In an infraction case, you must file your notice of appeal within **30 days** after the trial court makes (“renders”) its judgment in your case or issues the order you are appealing. The date the trial court makes its judgment is normally the date the trial court orders you to pay a fine or orders other punishment in your case (sentences you). **This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.**

9 How do I file my notice of appeal?

To file the notice of appeal in an infraction case, you must bring or mail the original notice of appeal to the clerk of the trial court in which you were convicted of the infraction. It is a good idea to bring or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

There is no fee for filing the notice of appeal in an infraction case. You can ask the clerk of that court if there are any other requirements for filing your notice of appeal.

After you file your notice of appeal, the clerk will send a copy of your notice to the office of the prosecuting attorney (for example, the district attorney, county counsel, city attorney, or state Attorney General).

10 If I file a notice of appeal, do I still have to pay my fine or complete other parts of my punishment?

Filing the notice of appeal does NOT automatically postpone the deadline for paying your fine or completing any other part of your sentence. To postpone your sentence, you must ask the trial court for a “stay” of the judgment. If you want a stay, you must first ask the trial court for a stay. You can also apply to the appellate division for a stay, but you must show in your application to the appellate division that you first asked the trial court for a stay and that the trial court



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unjustifiably denied your request. Your fine or other parts of your punishment will not be postponed unless the trial court or appellate division grants a stay. If you do not get a stay and you do not pay your fine or satisfy another part of your sentence by the date ordered by the court, a warrant may be issued for your arrest or a civil collections process may be started against you, which could result in a civil penalty being added to your fine.

11 Is there anything else I need to do when I file my notice of appeal?

Yes. When you file your notice of appeal, you must tell the trial court (1) whether you have agreed with the respondent (“stipulated”) that you do not need parts of the normal record on appeal, and (2) whether you want a record of what was said in the trial court (this is called a record of the “oral proceedings”) sent to the appellate division and, if so, what form of that record you want to use. *Notice of Appeal and Record on Appeal (Infraction)* (form CR-142) includes boxes you can check to tell the court whether and how you want to provide this record.

12 In what cases does the appellate division need a record of the oral proceedings?

You do not *have* to send the appellate division a record of what was said in the trial court. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of these oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings. Since the appellate division judges were not there for the proceedings in the trial court, an official record of these proceedings must be prepared and sent to the appellate court for its review.

Depending on what form of the record you choose to use, you will be responsible for paying to have the official record of the oral proceedings prepared (unless you are indigent) or for preparing an initial draft of the record yourself. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. If the appellate division does not receive the

record, it will not be able to consider what was said in the trial court in deciding whether a legal error was made and it may dismiss your appeal.

13 What are the different forms of the record?

There are three ways a record of the oral proceedings in a trial court can be prepared and provided to the appellate division in an infraction case:

- a. You can use a *statement on appeal*.
- b. If the proceedings were officially electronically recorded, the trial court can have a transcript prepared from the recording or, if the court has a local rule permitting this and all the parties agree (“stipulate”), you can use the official electronic recording itself as the record, instead of a transcript.
- c. If a court reporter was there during the trial court proceedings, the reporter can prepare a record called a “*reporter’s transcript*.”

Read below for more information about these options.

a. Statement on appeal

Description: A statement on appeal is a summary of the trial court proceedings approved by the trial court judge who conducted the trial court proceedings (the term “judge” includes commissioners and temporary judges).

When available: If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use either of these forms of the record, you can choose (“elect”) to use a statement on appeal as the record of the oral proceedings in the trial court (please note that it may take more of your time to prepare a statement on appeal than to use either a reporter’s transcript or electronic recording, if they are available).

Contents: A statement on appeal must include:

- A statement of the points you (the appellant) are raising on appeal;
- A summary of the trial court’s rulings and judgment; and



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- A summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal.

(See rule 8.916 of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)

Preparing a proposed statement: If you choose to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use Proposed *Statement on Appeal (Infraction)* (form CR-143) to prepare your proposed statement. You can get form CR-143 at any courthouse or county law library or online at www.courts.ca.gov/forms.

Serving and filing a proposed statement: You must serve and file your proposed statement within 20 days after you file your notice of appeal. “Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the proposed statement to the prosecuting attorney and any other party in the way required by law. If the proposed statement is mailed or personally delivered, it must be by someone who is not a party to the case—so not you. If the prosecuting attorney did not appear in your case, you do not need to serve the prosecuting attorney.
- Make a record that the proposed statement has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail or in person), and the date the proposed statement was served.

File the original proposed statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the

clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.

Review and modifications: The prosecuting attorney and any other party have 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial judge then reviews both your proposed statement and any proposed amendments filed by the prosecuting attorney and any other party. The judge will then make or order you to make any corrections or modifications to the proposed statement that are needed to make sure that the statement provides a complete and accurate summary of the relevant testimony and other evidence.

Completion and certification: If the judge makes or orders you to make any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you, the prosecuting attorney, and any other party for your review. If you disagree with anything in the judge’s statement, you will have 10 days from the date the statement is sent to you to serve and file objections to the statement. The judge then reviews any objections, makes any additional corrections to the statement, and certifies the statement as a complete and accurate summary of the relevant testimony and other evidence.

Sending the statement to the appellate division: Once the trial judge certifies the statement on appeal, the trial court clerk will send the statement to the appellate division along with the clerk’s transcript.

b. Official electronic recording or transcript from official recording

When available: In some infraction cases, the trial court proceedings are officially recorded on approved electronic recording equipment. If your case was officially recorded, you can ask to have a transcript prepared for the appellate division from the official electronic recording of the proceedings. You should check with the trial court to see if your case was officially electronically recorded before you choose this option. Some courts also have local



rules that establish procedures for deciding whether a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising on appeal. You should check whether the court has such a local rule.

If the court has a local rule for the appellate division permitting this and all the parties agree (“stipulate”), a copy of the official electronic recording itself can be used as the record of these oral proceedings instead of preparing a transcript. You should check with the trial court to see if your case was officially electronically recorded and check to make sure that there is a local rule permitting the use of the recording itself before choosing this option. If you choose this option, you must attach a copy of your agreement with the other parties (called a “stipulation”) to your notice regarding the oral proceedings.

Cost: Ordinarily, the appellant must pay for preparing the transcript or making a copy of the official electronic recording. The court will send you an estimate of the cost for this transcript or the copy of the electronic recording. If you still want this transcript or recording, you must deposit this amount with the court. However, you can also choose to use a statement on appeal instead, or take one of the other actions listed in rule 8.917.

If, however, you are indigent (you cannot afford to pay the cost of the transcript or electronic recording), you may be able to get a free transcript or official electronic recording. You can complete and file *Defendant’s Financial Statement on Eligibility for Appointment of Counsel and*

Reimbursement and Record on Appeal at Public Expense (form MC-210) to show that you are indigent. You can get form MC-210 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide whether you are indigent.

If you are indigent, an official electronic recording of your case was made, and you show that you need a transcript, the court must provide you with a free transcript. Whether you need a transcript depends on the issues you are raising on appeal. If the issues you are raising on appeal include that there was not substantial evidence supporting the judgment, order, or other decision you are appealing or that there was

misconduct in your case that harmed you, that is generally enough to show that you need a transcript. If you ask for a transcript, the court may ask you what issues you are raising on appeal and may decide that a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising.

If the court finds that you are not indigent, it will send you a notice and you will have a chance to use a statement on appeal instead or take one of the other actions listed in rule 8.917.

Completion and delivery: Once you deposit the estimated cost of the transcript or official electronic recording with the clerk or show the court you are indigent and need a transcript, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared, the clerk will send the transcript or recording to the appellate division along with the clerk’s transcript.

c. Reporter’s transcript

When available: In some infraction cases, a court reporter is there in the trial court and makes a record of the oral proceedings. If a court reporter made a record of your case, you can ask to have the court reporter prepare a transcript of those oral proceedings, called a “reporter’s transcript.” You should check with the trial court to see if a court reporter made a record of your case before you choose this option. Some courts also have local rules that establish procedures for deciding whether a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising on appeal. You should check whether the court has such a local rule.

Cost: Ordinarily, the appellant must pay for preparing a reporter’s transcript. The court reporter will provide the clerk of the trial court with an estimate of the cost of preparing the transcript, and the clerk will notify you of this estimate. If you want the reporter to prepare a transcript, you must deposit this estimated amount or one of the substitutes allowed under rule 8.919 with the clerk within 10 days after the clerk sends you the estimate. However, under rule 8.919 you can decide to use a different form of the record or take other action instead of proceeding with a reporter’s transcript.



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If, however, you are indigent (you cannot afford to pay the cost of the reporter's transcript), you may be able to get a free transcript. You can complete and file *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210) to show that you are indigent. You can get form MC-210 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide whether you are indigent.

If the court finds that you are indigent, a court reporter made a record of your case, and you show that you need a transcript, the court must provide you with a free transcript. Whether you need a transcript depends on the issues you are raising on appeal. If the issues you are raising on appeal include that there was not substantial evidence supporting the judgment, order, or other decision you are appealing or that there was misconduct in your case that harmed you, that is generally enough to show that you need a transcript. If you ask for a reporter's transcript, the court may ask you what issues you are raising on appeal and may decide that a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising.

If the court finds that you are not indigent, it will send you a notice and you will have a chance to pick another form of the record or take other actions listed in rule 8.919.

Completion and delivery: Once you deposit the estimated cost of the transcript or one of the substitutes allowed under rule 8.919 or show the court you are indigent and need a transcript, the clerk will notify the reporter to prepare the transcript. When the reporter completes the transcript, the clerk will send both the reporter's transcript and clerk's transcript to the appellate division.

14 Is there any other part of the record that needs to be sent to the appellate division?

Yes. There are two other parts of the official record that need to be sent to the appellate division:

- **Documents filed in the trial court:** The trial court clerk is responsible for preparing a record of the written documents filed in your case, called a "clerk's transcript," and sending this to the appellate division. (The documents the clerk must include in this transcript are listed in rule 8.912 of the California Rules of Court. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)
- **Exhibits submitted during trial:** Exhibits, such as photographs or maps, that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court are considered part of the record on appeal. If you want the appellate division to consider an exhibit, however, you must ask the trial court clerk to send the original exhibit to the appellate division within 10 days after the last respondent's brief is filed in the appellate division. (See rule 8.921 of the California Rules of Court for more information about this procedure. You can get a copy of this rule at any courthouse or county law library or online at www.courts.ca.gov/rules.)

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for the exhibit to be sent to the appellate division, the party who has the exhibit must deliver that exhibit to the appellate division as soon as possible.

15 What happens after the record is prepared?

As soon as the record of the oral proceeding is ready, the clerk of the trial court will send it to the appellate division along with the clerk's transcript. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

16 What is a brief?

A brief is a party's written description of the facts in the case, the law that applies, and the party's argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to prepare your brief yourself. You



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should read rules 8.927–8.928 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in infraction appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at www.courts.ca.gov/rules.

Contents: If you are the appellant (the party who is appealing), your brief, called the “appellant’s opening brief,” must clearly explain what you believe are the legal errors made in the trial court. Your brief must refer to the exact places in the clerk’s transcript and the statement on appeal (or other record of the oral proceedings) that support your argument. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

Serving and filing: You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division. **If you do not file your brief by the deadline set by the appellate division, the court may dismiss your appeal.**

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the brief to the respondent (the prosecuting agency) and any other party in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail or in person), and the date the brief was served.
- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and at www.courts.ca.gov/selfhelp-serving.htm.

17 What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent (the prosecuting agency) may, but is not required to, respond by serving and filing a respondent’s brief. If the respondent does not file a brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant’s brief, and any oral argument by the appellant.

If the respondent serves and files a brief, within 20 days after the respondent’s brief was served, you may, but are not required to, serve and file another brief replying to the respondent’s brief. This is called a “reply brief.”

18 What happens after all the briefs have been filed?

Once all the briefs have been served and filed or the time to serve and file them has passed, the court will notify you of the date for oral argument in your case.

19 What is oral argument?

“Oral argument” is the parties’ chance to explain their arguments to the appellate division judges in person.

You do not have to participate in oral argument, if you do not want to; you can notify the appellate division that you want to “waive” oral argument. If all parties waive oral argument, the judges will decide your appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to five minutes for your argument, unless the court orders otherwise. Remember that the judges will already have read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in your appeal or ask the judges if they have any questions you could answer.



20 What happens after oral argument?

After oral argument is held (or the date it was scheduled passes if all the parties waive oral argument), the judges of the appellate division will make a decision about your appeal. The appellate division has 90 days after the date scheduled for oral argument to decide the appeal. The clerk of the court will mail you a notice of that decision.

21 What should I do if I want to give up my appeal?

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called “abandoning”) your appeal. You can use *Abandonment of Appeal (Infraction)* (form CR-145) to file this notice in an infraction case. You can get form CR-145 at any courthouse or county law library or online at www.courts.ca.gov/forms.

If you decide not to continue your appeal and it is dismissed, you will (with only very rare exceptions) permanently give up the chance to raise any objections to your conviction, sentence, or other matter that you could have raised in the appeal. If your punishment was stayed during the appeal, you may be required to start complying with your punishment immediately after your appeal is dismissed.

CR-142**Notice of Appeal and Record on Appeal (Infraction)**

Clerk stamps date here when form is filed.

Instructions

- This form is only for appealing in an **infraction** case, such as a case about a traffic ticket. You can get other forms for appealing in a civil or misdemeanor case at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Before you fill out this form, read *Information on Appeal Procedures for Infractions* (form CR-141-INFO) to know your rights and responsibilities. You can get form CR-141-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- You must file this form **no later than 30 days after the trial court issued the judgment or order you are appealing** (see rule 8.902(b) of the California Rules of Court for very limited exceptions). **If your notice of appeal is late, the court will not take your appeal.**
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the clerk's office for the same trial court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

The clerk will fill in the number below:

Appellate Division Case Number:**1 Your Information**

- a. Name of Appellant (the party who is filing this appeal):

Name: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

- b. Appellant's lawyer (skip this if the appellant is filling out this form):

The lawyer filling out this form is (check (1) or (2)):

(1) was the appellant's lawyer in the trial court. (2) is the appellant's lawyer for this appeal.

Name: _____ State Bar number: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

2 Judgment or Order You Are AppealingI am/My client is appealing (*check a, b, or c*):

- a. the final judgment of conviction in the case (Pen. Code § 1466(2)(A)).
The trial court issued (rendered) this judgment on (*fill in the date*):
- b. an order made by the trial court after judgment that affects an important (substantial) right of mine/my client (Pen. Code § 1466(20)(B)).
The trial court issued (rendered) this order on (*fill in the date*):
- c. Other (Describe the action you are appealing and indicate the date the trial court took the action.):

Your Choices About the Record on Appeal**Stipulation for Limited Record**

- 3** The respondent and I/my client have agreed (“stipulated”) under rule 8.910 that parts of the normal record on appeal are not required for proper determination of this appeal. A copy of our stipulation identifying those parts of the record that are not required is attached. *At the top of each page write “CR-142, item 3.”*

Record of Oral Proceedings

You do not have to provide the appellate division with a record of what was said in the trial court (this is called a record of the “oral proceedings”). But, if you do not, the appellate division will not be able to consider what was said during the trial court proceedings in deciding whether an error was made in those proceedings.

- 4** I elect (choose)/My client elects to proceed (*check a or b*):
- a. WITHOUT a record of the oral proceedings in the trial court (*skip item 5*); *sign and date this form*). I understand that if I proceed without a record of the oral proceedings, the appellate division will not be able to consider what was said in the trial court during those proceedings in deciding whether a legal error was made.

(Write initials here): _____

- b. WITH a record of the oral proceedings in the trial court (*complete item 5 below*). I understand that if I elect (choose) to proceed WITH a record of the oral proceedings in the trial court, I have to choose the record I want to use and take the actions described below to make sure this record is provided to the appellate division. I understand that if I do not take the actions described below and the appellate division does not receive this record, I am not likely to succeed in my appeal.

(Write initials here): _____

- 5** I want to use the following record of what was said in the trial court proceedings in my case (*check and complete only one—a, b, c, or d*):

- a. **Statement on Appeal.** *A statement on appeal is a summary of the trial court proceedings approved by the trial court. See form CR-141-INFO for information about preparing a proposed statement. (Check and complete (1) or (2).):*



Trial Court Case Name: _____

Trial Court Case Number: _____

5 (continued)

- (1) I have attached my proposed statement on appeal to this notice. *(If you are not represented by a lawyer in this appeal, you must use Proposed Statement on Appeal (Infraction) (form CR-143) to prepare and file this proposed statement. You can get form CR-143 at any courthouse or county law library or online at www.courts.ca.gov/forms.)*
- (2) I have NOT attached my proposed statement on appeal to this notice. I understand that I must serve and file this proposed statement in the trial court within 20 days of the date I file this notice and that if I do not file the proposed statement on time, the court may dismiss my appeal.

OR

- b. **Transcript From Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. Some courts also have local rules that establish procedures for determining whether only a portion of a transcript or a different form of the record will be sufficient for an effective appeal. Check with the trial court to see if it has such a local rule. (Check and (1) or (2).):*
- (1) I will pay the trial court clerk's office for this transcript myself. I understand that if I do not pay for this transcript, it will not be prepared and provided to the appellate division.
- (2) I am asking that this transcript be provided at no cost to me because I cannot afford to pay this cost. I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210). *(You can get form MC-210 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a free transcript.)*

OR

- c. **Copy of Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court, the court has a local rule for the appellate division permitting the use of the official electronic recording itself as the record of the court proceedings, and you and the respondent (the prosecuting agency) have agreed (stipulated) that you want to use the recording itself as the record of what was said in your case. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. You must attach a copy of your agreement (stipulation) with the respondent to this notice. (Check and complete (1) or (2).):*
- (1) I will pay the trial court clerk's office for this official electronic recording myself. I understand that if I do not pay for this recording, it will not be provided to the appellate division.
- (2) I am asking that this official electronic recording be provided at no cost to me because I cannot afford to pay this cost. I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210). *(You can get form MC-210 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a free copy of the official electronic recording.)*



Trial Court Case Name: _____

Trial Court Case Number: _____

⑤ (continued)

OR

- d. **Reporter's Transcript.** *This option is available only if there was a court reporter in the trial court who made a record of what was said in court. Check with the trial court to see if there was a court reporter in your case before choosing this option. Some courts also have local rules that establish procedures for determining whether only a portion of the reporter's transcript or a different form of the record will be sufficient for an effective appeal. Check with the trial court to see if it has such a local rule. (Check (1) or (2)):*
- (1) I will pay the trial court clerk's office for this transcript myself when I receive the court reporter's estimate of the cost of the transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the appellate division.
- (2) I am asking that this transcript be provided at no cost to me because I cannot afford to pay this cost. I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210). (You can get form MC-210 at any courthouse or county law library or online at www.courts.ca.gov/forms. The court will review this form to decide if you are eligible for a free reporter's transcript.)

Date: _____

Type or print your name_____
Signature of appellant or attorney

CR-143**Proposed Statement on Appeal
(Infraction)**

Clerk stamps date here when form is filed.

Instructions

- This form is only for preparing a statement on appeal in an **infraction** case, such as a case about a traffic ticket.
- Before you fill out this form, read *Information on Appeal Procedures for Infractions* (form CR-141-INFO) to know your rights and responsibilities. You can get form CR-141-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- This form can be filed at the same time as your notice of appeal. If it is not filed with your notice of appeal, this form must be filed **no later than 20 days after you file your notice of appeal. If you have chosen to use a statement on appeal and do not file this form on time, the court may dismiss your appeal.**
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- You must serve a copy of the completed form on each of the other parties in the case and keep proof of this service. You can get information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the completed form and proof of service on each of the other parties to the clerk's office for the same trial court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**The People of the State of California
v.

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Appellant (the party who is filing this appeal):

Name: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

- b. Appellant's lawyer (skip this if the appellant is filling out this form):

The lawyer filling out this form (check (1) or (2)):

(1) was the appellant's lawyer in the trial court. (2) is the appellant's lawyer for this appeal.

Name: _____ State Bar number: _____

Street address: _____
Street City State ZipMailing address (if different): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

Information About Your Appeal

- ② On (fill in the date): _____, I/my client filed a *Notice of Appeal and Record on Appeal (Infraction)*, choosing to use a statement on appeal as the record of what was said in this case.

Proposed Statement**③ Reasons for Your Appeal**

Remember, in an appeal, the appellate division can only review a case for whether certain kinds of legal errors were made in the trial court proceedings (read form CR-141-INFO to learn about these legal errors):

- *There was not “substantial evidence” supporting the judgment, order, or other decision you are appealing.*
- *A “prejudicial error” was made during the trial court proceedings.*

The appellate division:

- *Cannot retry your case or take new evidence.*
- *Cannot consider whether witnesses were telling the truth or lying.*
- *Cannot consider whether there was more or stronger evidence supporting your position than there was supporting the trial court’s decision.*

(Check all that apply and describe the legal error or errors you believe were made that are the reason for this appeal.)

- a. There was not substantial evidence that supported the judgment, order, or other decision that I/my client indicated in the notice of appeal is being appealed in this case. *(Explain why you think the judgment, order, or other decision was not supported by substantial evidence):* _____

- b. The following error or errors about either the law or court procedure was/were made that caused substantial harm to me/my client. *(Describe each error and how you were/your client was harmed by that error.)*

(1) *Describe the error:* _____

Describe how this error harmed you/your client: _____

(2) *Describe the error:* _____

Describe how this error harmed you/your client: _____



Trial Court Case Name: _____

Trial Court Case Number: _____

③ (continued)

(3) Describe the error: _____

Describe how this error harmed you/your client: _____

- Check here if you need more space to describe these or other errors and attach a separate page or pages describing the errors. At the top of each page, write "CR-143, item 3."

④ The Charges Against Me/My Client

- a. If the charges against you/your client are based on a citation (ticket) you received, provide the citation number (fill in the citation number from your ticket): _____
- b. The charges against me/my client were (list all of the charges indicated on the citation or complaint filed by the prosecutor with the court): _____
- _____
- c. I/My client (check (1), (2), or (3))
- (1) pleaded not guilty to all of the charges.
- (2) pleaded guilty to only the following charges: _____
- _____
- (3) pleaded guilty to all of the charges.

⑤ Summary of Any Motions and the Court's Order on the Motion

- a. Were any motions (requests for the trial court to issue an order) made in this case that are relevant to the reasons you gave in ③ for this appeal?
- Yes (fill out b) No (skip to item ⑥)
- b. In the spaces below, describe any motions (requests for orders) that were made in the trial court that are relevant to the reasons you gave in ③ for this appeal. Write a complete and accurate summary of what was said at any hearings on these motions and indicate how the trial court ruled on these motions:
- (1) I/My client made the following requests (motions) in the trial court (check all that apply):
- (a) To submit a photograph or photographs as evidence (describe the photographs):
- _____
- _____

There was was not a hearing on this motion.

Trial Court Case Name: _____

Trial Court Case Number: _____

5 b.(1)(a) (continued)

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: _____

The court did did not accept the photographs.

Check here if you need more space to describe the motion and attach a separate page or pages describing it. At the top of each page write "CR-143, item 5b(1)(a)."

(b) To submit a map or maps as evidence (*describe the maps*): _____

There was was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: _____

The court did did not accept the maps.

Check here if you need more space to describe the motion and attach a separate page or pages describing it. At the top of each page write "CR-143, item 5b(1)(b)."

(c) To submit other material as evidence (*describe what you asked to submit as evidence*): _____

There was was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: _____

The court did did not accept this material.

Check here if you need more space to describe the motion and attach a separate page or pages describing it. At the top of each page write "CR-143, item 5b(1)(c)."

(d) Other (*describe any other request you made in the trial court and whether the court granted or denied this request*): _____

Check here if you need more space to describe the motion and attach a separate page or pages describing it. At the top of each page write "CR-143, item 5b(1)(d)."



Trial Court Case Name: _____

Trial Court Case Number: _____

5 b. (continued)

- (2) The prosecutor made the following request (motion) in the trial court (*describe any request the prosecutor made in the trial court and whether the court granted or denied this request*):

There was was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: _____

The court did did not grant this motion.

Other (*describe any other action the trial court took on this motion*): _____

Check here if you need more space to describe the motion and attach a separate page or pages describing it. At the top of each page write "CR-143, item 5b(2)."

- (3) Check here if other motions were filed that are relevant to the reasons you gave in **3** for this appeal, and attach a separate page or pages describing these other motions, identifying who made them and whether there was a hearing on the motion, summarizing what was said at the hearing on the motion, and indicating whether the trial court granted or denied the motion. At the top of each page, write CR-143, item 5b(3).

6 Summary of Testimony and Other Evidence

- a. Was there a trial in your case?

No (*skip items b, c, d, e, and f, and go to item 7*)

Yes (*complete items b, c, d, e, and f*)

- b. Did you/your client testify at the trial?

No

Yes (*Write a complete and accurate summary of the testimony you/your client gave that is relevant to the reasons you gave in 3 for this appeal. Include only what you actually said; do not comment on or give your opinion about what you said. Please indicate whether any objections were made concerning your/your client's testimony or any exhibits you/your client asked to present and whether these objections were sustained.*): _____

Check here if you need more space to summarize your/your client's testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write "CR-143, Item 6b."



Trial Court Case Number:

Trial Court Case Name: _____

6 (continued)

c. Did an officer from the police department, sheriff's office, or other government agency that charged you/your client testify at the trial? (*Check one*):

 No Yes (*complete (1) and (2)*):(1) The name of the officer who testified is (*fill in the officer's name*): _____(2) This officer testified that (*Write a complete and accurate summary of the officer's testimony that is relevant to the reasons you gave in ③ for this appeal. Include only what the officer actually said; do not comment on or give your opinion about what the officer said. Please indicate whether any objections were made concerning the officer's testimony or any exhibits the officer asked to present and whether these objections were sustained.*): _____

_____ Check here if you need more space to summarize the officer's testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write "CR-143, Item 6c."d. Were there any other witnesses at the trial? No Yes (*fill out (1)–(4)*):(1) The witness's name is (*fill in the witness's name*): _____(2) The witness was was not an officer from the government agency that charged me/my client.(3) The witness testified on behalf of me/my client. the prosecution.(4) This witness testified that (*Write a complete and accurate summary of the witness's testimony that is relevant to the reasons you gave in ③ for this appeal. Include only what the witness actually said; do not comment on or give your opinion about what the witness said. Please indicate whether any objections were made concerning the witness's testimony or any exhibits the witness asked to present and whether these objections were sustained.*): _____

_____e. Check here if other witnesses gave testimony at the trial that is relevant to the reasons you gave in ③ for this appeal. Attach a separate page or pages identifying each other witness that testified at your trial, stating whether that witness testified on your/your client's behalf or the prosecution's behalf, summarizing what that witness said in his or her testimony that is relevant to the reasons you gave in ③ for this appeal, and indicating whether any objections were made concerning the witness's testimony or any exhibits the witness asked to present and whether these objections were sustained. At the top of each page, write "CR-143, item 6e."

Trial Court Case Name: _____

Trial Court Case Number: _____

6 (continued)

- f. Summarize the evidence, other than the testimony, that was given during the trial that is relevant to the reasons you gave in **3** for this appeal (*Write a complete and accurate summary of the evidence given by both you and the respondent. Include only the evidence; do not comment or give your opinion about this evidence.*):

- Check here if you need more space to summarize the evidence and attach a separate page or pages summarizing this evidence. At the top of each page, write "CR-143, Item 6f."

7 The Trial Court's Findings

- a. I/My client was found guilty of the following offenses (*list all of the offenses for which you were/your client was found guilty*): _____
- _____
- b. I/My client was found not guilty of the following offenses (*list all of the offenses for which you were/your client was found not guilty*): _____
- _____
- c. The following charges were dismissed after proof of correction was shown to the judge (*list all of the charges that were dismissed*): _____
- _____

8 The Sentence

The trial court imposed the following fine or other punishment on me/my client (*check all that apply and fill in any required information*):

- a. A fine of (*fill in the amount of the fine*): \$ _____
- b. Traffic school
- c. Community service (*fill in the number of hours*): _____
- d. Other punishment (*describe any other punishment that the court imposed in this case*):

REMINDER: You must serve and file this form no later than 20 days after you file your notice of appeal. If you do not file this form on time, the court may dismiss your appeal.

Date: _____

Type or print name_____
Signature of appellant or attorney

CR-145**Abandonment of Appeal
(Infraction)**

Clerk stamps date here when form is filed.

Instructions

- This form is only for abandoning (giving up) an appeal in an **infraction** case, such as a case about a traffic ticket.
- Before you fill out this form, read *Information on Appeal Procedures for Infractions* (form CR-141-INFO) to know your rights and responsibilities. You can get form CR-141-INFO at any courthouse or county law library or online at www.courts.ca.gov/forms.
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the appellate division clerk's office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:***The People of the State of California v.*

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:**1 Your Information**

- a. Name of appellant (the party who is filing this appeal):

Street address: _____

*Street**City**State**Zip*

Mailing address (if different): _____

*Street**City**State**Zip*

Phone: _____

E-mail: _____

- b. Appellant's lawyer (skip this if the appellant does not have a lawyer for this appeal):

Name: _____

State Bar number: _____

Street address: _____

*Street**City**State**Zip*

Mailing address (if different): _____

*Street**City**State**Zip*

Phone: _____

E-mail: _____**Fax:** _____

Appellate Division Case Name:	Appellate Division Case Number:
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2 On (*fill in the date*): _____ I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.

3 By signing and filing this form, I abandon/my client abandons that appeal.

Date: _____

Type or print your name

 _____
Signature of appellant or attorney

TO BE FILED IN THE COURT OF APPEAL

JV-810

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY:	STATE BAR NO:	SUPERIOR COURT CASE NUMBER:
NAME:		<i>FOR COURT USE ONLY</i>
FIRM NAME:		
STREET ADDRESS:		
CITY:	STATE: ZIP CODE:	
TELEPHONE NO.:	FAX NO.:	
E-MAIL ADDRESS:		
ATTORNEY FOR (<i>name</i>):		
APPELLANT:		
RESPONDENT:		
RECOMMENDATION FOR APPOINTMENT OF APPELLATE ATTORNEY FOR CHILD (California Rules of Court, Rule 5.661)		

INSTRUCTIONS—READ CAREFULLY

- Read the entire form *before* completing any items.
- This form must be clearly handprinted in ink or typed.
- Complete all applicable items in the proper spaces. If you need additional space, add an extra page and check the "Additional pages attached" box on page 2.
- If you are filing this form in the Court of Appeal, file the original and 4 copies.
- If you are filing this form in the California Supreme Court, file the original and 10 copies.
- A copy must be served on the local district appellate project.
- Notify the clerk of the court in writing if you change your address after filing your form.

Individual Courts of Appeal or the Supreme Court may require documents other than or in addition to this form. Contact the clerk of the reviewing court for local requirements.

APPELLATE CASE TITLE:	COURT OF APPEAL CASE NUMBER:
-----------------------	------------------------------

1. Trial counsel, court-appointed guardian ad litem for the child under rule 5.662, or the child in the above-captioned case:
 - a. Name:
 - b. I am the trial counsel guardian ad litem child
 - c. Address:
 - d. Telephone number:
2. I recommend that an appellate attorney be appointed for the child in this case.
3. The child's best interests cannot be protected without the appointment of counsel on appeal for the following reasons (*check all that apply*):
 - a. An actual or potential conflict exists between the interests of the child and the interests of any respondent.
 - b. The child did not have an attorney serving as his or her guardian ad litem in the trial court.
 - c. The child is of a sufficient age or development such that he or she is able to understand the nature of the proceedings, and
 - (1) The child expresses a desire to participate in the appeal; or
 - (2) The child's wishes differ from his or her trial counsel's position.
 - d. The child took a legal position in the trial court adverse to that of one of his or her siblings, and an issue has been raised in an appellant's opening brief regarding the siblings' adverse positions.
 - e. The appeal involves a legal issue regarding a determination of parentage, the child's inheritance rights, educational rights, privileges identified in division 8 of the Evidence Code, consent to treatment, or tribal membership.
 - f. Postjudgment evidence completely undermines the legal underpinnings of the juvenile court's judgment under review, and all parties recognize this and express a willingness to stipulate to reversal of the juvenile court's judgment.
 - g. The child's trial counsel or guardian ad litem, after reviewing the appellate briefs, believes that the legal arguments contained in the respondents' briefs do not adequately represent or protect the best interests of the child.
 - h. The existence of any other factors relevant to the child's best interests (*specify*):
4. State the facts that support your recommendation:

Additional pages attached

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except for matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date:

(TYPE OR PRINT NAME)

_____
(SIGNATURE OF APPLICANT)

APPELLATE CASE TITLE:	COURT OF APPEAL CASE NUMBER:
-----------------------	------------------------------

PROOF OF SERVICE

I served a copy of the foregoing *Recommendation for Appointment of Appellate Attorney for Child* on the following by personally delivering a copy to the person served, OR by delivering a copy to a competent adult at the usual place of residence or business of the person served and thereafter mailing a copy by first-class mail to the person served at the place where the copy was delivered, OR by placing a copy in a sealed envelope and depositing the envelope directly in the United States mail with postage prepaid or at my place of business for same-day collection and mailing with the United States mail, following our ordinary business practices with which I am readily familiar:

1. District appellate project

a. Name and address:

b. Date of service:

c. Method of service:

2. Other

a. Name and address:

b. Date of service:

c. Method of service:

TO BE FILED IN THE COURT OF APPEAL

JV-816

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:	
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER(S):	
NAME:			
FIRM NAME:			
STREET ADDRESS:			
CITY:	STATE:		ZIP CODE:
TELEPHONE NO.:	FAX NO.:		
E-MAIL ADDRESS:			
ATTORNEY FOR (name):			
Case Name: In re _____, person(s), coming under the juvenile court law			
APPELLANT:			
RESPONDENT:			
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF (JUVENILE DELINQUENCY CASE)			

1. I (name): _____ request that the time to file (check one)

- appellant's opening brief (AOB)
- respondent's brief (RB)
- combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)
- combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)
- appellant's reply brief (ARB)

now due on (date): _____ be extended to (date): _____

2. I have have not received a rule 8.412(d)(1) notice.

3. I have received

- no previous extensions to file this brief.
- the following previous extensions:

(number of extensions): _____ extensions from the court totaling (total number of days): _____

Did the court mark any previous extension "no further?" Yes No

4. The last brief filed by any party was: AOB RB RB and AOB ARB and RB
filed on (date): _____

5. The record in this case is:

	<u>Volumes (#)</u>	<u>Pages (#)</u>	<u>Date filed</u>
Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____

6. The juvenile was adjudicated a ward of the court based on commission of the following offense(s):

7. The disposition followed (check one):

- a contested hearing
- an admission

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
---------------------------	------------------------------

8. The court imposed the following disposition:

9. The reasons that I need an extension to file this brief are stated

below.

on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

(Please specify; see Cal. Rules of Court, rule 8.63, for factors used in determining whether to grant extensions):

10. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule 8.412(e)). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS:

Granted to (date): _____
 Denied

Date: _____

(SIGNATURE OF PRESIDING JUSTICE)

TO BE FILED IN THE COURT OF APPEAL

JV-817

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER:	
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER(S):	
NAME:			
FIRM NAME:			
STREET ADDRESS:			
CITY:	STATE:		ZIP CODE:
TELEPHONE NO.:	FAX NO.:		
E-MAIL ADDRESS:			
ATTORNEY FOR (name):			
Case Name: In re _____, person(s), coming under the juvenile court law			
APPELLANT:			
RESPONDENT:			
APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF (JUVENILE DEPENDENCY CASE)			

1. I (name): _____ request that the time to file (check one)

- appellant's opening brief (AOB)
- respondent's brief (RB)
- combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)
- combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)
- appellant's reply brief (ARB)

now due on (date): _____ be extended to (date): _____

2. I have have not received a rule 8.412(d)(1) notice.

3. I have received

- no previous extensions to file this brief.
- the following previous extensions:

(number of extensions): _____ extensions from the court totaling (total number of days): _____

Did the court mark any previous extension "no further?" Yes No

4. The last brief filed by any party was: AOB RB RB and AOB ARB and RB
filed on (date): _____

5. The record in this case is:

	<u>Volumes (#)</u>	<u>Pages (#)</u>	<u>Date filed</u>
Clerk's Transcript:	_____	_____	_____
Reporter's Transcript:	_____	_____	_____
Augmentation/Other:	_____	_____	_____

6. The order appealed from was made under Welfare and Institutions Code (check all that apply):

- a. section 360 (declaration of dependency) Removal of custody from parent or guardian Other orders
 with review of section 300 jurisdictional findings
- b. section 366.26
 Termination of parental rights Appointment of guardian Planned permanent living arrangement

APPELLANT: RESPONDENT:	COURT OF APPEAL CASE NUMBER:
---------------------------	------------------------------

6. c. Section 366.28
 d. Other appealable orders relating to dependency (*specify*):
7. The reasons that I need an extension to file this brief are stated:
 below.
 on a separate declaration. You may use *Attached Declaration (Court of Appeal)* (form APP-031) for this purpose.

(Please specify; see Cal. Rules of Court, rule 8.63, for factors used in determining whether to grant extensions. Note that an exceptional showing of good cause is required in cases subject to rule 8.416.)

8. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule 8.412(e)). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.

Date: _____

 (TYPE OR PRINT NAME)



 (SIGNATURE OF PARTY OR ATTORNEY)

Order on Application is below on a separate document

ORDER

EXTENSION OF TIME IS:

Granted to (date): _____
 Denied

Date: _____

 (SIGNATURE OF PRESIDING JUSTICE)

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD TO REVIEW ORDER DESIGNATING OR DENYING SPECIFIC PLACEMENT OF A DEPENDENT CHILD AFTER TERMINATION OF PARENTAL RIGHTS (California Rules of Court, Rule 8.454)	CASE NUMBER:

NOTICE

The juvenile court has ordered or denied a specific placement for this child. If you want an appeals court to review the juvenile court's decision, you must first tell the juvenile court by filing a Notice of Intent. You may use this form as your Notice of Intent. In most cases, you have only 7 days from the court's placement decision to file a Notice of Intent. Please see page 2 for your specific deadline for filing this form.

1. Petitioner's name:
2. Petitioner's address:
3. Petitioner's phone number:
4. Petitioner is
 - a. child's caretaker (specify dates in your care):
 - b. child
 - c. county welfare department
 - d. legal guardian
 - e. other (state relationship to child or interest in the case):
5. Child's name: _____ Child's date of birth: _____
6. a. On (date): _____ the juvenile court terminated parental rights under Welfare and Institutions Code section 366.26.
- b. On (date): _____ the court made a specific placement order or denied a specific placement request that the dependent child is to reside in, be retained in, or be removed from a specific placement. Petitioner intends to file a writ petition to challenge the specific placement order or the denial of a specific placement request made by the court on that date and requests that the clerk assemble the record.

Date: _____

 (TYPE OR PRINT NAME)

 (SIGNATURE OF PETITIONER CHILD'S ATTORNEY)

The Notice of Intent to File Writ Petition must be signed by the person intending to file the writ petition, or, if it is to be filed on behalf of the child, by the child's attorney of record. See the back of this form for more information.

PLEASE READ THE BACK OF THIS FORM FOR IMPORTANT INFORMATION AND DEADLINES

HOW DO I CHALLENGE THE COURT'S PLACEMENT DECISION AFTER TERMINATION OF PARENTAL RIGHTS?

- File this *Notice of Intent to File Writ Petition and Request for Record* in the juvenile court within the time listed below in the next box. This will let the court know you intend to file a writ petition, and the court will prepare the record.
- You will be notified after the record is filed in the Court of Appeal, and you will get a copy of the record. **You have 10 days after the record is filed in the Court of Appeal to file and serve your writ petition.**
- You may use the optional Judicial Council form JV-825 to complete your writ petition, or, if you have an attorney, your attorney can write the writ petition for you.
- After you file a writ petition in the Court of Appeal you must send a copy of the petition to all of the parties in the case, to the child's CASA volunteer, to the child's present caregiver, and to any de facto parent who has standing to participate in the juvenile court proceedings.

SEE CAL. RULES OF COURT, RULES 8.454–8.456

WHEN DO I HAVE TO FILE MY NOTICE OF INTENT TO FILE WRIT PETITION AND REQUEST FOR RECORD?

- If you were present when the court granted or denied the specified placement, you must file the *Notice of Intent* within 7 days from the date the court granted or denied the specified placement.
- If you were not present in court but were given notice by mail of the court's decision to grant or deny the specified placement, you must file the *Notice of Intent* within 12 days from the date the clerk mailed the notification.
- If the order granting or denying the specific placement was made by a referee not acting as a temporary judge, you must file the *Notice of Intent* within 17 days from the date the court set the hearing.

SIGNATURE ON NOTICE OF INTENT

- Must be signed by the person who intends to file the writ petition, *or*
- If petition will be filed on behalf of a child, by the child's attorney, *or*
- The reviewing court may waive this requirement for good cause on the basis of a declaration by the attorney of record explaining why the party could not sign the notice. (Cal. Rules of Court, rule 8.450(e)(3).)

TO BE FILED IN THE COURT OF APPEAL

JV-825

COURT OF APPEAL	APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER (Court will provide):
-----------------	------------------------------	---

In re the Matter of:
_____ (Name and date of birth of subject child or children)
_____ Petitioners v. Superior Court of California, County of
_____ Respondent
_____ Real Party in Interest

FILE STAMP

--

--

Superior Court No.

Superior Court No.

 Related Appeal Pending

Appellate Court No.

**PETITION FOR EXTRAORDINARY WRIT
(California Rules of Court, Rules 8.452, 8.456)** STAY REQUESTED (see item 11).**INSTRUCTIONS—READ CAREFULLY**

- Read the entire form *before* completing any items.
- This petition must be clearly handprinted in ink or typed.
- Complete all applicable items in the proper spaces. If you need additional space, add an extra page and mark the additional page box.
- If you are filing this petition in the Court of Appeal, file the original and 4 copies.
- If you are filing this petition in the California Supreme Court, file the original and 10 copies.
- Notify the clerk of the court in writing if you change your address after filing your petition.

Individual Courts of Appeal or the Supreme Court may require documents other than or in addition to this form. Contact the clerk of the reviewing court for local requirements.

CASE NAME:	CASE NUMBER:
------------	--------------

1. This *Petition for Extraordinary Writ (Juvenile Dependency)* is filed on behalf of petitioner.
 - a. Name:
 - b. Address:

 - c. Phone number:
 - d. E-mail:
2. Petitioner is the

<ol style="list-style-type: none"> a. <input type="checkbox"/> child b. <input type="checkbox"/> mother c. <input type="checkbox"/> father d. <input type="checkbox"/> guardian 	<ol style="list-style-type: none"> e. <input type="checkbox"/> de facto parent f. <input type="checkbox"/> county welfare department g. <input type="checkbox"/> district attorney h. <input type="checkbox"/> other (<i>state relationship to child or interest in the case</i>):
---	--
3. The *Petition for Extraordinary Writ (Juvenile Dependency)* pertains to the following child or children (*specify number of children*): _____
 - a. Name of child:
Child's date of birth:
 - b. Name of child:
Child's date of birth:
 - c. Name of child:
Child's date of birth:
 - d. Name of child:
Child's date of birth:
 Continued in Attachment 3.
4. This petition seeks extraordinary relief from the order of (*name*):
 - a. setting a hearing under Welfare and Institutions Code section 366.26 to consider termination of parental rights, guardianship, or another planned permanent living arrangement.
OR
 - b. designating a specific placement after a placement order under Welfare and Institutions Code section 366.28.
OR
 - c. other (*specify*):
5. The challenged order was made on (*date of hearing*):
6. The order was erroneous on the following grounds (*specify*):
7.
 - a. Supporting documents are attached.
 - b. Because of exigent circumstances, supporting documents are not attached (*explain*):
8. Summary of factual basis for petition (*Petitioner need not repeat facts as they appear in the record. Petitioner must reference each specific portion of the record, its significance to the grounds alleged, and disputed aspects of the record*):

Additional pages attached.

CASE NAME:	CASE NUMBER:
------------	--------------

9. Points and authorities in support of the petition are attached (*number of pages attached*):

10. Petitioner requests that this court direct the trial court to (*check all that apply*):

- a. Vacate the order for hearing under section 366.26.
- b. Vacate the order designating a specific placement after termination of parental rights under section 366.28.
- c. Remand for hearing.
- d. Order that reunification services be
 provided continued.
- e. Order visitation between the child and petitioner.
- f. Return or grant custody of the child to petitioner.
- g. Terminate dependency.
- h. Other (*specify*):

11. Petitioner requests a temporary stay pending the granting or denial of the petition for extraordinary writ.

- a. Hearing date (*must specify*):
- b. Reasons for stay (*specify*):

Additional pages attached.

12. Total number of pages attached:

13 I am the petitioner attorney for petitioner.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except for matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF

PETITION

ATTORNE

Address:

Name:

Address:

CDC or ID Number:

(Court)

PETITION FOR WRIT OF HABEAS CORPUS

_____ Petitioner vs. _____ Respondent	No. <i>(To be supplied by the Clerk of the Court)</i>
---	--

INSTRUCTIONS—READ CAREFULLY

- **If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.**
- **If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.**

- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the superior court, you only need to file the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal **in paper form** and you are an attorney, file the original and 4 copies of the petition and, if separately bound, 1 set of any supporting documents (unless the court orders otherwise by local rule or in a specific case). **If you are filing this petition in the Court of Appeal electronically and you are an attorney, follow the requirements of the local rules of the court for electronically filed documents. If you are filing this petition in the Court of Appeal and you are *not* represented by an attorney, file the original and one set of any supporting documents.**
- If you are filing this petition in the California Supreme Court, file the original and 10 copies of the petition and, if separately bound, an original and 2 copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court (as amended effective January 1, 2007). Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

This petition concerns:

- A conviction Parole
- A sentence Credits
- Jail or prison conditions Prison discipline
- Other (*specify*):

1. Your name:
2. Where are you incarcerated?
3. Why are you in custody? Criminal conviction Civil commitment

Answer items a through i to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").
- b. Penal or other code sections:
- c. Name and location of sentencing or committing court:
- d. Case number:
- e. Date convicted or committed:
- f. Date sentenced:
- g. Length of sentence:
- h. When do you expect to be released?
- i. Were you represented by counsel in the trial court? Yes No *If yes, state the attorney's name and address:*
4. What was the LAST plea you entered? (*Check one*):
- Not guilty Guilty Nolo contendere Other:
5. If you pleaded not guilty, what kind of trial did you have?
- Jury Judge without a jury Submitted on transcript Awaiting trial

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "The trial court imposed an illegal enhancement." (*If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page 4. For additional grounds, make copies of page 4 and number the additional grounds in order.*)

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts on which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel, you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is, *who* did exactly *what* to violate your rights at what time (*when*) or place (*where*). (*If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.*)

b. Supporting cases, rules, or other authority (*optional*):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

7. **Ground 2 or Ground _____** *(if applicable)*:

a. Supporting facts:

b. Supporting cases, rules, or other authority:

8. Did you appeal from the conviction, sentence, or commitment? Yes No If yes, give the following information:
- a. Name of court ("Court of Appeal" or "Appellate Division of Superior Court"):
 - b. Result:
 - c. Date of decision:
 - d. Case number or citation of opinion, if known:
 - e. Issues raised: (1)
(2)
(3)
 - f. Were you represented by counsel on appeal? Yes No If yes, state the attorney's name and address, if known:
9. Did you seek review in the California Supreme Court? Yes No If yes, give the following information:
- a. Result:
 - b. Date of decision:
 - c. Case number or citation of opinion, if known:
 - d. Issues raised: (1)
(2)
(3)
10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:
11. Administrative review:
- a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500.) Explain what administrative review you sought or explain why you did not seek such review:
 - b. Did you seek the highest level of administrative review available? Yes No
Attach documents that show you have exhausted your administrative remedies.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688
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MEMORANDUM

<p>Date March 9th, 2016</p> <p>To Members of the Information Technology Advisory Committee</p> <p>From Katherine Sher, Attorney, Legal Services</p> <p>Subject Appellate E-filing Rule proposal</p>	<p>Action Requested Please read before March 18th, 2016 meeting</p> <p>Deadline March 18th, 2016</p> <p>Contact Katherine Sher 415-865-8031 katherine.sher@jud.ca.gov</p>
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Introduction

The Joint Appellate Technology Subcommittee (JATS) has undertaken a comprehensive review of the appellate e-filing rules to determine where those rules must be revised to reflect the current e-filing practices of the appellate courts, and has developed a draft revised version of those rules. The rules are re-ordered, revised to reflect the reality of mandatory e-filing in the appellate courts in most cases, and otherwise amended to be consistent with the practices of the appellate courts and the requirements of e-filing and e-service. The meeting materials for the March 18th meeting include a draft Invitation to Comment for the proposed changes as well as a draft of the rules as proposed to be amended. These changes were reviewed by the Appellate Advisory Committee at its February 29th meeting, and approved with minor revisions (reflected in the draft rules included in your meeting materials). If approved by ITAC, the proposal will be considered by RUPRO for circulation for comment during the April 15th to June 14th comment period.

The Invitation to Comment gives a detailed description of the proposed changes and the reasons for those changes. This memorandum highlights the most significant changes proposed and gives some background information on how JATS developed the proposed changes.

March 9th, 2016

Page 2

Updating the Appellate E-filing Rules

The existing appellate e-filing rules, rules 8.70 to 8.79, are outdated and in places conflict with the reality of e-filing in the appellate courts. Most of the appellate courts have already implemented e-filing and the rest are expected to do so soon. On most questions of procedure for e-filing and e-service the appellate courts are uniform in their practices and local rules – but the rules of court have not caught up with what is actually happening in the courts.

The attached draft reflects a process of revision and re-revision as JATS worked to develop a proposal that made all the changes necessary to reflect current practices without overstepping and creating requirements that go beyond what the appellate courts are in agreement should be required. Although the revised rules put in place mandatory appellate e-filing, they put in place or keep in place strong protections for parties for whom e-filing or e-service would create hardship.

The proposed changes reorganize the rules and bring them up to date. References to e-filing “projects” are deleted. The rules are reorganized in a more logical manner, with the e-filing rules now placed before the e-service rules. A newly drafted rule, numbered as rule 8.71, is created to reflect the implementation of mandatory e-filing in the appellate courts. This new rule incorporates some of the requirements set forth in former rules 8.72 and 8.73, but within a framework of mandatory e-filing for all represented parties unless expressly exempt from or excused from e-filing.

The rules also put in place new requirements as to the format of documents that are filed electronically, and a rule requiring pagination in Arabic numerals starting on the cover page, so that document page numbers will match PDF page numbers. Rule 8.204, which currently expressly permits different numbering systems for the tables and body of a brief, is also proposed to be revised in line with the new pagination standard (as well as the current local rules of several of the Courts of Appeal).

Existing rule 8.79(d) requires a court to deem a document as filed on a particular court day if the filer shows that the filer was prevented by technical issues with the electronic filing system from filing on that day. This rule is proposed to be changed, in line with the local rules of most appellate courts, to create a procedure for a party to file, with a late filed document, a motion asking for the document to be accepted as timely filed where technical issues have prevented timely filing.

The rules regarding service are clarified as to their application to nonparties who agree to or are ordered to accept electronic service or to serve documents electronically. A party who serves documents electronically will, under the proposed rules, no longer be considered to have consented to receive electronic service; participation in e-filing is proposed to be separated from the question of whether a party accepts e-service or e-serves documents. Further changes are made consistent with the law governing electronic service and proposed changes to the trial court rules.

March 9th, 2016

Page 3

Committee Task

Attached for the committee's review is a draft invitation to comment reflecting JATS's and the AAC's recommendation and the draft proposed amended rules.

The committee's task is to review this draft invitation to comment with its rule attachment and:

- (1) ask staff or committee members for further information/analysis;
- (2) recommend to RUPRO that the invitation to comment, as proposed or as further revised by the committee, be approved for circulation; or
- (3) reject the proposal.

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

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Appellate Procedure: Ensure Consistency Between E-filing Rules and Court Practices	Review and submit comments by June 14, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend title 8 (Cal. Rules of Court, rules 8.70, 8.71, 8.72, 8.73, 8.74, 8.75, 8.76, 8.77, 8.78, 8.79 and 8.204)	January 1, 2017
Proposed by	Contact
Information Technology Advisory Committee	Katherine Sher, 415-865-8031
Hon. Terence L. Bruiniers, Chair	katherine.sher@jud.ca.gov
Appellate Advisory Committee	
Hon. Raymond J. Ikola, Chair	

Executive Summary and Origin

The Information Technology Advisory Committee (ITAC) and the Appellate Advisory Committee (AAC) propose changes to the appellate rules to reflect the e-filing practices used by the appellate courts. These changes will eliminate conflicts between appellate court local rules and the rules of court, and ensure consistency in the e-filing practices of the Courts of Appeal where such consistency is desirable.

The Proposal

The existing appellate e-filing rules were created when e-filing was new to the appellate courts. Since their adoption, e-filing has been implemented in most of the appellate courts, and is mandatory in most cases in those courts. The rules, which treat appellate e-filing as a kind of pilot project, do not reflect the realities of appellate e-filing.

Moreover, as the appellate courts have implemented e-filing court by court, those courts implementing e-filing have looked to the courts where e-filing is already in use to determine how best to proceed. Thus in many areas, the practices and the local rules of the appellate courts regarding e-filing are similar or the same for the courts that have implemented e-filing programs. In some areas, the local rule requirements are in actual conflict with existing rules of court; for example, the requirements as to how e-filed briefs are to be paginated.

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

To provide for a beneficial consistency, the ITAC and the AAC have undertaken a review of the appellate rules to identify areas where the existing rules of court fail to reflect the existing e-filing and e-service practices of the appellate courts, or where the rules conflict with those practices. The committees propose a thorough revision of the appellate e-filing rules to align those rules with the e-filing practices of the appellate courts. The proposal would:

- Revise rule 8.70 to eliminate outdated references to e-filing “projects” in the appellate courts.
- Reorganize the appellate e-filing rules so that the rules pertaining to e-filing come first, followed by the e-service rules.
- Renumber rule 8.71 as rule 8.78 and revise it to apply only to e-service, with e-filing covered under new rule 8.71. (See detailed description below of proposed renumbered rule 8.78.)
- Create new rule 8.71, implementing mandatory e-filing in the appellate courts. E-filing would be required of all parties in all cases, except where otherwise provided by rule of court, local rule, or court order. Self-represented parties would be exempt from e-filing requirements unless they agreed to e-file. Trial courts would be exempt from e-filing unless they agreed to e-file. Any party would be able to ask to be excused from mandatory e-filing upon a showing of undue hardship or significant prejudice. These changes conform to the practices and local rules of the appellate courts that have implemented e-filing.
- Delete rule 8.72, with some of its provisions moved into new rule 8.71.
- Renumber rule 8.73 as rule 8.79 and revise it to apply only to orders for e-service. (See detailed description below of proposed renumbered rule 8.79.)
- Renumber rule 8.74 as rule 8.72 and revise it to reflect that e-filing is proposed to be mandatory.
- Renumber rule 8.75 as rule 8.73, and add a provision allowing a court to include in its contract with an electronic filing service provider a requirement that the provider agree to waive any fee to be charged to a party upon a court order for waiver.
- Renumber rule 8.76 as rule 8.74, add a requirement that a court’s required electronic filing format be text-searchable while maintaining original document formatting, and add a standard for pagination of e-filed documents. The new provisions are consistent with the requirements imposed by appellate courts that have implemented e-filing.
- Renumber rule 8.77 as rule 8.75.

- Renumber rule 8.78 as rule 8.76.
- Renumber rule 8.79 as rule 8.77 and change the provision regarding delayed delivery of a filing due to technical problems with the court's electronic filing system. The proposed amended rule would provide that a filer who misses a deadline due to such technical problems may file the document as soon thereafter as practicable and move to have the document accepted as timely filed. For good cause shown, the court may enter an order permitting the document to be filed nunc pro tunc to the date it was originally sought to be filed. The new provision is consistent with the practices and local rules of those Courts of Appeal that have implemented e-filing.
- Revise rule 8.78, renumbered from existing rule 8.71, so that electronic filing will no longer be considered consent to accept electronic service. Some parties may be able to file documents electronically but choose to receive service of documents in paper form. Existing provisions applying to electronic filing would be deleted, as electronic filing will now be addressed in rule 8.71. A provision is newly added to rule 8.78 providing that for purposes of the rule, the word "party" includes a nonparty that has agreed to or has been ordered to accept electronic service or to serve documents electronically. Rule 8.78(f) is revised to provide that when a document is electronically served the proof of service need not state that the server is not a party to the case, and to delete the requirement for the proof of service to state the time of service.
- Revise rule 8.79, renumbered from existing rule 8.73, to apply only to orders for electronic service, as electronic filing is proposed to become mandatory under proposed rule 8.71. Rule 8.79 is further revised to distinguish between orders to electronically serve other parties and orders for a party to accept electronic service. Subdivision (a) (2) (B), prohibiting the court from ordering a party to electronically file or serve documents if the party objected to paying the electronic filing service provider fee, is proposed to be deleted.
- Amend rule 8.204 (b)(7) to require that briefs be consecutively paginated with Arabic numerals, with the cover page as page 1, and allowing the number to be omitted from the cover page. This is consistent with the proposed new rule for pagination of e-filed documents in the language added to proposed renumbered rule 8.74, and with the requirements of the local rules of the appellate courts. It ensures that page numbering of a PDF document is consistent with the page numbers shown on the document, which is not the case when, for example, Roman numerals are used for the table of contents and table of authorities.

Alternatives Considered

The committees considered deferring action on the appellate e-filing rules until the appellate courts have had longer experience with e-filing. The committees determined that the experience of the appellate courts thus far has been adequate to support making the changes proposed;

further changes can be made as further experience is gained or as practices change. The revised rules will provide clear guidance to appellate litigants and put into the statewide rules the appellate e-filing practices that are in fact being used statewide.

Implementation Requirements, Costs, and Operational Impacts

Because the proposed changes are intended to make the rules consistent with existing e-filing practices in the appellate courts, ITAC and the AAC do not anticipate that the changes to the rules will incur new costs or require implementation on the part of the courts.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Are the proposed rules consistent with current appellate e-filing practices and local rules?
- Do the proposed rules provide adequate protections for parties who are unable to use e-filing or e-service?
- Specific comments are invited on the proposed language to be added in rule 8.78, making nonparties who agree to or are ordered to e-service subject to the rule.

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

- Are the proposed amended rules consistent with current appellate e-filing practices and local rules?
- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

Cal. Rules of Court, amendments to title 8, at pages 5–24.

Rules 8.70, 8.71, 8.72, 8.73, 8.74, 8.75, 8.76, 8.77, 8.78, 8.79 and 8.204 of the California Rules of Court would be amended, effective January 1, 2017, to read:

Title 8. Appellate Rules

Division 1. Rules Relating to the Supreme Court and Courts of Appeal

Chapter 1. General Provisions

Article 5. E-filing

Rule 8.70. ~~Purpose, a~~ Application, construction, and definitions

Rule 8.71. ~~Electronic service~~ filing

Rule 8.72. ~~Documents that may be filed electronically~~ Responsibilities of court

Rule 8.73. ~~Court order requiring electronic service or filing~~ Contracts with electronic filing service providers

Rule 8.74. ~~Responsibilities of court~~ Responsibilities of electronic filer

Rule 8.75. ~~Contracts with electronic filing service providers~~ Requirements for signatures on documents

Rule 8.76. ~~Responsibilities of electronic filer~~ Payment of filing fees

Rule 8.77. ~~Requirements for signatures on documents~~ Actions by court on receipt of electronic filing

Rule 8.78. ~~Payment of filing fees~~ Electronic service

Rule 8.79. ~~Actions by court on receipt of electronic filing~~ Court order requiring electronic service

Rule 8.70. Purpose, aApplication, construction, and definitions

(a) Purpose

The purpose of the rules in this article is to facilitate the implementation and testing of e-filing projects in the Supreme Court and the Courts of Appeal.

(b)(a) Application

Notwithstanding any other rules to the contrary, the rules in this article govern filing and service by electronic means in the Supreme Court and any the Courts of Appeal that elects to implement an e-filing project.

(e)(b) Construction

The rules in this article must be construed to authorize and permit filing and service by electronic means to the extent feasible.

(d)(c) Definitions

As used in this article, unless the context otherwise requires:

- 1 (1) “The court” means the Supreme Court or ~~any~~ a Court of Appeal ~~that elects to~~
2 ~~implement an e-filing project.~~
- 3
- 4 (2) ~~A document may be in paper or electronic form.~~ A “document” is:
- 5
- 6 (A) Any filing submitted to the reviewing court, including a brief, a
7 petition, an appendix, or a motion;
- 8
- 9 (B) Any document transmitted by a trial court to the reviewing court,
10 including a notice or a clerk’s or reporter’s transcript; or
- 11
- 12 (C) Any writing prepared by the reviewing court, including an opinion, an
13 order, or a notice.
- 14
- 15 (D) A document may be in paper or electronic form.
- 16
- 17 (3) “Electronic service” is service of a document on a party or other person by
18 either electronic transmission or electronic notification. Electronic service
19 may be performed directly by a party, by an agent of a party including the
20 party’s attorney, through an electronic filing service provider, or by a court.
- 21
- 22 (4) “Electronic transmission” means the transmission of a document by
23 electronic means to the electronic service address at or through which a party
24 or other person has authorized electronic service.
- 25
- 26 (5) “Electronic notification” means the notification of a party or other person that
27 a document is served by sending an electronic message to the electronic
28 service address at or through which the party or other person has authorized
29 electronic service, specifying the exact name of the document served and
30 providing a hyperlink at which the served document can be viewed and
31 downloaded.
- 32
- 33 (6) “Electronic service address” of a party means the electronic address at or
34 through which the party has authorized electronic service.
- 35
- 36 (7) An “electronic filer” is a party filing a document in electronic form directly
37 with the court, by an agent, or through an electronic filing service provider.
- 38
- 39 (8) “Electronic filing” is the electronic transmission to a court of a document in
40 electronic form.
- 41
- 42 (9) An “electronic filing service provider” is a person or entity that receives an
43 electronic filing from a party for retransmission to the court or for electronic
44 service on other parties, or both. In submission of filings, the electronic filing
45 service provider does so on behalf of the electronic filer and not as an agent
46 of the court.

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Advisory Committee Comment

The definition of “electronic service” has been amended to provide that a party may effectuate service not only by the electronic transmission of a document, but also by providing electronic notification of where a document served electronically may be located and downloaded. This amendment is intended to modify the rules on electronic service to expressly authorize electronic notification as a legally effective alternative means of service to electronic transmission. This rules amendment is consistent with the amendment of Code of Civil Procedure section 1010.6, effective January 1, 2011, to authorize service by electronic notification. (See Stats. 2010, ch. 156 (Sen. Bill 1274).) The amendments change the law on electronic service as understood by the appellate court in *Insyst, Ltd. v. Applied Materials, Inc.* (2009) 170 Cal.App.4th 1129, which interpreted the rules as authorizing electronic transmission as the only effective means of electronic service.

16
17

Rule 8.71. Electronic service

18
19

(a) — Authorization for electronic service

20
21

~~(1) — A document may be electronically served under these rules:~~

22
23

~~(A) — If electronic service is provided for by law or court order; or~~

24
25
26
27

~~(B) — If the recipient agrees to accept electronic services as provided by these rules and the document is otherwise authorized to be served by mail, express mail, overnight delivery, or fax transmission.~~

28
29

~~(2) — A party indicates that the party agrees to accept electronic service by:~~

30
31
32
33

~~(A) — Serving a notice on all parties that the party accepts electronic service and filing the notice with the court. The notice must include the electronic service address at which the party agrees to accept service; or~~

34
35
36
37

~~(B) — Electronically filing any document with the court. The act of electronic filing is evidence that the party agrees to accept service at the electronic service address that the party has furnished to the court under rule 8.76(a)(4).~~

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~~(3) — A party that has consented to electronic service under (2) and has used an electronic filing service provider to serve and file documents in a case consents to service on that electronic filing service provider as the designated agent for service for the party in the case, until such time as the party designates a different agent for service.~~

44
45
46
47

~~(4) — A document may be electronically served on a nonparty if the nonparty consents to electronic service or electronic service is otherwise provided for by law or court order.~~

1
2 **(b) — Maintenance of electronic service lists**

3
4 ~~When the court orders or permits electronic filing in a case, it must maintain and~~
5 ~~make available electronically to the parties an electronic service list that contains~~
6 ~~the parties' current electronic service addresses, as provided by the parties that have~~
7 ~~filed electronically in the case.~~

8
9 **(c) — Service by the parties**

10
11 ~~Notwithstanding (b), parties are responsible for electronic service on all other~~
12 ~~parties in the case. A party may serve documents electronically directly, by an~~
13 ~~agent, or through a designated electronic filing service provider.~~

14
15 **(d) — Change of electronic service address**

16
17 ~~(1) — A party whose electronic service address changes while the appeal or original~~
18 ~~proceeding is pending must promptly file a notice of change of address~~
19 ~~electronically with the court and must serve this notice electronically on all~~
20 ~~other parties.~~

21
22 ~~(2) — A party's election to contract with an electronic filing service provider to~~
23 ~~electronically file and serve documents or to receive electronic service of~~
24 ~~documents on the party's behalf does not relieve the party of its duties under~~
25 ~~(1).~~

26
27 ~~(3) — An electronic service address is presumed valid for a party if the party files~~
28 ~~electronic documents with the court from that address and has not filed and~~
29 ~~served notice that the address is no longer valid.~~

30
31 **(e) — Reliability and integrity of documents served by electronic notification**

32
33 ~~A party that serves a document by means of electronic notification must:~~

34
35 ~~(1) — Ensure that the documents served can be viewed and downloaded using the~~
36 ~~hyperlink provided;~~

37
38 ~~(2) — Preserve the document served without any change, alteration, or modification~~
39 ~~from the time the document is posted until the time the hyperlink is~~
40 ~~terminated; and~~

41
42 ~~(3) — Maintain the hyperlink until the case is final.~~

43
44 **(f) — Proof of service**

1 (1) ~~Proof of electronic service may be by any of the methods provided in Code of~~
2 ~~Civil Procedure section 1013a, except that the proof of service must state:~~

3
4 (A) ~~The electronic service address of the person making the service, in~~
5 ~~addition to that person's residence or business address;~~

6
7 (B) ~~The date and time of the electronic service, instead of the date and~~
8 ~~place of deposit in the mail;~~

9
10 (C) ~~The name and electronic service address of the person served, in place~~
11 ~~of that person's name and address as shown on the envelope; and~~

12
13 (D) ~~That the document was served electronically, in place of the statement~~
14 ~~that the envelope was sealed and deposited in the mail with postage~~
15 ~~fully prepaid.~~

16
17 (2) ~~Proof of electronic service may be in electronic form and may be filed~~
18 ~~electronically with the court.~~

19
20 (3) ~~The party filing the proof of electronic service must maintain the printed~~
21 ~~form of the document bearing the declarant's original signature and must~~
22 ~~make the document available for inspection and copying on the request of the~~
23 ~~court or any party to the action or proceeding in which it is filed, in the~~
24 ~~manner provided in rule 8.77(c).~~

25
26 **(g) ~~Electronic service by or on court~~**

27
28 (1) ~~The court may electronically serve any notice, order, opinion, or other~~
29 ~~document issued by the court in the same manner that parties may serve~~
30 ~~documents by electronic service.~~

31
32 (2) ~~A document may be electronically served on a court if the court consents to~~
33 ~~electronic service or electronic service is otherwise provided for by law or~~
34 ~~court order. A court indicates that it agrees to accept electronic service by:~~

35
36 (A) ~~Serving a notice on all parties that the court accepts electronic service.~~
37 ~~The notice must include the electronic service address at which the~~
38 ~~court agrees to accept service; or~~

39
40 (B) ~~Adopting a local rule stating that the court accepts electronic service.~~
41 ~~The rule must indicate where to obtain the electronic service address at~~
42 ~~which the court agrees to accept service.~~

43
44 **Rule 8.71. Electronic filing**

45

1 **(a) Mandatory electronic filing**
2

3 Except as otherwise provided by these rules, the local rules of the reviewing court,
4 or court order, all parties are required to file all documents electronically in the
5 reviewing court.
6

7 **(b) Self-represented parties**
8

9 (1) Self-represented parties are exempt from the requirement to file documents
10 electronically.
11

12 (2) A self-represented party may agree to file documents electronically. A self-
13 represented party agrees to file documents electronically by filing a notice
14 with the court and serving it on the other parties.
15

16 (3) In cases involving both represented and self-represented parties, represented
17 parties are required to file documents electronically; however, in these cases,
18 each self-represented party is to file documents by nonelectronic means
19 unless the self-represented party affirmatively agrees otherwise.
20

21 **(c) Trial courts**
22

23 Trial courts are exempt from the requirement to file documents electronically, but
24 are permitted to file documents electronically.
25

26 **(d) Excuse for undue hardship or significant prejudice**
27

28 A party must be excused from the requirement to file documents electronically if
29 the party shows undue hardship or significant prejudice. A court must have a
30 process for parties, including represented parties, to apply for relief and a procedure
31 for parties excused from filing documents electronically to file them by
32 conventional means.
33
34

1 **(e) Applications for fee waivers**

2
3 The court may permit electronic filing of an application for waiver of court fees
4 and costs in any proceeding in which the court accepts electronic filings.

5
6 **(f) Effect of document filed electronically**

7
8 (1) A document that the court, a party, or a trial court files electronically under the
9 rules in this article has the same legal effect as a document in paper form.

10
11 (2) Filing a document electronically does not alter any filing deadline.

12
13 **(g) Paper documents**

14
15 When it is not feasible for a party to convert a document to electronic form by
16 scanning, imaging, or another means, the court may allow that party to file the
17 document in paper form.

18
19 **Rule 8.72. Documents that may be filed electronically**

20
21 **(a) In general**

22
23 ~~The court may permit electronic filing of a document by a party or trial court in any~~
24 ~~appeal or original proceeding unless the rules in this article or other legal authority~~
25 ~~expressly prohibit electronic filing.~~

26
27 **(b) Application for waiver of court fees and costs**

28
29 ~~The court may permit electronic filing of an application for waiver of court fees and~~
30 ~~costs in any proceeding in which the court accepts electronic filings.~~

31
32 **(c) Orders, opinions, and notices**

33
34 ~~The court may electronically file any notice, order, opinion, or other document~~
35 ~~prepared by the court.~~

36
37 **(d) Effect of document filed electronically**

38
39 (1) ~~A document that the court, a party, or a trial court files electronically under~~
40 ~~the rules in this article has the same legal effect as a document in paper form.~~

41
42 (2) ~~Filing a document electronically does not alter any filing deadline.~~

43
44 *Rule 8.72 adopted effective July 1, 2010.*

45

1 **Rule 8.73. ~~Court order requiring electronic service or filing~~**

2
3 **(a) ~~Court order~~**

4
5 (1) ~~The court may, on the motion of any party or on its own motion, provided~~
6 ~~that the order would not cause undue hardship or significant prejudice to any~~
7 ~~party, order all parties to:~~

8
9 (A) ~~Serve all documents electronically, except when personal service is~~
10 ~~required by statute or rule;~~

11
12 (B) ~~File all documents electronically; or~~

13
14 (C) ~~Serve and file all documents electronically, except when personal~~
15 ~~service is required by statute or rule.~~

16
17 (2) ~~The court will not:~~

18
19 (A) ~~Order a self-represented party to electronically serve or file documents;~~

20
21 (B) ~~Order a party to electronically serve or file documents if the party~~
22 ~~would be required to pay a fee to an electronic filing service provider to~~
23 ~~file or serve the documents and the party objects to paying this fee in its~~
24 ~~opposition to the motion under (1); or~~

25
26 (C) ~~Order a trial court to electronically serve or file documents.~~

27
28 (3) ~~If the reviewing court proposes to make an order under (1) on its own motion,~~
29 ~~the court must mail notice to the parties. Any party may serve and file an~~
30 ~~opposition within 10 days after the notice is mailed or as the court specifies.~~

31
32 **(b) ~~Additional provisions of order~~**

33
34 ~~The court's order may also provide that documents previously filed in paper form~~
35 ~~may be resubmitted in electronic form.~~

36
37 **(c) ~~Filing in paper form~~**

38
39 ~~When it is not feasible for a party to convert a document to electronic form by~~
40 ~~scanning, imaging, or another means, the court may allow that party to serve, file,~~
41 ~~or serve and file the document in paper form.~~

42
43 **Rule 8.74 8.72. Responsibilities of court**

44
45 **(a) Publication of electronic filing requirements**

46

1 ~~When the court permits electronic filing it~~ The court will publish, in both electronic
 2 and print formats, the court's electronic filing requirements.

3
 4 **(b) Problems with electronic filing**

5
 6 If the court is aware of a problem that impedes or precludes electronic filing, it
 7 must promptly take reasonable steps to provide notice of the problem.

8
 9 **Rule ~~8.75~~ 8.73. Contracts with electronic filing service providers**

10
 11 **(a) Right to contract**

- 12
 13 (1) The court may contract with one or more electronic filing service providers to
 14 furnish and maintain an electronic filing system for the court.
 15
 16 (2) If the court contracts with an electronic filing service provider, the court may
 17 require electronic filers to transmit the documents to the provider.
 18
 19 (3) If the court contracts with an electronic service provider or the court has an
 20 in-house system, the provider or system must accept filing from other
 21 electronic filing service providers to the extent the provider or system is
 22 compatible with them.

23
 24 **(b) Provisions of contract**

25
 26 The court's contract with an electronic filing service provider may allow the
 27 provider to charge electronic filers a reasonable fee in addition to the court's filing
 28 fee. The contract may require that the electronic filing service provider agree to
 29 waive a fee that normally would be charged to a party when the court orders that
 30 the fee be waived for that party. The contract may also allow the electronic filing
 31 service provider to make other reasonable requirements for use of the electronic
 32 filing system.

33
 34 **(c) Transmission of filing to court**

35
 36 An electronic filing service provider must promptly transmit any electronic filing
 37 and any applicable filing fee to the court.

38
 39 **(d) Confirmation of receipt and filing of document**

- 40
 41 (1) An electronic filing service provider must promptly send to an electronic filer
 42 its confirmation of the receipt of any document that the filer has transmitted
 43 to the provider for filing with the court.
 44

1 (2) The electronic filing service provider must send its confirmation to the filer's
 2 electronic service address and must indicate the date and time of receipt, in
 3 accordance with rule 8.77 ~~9(a)~~.

4
 5 (3) After reviewing the documents, the court must promptly transmit to the
 6 electronic filing service provider and the electronic filer the court's
 7 confirmation of filing or notice of rejection of filing, in accordance with rule
 8 8.77 ~~9~~.

9
 10 **(e) Ownership of information**

11 All contracts between the court and electronic filing service providers must
 12 acknowledge that the court is the owner of the contents of the filing system and has
 13 the exclusive right to control the system's use.
 14

15
 16 **Rule 8.76 8.74. Responsibilities of electronic filer**

17
 18 **(a) Conditions of filing**

19 Each electronic filer must:

- 20
 21
 22 (1) Comply with any court requirements designed to ensure the integrity of
 23 electronic filing and to protect sensitive personal information;
 24
 25 (2) Furnish information that the court requires for case processing;
 26
 27 (3) Take all reasonable steps to ensure that the filing does not contain computer
 28 code, including viruses, that might be harmful to the court's electronic filing
 29 system and to other users of that system;
 30
 31 (4) Furnish one or more electronic service addresses, in the manner specified by
 32 the court, at which the electronic filer agrees to accept service; and
 33
 34 (5) Immediately provide the court and all parties with any change to the
 35 electronic filer's electronic service address.
 36

37 **(b) Format of documents to be filed electronically**

38
 39 (1) A document that is filed electronically with the court must be in a format
 40 specified by the court unless it cannot be created in that format.

41
 42 (2) The format adopted by a court must meet the following minimum
 43 requirements:

44
 45 (A) The format must be text-searchable while maintaining original document
 46 formatting.

1
2
3 ~~(1)~~ (B) The software for creating and reading documents must be in the
4 public domain or generally available at a reasonable cost.

5
6 ~~(2)~~ (C) The printing of documents must not result in the loss of document
7 text, format, or appearance.

8
9 (3) The page numbering of a document filed electronically must begin with the
10 first page or cover page as page 1 and use only Arabic numerals (e.g., 1, 2,
11 3). The page number need not appear on the cover page.

12
13 (4) If a document is filed electronically under the rules in this article and cannot
14 be formatted to be consistent with a formatting rule elsewhere in the
15 California Rules of court, the rules in this article prevail.

16
17 **Rule ~~8.77~~ 8.75. Requirements for signatures on documents**

18
19 **(a) Documents signed under penalty of perjury**

20
21 If a document to be filed electronically must be signed under penalty of perjury, the
22 following procedure applies:

- 23
24 (1) The document is deemed signed by the declarant if, before filing, the
25 declarant has signed a printed form of the document.
- 26
27 (2) By electronically filing the document, the electronic filer certifies that (1) has
28 been complied with and that the original signed document is available for
29 inspection and copying at the request of the court or any other party.
- 30
31 (3) At any time after the document is filed, any other party may serve a demand
32 for production of the original signed document. The demand must be served
33 on all other parties but need not be filed with the court.
- 34
35 (4) Within five days of service of the demand under (3), the party on whom the
36 demand is made must make the original signed document available for
37 inspection and copying by all other parties.
- 38
39 (5) At any time after the document is filed, the court may order the filing party to
40 produce the original signed document in court for inspection and copying by
41 the court. The order must specify the date, time, and place for the production
42 and must be served on all parties.

43
44 **(b) Documents not signed under penalty of perjury**

1 If a document does not require a signature under penalty of perjury, the document
2 is deemed signed by the party if the document is filed electronically.

3
4 **(c) Documents requiring signatures of multiple parties**

5
6 When a document to be filed electronically, such as a stipulation, requires the
7 signatures of multiple parties, the following procedure applies:

- 8
9 (1) The party filing the document must obtain the signatures of all parties either
10 in the form of an original signature on a printed form of the document or in
11 the form of a copy of the signed signature page of the document. By
12 electronically filing the document, the electronic filer indicates that all parties
13 have signed the document and that the filer has the signatures of all parties in
14 a form permitted by this rule in his or her possession.
15
16 (2) The party filing the document must maintain the original signed document
17 and any copies of signed signature pages and must make them available for
18 inspection and copying as provided in (a)(2). The court and any other party
19 may demand production of the original signed document and any copies of
20 signed signature pages in the manner provided in (a)(3)–(5).

21
22 **(d) Digital signature**

23
24 A party is not required to use a digital signature on an electronically filed
25 document.

26
27 **(e) Judicial signatures**

28
29 If a document requires a signature by a court or a judicial officer, the document
30 may be electronically signed in any manner permitted by law.

31
32 **Rule ~~8.78~~ 8.76. Payment of filing fees**

33
34 **(a) Use of credit cards and other methods**

35
36 The court may permit the use of credit cards, debit cards, electronic fund transfers,
37 or debit accounts for the payment of filing fees associated with electronic filing, as
38 provided in Government Code section 6159 and other applicable law. The court
39 may also authorize other methods of payment.

40
41 **(b) Fee waivers**

42
43 Eligible persons may seek a waiver of court fees and costs, as provided in
44 Government Code section 68634.5 and rule 8.26.

45
46 **Advisory Committee Comment**

47

1 **Subdivision (b).** A fee charged by an electronic filing service provider under
2 rule ~~8.75(b)~~ 8.73(b) is not a court fee that can be waived under Government Code section 68634.5
3 and rule 8.26.
4

5 **Rule ~~8.79~~ 8.77. Actions by court on receipt of electronic filing**
6

7 **(a) Confirmation of receipt and filing of document**
8

9 (1) *Confirmation of receipt*
10

11 When the court receives an electronically submitted document, the court must
12 promptly send the electronic filer confirmation of the court's receipt of the
13 document, indicating the date and time of receipt. A document is considered
14 received at the date and time the confirmation of receipt is created.
15

16 (2) *Confirmation of filing*
17

18 If the document received by the court under (1) complies with filing
19 requirements, the court must promptly send the electronic filer confirmation
20 that the document has been filed. The filing confirmation must indicate the
21 date and time of filing and is proof that the document was filed on the date
22 and at the time specified. The filing confirmation must also specify:
23

24 (A) Any transaction number associated with the filing;

25 (B) The titles of the documents as filed by the court; and
26

27 (C) The fees assessed for the filing.
28

29 (3) *Transmission of confirmations*
30

31 The court must send receipt and filing confirmation to the electronic filer at
32 the electronic service address that the filer furnished to the court under rule
33 ~~8.764~~(a)(4). The court must maintain a record of all receipt and filing
34 confirmations.
35

36 (4) *Filer responsible for verification*
37

38 In the absence of the court's confirmation of receipt and filing, there is no
39 presumption that the court received and filed the document. The electronic
40 filer is responsible for verifying that the court received and filed any
41 document that the electronic filer submitted to the court electronically.
42
43

44 **(b) Notice of rejection of document for filing**
45

46 If the clerk does not file a document because it does not comply with applicable
47 filing requirements, the court must promptly send notice of the rejection of the

1 document for filing to the electronic filer. The notice must state the reasons that the
2 document was rejected for filing.

3
4 **(c) Document received after close of business**

5
6 A document that is received electronically by the court after 11:59 p.m. is deemed
7 to have been received on the next court day.

8
9 **(d) Delayed delivery**

10
11 ~~If a technical problem with a court's electronic filing system prevents the court~~
12 ~~from accepting an electronic filing on a particular court day, and the electronic filer~~
13 ~~demonstrates that he or she attempted to electronically file the document on that~~
14 ~~day, the court must deem the document as filed on that day.~~

15
16 If a filer fails to meet a filing deadline imposed by court order, rule, or statute
17 because of a failure at any point in the electronic transmission and receipt of a
18 document, the filer may file the document on paper or electronically as soon
19 thereafter as practicable and accompany the filing with a motion to accept the
20 document as timely filed. For good cause shown, the court may enter an order
21 permitting the document to be filed nunc pro tunc to the date the filer originally
22 sought to transmit the document electronically.

23
24 **(e) Endorsement**

- 25
26 (1) The court's endorsement of a document electronically filed must contain the
27 following: "Electronically filed by [Name of Court], on _____ (date)," followed by the name of the court clerk.
28
29 (2) The endorsement required under (1) has the same force and effect as a
30 manually affixed endorsement stamp with the signature and initials of the
31 court clerk.
32
33 (3) A record on appeal, brief, or petition in an appeal or original proceeding that
34 is filed and endorsed electronically may be printed and served on the
35 appellant or respondent in the same manner as if it had been filed in paper
36 form.
37
38

39 **Rule 8.71 8.78. Electronic service**

40
41 **(a) Authorization for electronic service; exceptions**

- 42
43 (1) A document may be electronically served under these rules:
44
45 (A) If electronic service is provided for by law or court order; or
46

1 (B) If the recipient agrees to accept electronic services as provided by these
 2 rules and the document is otherwise authorized to be served by mail,
 3 express mail, overnight delivery, or fax transmission.
 4

5 (2) A party indicates that the party agrees to accept electronic service by:
 6

7 ~~(A)~~—~~S~~ serving a notice on all parties that the party accepts electronic service
 8 and filing the notice with the court. The notice must include the
 9 electronic service address at which the party agrees to accept service;
 10 ~~or,~~
 11

12 ~~(B)~~—~~Electronically filing any document with the court. The act of electronic~~
 13 ~~filing is evidence that the party agrees to accept service at the electronic~~
 14 ~~service address that the party has furnished to the court under rule~~
 15 ~~8.76(a)(4).~~
 16

17 ~~(3)~~—~~A party that has consented to electronic service under (2) and has used an~~
 18 ~~electronic filing service provider to serve and file documents in a case~~
 19 ~~consents to service on that electronic filing service provider as the designated~~
 20 ~~agent for service for the party in the case, until such time as the party~~
 21 ~~designates a different agent for service.~~
 22

23 (4) (3) A document may be electronically served on a nonparty if the nonparty
 24 consents to electronic service or electronic service is otherwise provided for
 25 by law or court order. For purposes of this rule, the word party includes a
 26 nonparty who has agreed to or is otherwise required by law or court order to
 27 accept electronic service or to electronically serve documents.
 28

29 **(b) Maintenance of electronic service lists**
 30

31 When the court orders or permits electronic filing service in a case, it must
 32 maintain and make available electronically to the parties an electronic service list
 33 that contains the parties' current electronic service addresses as provided by the
 34 parties that have filed electronically been ordered to or have consented to electronic
 35 service in the case.
 36

37
 38 **(c) Service by the parties**
 39

40 Notwithstanding (b), parties are responsible for electronic service on all other
 41 parties in the case. A party may serve documents electronically directly, by an
 42 agent, or through a designated electronic filing service provider.
 43

44 **(d) Change of electronic service address**
 45

1 (1) A party whose electronic service address changes while the appeal or original
 2 proceeding is pending must promptly file a notice of change of address
 3 electronically with the court and must serve this notice electronically on all
 4 other parties.

5
 6 (2) A party's election to contract with an electronic filing service provider to
 7 electronically file and serve documents or to receive electronic service of
 8 documents on the party's behalf does not relieve the party of its duties under
 9 (1).

10
 11 ~~(3) An electronic service address is presumed valid for a party if the party files~~
 12 ~~electronic documents with the court from that address and has not filed and~~
 13 ~~served notice that the address is no longer valid.~~

14
 15 **(e) Reliability and integrity of documents served by electronic notification**

16 A party that serves a document by means of electronic notification must:

- 17
 18
 19 (1) Ensure that the documents served can be viewed and downloaded using the
 20 hyperlink provided;
 21
 22 (2) Preserve the document served without any change, alteration, or modification
 23 from the time the document is posted until the time the hyperlink is
 24 terminated; and
 25
 26 (3) Maintain the hyperlink until the case is final.

27
 28 **(f) Proof of service**

29
 30 (1) Proof of electronic service may be by any of the methods provided in Code of
 31 Civil Procedure section 1013a, ~~except that the proof of service must state~~
 32 with the following exceptions:

33
 34 (A) The proof of electronic service does not need to state that the person
 35 making the service is not a party to the case.

36
 37 (B) The proof of electronic service must state:

38
 39 (1) The electronic service address of the person making the service, in
 40 addition to that person's residence or business address;

41
 42 ~~(B)~~ (2) The date ~~and time~~ of the electronic service, instead of the date and
 43 place of deposit in the mail;

44
 45 ~~(C)~~ (3) The name and electronic service address of the person served, in
 46 place of that person's name and address as shown on the envelope; and

1
2 (4) That the document was served electronically, in place of the
3 statement that the envelope was sealed and deposited in the mail with
4 postage fully prepaid.

5
6 (2) Proof of electronic service may be in electronic form and may be filed
7 electronically with the court.

8
9 (3) The party filing the proof of electronic service must maintain the printed
10 form of the document bearing the declarant's original signature and must
11 make the document available for inspection and copying on the request of the
12 court or any party to the action or proceeding in which it is filed, in the
13 manner provided in rule 8.77(e)75.

14
15 **(g) Electronic service by or on court**

16
17 (1) The court may electronically serve any notice, order, opinion, or other
18 document issued by the court in the same manner that parties may serve
19 documents by electronic service.

20
21 (2) A document may be electronically served on a court if the court consents to
22 electronic service or electronic service is otherwise provided for by law or
23 court order. A court indicates that it agrees to accept electronic service by:

24
25 (A) Serving a notice on all parties that the court accepts electronic service.
26 The notice must include the electronic service address at which the
27 court agrees to accept service; or

28
29 (B) Adopting a local rule stating that the court accepts electronic service.
30 The rule must indicate where to obtain the electronic service address at
31 which the court agrees to accept service.

32
33 **Rule 8.739. Court order requiring electronic service ~~or filing~~**

34
35 **(a) Court order**

36
37 (1) The court may, on the motion of any party or on its own motion, provided
38 that the order would not cause undue hardship or significant prejudice to any
39 party, order some or all parties to:

40
41 (A) Serve all documents electronically, except when personal service is
42 required by statute or rule; or

43
44 (B) ~~File all~~ Accept electronic service of documents, ~~electronically; or~~

1 ~~(C) — Serve and file all documents electronically, except when personal~~
 2 ~~service is required by statute or rule.~~

3
 4 (2) The court will not:

5
 6 (A) Order a self-represented party to electronically serve ~~or file~~ or accept
 7 electronic service of documents;

8
 9 (B) ~~Order a party to electronically serve or file documents if the party~~
 10 ~~would be required to pay a fee to an electronic filing service provider to~~
 11 ~~file or serve the documents and the party objects to paying this fee in its~~
 12 ~~opposition to the motion under (1); or~~

13
 14 ~~(C) — Order a trial court to electronically serve or file documents.~~

15
 16 (3) If the reviewing court proposes to make an order under (1) on its own motion,
 17 the court must mail notice to the parties. Any party may serve and file an
 18 opposition within 10 days after the notice is mailed or as the court specifies.

19
 20 ~~(b) — Additional provisions of order~~

21
 22 ~~The court's order may also provide that documents previously filed in paper form~~
 23 ~~may be resubmitted in electronic form.~~

24
 25 ~~(e) (b) Filing Serving in paper form~~

26
 27 When it is not feasible for a party to convert a document to electronic form by
 28 scanning, imaging, or another means, the court may allow that party to serve, ~~file,~~
 29 ~~or serve and file~~ the document in paper form.

30
 31 **Chapter 2. Civil Appeals**

32
 33 **Article 3. Briefs in the Court of Appeal**

34
 35 **Rule 8.204. Contents and form of briefs**

36
 37 (a) * * *

38
 39 (b) **Form**

40
 41 (1) A brief may be reproduced by any process that produces a clear, black image
 42 of letter quality. All documents filed must have a page size of 8½ by 11
 43 inches. If filed in paper form, the paper must be white or unbleached and of at
 44 least 20-pound weight.

- 1 (2) Any conventional font may be used. The font may be either proportionally
2 spaced or monospaced.
3
- 4 (3) The font style must be roman; but for emphasis, italics or boldface may be
5 used or the text may be underscored. Case names must be italicized or
6 underscored. Headings may be in uppercase letters.
7
- 8 (4) Except as provided in (11), the font size, including footnotes, must not be
9 smaller than 13-point, and both sides of the paper may be used.
10
- 11 (5) The lines of text must be unnumbered and at least one-and-a-half-spaced.
12 Headings and footnotes may be single-spaced. Quotations may be block-
13 indented and single-spaced. Single-spaced means six lines to a vertical inch.
14
- 15 (6) The margins must be at least 1½ inches on the left and right and 1 inch on the
16 top and bottom.
17
- 18 (7) The pages must be consecutively numbered. ~~The tables and the body of the~~
19 ~~brief may have different numbering systems.~~ The page numbering must begin
20 with the cover page as page 1 and use only Arabic numerals (e.g. 1, 2, 3). The
21 page number need not appear on the cover page.
22
- 23 (8) If filed in paper form, the brief must be bound on the left margin. If the brief
24 is stapled, the bound edge and staples must be covered with tape.
25
- 26 (9) The brief need not be signed.
27
- 28 (10) If filed in paper form, the cover must be in the color prescribed by rule
29 8.40(b). In addition to providing the cover information required by rule
30 8.40(c), the cover must state:
31
- 32 (A) The title of the brief;
33
- 34 (B) The title, trial court number, and Court of Appeal number of the case;
35
- 36 (C) The names of the trial court and each participating trial judge;
37
- 38 (D) The name of the party that each attorney on the brief represents.
39
- 40 (11) If the brief is produced on a typewriter:
41
- 42 (A) A typewritten original and carbon copies may be filed only with the
43 presiding justice's permission, which will ordinarily be given only to
44 unrepresented parties proceeding in forma pauperis. All other
45 typewritten briefs must be filed as photocopies.
46

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(B) Both sides of the paper may be used if a photocopy is filed; only one side may be used if a typewritten original and carbon copies are filed.

(C) The type size, including footnotes, must not be smaller than standard pica, 10 characters per inch. Unrepresented incarcerated litigants may use elite type, 12 characters per inch, if they lack access to a typewriter with larger characters.

(c)–(e) * * *

Advisory Committee Comment

* * *



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date

March 7, 2016

Action Requested

Please review by March 18 meeting

To

Information Technology Advisory Committee

Deadline

March 18, 2016

From

Tara Lundstrom, Attorney
Legal Services

Contact

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

Subject

Legislative Proposal on E-Filing, E-Service,
and E-Signatures

Background

The Information Technology Advisory Committee's (ITAC) Rules and Policy Subcommittee has developed and recommended a legislative proposal that would amend the Code of Civil Procedure provisions governing e-filing, e-service, and e-signatures. The Civil and Small Claims Advisory Committee, the Advisory Committee on Providing Access and Fairness, and the Family and Juvenile Law Advisory Committee provided input on the proposed amendments to the subcommittee. The proposal is intended for circulation for public comment during the 2016 spring cycle.

This legislative proposal would (1) authorize the use of electronic signatures for signatures made under penalty of perjury on electronically filed documents, (2) provide for a consistent effective date of electronic filing and service across courts and case types, (3) consolidate the mandatory electronic filing provisions, (4) clarify the application of section 1010.6's electronic service provisions in sections 664.5 and 1011, and (5) codify provisions on mandatory electronic service, effective date of electronic service, protections for self-represented persons, and proof of electronic service that are currently in the California Rules of Court.

Information Technology Advisory Committee

March 7, 2016

Page 2

Committee's Task

The committee is tasked with reviewing the draft Invitation to Comment and:

- Recommending to the Policy Coordination and Liaison Committee that all or part of the proposal be circulated for public comment during the spring 2016 cycle;
- Rejecting the proposal; or
- Asking staff or group members for further information and analysis.

Attachment

1. Draft Invitation to Comment with attachment (proposed new section 1013b and proposed amendments to Code of Civil Procedure sections 664.5, 1010.6, and 1011)

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Technology: Electronic Filing, Service, and Signatures	Review and submit comments by June 14, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Code of Civil Procedure sections 664.5, 1010.6, and 1011; add section 1013b	January 1, 2018
Proposed by	Contact
Information Technology Advisory Committee Hon. Terence L. Bruiniers, Chair	Tara Lundstrom, 415-865-7650 tara.lundstrom@jud.ca.gov

Executive Summary and Origin

The Information Technology Advisory Committee recommends adding new Code of Civil Procedure section 1013b and amending sections 664.5, 1010.6, and 1011. This legislative proposal would (1) authorize the use of electronic signatures for signatures made under penalty of perjury on electronically filed documents, (2) provide for a consistent effective date of electronic filing and service across courts and case types, (3) consolidate the mandatory electronic filing provisions, (4) clarify the application of section 1010.6's electronic service provisions in sections 664.5 and 1011, and (5) codify provisions on mandatory electronic service, effective date of electronic service, protections for self-represented persons, and proof of electronic service that are currently in the California Rules of Court.

Background

Superior courts across the state are implementing new case management systems that have electronic filing capabilities. Since January 1, 2000, Code of Civil Procedure section 1010.6 has authorized permissive electronic filing and service in the superior courts. (Dunn; Stats. 1999, ch. 514, § 1.) Four years ago, the Legislature enacted Assembly Bill 2073, which authorized the Superior Court of Orange County to implement a mandatory electronic filing and service pilot project. (Silva; Stats. 2012, ch. 320; Code of Civ. Proc., § 1010.6(d).)

In addition, AB 2073 instructed the Judicial Council to adopt uniform rules to permit mandatory electronic filing and service in specified civil actions. (Code of Civ. Proc., § 1010.6(f).) Upon adoption of those rules, AB 2073 allowed superior courts to require mandatory electronic filing by local rule. (*Id.*, § 1010.6(g).) Effective July 1, 2013, the Judicial Council adopted uniform

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

rules providing for mandatory electronic filing and service in civil cases. The trial court rules now provide a framework for mandatory and permissive filing and service in civil cases.

The Proposal

This proposal builds upon the lessons learned in promulgating the uniform mandatory electronic filing and service rules and the experience of the Superior Court of Orange County and other superior courts in implementing mandatory and permissive electronic filing. It would amend the Code of Civil Procedure to authorize electronic signatures, to promote consistency in the requirements for electronic filing and service, to codify various provisions in the trial court rules, and to clarify the application of section 1010.6's electronic service provisions in other statutes.

In developing this proposal, ITAC sought input from the Civil and Small Claims Advisory Committee, the Family and Juvenile Law Advisory Committee, and the Advisory Committee on Providing Access and Fairness.

Proposed amendments to section 1010.6

The proposed amendments to section 1010.6 would authorize electronic signatures on electronically filed documents, would provide for consistency in the effective date of filing across courts and case types, would consolidate the mandatory electronic filing provisions, and would codify the provisions on mandatory electronic service, effective date of electronic service, and protections for self-represented litigants that are currently in the rules.

Authorize electronic signatures on electronically filed documents. Section 1010.6(b)(2)(B) currently requires that anyone electronically filing a document signed under penalty of perjury must print, sign, and keep the document indefinitely. These requirements have proved burdensome for litigants, especially government agencies and other high-frequency filers.

This proposal would amend subdivision (b)(2)(B) to provide that electronically filed documents may in the future be signed under penalty of perjury by means of an electronic signature. The proposed amendment would require that the electronic signature satisfy procedures, standards, and guidelines established by the Judicial Council. The language mirrors Government Code section 68150(g), which authorizes electronic signatures by judges and the courts.

To accommodate those without access to electronic signature technology, the proposal would also retain, but modify the procedures required in the current statute. The proposed amendment would still allow documents to be printed and signed by hand (in lieu of an electronic signature); however, it would eliminate the requirement that the original signature be maintained indefinitely. Instead, it would require the person signing the document to maintain the original signatures only until "final disposition of the case" as defined in Government Code section 68151(c).

Provide for a consistent effective date of filing across courts and case types. Section 1010.6 would also be amended to provide for a consistent effective date of filing across courts and case

types: all electronically filed documents received electronically by the court before midnight on a court day shall be deemed to have been filed on that court day, and any document that is received electronically after midnight is deemed to have been filed on the next court day.

Under current law, where electronic filing is permissive, documents must be received before the “close of business”—which is defined as 5:00 p.m. or the time when the court would not accept filing at its filing counter, whichever is earlier—in order to be deemed filed that day. (Code Civ. Proc., § 1010.6(b)(3).) However, in authorizing the Superior Court of Orange County’s mandatory electronic filing pilot project, the Legislature provided that the court “may permit documents to be filed electronically until 12 a.m. of the day after the court date that the filing is due, and the filing shall be considered timely.” (*Id.*, § 1010.6(d)(1)(D).)

With the exception of the Superior Court of Orange County’s mandatory electronic filing pilot project, the statute is silent as to when documents must be electronically filed for mandatory electronic filing cases to be deemed filed that day. (See *id.*, § 1010.6(g)(2).) In adopting uniform rules for mandatory electronic filing, the Judicial Council elected to allow courts to provide by local rule for up-until-midnight electronic filing in mandatory electronic filing cases (the approach provided by the Legislature for the Superior Court for Orange County’s mandatory electronic filing pilot project); otherwise, in the absence of such a local rule, the document must be filed by “close of business” to be deemed filed that day. (Cal. Rules of Court, rule 2.253(b)(7).) The rules also define “close of business” as “5 p.m. or any other time on a court day at which the court stops accepting documents for filing at its filing counter, whichever is earlier.” (*Id.*, rule 2.250(b)(10).)

Accordingly, the current statute and rules allow for both inter- and intra-court variation in the effective date for electronic filing depending on (1) whether electronic filing is permissive or mandatory for the case type and (2) what time a court stops accepting filings each day. The potential for variation has increased in recent years as budget concerns have caused many courts to cut back on the hours that their filing counters are open. To provide for consistency across courts and case types, the committee recommends that the cutoff time be midnight for determining the effective date of filing for both permissive and mandatory electronic filing.

Codify the effective date of electronic service. The statute is silent with respect to the effective date of electronic service. Instead, the effective date of electronic service is specified in rule 2.251(h)(4), which provides that electronic service that “occurs after the close of business is deemed to have occurred on the next court day.” As noted above, the rules define “close of business” as “5 p.m. or any other time on a court day at which the court stops accepting documents for filing at its filing counter, whichever is earlier.” (*Id.*, rule 2.250(b)(10).)

This proposal would codify the effective date of service by adding a new paragraph (5) to section 1010.6(a). To provide for consistency across courts and with the proposed effective date of electronic filing, the new paragraph would provide that “[a]ny document that is served electronically before midnight on a court day shall be deemed to have been served on that court

day, and any document that is served electronically after midnight on any court day shall be deemed to have been served on the next court day.”

Consolidate the mandatory electronic filing provisions. Subdivision (d) of section 1010.6 provides that the Superior Court of Orange County may establish a pilot project to require that parties to specified civil actions electronically file and serve documents. Subdivision (g) provides that trial courts may require mandatory electronic filing by local rule after the Judicial Council adopts uniform mandatory electronic filing and service rules. Because the statutory authorization for the pilot project expired on July 1, 2014, this proposal would amend section 1010.6 to eliminate references to the pilot project and consolidate the provisions governing mandatory electronic filing in subdivision (d).

Codify the mandatory electronic service provisions. This proposal would codify the mandatory electronic service provisions from the rules. Subdivision (a) of section 1010.6—which governs electronic service in trial courts generally—does not expressly authorize mandatory electronic service. (See Code Civ. Proc., § 1010.6(a)(2) [authorizing electronic service of a document “when a party has agreed to accept service electronically in that action”].)¹ Subdivisions (c) and (d) recognize that mandatory electronic service may be required by court order in complex civil cases or by local rule as part of the Superior Court of Orange County’s electronic filing pilot project. The authority for the mandatory electronic service rules is instead derived from subdivision (f) of section 1010.6, which required the Judicial Council to adopt uniform rules to permit mandatory electronic filing and service of documents in the trial courts.

In adopting rules to implement subdivision (f), the Judicial Council decided to allow courts to require electronic service by local rule or court order. (Cal. Rules of Court, rule 2.251(c)(1) [“A court may require parties to serve documents electronically in specified actions by local rule or court order, as provided in the Code of Civil Procedure section 1010.6 and the rules”].) Similarly, under rule 2.251(c)(2), if a court requires a party to electronically file documents in an action, the party “must also serve documents and accept service of documents electronically from all other parties,” subject to certain exceptions. (See also *id.*, rule 2.251(b) [providing that a party consents to electronic service by electronic filing any document with the court, unless the party is self-represented].)

To codify these rules, this proposal would amend subdivision (d) not only to consolidate the mandatory electronic filing provisions, but to also authorize mandatory electronic service. Authorizing mandatory electronic service in revised subdivision (d) would track the language in

¹ Subdivision (a)(3) does allow courts to e-serve a document if the party has agreed to accept e-service or the court has ordered electronic service under subdivisions (c) or (d), which currently refer to mandatory electronic service in complex civil cases and the Superior Court of Orange County’s pilot project. But it does not expressly allow courts—other than the Superior Court of Orange County—to require electronic service a document a document in cases other than complex civil cases. Nevertheless, because this proposal would amend subdivision (d) to address mandatory electronic service in all courts, this proposal would not need to make any further amendments to subdivision (a)(3).

current subdivisions (c) and (d), which authorize both mandatory electronic filing and service in complex cases and through the Superior Court of Orange County's pilot project. This proposal would also codify these rules by amending subdivision (a)(2) to recognize that electronic service is required when a court has ordered electronic service under subdivisions (c) or (d) (as revised).

Codify the protections for self-represented persons. The trial court rules that implement the electronic filing and service provisions of section 1010.6 already contain significant protections for self-represented persons. Rules 2.251(c)(2)(B) and 2.253(b)(2) exempt self-represented persons from mandatory electronic filing and service. These rules were adopted in response to the instructions in section 1010.6(f) that the uniform mandatory electronic filing and service rules include statewide policies on unrepresented litigants.

This proposal would codify the exceptions for self-represented persons by adding a new subdivision (d)(4) to provide that unrepresented persons are exempt from mandatory electronic filing and service. It would also amend subdivisions (a)(2) and (3) to provide that mandatory electronic service applies to parties and other persons only if they are represented.

Proposed amendment to sections 664.5 and 1011

The proposed amendments to sections 664.5 and 1011 would clarify the application of section 1010.6's electronic service provisions. Under section 1010.6(a)(2), a document may be electronically served whenever "a document may be served by mail, express mail, overnight delivery, or facsimile transmission." Similarly, subdivision (a)(3) currently provides that where the parties have consented to electronic service, or the court has required electronic service (by order or local rule in complex civil cases or in the Superior Court of Orange County's mandatory electronic filing pilot project), a court may also electronically serve any document issued by the court that is not required to be personally served.

Section 664.5 provides for mailing notice of the entry of judgment. To clarify the application of section 1010.6, references to "mail" and "certificate of mailing" would be replaced with the more inclusive terms "serve" and "certificate of service."

Lastly, section 1011 recognizes possible means of service. This proposal would add a new subdivision (c) to cross-reference section 1010.6: "Electronic service shall be permitted pursuant to Section 1010.6 and the rules on electronic service in the California Rules of Court." This language is taken directly from section 1013, which governs service of notices or other papers. (See Code Civ. Proc., § 1013(g).)

Proposed new section 1013b

Proposed new section 1013b would codify the trial court rule governing proof of electronic service. Currently, the Code of Civil Procedure addresses proof of service by mailing, but not proof of electronic service. (See Code Civ. Proc., § 1013a.) Proof of electronic service is addressed only in the California Rules of Court. (See Cal. Rules of Court, rule 2.251(i).) To fix

this apparent statutory gap and to assist other advisory committees in their efforts to modernize their statutes,² the legislative proposal would add a new section 1013b.

The proposed language for section 1013b(a)(1) is not currently in rule 2.251; it is intended to correct an oversight in the rule that conflicts with section 1010.6.³ Code of Civil Procedure section 1013a requires that proof of service by mail be made by affidavit or certificate showing that the “the person making the service” is “not a party to the cause.” However, Code of Civil Procedure section 1010.6 allows for electronic service by a party. (Code Civ. Proc., § 1010.6(a)(1)(A) [“Electronic service may be performed directly *by a party*, by an agent of a party, including the party’s attorney, or through an electronic filing service provider,” italics added].) To reflect this difference, proposed section 1013b(a) would add another exception to the general requirement that proof of electronic service be made by any of the methods provided in section 1013a for proof of mailing. Proposed section 1013b(a)(1) would recognize that proof of electronic service need not state that the party making the service is “not a party to a cause.”

The proposed language for section 1013b(a)(2) is taken directly from rule 2.251(i)(1). In stating the requirements for proof of electronic service, rule 2.251(i)(1) incorporates the requirements for proof of mailing in Code of Civil Procedure section 1013a, subject to several exceptions. The proposed language for section 1013b(a)(2) differs from rule 2.251(i)(1) in one way: it would require that the proof of electronic service list only the date of electronic service, not the time and date. In practice, it has been difficult to implement the requirement that the proof of electronic service list the time of electronic service; the person executing the proof of electronic service will not know the exact time of electronic service until after it has occurred.

Lastly, the proposed language for section 1013b(b) is taken directly from rule 2.251(i)(2), which provides that proof of electronic service may be in electronic form and may be electronically filed with the court. Proposed section 1013b(c) modifies the language in rule 2.51(i)(4) to cross-reference the proposed new signature requirements (discussed above) in Code of Civil Procedure section 1010.6(b)(2)(B).

Alternatives Considered

The committee also considered amending subdivision (a)(5) and (b)(3) that documents electronically filed and served before midnight will deemed filed or served that day. The committee consulted with other advisory committees on this issue. Recognizing that there are

² ITAC is currently leading a collaborative, multi-year effort to modernize the statutes and rules to facilitate e-business, electronic filing, and electronic service. As part of phase 2 of this project, the Probate and Mental Health Advisory Committee has recommended circulating for public comment a legislative proposal to amend the Probate Code to authorize electronic service of notices and other papers. The Probate Code currently cross-references Code of Civil Procedure section 1013a for proof of mailing. (See Prob. Code, § 1261.) Introducing a new section 1013b on proof of electronic service to the Code of Civil Procedure would avoid adding a reference to the rules in the Probate Code.

³ ITAC and Civil and Small Claims Advisory Committee have also recommended circulating for public comment a rules proposal that would recommend eliminating this requirement from the rule as part of phase II of the Rules Modernization Project.

valid arguments in support of both options, the committee has specifically requested comment on this issue.

Implementation Requirements, Costs, and Operational Impacts

To the extent that this proposal would codify existing requirements in the trial court rules, it is not expected to result in any additional costs or to otherwise affect the implementation of electronic filing and service in the superior courts. Standardizing the cutoff time for the effective date of electronic filing and service at midnight would require those courts that allow for electronic filing and service until close of business to make modifications to their case management systems. Overall, however, the consistency and clarity across courts and case types is expected to provide for efficiency gains for litigants.

To implement the authorization for electronic signatures, the Judicial Council would need to adopt standards and guidelines governing electronic signatures by parties and other persons. This would require staff time and resources. Because electronic signatures would be applied by the party or person either directly or through an Electronic Filing Service Provider, it is expected that there will be minimal implementation or ongoing costs for courts. Because original signatures made under penalty of perjury would no longer need to be retained indefinitely, it is expected to result in efficiencies for litigants and government agencies.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Should Code of Civil Procedure section 1010.6(a)(5) and (b)(3) provide that documents electronically filed and served up until midnight be deemed filed or served on that day? Or should 5:00 p.m. be the cutoff time for electronic filing and electronic service?

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

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 1 year from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?
- Would removing the time of electronic service from the proof of electronic service cause any difficulties for the courts?

Attachments and Links

1. Proposed amendments to Code of Civil Procedure sections 664.5, 1010.6, and 1011, and proposed new section 1013b, at pages 9–11

Section 1013b of the Code of Civil Procedure would be enacted and sections 664.5, 1010.6, and 1011 would be amended, effective January 1, 2018, to read as follows:

1 **664.5**

2 (a) In any contested action or special proceeding other than a small claims action or an
3 action or proceeding in which a prevailing party is not represented by counsel, the party
4 submitting an order or judgment for entry shall prepare and ~~mail~~ serve a copy of the
5 notice of entry of judgment to all parties who have appeared in the action or proceeding
6 and shall file with the court the original notice of entry of judgment together with the
7 proof of service ~~by mail~~. This subdivision does not apply in a proceeding for dissolution
8 of marriage, for nullity of marriage, or for legal separation.

9 (b) Promptly upon entry of judgment in a contested action or special proceeding in which
10 a prevailing party is not represented by counsel, the clerk of the court shall ~~mail~~ serve
11 notice of entry of judgment to all parties who have appeared in the action or special
12 proceeding and shall execute a certificate of such ~~mailing~~ service and place it in the
13 court's file in the cause.

14 (c) * * *

15 (d) Upon order of the court in any action or special proceeding, the clerk shall ~~mail~~ serve
16 notice of entry of any judgment or ruling, whether or not appealable.

17 (e) The Judicial Council shall, ~~by January 1, 1999, adopt a rule of court for the purposes~~
18 ~~of providing~~ by rule of court that, upon entry of judgment in a contested action or
19 special proceeding in which a state statute or regulation has been declared
20 unconstitutional by the court, the Attorney General is promptly notified of the judgment
21 and that a certificate of that ~~mailing~~ service is placed in the court's file in the cause.

22
23 **1010.6**

24
25 (a) A document may be served electronically in an action filed with the court as provided
26 in this section, in accordance with rules adopted pursuant to subdivision (e).

27 (1) For purposes of this section:

28 (A) "Electronic service" means service of a document, on a party or other person, by
29 either electronic transmission or electronic notification. Electronic service may be
30 performed directly by a party or other person, by an agent of a party or other person,
31 including the party's or other person's attorney, or through an electronic filing service
32 provider.

33 (B)–(C) * * *

34 (2) If a document may be served by mail, express mail, overnight delivery, or facsimile
35 transmission, electronic service of the document is authorized when a party or other
36 person has agreed to accept service electronically in that action or when a court has
37 ordered electronic service on a represented party or other person under (c) or (d).

38 (3) In any action in which a party or other person has agreed to accept electronic service
39 under paragraph (2), or in which the court has ordered electronic service on a represented
40 party or other person under subdivision (c) or (d), the court may electronically serve any
41 document issued by the court that is not required to be personally served in the same
42 manner that parties electronically serve documents. The electronic service of documents

1 by the court shall have the same legal effect as service by mail, except as provided in
2 paragraph (4).

3 (4) * * *

4 (5) Any document that is served electronically before midnight on a court day shall be
5 deemed to have been served on that court day, and any document that is served
6 electronically after midnight on any court day shall be deemed to have been served on the
7 next court day.

8 (b) A trial court may adopt local rules permitting electronic filing of documents, subject
9 to rules adopted pursuant to subdivision (e) and the following conditions:

10 (1) * * *

11 (2)(A) When a document to be filed requires the signature, not under penalty of perjury,
12 ~~of an attorney or a self-represented party,~~ the document shall be deemed to have been
13 signed by ~~that attorney or self-represented party~~ the person filing if filed electronically.

14 (B) When a document to be filed requires the signature, under penalty of perjury, of any
15 person, the document shall be deemed to have been signed by that person if filed
16 electronically and if either of the following conditions is satisfied:

17 (i) That person has signed a printed form of the document ~~has been signed by that person~~
18 ~~prior to, or on the same day as, the date of filing. The attorney or person filing the~~
19 ~~document represents, by the act of filing, that the declarant has complied with this~~
20 ~~section. The attorney or person filing the document shall maintain the printed form of the~~
21 ~~document bearing the original signature until final disposition of the case, as defined in~~
22 Government Code section 68151(c), and make it available for review and copying upon
23 the request of the court or any party to the action or proceeding in which it is filed.

24 (ii) That person has signed the document using a computer or other technology in
25 accordance with procedures, standards, and guidelines established by the Judicial Council
26 pursuant to this section.

27 (3) ~~Any document that is electronically filed with the~~ received electronically by the court
28 ~~after the close of business on any day shall be before midnight on a court day shall be~~
29 deemed to have been filed on that court day, and any document that is received
30 electronically after midnight is deemed to have been filed on the next court day. "Close
31 of business," as used in this paragraph, shall mean 5 p.m. or the time at which the court
32 would not accept filing at the court's filing counter, whichever is earlier.

33 (4)-(6) * * *

34 (c) * * *

35 (d) A superior court may, by local rule, require electronic filing and service in civil cases,
36 subject to the requirements and conditions stated in subdivision (b) of this section, the
37 rules adopted by the Judicial Council under subdivision (f), and the following conditions:

38 (1) Notwithstanding subdivision (b), the Orange County Superior Court may, by local
39 rule and until July 1, 2014, establish a pilot project to require parties to specified civil
40 actions to electronically file and serve documents, subject to the requirements set forth in
41 paragraphs (1), (2), (4), (5), and (6) of subdivision (b) and rules adopted pursuant to
42 subdivision (e) and the following conditions:

1 (A) The court shall have the ability to maintain the official court record in electronic
2 format for all cases where electronic filing is required.

3 ~~(B)(2)~~ The court and the parties shall have access either to more than one electronic filing
4 service provider capable of electronically filing documents with the court, or to electronic
5 filing access directly through the court. Any fees charged by the court shall be for no
6 more than the actual cost of the electronic filing and service of the documents, and shall
7 be waived when deemed appropriate by the court, including, but not limited to, for any
8 party who has received a fee waiver. Any fees charged by an electronic filing service
9 provider shall be reasonable and shall be waived when deemed appropriate by the court,
10 including, but not limited to, for any party who has received a fee waiver.

11 ~~(C)(3)~~ The court shall have a procedure for the filing of nonelectronic documents in order
12 to prevent the program from causing undue hardship or significant prejudice to any party
13 in an action, including, but not limited to, unrepresented parties.

14 (4) Unrepresented persons are exempt from mandatory electronic filing and service.

15 ~~(D) A court that elects to require electronic filing pursuant to this subdivision may~~
16 ~~permit documents to be filed electronically until 12 a.m. of the day after the court date~~
17 ~~that the filing is due, and the filing shall be considered timely. However, if same day~~
18 ~~service of a document is required, the document shall be electronically filed by 5 p.m. on~~
19 ~~the court date that the filing is due. Ex parte documents shall be electronically filed on the~~
20 ~~same date and within the same time period as would be required for the filing of a hard~~
21 ~~copy of the ex parte documents at the clerk's window in the participating county.~~
22 ~~Documents filed on or after 12 a.m., or filed upon a noncourt day, will be deemed filed~~
23 ~~on the soonest court day following the filing.~~

24 ~~(2) If a pilot project is established pursuant to paragraph (1), the Judicial Council shall~~
25 ~~conduct an evaluation of the pilot project and report to the Legislature, on or before~~
26 ~~December 31, 2013, on the results of the evaluation. The evaluation shall review, among~~
27 ~~other things, the cost of the program to participants, cost effectiveness for the court,~~
28 ~~effect on unrepresented parties and parties with fee waivers, and ease of use for~~
29 ~~participants.~~

30 (e) * * *

31 ~~(f) The Judicial Council shall, on or before July 1, 2014, adopt uniform rules to permit~~
32 ~~the mandatory electronic filing and service of documents for specified civil actions in the~~
33 ~~trial courts of the state, which shall be informed by any study performed pursuant to~~
34 ~~paragraph (2) of subdivision (d) and which shall include statewide policies on vendor~~
35 ~~contracts, privacy, access to public records, unrepresented parties, parties with fee~~
36 ~~waivers, hardships, reasonable exceptions to electronic filing, and rules relating to the~~
37 ~~integrity of electronic service. These rules shall conform to the conditions set forth in this~~
38 ~~section, as amended from time to time.~~

39 ~~(g) (1) Upon the adoption of uniform rules by the Judicial Council for mandatory~~
40 ~~electronic filing and service of documents for specified civil actions in the trial courts of~~
41 ~~the state, as specified in subdivision (f), a superior court may, by local rule, require~~
42 ~~mandatory electronic filing, pursuant to paragraph (2) of this subdivision.~~

43

1 ~~(2) Any superior court that elects to adopt mandatory electronic filing shall do so~~
2 ~~pursuant to the requirements and conditions set forth in this section, including, but not~~
3 ~~limited to, paragraphs (1), (2), (4), (5), and (6) of subdivision (b) of this section, and~~
4 ~~subparagraphs (A), (B), and (C) of paragraph (1) of subdivision (d), and pursuant to the~~
5 ~~rules adopted by the Judicial Council, as specified in subdivision (f).~~

6
7 **1011**

8 The service may be personal, by delivery to the party or attorney on whom the service is
9 required to be made, or it may be as follows:

10 (a)–(b) * * *

11 (c) Electronic service shall be permitted pursuant to Section 1010.6 and the rules on
12 electronic service in the California Rules of Court.

13
14 **1013b**

15 (a) Proof of electronic service may be made by any of the methods provided in Section
16 1013a, with the following exceptions:

17 (1) The proof of electronic service does not need to state that the person making the
18 service is not a party to the cause.

19 (2) The proof of electronic service shall state:

20 (A) The electronic service address of the person making the service, in addition to that
21 person's residence or business address;

22 (B) The date of the electronic service, instead of the date and place of deposit in the mail;

23 (C) The name and electronic service address of the person served, in place of that
24 person's name and address as shown on the envelope; and

25 (D) That the document was served electronically in place of the statement that the
26 envelope was sealed and deposited in the mail with postage fully prepaid.

27 (b) Proof of electronic service may be in electronic form and may be filed electronically
28 with the court.

29 (c) Proof of electronic service shall be signed as provided in Section 1010.6(b)(2)(B).
30



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date	Action Requested
March 7, 2016	Please review by March 4 meeting
To	Deadline
Information Technology Advisory Committee	March 4, 2016
From	Contact
Tara Lundstrom, Attorney Legal Services	Tara Lundstrom, 415-865-7650 tara.lundstrom@jud.ca.gov
Subject	
Modernization: Proposals for Spring 2016 Cycle	

Background

Recognizing that courts are swiftly proceeding to a paperless world, the Information Technology Advisory Committee (ITAC) is leading a multi-year, collaborative project to modernize the statutes and rules to facilitate e-service and e-filing and to foster modern e-business practices. This year, ITAC is collaborating with the Civil and Small Claims Advisory Committee, the Family and Juvenile Law Advisory Committee, the Probate and Mental Health Advisory Committee, the Criminal Law Advisory Committee, and the Traffic Advisory Committee.

During its upcoming on March 18, the committee will review three legislative proposals and one rules proposal. The three legislative proposals would amend the Welfare and Institutions Code, the Probate Code, and the Criminal Code to incorporate provisions of Code of Civil Procedure section 1010.6. The rules proposal would introduce substantive amendments to modernize the rules in titles 2, 3, and 5 of the California Rules of Court. ITAC's Rules and Policy Subcommittee reviewed and recommended the proposals during its March 4 and 7 meetings.

All proposals would circulate for public comment during the spring 2016 cycle.

Information Technology Advisory Committee

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Legislative proposals

Attached to this memorandum are three legislative proposals for the committee's review. The advisory committees with relevant subject matter expertise in juvenile, probate, and criminal law developed these proposals and have recommended to the Judicial Council's Policy Coordination and Liaison Committee (PCLC) that they be circulated for public comment during the spring 2016 cycle.

E-service of notices and other papers in probate proceedings

The Probate and Mental Health Advisory Committee developed and recommended for circulation a legislative proposal to amend the Probate Code to authorize e-service by consent of notices and other papers in guardianship, conservatorship, and other probate proceedings. The e-filing and e-service provisions of Code of Civil Procedure section 1010.6 currently apply to contested probate matters. (See Prob. Code, § 1000; Cal. Rules of Court, rule 7.802.) However, the Probate Code still requires that a number of notices and other papers be served by mail or personal service in guardianship, conservatorship, the administration of trusts and estates, and other probate proceedings.

This proposal would amend Probate Code section 1215 to recognize three types of service: mail service, personal service, and e-service. In authorizing e-service of notices or other papers, the Probate and Mental Health Advisory Committee recommended that e-service be only by written consent because there are a number of individuals entitled by statute to notice and service of other papers in probate proceedings who are not directly involved in the case.

In addition, this proposal amends other statutes in the Probate Code to cross-reference section 1215 and thereby allow for e-service of the notices and other papers described in those statutes.

E-filing and e-service in juvenile dependency and delinquency proceedings

The Family and Juvenile Law Advisory Committee developed and recommended for circulation a legislative proposal to amend the Welfare and Institutions Code to authorize e-filing and e-service in juvenile dependency and delinquency proceedings.

This proposal would add to the Welfare and Institutions Code a new section 212.5, which would incorporate the e-filing and e-service provisions of Code of Civil Procedure section 1010.6. By incorporating Code of Civil Procedure section 1010.6, the proposal would codify the existing authority in rule 5.522 for permissive and mandatory e-filing in juvenile cases. It would also, for the first time, allow for e-service by consent in all juvenile proceedings.

The proposed new Welfare and Institutions Code section 212.5 would provide special protections for minors: e-service would be permitted only on minors who are 16 years old or

Information Technology Advisory Committee

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older and only with the consent of both the minor and the minor's attorney. Other protections in section 212.5 include (1) prohibiting e-service of a minor's psychological or medical reports, (2) providing that consent must be filed with the court by the party or other person entitled to service, or that person's attorney, (3) specifying that certain notices and documents (e.g., notices of hearings where a social worker has recommended termination of parental rights) would be both e-served and served by traditional means (e.g., mail or personal service), and (4) requiring that e-filing and e-service be conducted in a manner that preserves and ensures the confidentiality of records by encryption.

In addition, this proposal would amend other statutes in the Welfare and Institution Code that provide for service of specific notices and other documents to cross-reference the proposed new section 212.5.

E-filing and e-service in criminal cases

The Criminal Law Advisory Committee developed and recommended for circulation a proposal to clarify that permissive e-filing and e-service under Code of Civil Procedure section 1010.6 are authorized in criminal proceedings. This proposal would amend the Penal Code to add a new statute incorporating by reference subdivisions (a) and (b) of the Code of Civil Procedure. The Criminal Law Advisory Committee is still conferring on where to place this provision in the Penal Code. Staff will report orally during the committee meeting on the status of this effort.

The Criminal Law Advisory Committee is exploring avenues to insert this proposal into a bill during the current legislative cycle. To avoid any unnecessary delay in the event that this effort is not successful, the committee has recommended concurrently circulating the legislative proposal for public comment during the spring 2016 cycle.

Rules proposal

Earlier this year, ITAC's Rules and Policy Subcommittee collaborated with the Civil and Small Claims Advisory Committee's Unlimited Case and Complex Litigation Subcommittee to develop proposed amendments to titles 2 and 3 of the California Rules of Court. These amendments include new formatting rules for electronic documents, as well as amendments to various rules identified by the committees during phase I as requiring a substantive change. The Civil and Small Claims Advisory Committee voted to recommend to the Judicial Council's Rules and Projects Committee (RUPRO) that the proposed amendments to titles 2 and 3 be circulated for public comment.

In addition, the Family and Juvenile Law Advisory Committee developed and recommended for circulation several proposed amendments to title 5. These amendments are technical in nature.

Information Technology Advisory Committee

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Committee's Task

The committee is tasked with reviewing the draft legislative and rules proposals and:

- Recommending to PCLC and RUPRO that all or part of the proposals be circulated for public comment during the spring 2016 cycle;
- Rejecting the proposals; or
- Asking staff or group members for further information and analysis.

Attachments

1. Draft legislative proposal to amend the Probate Code
2. Draft legislative proposal to amend the Welfare and Institutions Code
3. Draft legislative proposal to amend the Penal Code
4. Draft rules proposal to amend titles 2, 3, and 5

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title

Probate: Electronic Service of Notices and Other Papers in Probate, Guardianship, Conservatorship, and Other Protective Proceedings

Proposed Rules, Forms, Standards, or Statutes
 Amend Probate Code sections 366, 453, 1050, 1209, 1212–1217, 1220, 1250, 1252, 1265, 1266, 1460, 1461, 1461.4, 1461.5, 1511, 1513.2, 1516, 1542, 1822, 1826, 1827.5, 1830, 1842, 1847, 1851, 2214, 2250, 2352, 2357, 2361, 2610, 2611, 2612, 2614, 2683, 2684, 2700, 2702, 2804, 2808, 3088, 3131, 3206, 3602, 3704, 3801, 3918, 8100, 8110, 8111, 8469, 8522, 8803, 8903, 8906, 8924, 9052, 9153, 9732, 9762, 9783, 9787, 10585–10587, 11601, 13200, 13655, 15686, 16061.7–16061.9, 16336.6, 16501–03, 17203–05, 17403, 17454, 19011, 19024, 19040, 19052, 19150, 19153, 19323, 20122, and 20222; amend Welfare and Institutions Code sections 728 and 5362; delete Probate Code section 1216; and add Probate Code section 1266.

Proposed by

Probate and Mental Health Advisory Committee

Hon. John H. Sugiyama, Chair

Information Technology Advisory Committee

Hon. Terence L. Bruiniers, Chair

Action Requested

Review and submit comments by June 14, 2016

Proposed Effective Date

January 1, 2018

Contact

Douglas Miller, 818-558-4178
douglas.miller@jud.ca.gov

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

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

Executive Summary and Origin

The Probate and Mental Health Advisory Committee and the Information Technology Advisory Committee recommend amending the Probate Code to authorize the electronic service of notices and other papers in guardianship, conservatorship, and other probate matters. This legislative proposal would amend Probate Code section 1215 to allow for the electronic service of notices and other papers if the party or other person has consented to receiving service by electronic means and has provided an electronic service address. It would also amend various statutes throughout the Probate Code and Welfare and Institutions Code sections 728 and 5362 to implement this proposal.

Background

The Information Technology Advisory Committee (ITAC) is leading a multi-year effort to comprehensively review and modernize the statutes and rules 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 is coordinating with other advisory committees, including the Probate and Mental Health Advisory Committee, with relevant subject-matter expertise.

This modernization effort is being carried out in two phases. Last year, the advisory committees completed phase I—an initial round of technical rule amendments to address language in the rules that was incompatible with the current statutes and rules governing electronic filing and service and with e-business practices in general. This year, the committees are undertaking phase II, which involves a more in-depth examination of statutes and rules that may hinder electronic filing, electronic service, and modern e-business practices.

The Judicial Council's advisory committees are circulating three legislative proposals on modernization for public comment during the spring 2016 cycle. In addition to the present proposal, the proposals would amend the Penal Code to authorize permissive electronic filing and service in criminal matters and would amend the Welfare and Institutions Code to allow for electronic service of notices and other papers by consent in juvenile dependency and delinquency matters.

The Proposal

This proposal would amend the Probate Code to authorize electronic service of notices and other papers if the party or other person consents to receive electronic service and provides an electronic service address.

Authorizing electronic service by consent

Currently, Probate Code section 1215 states that if a notice or other paper is required or permitted to be mailed to a person, the notice or other paper must be mailed as provided in section 1215 or personally delivered as provided in section 1216.

This proposal would amend section 1215 to recognize three means of service of notices and other papers: service by mail, personal service, and electronic service. This would be accomplished by adding the provisions on personal service in section 1216 to a new subdivision (b) in section 1215.¹ Section 1215's provisions on mail service would be placed under a new subdivision (a) and would be updated to recognize current terminology in use by the U.S. Postal Service. A new subdivision (c) would allow for electronic service of notices and other papers on a person under Code of Civil Procedure section 1010.6(a), but only if the person has filed written consent to receive electronic service and has provided an electronic service address. Incorporating Code of Civil Procedure section 1010.6(a) by reference in the proposed new subdivision (c) of Probate Code section 1215 would provide for consistency in the implementation of electronic service across case types.

In addition, the committees concluded that consent was necessary before a notice or other paper could be electronically served on a person under Probate Code section 1215 because of the variety of persons entitled to be served with notices and other papers in the administration of a decedent's estate or trust and in conservatorship, guardianship, and other protective proceedings. These individuals differ from parties in general civil matters because they need not ever intervene or otherwise become actively involved in the proceeding or administration of the estate or trust.²

This proposal would also amend section 1265 and add a new section 1266. Section 1265 would provide that proof of electronic service may be made in the manner provide in Code of Civil Procedure section 1013b. In another legislative proposal circulating this spring, the Information Technology Advisory Committee and the Civil and Small Claims Advisory Committee have proposed adding a new section 1013b to the Code of Civil Procedure to codify rule 2.251(i) of the California Rules of Court, the trial court rule on proof of electronic service. The present proposal would also add a new Probate Code section 1266 that would contain section 1265's current language.

Designating which notices and other papers may be electronically served

This proposal would authorize electronic service where the Probate Code currently allows for service by mail and personal delivery. Where the Probate Code allows for service only by personal delivery, the statute would remain unaltered; it would still require that these notices and other papers be personally delivered. To implement electronic service of notices and other papers under section 1215, this proposal would amend various statutes throughout the Probate Code by replacing the terms "mail" and "personal delivery" with references to "service pursuant to

¹ Because Probate Code section 1216 would fully be incorporated into section 1215, this proposal would strike section 1216 in its entirety.

² Although Probate Code section 1215 would not apply to the service of documents in contested probate matters, the provisions authorizing electronic filing and service in Code of Civil Procedure section 1010.6 and its implementing rules would govern. (See Prob. Code, § 1000 [stating that the provisions in the Code of Civil Procedure apply to the Probate Code].)

Section 1215.” Welfare and Institutions Code sections 728 and 5362 would be similarly amended.

The following types of notices and other papers could be electronically served if the person or entity to be served has consented to receive electronic service:

General provisions

- Notices of hearing under the Fiduciaries’ Wartime Substitution Law (Prob. Code, § 366)
- Notices of hearing on petition for a protective order before a probate referee (Prob. Code, § 453(a))
- Notices provided to the Attorney General where notice to the State of California is required (Prob. Code, § 1209)
- Notices of hearing served on a surety who has filed a court bond in a proceeding (Prob. Code, § 1213)
- Requests for special notice and notices, petitions, reports, accounts, inventories, appraisals, and other papers served pursuant to a request for special notice (Prob. Code, §§ 1250, 1252)

Probate administration of decedent estates and trusts

- Notices of hearing on petition for administration of a decedent’s estate (Prob. Code, § 8110)
- Notices of hearing on petition for administration of an estate involving a testamentary trust of property for charitable purposes, copies of petition, and copies of will to the Attorney General (Prob. Code, § 8111)
- Notices of hearing on petition for appointment as administrator requesting priority (Prob. Code, § 8469)
- Notices of appointment of a successor personal representative (Prob. Code, § 8522);
- Copies of initial or supplemental inventories and appraisals on persons requesting special notice (Prob. Code, § 8803)
- Notices of hearing on petition for waiver of appraisal by a probate referee and copies of petition and proposed inventory and appraisal (Prob. Code, § 8903)
- Notices of hearing on written objection to the appraisal and copies of written objection (Prob. Code, § 8906)
- Notices of hearing on petition to remove the designated probate referee and copies of the personal representative’s affidavit (Prob. Code, § 8924)
- Notices of hearing on petition to invest money of the estate in possession of the personal representative and copies of petition (Prob. Code, § 9732)
- Notices of hearing on petition for personal representative’s participation as a general or limited partner in partnership in which decedent was a general partner and copies of petition (Prob. Code, § 9762)

- Written objections to disposition or abandonment of tangible personal property (Prob. Code, §§ 9783, 9787)
- Notices of proposed action without court supervision and written objections to proposed action (Prob. Code, §§ 10586, 10857)
- Notices of hearing on petition for preliminary or final distribution of decedent's estate (Prob. Code, § 11601)
- Copies of affidavits and attachments for claims to real property of small value (Prob. Code, § 13200)
- Notices of hearing on petition to request that administration of all or part of the estate is not necessary (Prob. Code, § 13655)
- Notifications served by the trustee on the beneficiaries of the trust (Prob. Code, §§ 16061.7–16061.9)
- Written objections to notice of the trustee's intention to reconvert the trust from a unitrust (Prob. Code, § 16336.6)
- Notices of new payout percentage of a unitrust by trustee (Prob. Code, § 16336.6)
- Notices of proposed action by trustee and written objections to proposed action (Prob. Code, §§ 16501–16503)
- Notices of hearing on petition concerning internal affairs or existence of trust (Prob. Code, § 17203)
- Notices of hearing on petition for approval and settlement of claims against deceased settlor (Prob. Code, § 19024);
- Copies of requests for special notice of filing of petitions in pending proceedings involving a trust (Prob. Code, § 17204)
- Copies of petition for trust proceedings (Prob. Code, § 17205)
- Notices of hearing on petition to transfer trust to and from another jurisdiction (Prob. Code, §§ 17403, 17454)
- Claims filed by creditors (Prob. Code, § 19150)
- Notices of hearing on petition to allocate debts between trust and surviving spouse and copies of petition (Prob. Code, § 19323)
- Notices of hearing on petition for proration of estate taxes or generation-skipping transfer tax and copies of petition (Prob. Code, §§ 20122, 20222)

Guardianship proceedings

- Notices of hearing in guardianship, conservatorship, and other protective proceedings (Prob. Code, § 1460)
- Notices of hearing and copies of petition, report, or account to the Director of State Hospitals and Director of Developmental Services (Prob. Code, § 1461)
- Notices of hearing and copies of petition served on directors of regional centers for the developmentally disabled (Prob. Code, § 1461.4)
- Notices of hearing, notices of the filing of an inventory, and copies of the underlying petition, report, inventory, or account to the Veterans Administration (Prob. Code, § 1461.5)

- Notices of hearings on the petition for the appointment of a guardian and copies of petition to the spouse and relatives named in the petition, the person having care of the proposed ward, the Director State Hospitals, the Director of Developmental Services, the Director of Social Services, and the Veterans Administration (Prob. Code, § 1511)
- Notices informing guardians of their responsibility to complete annual status reports (Prob. Code, § 1513.2)
- Notices of hearing and copies of petition for guardianship to the Director of Social Services and to the local agency designated to investigate guardianships for the court (Prob. Code, §§ 1516, 1542)
- Notice of a juvenile court's decision to terminate or modify a guardianship previously established under the Probate Code (Welf. & Inst. Code, § 728.)

Conservatorship proceedings

- Notices of hearing on petition for appointment of a conservator and copies of petition (Prob. Code, § 1822)
- Copies of the report prepared by the court investigator (Prob. Code, § 1826)
- Copies of the report prepared by the regional center in limited conservatorship proceedings for persons with developmental disabilities (Prob. Code, § 1827.5)
- Orders appointing conservators and information notices of the rights of conservatees (Prob. Code, § 1830)
- Notices of hearing and copies of petition to secretary or head of the U.S. department or agency concerned if the proposed conservatee is an absentee (Prob. Code, § 1842)
- Notices of hearing and copies of petition for appointment of a conservator to the proposed conservatee (Prob. Code, § 1847)
- Findings of the court investigator on periodic review of conservatorship (Prob. Code, § 1851)
- Notices of hearing on petition for appointment of a conservator (Prob. Code, § 2250)
- Notices of a conservatee's death (Prob. Code, § 2357)
- Notices of hearing on petition for appointment of a successor conservator and copies of petition (Prob. Code, § 2683)
- Reports of court investigators on appointment of a successor conservators (Prob. Code, § 2684)
- Notices of hearing on petition to modify or vacate an order requiring application of the income or principal of community property to the support and maintenance of the conservatee and copies of petition (Prob. Code, § 3088)
- Notices of hearing on petition for authorization of a transaction involving community property where a spouse lacks legal capacity and copies of petition (Prob. Code, § 3131)
- Notices of hearing on petition for capacity determinations and health care decisions for adults without a conservator and copies of petition (Prob. Code, § 3206)
- Notifications of automatic termination of one-year appointment for conservators for gravely disabled persons and decrees terminating conservatorship (Welf. & Inst. Code, § 5362)

Both guardianship and conservatorship proceedings

- Notices of hearing on petition for transfer and copies of petition (Prob. Code, § 2214)
- Notices of hearing on petition for temporary appointment and copies of petition (Prob. Code, § 2250)
- Notices of change of residence of the guardian or conservator (Prob. Code, § 2352)
- Notices of intention to change the residence of the ward or conservatee (Prob. Code, § 2352)
- Notices of hearing on petition to authorize medical treatment and copies of petition to spouse or domestic partner of conservatee and relatives named in the petition (Prob. Code, § 2357)
- Copies of inventories and appraisals of the estate and notices of how to file an objection (Prob. Code, §§ 2610, 2611, 2612)
- Notices of hearing on written objections to an appraisal made by a probate referee and copies of objections (Prob. Code, § 2614)
- Requests for special notice in guardianship and conservatorship proceedings (Prob. Code, § 2700)
- Notices of hearing, petitions, accounts, inventories or appraisals of estates, or other papers served pursuant to a request for special notice (Prob. Code, § 2702)
- Notices of hearing on petition to transfer personal property out of state and copies of petition (Prob. Code, § 2804)
- Notices of hearing on petition for discharge after transfer of all property of the estate to the foreign guardian or conservator, copies of the final account of the guardian or conservator, and copies of petition (Prob. Code, § 2808)

Other protective proceedings

- Notices of hearing on petition to order that balance of estate be placed in a special needs trust and copies of petition (Prob. Code, § 3602)
- Notices of hearing on petition to set aside the personal property of absent federal personnel (Prob. Code, § 3704)
- Petitions for removal of property of a nonresident (Prob. Code, § 3801)
- Notices of hearing on petition to designate a minor's successor custodian (Prob. Code, § 3918)

Additional technical amendments to implement electronic service

This proposal would also make various technical amendments to the Probate Code by replacing references to mail and personal delivery to provide for service, including electronic service, under section 1215:

- Amend Probate Code section 1050 to recognize that the judgment roll in a proceeding under the Probate Code consists of, inter alia, affidavits showing “service pursuant to Section 1215” of any notice of hearing or order to show cause;

- Amend Probate Code section 1212 to recognize that notice shall be given in the manner provided in Code of Civil Procedure 413.30 if the address of a person to whom a notice or other paper is required to be “served pursuant to Section 1215” is unknown;
- Amend Probate Code section 1214 to recognize that if a notice or other paper is required or permitted to be served “pursuant to Section 1215” on a represented person, the notice or other paper must also be served on the attorney;
- Amend Probate Code section 1217 to recognize that if a notice or other paper is required to be served or otherwise given, but the means of service is not specified in the statute, the notice or other paper shall be “served pursuant to Section 1215”;
- Amend Probate Code sections 8100, 9052, 9153, 19011, 19040, 19052, 19153 to notify creditors in specified notices and Judicial Council claim forms that they may “serve pursuant to Section 1215” copies of their claims; and
- Amend Probate Code section 10585 to require that the notice of a proposed action contain the e-mail addresses of the personal representative and other persons to contact.

Alternatives Considered

The committees considered amending section 1215 to provide for “electronic delivery” instead of “electronic service” under Code of Civil Procedure section 1010.6(a). The committees decided against pursuing this option to provide for consistency across statutes and case types.

Implementation Requirements, Costs, and Operational Impacts

This proposal is not expected to require implementation or result in any costs for the courts because most of these notices and other papers are not served by the courts. Electronic service of these notices and other papers would require access to the appropriate technology, but would also provide for efficiencies and cost savings. Because electronic service is authorized only by consent, it would be left up to the individual entitled to receive notice or other paper to determine whether any costs outweigh the benefits.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

Attachments and Links

1. Proposed amendments to the Probate Code, at pages 9–32
2. Proposed amendments to the Welfare and Institutions Code, at page 33

Effective January 1, 2018, sections 366, 453, 1050, 1209, 1212–1217, 1220, 1250, 1252, 1265, 1266, 1460, 1461, 1461.4, 1461.5, 1511, 1513.2, 1516, 1542, 1822, 1826, 1827.5, 1830, 1842, 1847, 1851, 2214, 2250, 2352, 2357, 2361, 2610, 2611, 2612, 2614, 2683, 2684, 2700, 2702, 2804, 2808, 3088, 3131, 3206, 3602, 3704, 3801, 3918, 8100, 8110, 8111, 8469, 8522, 8803, 8903, 8906, 8924, 9052, 9153, 9732, 9762, 9783, 9787, 10585–10587, 11601, 13200, 13655, 15686, 16061.7–16061.9, 16336.6, 16501–03, 17203–05, 17403, 17454, 19011, 19024, 19040, 19052, 19150, 19153, 19323, 20122, and 20222 of the Probate Code would be amended, section 1216 would be deleted, and section 1266 would be added.

1 **§ 366.**

2 Notice of a hearing under this part shall be ~~mailed~~ served pursuant to Section 1215 at least 15
3 days before the hearing ~~to~~ on each fiduciary and consultant and ~~to~~ on the following persons:

4 (a) In the case of a trust, ~~to~~ on each known beneficiary, subject to the provisions of Chapter 2
5 (commencing with Section 15800) of Part 3 of Division 9.

6 (b) In the case of a decedent's estate, as provided in Section 1220 ~~to~~ on both of the following:

7 (1)–(2) * * *

8 (c) * * *

9 (d) In other cases, ~~to~~ on any additional interested persons required by the court to receive notice.

10

11 **§ 453.**

12 (a) On petition of a person required to appear before the probate referee pursuant to this chapter,
13 the court may make a protective order to protect the person from annoyance, embarrassment, or
14 oppression. The petitioner shall ~~mail~~ serve pursuant to Section 1215 notice of the hearing on the
15 petition ~~to~~ on the probate referee and ~~to~~ on the personal representative, guardian, conservator, or
16 other fiduciary at least 15 days before the date set for the hearing. Any subpoena issued by the
17 probate referee is stayed during the pendency of the petition.

18 (b) On petition of the probate referee, the court may make an order to show cause why a person
19 who is required, but fails, to appear before the probate referee pursuant to this chapter, should
20 not be compelled to do so. The probate referee shall ~~mail~~ serve pursuant to Section 1215 notice
21 of the hearing on the petition ~~to~~ on the person at least 15 days before the date set for the hearing.

22

23 **§ 1050.** The judgment roll in a proceeding under this code consists of the following papers,
24 where applicable:

25 (a) In all cases:

26 (1)–(2) * * *

27 (3) Any notice of the hearing, and any order to show cause made in the proceeding, with the
28 affidavits showing publication, posting, ~~or mailing, or personal delivery service~~ service pursuant to
29 Section 1215 of the notice or order as may be required by law or court order.

30 (4)–(7) * * *

31

32 **§ 1209.**

33 (a) * * *

34 (b) Where notice is required to be given to the Attorney General, the notice shall be ~~mailed~~
35 ~~to~~ served pursuant to Section 1215 on the Attorney General at the office of the Attorney General
36 at Sacramento, California.

37

1 **§ 1212.**

2 Unless the court dispenses with the notice, if the address of the person to whom a notice or other
3 paper is required to be ~~mailed or delivered~~ served pursuant to Section 1215 is not known, notice
4 shall be given as the court may require in the manner provided in Section 413.30 of the Code of
5 Civil Procedure.

6
7 **§ 1213.**

8 (a) The following persons shall ~~mail~~ serve pursuant to Section 1215 a notice, as described in
9 Section 1211, ~~to~~ on a surety who has filed a court bond in a proceeding:

10 (1)-(4) * * *

11 (b) Within five days after entry of an order to suspend or remove a guardian, conservator, or
12 personal representative, the person who filed a petition to suspend or remove a guardian or, if the
13 order to suspend or remove a guardian, conservator, or personal representative was issued upon a
14 motion by the court, the court, shall notify the surety who has filed a court bond of the order ~~by~~
15 first class mail, postage prepaid.

16 (c) The notice required by this section shall be ~~mailed to~~ served on the addressee listed on the
17 surety bond.

18 (d) * * *

19
20 **§ 1214.**

21 If a notice or other paper is required or permitted to be ~~mailed, delivered,~~ served pursuant to
22 Section 1215 on, or otherwise given to a person who is represented by an attorney of record, the
23 notice or other paper shall also be ~~mailed to~~ served on this attorney, unless otherwise specified in
24 a request for special notice.

25
26 **§ 1215.**

27 Unless otherwise expressly provided~~;~~, a notice or other paper that is required or permitted to be
28 served on a person shall be served by mail as provided in subdivision (a), personally served as
29 provided in subdivision (b), or electronically served as provided in subdivision (c) of this section.

30 (a) Mail service ~~If a notice or other paper is required or permitted to be mailed to a person, the~~
31 ~~notice or other paper shall be mailed as provided in this section or personally delivered as~~
32 ~~provided in Section 1216.~~

33 (b) ~~The~~ A notice or other paper ~~shall~~ may be sent served by mail as follows:

34 (1A) ~~First-class~~ By regular mail if the person's address is within the United States. ~~First-class~~
35 Regular mail includes first-class, priority, certified, registered, and express mail.

36 (2B) ~~Airmail~~ By international mail if the person's address is not within the United
37 States. International mail includes first-class international, priority mail international, priority
38 mail express international, and global express guaranteed.

39 (3) ~~The~~ notice or other paper shall be deposited for collection in the United States mail, in a
40 sealed envelope, with postage paid, addressed to the person to whom it is mailed.

41 (4) ~~Subject to Section 1212,~~ the notice or other paper shall be addressed to the person at the
42 person's place of business or place of residence.

1 (~~54~~) When the notice or other paper is deposited in the mail, mailing is complete and the period
2 of notice is not extended.

3 (b) Personal service

4 (1) A notice or other paper may be personally served on that person.

5 (2) Personal service is complete when the notice or other paper is personally served on the
6 person who is to receive it.

7 (c) Electronic service

8 (1) A notice or other paper may be electronically served on a person under Section 1010.6(a) of
9 the Code of Civil Procedure if the person has filed written consent to receive electronic service
10 and provided an electronic service address.

11 (2) Electronic service is complete when the notice or other paper is sent.

12
13 **§ 1216.**

14 ~~(a) If a notice or other paper is required or permitted to be mailed to a person, it may be delivered~~
15 ~~personally to that person. Personal delivery as provided in this section satisfies a provision~~
16 ~~that requires or permits a notice or other paper to be mailed.~~

17 ~~(b) Personal delivery pursuant to this section is complete when the notice or other paper is~~
18 ~~delivered personally to the person who is to receive it.~~

19
20 **§ 1217.**

21 If a notice or other paper is required to be served or otherwise given and no other manner of
22 giving the notice or other paper is specified by statute, the notice or other paper shall be ~~mailed~~
23 ~~or personally delivered as provided in this chapter~~ served pursuant to Section 1215.

24
25 **§ 1220.**

26 (a) When notice of hearing is required to be given or served as provided in this section:

27 (1) At least 15 days before the time set for the hearing, the petitioner or the person filing the
28 report, account, or other paper shall cause notice of the time and place of the hearing to
29 be ~~mailed to~~ served pursuant to Section 1215 on the persons required to be given notice.

30 (2) Unless the statute requiring notice specifies the persons to be given notice, notice shall
31 be ~~mailed to~~ served pursuant to Section 1215 on all of the following:

32 (A)–(B) * * *

33 (3) Subject to Section 1212, the notice shall be ~~addressed to~~ served pursuant to Section 1215 on
34 the person required to be given notice at the person's place of business, ~~or~~ place of residence, or
35 electronic service address.

36 (b)–(c) * * *

37
38 **§ 1250.**

39 (a) * * *

40 (b) The request for special notice shall be so entitled and shall set forth the name of the person
41 and the address to which notices shall be ~~sent~~ served pursuant to Section 1215.

42 (c) * * *

43 (d) * * *

1 (e) A copy of the request shall be ~~personally delivered or mailed to~~ served pursuant to Section
 2 1215 on the personal representative or ~~to~~ on the attorney for the personal representative. If
 3 personally ~~delivered~~ served, the request is effective when it is delivered. If mailed or
 4 electronically served, the request is effective when it is received.

5 (f) * * *

6
 7 **§ 1252.**

8 (a) Unless the court makes an order dispensing with the notice, if a request has been made
 9 pursuant to Section 1250 for special notice of a hearing, the person filing the petition, report,
 10 account, or other paper shall give written notice of the filing, together with a copy of the petition,
 11 report, account, or other paper, and the time and place set for the hearing, by ~~mail to~~ service
 12 pursuant to Section 1215 on the person named in the request at the address set forth in the
 13 request, at least 15 days before the time set for the hearing.

14 (b) If a request has been made pursuant to Section 1250 for special notice of the filing of an
 15 inventory and appraisal of the estate or of the filing of any other paper that does not require a
 16 hearing, the inventory and appraisal or other paper shall be ~~mailed~~ served pursuant to Section
 17 1215 not later than 15 days after the inventory and appraisal or other paper is filed with the court.

18
 19 **§ 1265.**

20 ~~Proof of notice, however given, may be made by evidence presented at the hearing. Proof of~~
 21 electronic service may be made in the manner prescribed in Section 1013b of the Code of Civil
 22 Procedure.

23
 24 **§ ~~1265~~ 1266.**

25 Proof of notice, however given, may be made by evidence presented at the hearing.

26
 27 **§ 1460.**

28 (a) * * *

29 (b) Subject to subdivision (e), the petitioner, who includes for the purposes of this section a
 30 person filing a petition, report, or account, shall cause the notice of hearing to be ~~mailed~~
 31 ~~to~~ served pursuant to Section 1215 on each of the following persons:

32 (1)–(6) * * *

33 (c)–(e) * * *

34
 35 **§ 1461.**

36 (a) * * *

37 (b) Notice of the time and place of hearing on the petition, report, or account, and a copy of the
 38 petition, report, or account, shall be ~~mailed to~~ served pursuant to Section 1215 on the director at
 39 the director's office in Sacramento at least 15 days before the hearing if both of the following
 40 conditions exist:

41 (1)–(2) * * *

42 (c)–(d) * * *

43

1 **§ 1461.4.**

2 (a) The petitioner shall ~~mail or personally~~ serve pursuant to Section 1215 a notice of the hearing
3 and a copy of the petition ~~to~~ on the director of the regional center for the developmentally
4 disabled at least 30 days before the day of the hearing on a petition for appointment in any case
5 in which all of the following conditions exist:

6 (1)–(4) * * *

7 (b) * * *

8
9 **§ 1461.5.**

10 Notice of the time and place of hearing on a petition, report, or account, and a notice of the filing
11 of an inventory, together with a copy of the petition, report, inventory, or account, shall
12 be ~~mailed to~~ served pursuant to Section 1215 on the office of the Veterans Administration having
13 jurisdiction over the area in which the court is located at least 15 days before the hearing, or
14 within 15 days after the inventory is filed, if both of the following conditions exist:

15 (a)–(b) * * *

16
17 **§ 1511.**

18 (a)–(b) * * *

19 (c) Notice shall be ~~given by mail sent to~~ served pursuant to Section 1215 on their addresses
20 stated in the petition, or in any manner authorized by the court, ~~to~~ on all of the following:

21 (1)–(3) * * *

22 (d) If notice is required by Section 1461 or Section 1542 to be given to the Director of State
23 Hospitals or the Director of Developmental Services or the Director of Social Services, notice
24 shall be ~~mailed~~ served pursuant to Section 1215 as so required.

25 (e) If the petition states that the proposed ward is receiving or is entitled to receive benefits from
26 the Veterans Administration, notice shall be ~~mailed to~~ served pursuant to Section 1215 on the
27 office of the Veterans Administration referred to in Section 1461.5.

28 (f)–(i) * * *

29
30 **§ 1513.2.**

31 (a) To the extent resources are available, the court shall implement procedures, as described in
32 this section, to ensure that every guardian annually completes and returns to the court a status
33 report, including the statement described in subdivision (b). A guardian who willfully submits
34 any material information required by the form which he or she knows to be false shall be guilty
35 of a misdemeanor. Not later than one month prior to the date the status report is required to be
36 returned, the clerk of the court shall ~~mail to~~ serve pursuant to Section 1215 on the guardian ~~by~~
37 ~~first-class mail~~ a notice informing the guardian that he or she is required to complete and return
38 the status report to the court. The clerk shall enclose or attach with the letter a blank status report
39 form for the guardian to complete and return ~~by mail~~. If the status report is not completed and
40 returned as required, or if the court finds, after a status report has been completed and returned,
41 that further information is needed, the court shall attempt to obtain the information required in
42 the report from the guardian or other sources. If the court is unable to obtain this information
43 within 30 days after the date the status report is due, the court shall either order the guardian to

1 make himself or herself available to the investigator for purposes of investigation of the
2 guardianship, or to show cause why the guardian should not be removed.

3 (b) The Judicial Council shall develop a form for the status report. The form shall include the
4 following statement: "A guardian who willfully submits any material information required by
5 this form which he or she knows to be false is guilty of a misdemeanor." The form shall request
6 information the Judicial Council deems necessary to determine the status of the guardianship,
7 including, but not limited to, the following:

8 (1) The guardian's present address and electronic address.

9 (2)–(5) * * *

10 (c)–(d) * * *

11
12 **§ 1516.**

13 (a) In each case involving a petition for guardianship of the person, the petitioner shall ~~mail~~ serve
14 pursuant to Section 1215 a notice of the hearing and a copy of the petition, at least 15 days prior
15 to the hearing, ~~to~~ on the local agency designated by the board of supervisors to investigate
16 guardianships for the court. The local social services agency providing child protection services
17 shall screen the name of the guardian for prior referrals of neglect or abuse of minors. The results
18 of this screening shall be provided to the court.

19 (b) * * *

20
21 **§ 1542.**

22 In each case involving a petition for guardianship of the person, the petitioner shall ~~mail~~ serve
23 pursuant to Section 1215 a notice of the hearing and a copy of the petition, at least 15 days prior
24 to the hearing, ~~to~~ on the Director of Social Services at the director's office in Sacramento
25 and ~~to~~ on the local agency designated by the board of supervisors to investigate guardianships for
26 the court.

27
28 **§ 1822.**

29 (a) * * *

30 (b) Notice shall be ~~mailed to~~ served pursuant to Section 1215 on the following persons:

31 (1)–(2) * * *

32 (c) If notice is required by Section 1461 to be given to the Director of State Hospitals or the
33 Director of Developmental Services, notice shall be ~~mailed~~ served pursuant to Section 1215 as so
34 required.

35 (d) If the petition states that the proposed conservatee is receiving or is entitled to receive
36 benefits from the Veterans Administration, notice shall be ~~mailed to~~ served pursuant to Section
37 1215 on the Office of the Veterans Administration referred to in Section 1461.5.

38 (e) If the proposed conservatee is a person with developmental disabilities, at least 30 days
39 before the day of the hearing on the petition, the petitioner shall ~~mail~~ serve pursuant to Section
40 1215 a notice of the hearing and a copy of the petition ~~to~~ on the regional center identified in
41 Section 1827.5.

42 (f) If the petition states that the petitioner and the proposed conservator have no prior
43 relationship with the proposed conservatee and are not nominated by a family member, friend, or

1 other person with a relationship to the proposed conservatee, notice shall be ~~mailed to~~ served
 2 pursuant to Section 1215 on the public guardian of the county in which the petition is filed.

3
 4 **§ 1826.**

5 (a) Regardless of whether the proposed conservatee attends the hearing, the court investigator
 6 shall do all of the following:

7 (1)–(11) * * *

8 (12) ~~Mail~~ Serve pursuant to Section 1215, at least five days before the hearing, a copy of the
 9 report referred to in paragraph (11) ~~to~~ on all of the following:

10 (A)–(C) * * *

11 (D) The spouse, registered domestic partner, and relatives within the first degree of the proposed
 12 conservatee who are required to be named in the petition for appointment of the conservator,
 13 unless the court determines that the mailing service will harm the conservatee.

14 (E) * * *

15 (b)–(h) * * *

16
 17 **§ 1827.5.**

18 (a)–(c) * * *

19 (d) At least five days before the hearing on the petition, the regional center shall ~~mail~~ serve
 20 pursuant to Section 1215 a copy of the report referred to in subdivision (a) ~~to~~ on all of the
 21 following:

22 (1)–(4) * * *

23
 24 **§ 1830.**

25 (a)–(b) * * *

26 (c) An information notice of the rights of conservatees shall be attached to the order. The
 27 conservator shall ~~mail~~ serve pursuant to Section 1215 the order and the attached information
 28 notice ~~to~~ on the conservatee and the conservatee's relatives, as set forth in subdivision (b) of
 29 Section 1821, within 30 days of the issuance of the order. By January 1, 2008, the Judicial
 30 Council shall develop the notice required by this subdivision.

31
 32 **§ 1842.**

33 In addition to the persons and entities to whom notice of hearing is required under Section 1822
 34 or 2002, if the proposed conservatee is an absentee, a copy of the petition and notice of the time
 35 and place of the hearing shall be ~~mailed~~ served pursuant to Section 1215 at least 15 days before
 36 the hearing ~~to~~ on the secretary concerned or to the head of the United States department or
 37 agency concerned, as the case may be. In such case, notice shall also be published pursuant to
 38 Section 6061 of the Government Code in a newspaper of general circulation in the county in
 39 which the hearing will be held.

40
 41 **§ 1847.**

1 In addition to the persons and entities to whom notice of hearing is required under Section 1822
 2 or 2002, if the proposed conservatee is a person who is missing and whose whereabouts is
 3 unknown:

4 (a) A copy of the petition for appointment of a conservator and notice of the time and place of
 5 the hearing on the petition shall be ~~mailed~~ served pursuant to Section 1215 at least 15 days
 6 before the hearing ~~to~~ on the proposed conservatee at the last known address of the proposed
 7 conservatee.

8 (b)–(c) * * *

9
 10 **§ 1851.**

11 (a) * * *

12 (b)(1) The findings of the court investigator, including the facts upon which the findings are
 13 based, shall be certified in writing to the court not less than 15 days before the date of review. A
 14 copy of the report shall be ~~mailed to~~ served pursuant to Section 1215 on the conservator and ~~to~~
 15 on the attorneys of record for the conservator and conservatee at the same time it is certified to
 16 the court. A copy of the report, modified as set forth in paragraph (2), also shall be ~~mailed~~
 17 ~~to~~ served pursuant to Section 1215 on the conservatee's spouse or registered domestic partner,
 18 the conservatee's relatives in the first degree, and if there are no such relatives, ~~to~~ on the next
 19 closest relative, unless the court determines that the mailing service will harm the conservatee.

20 (2) * * *

21 (c)–(f) * * *

22
 23 **§ 2214.**

24 Notice of the hearing shall be given for the period and in the manner provided in Chapter 3
 25 (commencing with Section 1460) of Part 1. In addition, the petitioner shall ~~mail~~ serve pursuant to
 26 Section 1215 a notice of the time and place of the hearing and a copy of the petition ~~to~~ on all
 27 persons required to be listed in the petition at least 15 days before the date set for the hearing.
 28

29 **§ 2250.**

30 (a)–(d) * * *

31 (e) Unless the court for good cause otherwise orders, at least five court days before the hearing
 32 on the petition, notice of the hearing shall be given as follows:

33 (1) * * *

34 (2) Notice of the hearing shall be personally delivered to the proposed conservatee, and notice of
 35 the hearing shall be served pursuant to Section 1215 on the persons required to be named in the
 36 petition for appointment of conservator. If the petition states that the petitioner and the proposed
 37 conservator have no prior relationship with the proposed conservatee and has not been
 38 nominated by a family member, friend, or other person with a relationship to the proposed
 39 conservatee, notice of hearing shall be served pursuant to Section 1215 on the public guardian of
 40 the county in which the petition is filed.

41 (3) A copy of the petition for temporary appointment shall be served pursuant to Section 1215
 42 with the notice of hearing.

43 (f)–(l) * * *

§ 2352.

(a)–(d) * * *

(e)(1) * * *

(2) The guardian or conservator shall ~~mail~~ serve pursuant to section 1215 a copy of the notice ~~to~~ on all persons entitled to notice under subdivision (b) of Section 1511 or subdivision (b) of Section 1822 and shall file proof of service of the notice with the court. The court may, for good cause, waive the ~~mailing~~ service requirement pursuant to this paragraph in order to prevent harm to the conservatee or ward.

(3) If the guardian or conservator proposes to remove the ward or conservatee from his or her personal residence, except as provided by subdivision (c), the guardian or conservator shall ~~mail~~ serve pursuant to section 1215 a notice of his or her intention to change the residence of the ward or conservatee ~~to~~ on all persons entitled to notice under subdivision (b) of Section 1511 and subdivision (b) of Section 1822. In the absence of an emergency, that notice shall be ~~mailed~~ served at least 15 days before the proposed removal of the ward or conservatee from his or her personal residence. If the notice is served less than 15 days prior to the proposed removal of the ward or conservatee, the guardian or conservator shall set forth the basis for the emergency in the notice. The guardian or conservator shall file proof of service of that notice with the court.

(f)–(h) * * *

§ 2357.

(a)–(d) * * *

(e) Notice of the petition shall be given as follows:

(1) * * *

(2) Not less than 15 days before the hearing, notice of the time and place of the hearing, and a copy of the petition shall be ~~mailed to~~ served pursuant to Section 1215 on the following persons:

(A)–(B) * * *

(f)–(i) * * *

§ 2361.

A conservator shall provide notice of a conservatee's death by ~~mailing~~ serving a copy of the notice ~~to~~ pursuant to Section 1215 on all persons entitled to notice under Section 1460 and by filing a proof of service with the court, unless otherwise ordered by the court.

§ 2610.

(a) Within 90 days after appointment, or within any further time as the court for reasonable cause upon ex parte petition of the guardian or conservator may allow, the guardian or conservator shall file with the clerk of the court and ~~mail to~~ serve pursuant to Section 1215 on the conservatee and ~~to~~ on the attorneys of record for the ward or conservatee, along with notice of how to file an objection, an inventory and appraisal of the estate, made as of the date of the appointment of the guardian or conservator. A copy of this inventory and appraisal, along with notice of how to file an objection, also shall be ~~mailed to~~ served on the conservatee's spouse or registered domestic partner, the conservatee's relatives in the first degree, and, if there are no

1 such relatives, ~~to~~ on the next closest relative, unless the court determines that the mailing will
 2 result in harm to the conservatee.

3 (b)–(e) * * *

4
 5 **§ 2611.**

6 If the ward or conservatee is or has been during the guardianship or conservatorship a patient in a
 7 state hospital under the jurisdiction of the State Department of State Hospitals or the State
 8 Department of Developmental Services, the guardian or conservator shall ~~mail~~ serve pursuant to
 9 Section 1215 a copy of the inventory and appraisal filed under Section 2610 ~~to~~ on the director of
 10 the appropriate department at the director’s office in Sacramento not later than 15 days after the
 11 inventory and appraisal is filed with the court. Compliance with this section is not required if an
 12 unrevoked certificate described in subdivision (c) of Section 1461 is on file with the court with
 13 respect to the ward or conservatee.

14
 15 **§ 2612.**

16 If a timely request is made, the clerk of court shall ~~mail~~ serve pursuant to Section 1215 a copy of
 17 the inventory and appraisal filed under Section 2610 ~~to~~ on the county assessor.

18
 19 **§ 2614.**

20 (a) * * *

21 (b) Notice of the hearing, together with a copy of the objections, shall be given for the period and
 22 in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1. If the appraisal
 23 was made by a probate referee, the person objecting shall also ~~mail~~ serve pursuant to Section
 24 1215 notice of the hearing and a copy of the objection ~~to~~ on the probate referee at least 15 days
 25 before the time set for the hearing.

26 (c) * * *

27
 28 **§ 2683.**

29 (a) * * *

30 (b) Notice shall be ~~mailed to~~ served pursuant to Section 1215 on the persons designated in
 31 Section 1460 and to the relatives named in the petition.

32 (c) If notice is required by Section 1461 to be given to the Director of State Hospitals or the
 33 Director of Developmental Services, notice shall be ~~mailed~~ served pursuant to Section 1215 as so
 34 required.

35 (d) If notice is required by Section 1461.5 to be given to the Veterans Administration, notice
 36 shall be ~~mailed~~ served pursuant to Section 1215 as so required.

37
 38 **§ 2684.**

39 Unless the petition states that the conservatee will be present at the hearing, the court investigator
 40 shall do all of the following:

41 (a)–(f) * * *

42 (g) ~~Mail~~ Serve pursuant to Section 1215, at least five days before the hearing, a copy of the
 43 report referred to in subdivision (f) ~~to~~ on all of the following:

1 (1)–(3) * * *

2
3 **§ 2700.**

4 (a) * * *

5 (b) The request for special notice shall be so entitled and shall set forth the name of the person
6 and the address ~~to~~ on which notices shall be ~~sent~~ served pursuant to Section 1215.

7 (c)–(d) * * *

8 (e) A copy of the request shall be ~~personally delivered or mailed to~~ served pursuant to Section
9 1215 on the guardian or conservator or to the attorney for the guardian or conservator. If
10 personally delivered served, the request is effective when it is delivered. If mailed or
11 electronically served, the request is effective when it is received.

12 (f) * * *

13
14 **§ 2702.**

15 (a) Unless the court makes an order dispensing with the notice, if a request has been made
16 pursuant to this chapter for special notice of a hearing, the person filing the petition, account, or
17 other paper shall ~~give~~ serve pursuant to Section 1215 written notice of the filing, together with a
18 copy of the petition, account, or other paper, and the time and place set for the hearing, ~~by~~
19 ~~mail to~~ on the person named in the request at the address set forth in the request, at least 15 days
20 before the time set for the hearing.

21 (b) If a request has been made pursuant to this chapter for special notice of the filing of an
22 inventory and appraisal of the estate or of the filing of any other paper that does not require a
23 hearing, the inventory and appraisal or other paper shall be ~~mailed~~ served pursuant to Section
24 1215 not later than 15 days after the inventory and appraisal or other paper is filed with the court.

25
26 **§ 2804.**

27 At least 30 days before the hearing, the petitioner shall ~~mail~~ serve pursuant to Section 1215 a
28 notice of the time and place of the hearing and a copy of the petition ~~to~~ on each person required
29 to be listed in the petition at the address stated in the petition.

30
31 **§ 2808.**

32 (a) * * *

33 (b) Unless notice is waived, a copy of the final account of the guardian or conservator and of the
34 petition for discharge, together with a notice of the hearing thereon, shall be ~~mailed~~ served
35 pursuant to Section 1215 at least 30 days before the date of the hearing ~~to~~ on all persons required
36 to be listed in the petition for transfer, including the foreign guardian or conservator.

37
38 **§ 3088.**

39 (a)–(e) * * *

40 (f) The court retains jurisdiction to modify or to vacate an order made under this section where
41 justice requires, except as to any amount that may have accrued prior to the date of the filing of
42 the petition to modify or revoke the order. At the request of any interested person, the order of
43 modification or revocation shall include findings of fact and may be made retroactive to the date

1 of the filing of the petition to revoke or modify, or to any date subsequent thereto. At least 15
 2 days before the hearing on the petition to modify or vacate the order, the petitioner
 3 shall ~~mail~~ serve pursuant to Section 1215 a notice of the time and place of the hearing on the
 4 petition, accompanied by a copy of the petition, ~~to~~ on the spouse who has the management or
 5 control of the community property. Notice shall be given for the period and in the manner
 6 provided in Chapter 3 (commencing with Section 1460) of Part 1 to any other persons entitled to
 7 notice of the hearing under that chapter.

8 (g) * * *

9
 10 **§ 3131.**

11 (a)–(b) * * *

12 (c) At least 15 days before the hearing on the petition, the petitioner shall ~~mail~~ serve pursuant to
 13 Section 1215 a notice of the time and place of the hearing on the petition ~~to~~ on those persons
 14 required to be named in the petition at the addresses set forth in the petition.

15
 16 **§ 3206.**

17 (a) * * *

18 (b) Not less than 15 days before the hearing, notice of the time and place of the hearing and a
 19 copy of the petition shall be ~~mailed to~~ served pursuant to Section 1215 on the following persons:

20 (1)–(2) * * *

21 (c) * * *

22
 23 **§ 3602.**

24 (a)–(e) * * *

25 (f) Notice of the time and place of hearing on a petition under subdivision (d), and a copy of the
 26 petition, shall be ~~mailed to~~ served pursuant to Section 1215 on the State Director of Health Care
 27 Services, the Director of State Hospitals, and the Director of Developmental Services at the
 28 office of each director in Sacramento at least 15 days before the hearing.

29
 30 **§ 3704.**

31 (a) Notice of the nature of the proceedings and the time and place of the hearing shall be given
 32 by the petitioner at least 15 days before the hearing date by all of the following means:

33 (1) By ~~mail~~ service pursuant to Section 1215, together with a copy of the petition, ~~to~~ on all
 34 persons comprising the family of the absentee.

35 (2)–(3) * * *

36 (b) * * *

37
 38 **§ 3801.**

39 (a) The petition shall be made upon 15 days' notice, by ~~mail or personal delivery,~~ to service
 40 pursuant to Section 1215, on all of the following persons:

41 (1)–(2) * * *

42 (b) * * *

1 **§ 3918.**

2 (a)–(f) * * *

3 (g) At least 15 days before the hearing on a petition under subdivision (d) or (f), the petitioner
4 shall serve notice ~~by mail or personal delivery~~ pursuant to Section 1215 on each of the following
5 persons:

6 (1)–(3) * * *

7 (h) * * *

8
9 **§ 8100.**

10 The notice of hearing of a petition for administration of a decedent’s estate, whether served
11 under Article 2 (commencing with Section 8110) or published under Article 3 (commencing with
12 Section 8120), shall state substantially as follows:

13
14 NOTICE OF PETITION TO ADMINISTER
15 ESTATE OF _____, ESTATE NO. _____

16
17 To all heirs, beneficiaries, creditors, and contingent creditors of _____ and persons who
18 may be otherwise interested in the will or estate, or both:

19
20 A petition has been filed by _____ in the Superior Court of California, County of
21 _____, requesting that _____ be appointed as personal representative to administer the
22 estate of _____ [and for probate of the decedent’s will, which is available for examination
23 in the court file].

24
25 [The petition requests authority to administer the estate under the Independent Administration of
26 Estates Act. This will avoid the need to obtain court approval for many actions taken in
27 connection with the estate. However, before taking certain actions, the personal representative
28 will be required to give notice to interested persons unless they have waived notice or have
29 consented to the proposed action. The petition will be granted unless good cause is shown why it
30 should not be.]

31
32 The petition is set for hearing in Dept. No.
33 at _____ (Address) _____
34 on _____ (Date of hearing) _____ at _____ (Time of hearing) _____ .

35
36 IF YOU OBJECT to the granting of the petition, you should appear at the hearing and state your
37 objections or file written objections with the court before the hearing. Your appearance may be
38 in person or by your attorney.

39
40 IF YOU ARE A CREDITOR or a contingent creditor of the deceased, you must file your claim
41 with the court and ~~mail~~ serve pursuant to Section 1215 of the California Probate Code a
42 copy ~~to~~ on the personal representative appointed by the court within the later of either (1) four
43 months from the date of first issuance of letters to a general personal representative, as defined in

1 subdivision (b) of Section 58 of the California Probate Code, or (2) 60 days from the date of
 2 mailing or personal delivery of the notice to you under Section 9052 of the California Probate
 3 Code.

4
 5 YOU MAY EXAMINE the file kept by the court. If you are interested in the estate, you may
 6 request special notice of the filing of an inventory and appraisal of estate assets or of any petition
 7 or account as provided in Section 1250 of the California Probate Code.

8
 9 _____ (Name and address of petitioner or petitioner's attorney) _____
 10

11 **§ 8110.**

12 At least 15 days before the hearing of a petition for administration of a decedent's estate, the
 13 petitioner shall serve notice of the hearing ~~by mail or personal delivery~~ pursuant to Section 1215
 14 on all of the following persons:

15 (a)-(b) * * *

16
 17 **§ 8111.**

18 If the decedent's will involves or may involve a testamentary trust of property for charitable
 19 purposes other than a charitable trust with a designated trustee resident in this state, or involves
 20 or may involve a devise for charitable purposes without an identified devisee, notice of hearing
 21 accompanied by a copy of the petition and of the will shall be served pursuant to Section 1215 on
 22 the Attorney General as provided in Section 1209.

23
 24 **§ 8469.**

25 (a) For good cause, the court may allow the priority given by Section 8461 to a conservator or
 26 guardian of the estate of the decedent serving in that capacity at the time of death that has not
 27 filed a first account, or that is acting as guardian or conservator for another person, or both.

28 (b) If the petition for appointment as administrator requests the court to allow the priority
 29 permitted by subdivision (a), the petitioner shall, in addition to the notice otherwise required by
 30 statute, serve notice of the hearing ~~by mail or personal delivery~~ pursuant to Section 1215 on the
 31 public administrator.
 32

33 **§ 8522.**

34 (a) * * *

35 (b) Appointment of a successor personal representative shall be made on petition and service of
 36 notice pursuant to Section 1215 on interested persons in the manner provided in Article 2
 37 (commencing with Section 8110) of Chapter 2, and shall be subject to the same priority as for an
 38 original appointment of a personal representative. The personal representative of a deceased
 39 personal representative is not, as such, entitled to appointment as successor personal
 40 representative.
 41

42 **§ 8803.**

43 On the filing of an inventory and appraisal or a supplemental inventory and appraisal, the

1 personal representative shall, pursuant to Section 1252, ~~mail~~ serve a copy ~~to~~ on each person who
 2 has requested special notice.

3
 4 **§ 8903.**

5 (a)–(b) * * *

6 (c) The hearing on the waiver shall be not sooner than 15 days after the petition is filed. Notice
 7 of the hearing on the petition, together with a copy of the petition and a copy of the proposed
 8 inventory and appraisal, shall be ~~given~~ served as provided in Sections 1215 and 1220 ~~to~~ on all of
 9 the following persons:

10 (1)–(5) * * *

11 (d)–(e) * * *

12
 13 **§ 8906.**

14 (a)–(b) * * *

15 (c) The person objecting shall ~~give~~ serve notice of the hearing, together with a copy of the
 16 objection, as provided in Section 1220. If the appraisal was made by a probate referee, the person
 17 objecting shall also ~~mail~~ serve notice of the hearing and a copy of the objection ~~to~~ on the probate
 18 referee at least 15 days before the date set for the hearing.

19 (d)–(e) * * *

20
 21 **§ 8924.**

22 (a) The court shall remove the designated probate referee in any of the following circumstances:

23 (1) The personal representative shows cause, including incompetence or undue delay in making
 24 the appraisal, that in the opinion of the court warrants removal of the probate referee. The
 25 showing shall be made at a hearing on petition of the personal representative. The personal
 26 representative shall ~~mail~~ serve pursuant to Section 1215 notice of the hearing on the
 27 petition ~~to~~ on the probate referee at least 15 days before the date set for the hearing.

28 (2) The personal representative has the right to remove the first probate referee who is designated
 29 by the court. No cause need be shown for removal under this paragraph. The personal
 30 representative may exercise the right at any time before the personal representative delivers the
 31 inventory to the probate referee. The personal representative shall exercise the right by filing an
 32 affidavit or declaration under penalty of perjury with the court and ~~mailing~~ serving a copy ~~to~~ on
 33 the probate referee. Thereupon, the court shall remove the probate referee without any further act
 34 or proof.

35 (3) * * *

36 (b) * * *

37
 38 **§ 9052.**

39 The notice shall be in substantially the following form:

40
 41 NOTICE OF ADMINISTRATION OF

42 ESTATE OF _____, DECEDENT

43 Notice to creditors:

1
 2 Administration of the estate of _____ (deceased) has been commenced by _____
 3 (personal representative) in Estate No. _____ in the Superior Court of California, County of
 4 _____. You must file your claim with the court and ~~mail~~ serve a copy pursuant to Section
 5 1215 of the California Probate Code on the personal representative within the last to occur of
 6 four months after _____ (the date letters were first issued to a general personal
 7 representative, as defined in subdivision (b) of Section 58 of the California Probate Code), or 60
 8 days after the date this notice was mailed to you or, in the case of personal delivery, 60 days after
 9 the date this notice was delivered to you, or you must petition to file a late claim as provided in
 10 Section 9103 of the California Probate Code. Failure to file a claim with the court and serve a
 11 copy of the claim on the personal representative will, in most instances, invalidate your claim. A
 12 claim form may be obtained from the court clerk. For your protection, you are encouraged to file
 13 your claim by certified mail, with return receipt requested.

14
 15 (Date of mailing this notice)

16 (Name and address of personal representative or attorney)

17
 18 **§ 9153.**

19 A claim form adopted by the Judicial Council shall inform the creditor that the claim must be
 20 filed with the court and a copy ~~mailed or delivered to~~ served pursuant to Section 1215 on the
 21 personal representative. The claim form shall include a proof of ~~mailing or delivery~~ service of a
 22 copy of the claim ~~to~~ on the personal representative, which may be completed by the creditor.

23
 24 **§ 9732.**

25 (a)–(b) * * *

26 (c) Notice of the hearing on the petition shall be ~~given~~ served as provided in Sections 1215 and
 27 1220. In addition, the petitioner shall cause notice of the hearing and a copy of the petition to
 28 be ~~mailed to~~ served pursuant to Section 1215 on all known devisees of property which is
 29 proposed to be invested. Where the property proposed to be invested is devised to a trust or
 30 trustee, notice of the hearing and a copy of the petition shall be ~~mailed to~~ served pursuant to
 31 Section 1215 on the trustee or, if the trustee has not yet accepted the trust, ~~to~~ on the person
 32 named in the will as trustee. Mailing Service pursuant to this subdivision shall be ~~to~~ on the
 33 person's last known address as provided in Section 1220.

34 (d) * * *

35
 36 **§ 9762.**

37 (a)–(c) * * *

38 (d) To obtain an order under this section, the personal representative or any interested person
 39 shall file a petition showing that the order requested would be to the advantage of the estate and
 40 in the best interest of the interested persons. Notice of the hearing on the petition shall
 41 be ~~given~~ served as provided in Sections 1215 and 1220. In addition, unless the court otherwise
 42 orders, the petitioner, not less than 15 days before the hearing, shall cause notice of hearing and a
 43 copy of the petition to be ~~mailed to~~ served pursuant to Section 1215 on each of the surviving

1 general partners at his or her last known address.

2
3 **§ 9783.**

4 A person described in Section 9782 may ~~deliver or mail~~ serve pursuant to Section 1215 a written
5 objection to the disposition or abandonment to the personal representative on or before the date
6 specified in the notice as the date on or after which the property will be disposed of or
7 abandoned. Subject to Section 9788, after receipt of the written objection, the personal
8 representative shall not dispose of or abandon the property without authorization by order of the
9 court obtained under Section 9611.

10
11 **§ 9787.**

12 (a) Except as provided in subdivision (b), a person described in Section 9782 who receives notice
13 of the proposed disposition or abandonment as provided in Section 9782, waives the right to
14 have the court later review the disposition or abandonment of the property unless the person does
15 one of the following:

16 (1) ~~Delivers or mails~~ Serves pursuant to Section 1215 a written objection as provided in Section
17 9783.

18 (2) * * *

19 (b) * * *

20
21 **§ 10585.**

22 (a) The notice of proposed action shall state all of the following:

23 (1) The name, ~~and~~ mailing address, and electronic address of the personal representative.

24 (2) The person, ~~and~~ telephone number, and electronic address, to ~~call~~ contact to get additional
25 information.

26 (3)–(4) * * *

27 (b)–(c) * * *

28
29 **§ 10586.**

30 The notice of proposed action shall be ~~mailed or personally delivered to~~ served pursuant to
31 Section 1215 on each person required to be given notice of proposed action not less than 15 days
32 before the date specified in the notice of proposed action on or after which the proposed action is
33 to be taken. If mailed, the notice of proposed action shall be addressed to the person at the
34 person's last known address. ~~Sections 1215 and 1216 apply to the mailing or delivery of the~~
35 ~~notice of proposed action.~~

36
37 **§ 10587.**

38 (a) * * *.

39 (b) The objection to the proposed action is made by ~~delivering or mailing~~ serving pursuant to
40 Section 1215 a written objection to the proposed action ~~to~~ on the personal representative at the
41 address stated in the notice of proposed action. The person objecting to the proposed action
42 either may use the Judicial Council form or may make the objection in any other writing that
43 identifies the proposed action with reasonable certainty and indicates that the person objects to

1 the taking of the proposed action.

2 (c) * * *

3
4 **§ 11601.**

5 Notice of the hearing on the petition shall be ~~given~~ served as provided in Sections 1215 and
6 1220 ~~to~~ on all of the following persons:

7 (a)–(e) * * *

8
9 **§ 13200.**

10 (a) No sooner than six months from the death of a decedent, a person or persons claiming as
11 successor of the decedent to a particular item of property that is real property may file in the
12 superior court in the county in which the decedent was domiciled at the time of death, or if the
13 decedent was not domiciled in this state at the time of death, then in any county in which real
14 property of the decedent is located, an affidavit in the form prescribed by the Judicial Council
15 pursuant to Section 1001 stating all of the following:

16 (1)–(10) * * *

17 (b)–(e) * * *

18 (f) The affiant shall ~~mail~~ serve pursuant to Section 1215 a copy of the affidavit and
19 attachments ~~to~~ on any person identified in paragraph (4) of subdivision (a).

20
21 **§ 13655.**

22 (a) If proceedings for the administration of the estate of the deceased spouse are pending at the
23 time a petition is filed under this chapter, or if the proceedings are not pending and if the petition
24 filed under this chapter is not filed with a petition for probate of the deceased spouse's will or for
25 administration of the estate of the deceased spouse, notice of the hearing on the petition filed
26 under this chapter shall be ~~given~~ served as provided in Sections 1215 and 1220 ~~to~~ on all of the
27 following persons:

28 (1)–(2) * * *

29 (b) The notice specified in subdivision (a) shall also be ~~mailed~~ served as provided in subdivision
30 (a) ~~to~~ on the Attorney General, addressed to the office of the Attorney General at Sacramento, if
31 the petitioner bases the allegation that all or part of the estate of the deceased spouse is property
32 passing to the surviving spouse upon the will of the deceased spouse and the will involves or
33 may involve either of the following:

34 (1)–(2) * * *

35
36 **§ 15686.**

37 (a) * * *

38 (b) A trustee may not charge an increased trustee's fee for administration of a particular trust
39 unless the trustee first gives at least 60 days' written notice of that increased fee to all of the
40 following persons:

41 (1)–(2) * * *

42 (3) Each beneficiary who has made a written request to the trustee for notice of an increased
43 trustee's fee and has given an address for receiving notice ~~by mail~~.

1 (c) * * *

2
3 **§ 16061.7.**

4 (a)–(d) * * *

5 (e) The notification by trustee shall be served pursuant to Section 1215 on by mail to the last
6 known address, ~~or by personal delivery.~~

7 (f) * * *

8 (g) The notification by trustee shall contain the following information:

9 (1) * * *

10 (2) The name, ~~mailing~~ address, and telephone number of each trustee of the trust.

11 (3)–(5) * * *

12 (h) If the notification by the trustee is served because a revocable trust or any portion of it has
13 become irrevocable because of the death of one or more settlors of the trust, or because, by the
14 express terms of the trust, the trust becomes irrevocable within one year of the death of a settlor
15 because of a contingency related to the death of one or more of the settlors of the trust, the
16 notification by the trustee shall also include a warning, set out in a separate paragraph in not less
17 than 10-point boldface type, or a reasonable equivalent thereof, that states as follows:
18 “You may not bring an action to contest the trust more than 120 days from the date this
19 notification by the trustee is served upon you or 60 days from the date on which a copy of the
20 terms of the trust is ~~mailed or personally delivered to~~ served on you during that 120-day period,
21 whichever is later.”

22 (i)–(j) * * *

23
24 **§ 16061.8.**

25 No person upon whom the notification by the trustee is served pursuant to this chapter, whether
26 the notice is served on him or her within or after the time period set forth in subdivision (f) of
27 Section 16061.7, may bring an action to contest the trust more than 120 days from the date the
28 notification by the trustee is served upon him or her, or 60 days from the day on which a copy of
29 the terms of the trust is ~~mailed or personally delivered to~~ served pursuant to Section 1215 on him
30 or her during that 120-day period, whichever is later.

31
32 **§ 16061.9.**

33 (a) * * *

34 (b) A trustee who fails to serve the notification by trustee as required by Section 16061.7 on an
35 heir who is not a beneficiary and whose identity is known to the trustee shall be responsible for
36 all damages caused to the heir by the failure unless the trustee shows that the trustee made a
37 reasonably diligent effort to comply with that section. For purposes of this subdivision,
38 “reasonably diligent effort” means that the trustee has ~~sent~~ served notice ~~by first-class mail~~
39 ~~to~~ pursuant to Section 1215 on the heir at the heir’s last ~~mailing~~ address actually known to the
40 trustee.

41
42 **§ 16336.6.**

43 Unless expressly prohibited by the governing instrument, a trustee may reconvert the trust from a

1 unitrust or change the payout percentage of a unitrust.

2 (a) The trustee may make the reconversion or change in payout percentage without a court order
3 if all of the following conditions are satisfied:

4 (1)–(2) * * *

5 (3) One of the following notice requirements is satisfied:

6 (A) In the case of a proposed reconversion, the trustee gives written notice of the trustee's
7 intention to convert that complies with the requirements of Chapter 5 (commencing with Section
8 16500) and no beneficiary objects to the proposed action in a writing ~~delivered to~~ served
9 pursuant to Section 1215 on the trustee within the period prescribed by subdivision (d) of Section
10 16502. The trustee's notice shall include the information described in subdivision (3) and (4) of
11 subdivision (c) of Section 16336.4.

12 (B) In the case of a proposed change in payout percentage, the trustee gives written notice stating
13 the new payout percentage that the trustee proposes to adopt, which notice shall comply with the
14 requirements of Chapter 5 (commencing with Section 16500), and no beneficiary objects to the
15 proposed action in a writing ~~delivered~~ served pursuant to Section 1215 on the trustee within the
16 period prescribed by subdivision (d) of Section 16502.

17 (b) * * *

18

19 **§ 16501.**

20 (a) The trustee who elects to provide notice pursuant to this chapter shall ~~mail~~ serve pursuant to
21 Section 1215 notice of the proposed action ~~to~~ on each of the following:

22 (1)–(2) * * *

23 (b)–(d) * * *

24

25

26 **§ 16502.**

27 The notice of proposed action shall state that it is given pursuant to this section and shall include
28 all of the following:

29 (a) The name, mailing address, and ~~mailing~~ electronic address of the trustee.

30 (b) The name, ~~and~~ telephone number, and electronic address of a person who may be contacted
31 for additional information.

32 (c) A description of the action proposed to be taken and an explanation of the reasons for the
33 action.

34 (d) The time within which objections to the proposed action can be made, which shall be at least
35 45 days from the ~~mailing~~ service of the notice of proposed action.

36 (e) * * *

37

38 **§ 16503.** Objections to proposed actions by beneficiary; failure to object; petitions

39 (a) A beneficiary may object to the proposed action by ~~mailing~~ mailing serving pursuant to Section 1215
40 a written objection to on the trustee at the address stated in the notice of proposed action within
41 the time period specified in the notice of proposed action.

42 (b)–(d) * * *

43

1 **§ 17203.**

2 (a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause
3 notice of hearing to be ~~mailed to~~ served pursuant to Section 1215 on all of the following persons:

4 (1)–(3) * * *

5 (b) * * *

6 (c) If a person to whom notice otherwise would be given has been deceased for at least 40 days,
7 and no personal representative has been appointed for the estate of that person, and the deceased
8 person's right, title, or interest has not passed to any other person pursuant to Division 8
9 (commencing with Section 13000) or otherwise, notice may instead be ~~given to~~ served pursuant
10 to Section 1215 on the following persons:

11 (1)–(2) * * *

12
13 **§17204.**

14 (a) If proceedings involving a trust are pending, a beneficiary of the trust may, in person or by
15 attorney, file with the court clerk where the proceedings are pending a written request stating that
16 the beneficiary desires special notice of the filing of petitions in the proceeding relating to any or
17 all of the purposes described in Section 17200 and giving an address for receiving notice by
18 mail. A copy of the request shall be ~~personally delivered to or mailed to~~ served pursuant to
19 Section 1215 on the trustee or the trustee's attorney. If ~~personally delivered~~ served, the request is
20 effective when it is delivered. If mailed or electronically served, the request is effective when it
21 is received. When the original of the request is filed with the court clerk, it shall be accompanied
22 by a written admission or proof of service. A request for special notice may be modified or
23 withdrawn in the same manner as provided for the making of the initial request.

24 (b)(1)–(4) * * *

25 (c)–(d) * * *

26
27 **§ 17205.**

28 If a trustee or beneficiary has served and filed either a notice of appearance, in person or by
29 counsel, directed to the petitioner or the petitioner's counsel in connection with a particular
30 petition and proceeding or a written request for a copy of the petition, and has given an address
31 to which notice or a copy of the petition may be ~~mailed or delivered~~ served pursuant to Section
32 1215, the petitioner shall cause a copy of the petition to be ~~mailed to~~ served on that person within
33 five days after service of the notice of appearance or receipt of the request.

34
35 **§ 17403.**

36 (a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause
37 notice of the time and place of the hearing to be ~~mailed to~~ served pursuant to Section 1215 on
38 each of the persons named in the petition at their respective addresses as stated in the petition.

39 (b) * * *

40
41 **§ 17454.**

1 (a) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause
2 notice of the time and place of the hearing to be ~~mailed to~~ served pursuant to Section 1215 on
3 each of the persons named in the petition at their respective addresses as stated in the petition.

4 (b) * * *

5
6 **§ 19011.**

7 (a) * * *

8 (b) Any claim form adopted by the Judicial Council shall inform the creditor that the claim must
9 be filed with the court and a copy ~~mailed or delivered to~~ served pursuant to Section 1215 on the
10 trustee. The claim form shall include a proof of ~~mailing or delivery~~ service of a copy of the
11 claim ~~to~~ on the trustee, which may be completed by the claimant.

12
13 **§ 19024.**

14 At least 30 days before the time set for the hearing on the petition, the petitioner shall cause
15 notice of the time and place of the hearing, together with a copy of the petition, to be ~~mailed~~
16 ~~to~~ served pursuant to Section 1215 on each of the following persons who is not a petitioner:

17 (a)-(d) * * *

18
19 **§ 19040.**

20 (a) * * *

21 (b) The caption of the notice, the deceased settlor's name, and the name of the trustee shall be in
22 at least 8-point type, the text of the notice shall be in at least 7-point type, and the notice shall
23 state substantially as follows:

24 NOTICE TO CREDITORS
25 OF _____
26 # _____
27 SUPERIOR COURT OF CALIFORNIA
28 COUNTY OF _____

29
30 Notice is hereby given to the creditors and contingent creditors of the above-named decedent,
31 that all persons having claims against the decedent are required to file them with the Superior
32 Court, at _____, and ~~mail~~ serve pursuant to Section 1215 of the California Probate Code a
33 copy ~~to~~ on _____, as trustee of the trust dated ____ wherein the decedent was the settlor, at
34 _____, within the later of four months after ____ (the date of the first publication of notice to
35 creditors) or, if notice is mailed or personally delivered to you, 60 days after the date this notice
36 is mailed or personally delivered to you. A claim form may be obtained from the court clerk. For
37 your protection, you are encouraged to file your claim by certified mail, with return receipt
38 requested.

39 (name and address of trustee or attorney)

40 (c) * * *

41
42 **§ 19052.**

43 The notice shall be in substantially the following form:

1 NOTICE TO CREDITORS

2 OF _____

3

4 # _____

5 SUPERIOR COURT OF CALIFORNIA

6 COUNTY OF _____

7 Notice is hereby given to the creditors and contingent creditors of the above-named decedent,
8 that all persons having claims against the decedent are required to file them with the Superior
9 Court, at _____, and ~~mail or deliver~~ serve pursuant to Section 1215 of the California Probate
10 Code a copy to on _____, as trustee of the trust dated _____ wherein the decedent was the
11 settlor, at _____, within the later of four months after _____ (the date of the first publication
12 of notice to creditors) or, if notice is mailed or personally delivered to you, 60 days after the date
13 this notice is mailed or personally delivered to you, or you must petition to file a late claim as
14 provided in Section 19103 of the Probate Code. A claim form may be obtained from the court
15 clerk. For your protection, you are encouraged to file your claim by certified mail, with return
16 receipt requested.

17

18 _____
19 (Date of mailing this
20 notice if applicable)

21

22 _____
23 (name and address of
24 trustee or attorney)

25

26 **§ 19150.**

(a) * * *

27 (b) A claim shall be filed with the court and a copy shall be ~~mailed to~~ served pursuant to Section
28 1215 on the trustee. Failure to ~~mail~~ serve a copy ~~to on~~ the trustee does not invalidate a properly
29 filed claim, but any loss that results from the failure shall be borne by the creditor.

30

31 **§ 19153.**

32 The Judicial Council may adopt a claim form which shall inform the creditor that the claim must
33 be filed with the court and a copy ~~mailed or delivered to~~ served pursuant to Section 1215 on the
34 trustee. Any such claim form shall include a proof of ~~mailing or delivery~~ service of a copy of the
35 claim ~~to on~~ the trustee which may be completed by the creditor.

36

37 **§ 19323.**

(a) * * *

38 (b) At least 30 days before the time set for the hearing on the petition, the petitioner shall cause
39 notice of the time and place of hearing, together with a copy of the petition, to be ~~mailed to~~
40 served pursuant to Section 1215 on each of the following persons who are not petitioners:

41 (1)-(4) * * *

42

43

1 **§ 20122.**

2 Not less than 30 days before the hearing, the petitioner shall do both of the following:

3 (a) Cause notice of the hearing and a copy of the petition to be ~~mailed to~~ served pursuant to
4 Section 1215 on the personal representative and ~~to~~ on each person interested in the estate against
5 whom prorated amounts may be charged pursuant to paragraph (1) of subdivision (a) of Section
6 20123.

7 (b) * * *

8

9 **§ 20222.**

10 Not less than 30 days before the hearing the petitioner shall do both of the following:

11 (a) Cause notice of the hearing and a copy of the petition to be ~~mailed to~~ served pursuant to
12 Section 1215 on the trustee and each transferee against whom prorated amounts may be charged
13 pursuant to paragraph (1) of subdivision (a) of Section 20223.

14 (b) * * *

Effective January 1, 2018, sections 728 and 5362 of the Welfare and Institutions Code would be amended.

1 **728**

2

3 (a) * * *

4 (b) If the juvenile court decides to terminate or modify a guardianship previously
5 established under the Probate Code pursuant to subdivision (a), the juvenile court shall
6 provide notice of that decision to the court in which the guardianship was originally
7 established. The clerk of the superior court, upon receipt of the notice, shall file the notice
8 with other documents and records of the pending proceeding and send by first-class
9 mail or electronic service pursuant to Section 215 of the Probate Code a copy of the
10 notice to all parties of record in the superior court.

11 (c)-(g) * * *

12

13 **5362**

14

15 (a) The clerk of the superior court shall notify each conservator, his or her conservatee
16 and the person in charge of the facility in which the person resides, and the conservatee's
17 attorney, at least 60 days before the termination of the one-year period. If the conservator
18 is a private party, the clerk of the superior court shall also notify the mental health
19 director and the county officer providing conservatorship investigation pursuant to
20 Section 5355, at least 60 days before the termination of the one-year period. Notification
21 shall be ~~given in person or by first-class mail~~ served pursuant to Section 1215 of the
22 Probate Code. The notification shall be in substantially the following form:

23
24 [Form text here]

25
26 (b) Subject to a request for a court hearing or jury trial, the judge may, on his or her own
27 motion, accept or reject the conservator's petition.

28
29 If the conservator does not petition to reestablish conservatorship at or before the
30 termination of the one-year period, the court shall issue a decree terminating
31 conservatorship. The decree shall be ~~sent to~~ served pursuant to Section 1215 of the
32 Probate Code on the conservator and his or her conservatee ~~by first-class mail~~ and shall
33 be accompanied by a statement of California law as set forth in Section 5368.

JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688
www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

LEG16-__

Title	Action Requested
Juvenile Law: Electronic Filing and Service in Juvenile Proceedings	Review and submit comments by June 14, 2016
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Add section 212.5 and amend sections 248, 248.5, 290.1, 290.2, 291, 292, 293, 294, 295, 297, 302, 316.1, 342, 362.4, 364.05, 366.05, 366.21, 366.26, 387, 607.2, 630, 658, 660, 661, 727.4, 777, 778, 779, 785, and 903.45 of the Welfare and Institutions Code	January 1, 2018
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Diana Glick, 916-643-7012 diana.glick@jud.ca.gov
Hon. Jerilyn L. Borack, Cochair	Tara Lundstrom, 415-865-7650 tara.lundstrom@jud.ca.gov
Hon. Mark A. Juhas, Cochair	
Information Technology Advisory Committee	
Hon. Terence L. Bruiniers, Chair	

Executive Summary and Origin

The Family and Juvenile Law Advisory Committee and the Information Technology Advisory Committee recommend amending the Welfare and Institutions Code to authorize electronic filing and service under Code of Civil Procedure section 1010.6 in juvenile proceedings. This legislative proposal would add a new section 212.5 to the Welfare and Institutions Code that would incorporate by reference Code of Civil Procedure section 1010.6, subject to appropriate conditions and limitations on electronic service for juvenile proceedings. The proposal would also amend various Welfare and Institutions Code provisions to implement new section 212.5 consistently throughout the code.

Background

Code of Civil Procedure section 1010.6 and trial court rules 2.250–2.261 authorize electronic filing and electronic service in civil matters. Effective July 1, 2014, the Judicial Council amended rule 5.522 to enable the electronic filing of juvenile court documents in accordance

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

with the trial court rules, specifically rules 2.252, et seq. However, the council expressly excluded the application of trial court rule 2.251 to juvenile proceedings. (See Cal. Rules of Court, rule 5.522(b)(4) [“This rule does not incorporate the electronic service provisions in rule 2.251”].) Rule 2.251 authorizes electronic service and sets forth technical requirements for electronic service.

Effective January 1, 2016, Assembly Bill 879 amended Welfare and Institutions Code sections 290.1–295 to authorize notice of certain juvenile dependency hearings by e-mail. While this legislative proposal circulates for public comment, the Judicial Council will consider whether to adopt rule amendments and a new form to implement AB 879.

The Proposal

The provisions of AB 879 apply to a defined set of hearings conducted for children in the juvenile dependency system and authorize notice by e-mail for those hearings specified in sections 290.1–295. The legislation set important parameters for electronic service in the juvenile context and codified protections for parties and other persons who may consent to receive an e-mail notice of hearing.

This proposal seeks to apply the electronic filing and service provisions contained in section 1010.6 of the Code of Civil Procedure to juvenile dependency and delinquency proceedings, while preserving, and in some cases expanding upon, the conditions and limitations on electronic service set forth in AB 879.

New proposed section 212.5

Specifically, the proposal would add a new section 212.5 to the Welfare and Institutions Code, which would expressly apply the provisions of section 1010.6 of the Code of Civil Procedure to all juvenile proceedings, while setting limitations and conditions on the electronic service of parties and other persons. The limitations on electronic service include the following:

- Electronic service is authorized only if the county and the court choose to permit electronic service.
- Electronic service on a party or other person is permitted only upon consent to receive electronic service by the party or other person.
- A party or other person may withdraw prior consent to electronic service
- Consent or withdrawal of prior consent to receive electronic service may be filed with the court only by a party or other person, or that person’s attorney.
- Electronic service is not permitted on minors who are under the age of 16.
- If the party or other person to be served is a minor who is 16 years old or older, electronic service is permitted only upon consent by both the minor and the minor’s attorney
- The party or other person must be served by both electronic means and by other means specified in the statute if (1) the document to be served is the notice of hearing at which the social worker will recommend the termination of parental rights, or the appellate advisements required pursuant to Welfare and Institutions Code section 366.26(l)(3)(A);

or (2) there is a citation issued pursuant to section 661, or a hearing is noticed under section 777(d).

- If the minor is an Indian child, or the court has reason to know that an Indian child is involved, service shall be provided exclusively in accordance with Welfare and Institutions Code section 224.2.

In addition, the proposed new section 212.5 codifies paragraph (3) of subdivision (b) of California Rule of Court 5.522, which provides that the confidentiality of juvenile records shall be preserved when these records are transmitted electronically through encryption. The requirement to apply encryption to ensure the confidentiality of records would apply to both electronic filing and electronic service. The committees explored the issue of encryption of documents and determined that the term “encryption” is unlikely to become obsolete in the near to mid-term future because it does not denote a specific technological application; rather, it applies broadly to technology that preserves the confidentiality of documents.

Lastly, proposed new section 212.5 would prohibit the electronic service of the psychological or medical report of a minor.

Proposed amendments to sections 248 and 248.5

These sections describe service of the written findings and court orders when a referee hears a juvenile case. This proposal would add references to the new section 212.5 to authorize electronic service of these written findings and orders.

Proposed amendments to sections 290.1, 290.2, 291, 292, 293, 294, 295, and 316.1

These sections govern notice in the following types of juvenile dependency hearings: detention, jurisdiction, disposition, review, and termination of jurisdiction hearings. They were amended by AB 879 to authorize e-mail notices of hearings. This proposal would amend sections 291, 292, 293, 294, 295, and 316.1 to replace the language added by AB 879 with a cross-reference to the proposed new section 212.5. These proposed amendments are intended to implement electronic service in juvenile proceedings and to streamline the notice provisions in the Welfare and Institutions Code.

In addition, in implementing AB 879, the committees determined that from an operational perspective, it is unlikely that a person entitled to notice would have the opportunity to be fully informed of his or her right to notice and the advisability of consenting to electronic notice of hearings before the initial petition hearing. Therefore, the authorization for electronic notice of an initial petition hearing in sections 290.1 and 290.2 would be removed from the Code. The proposal would clarify that electronic service of these notices is not permitted.

Proposed amendments to section 297

This section contains notice provisions for subsequent and supplemental petitions, as well as petitions for modification. The proposal would allow for electronic service of these types of petition hearings, pursuant to proposed new section 212.5.

Proposed amendments to section 302

This section requires a social worker who provides a parent or guardian with notice of a proceeding at which the social worker intends to present a report, to provide a copy of the report to the parents or guardians and to their attorneys. This proposal would authorize electronic service of this report under the proposed new section 212.5.

Proposed amendments to section 342

This section currently provides that procedures for initial hearings also apply to subsequent petitions. This proposal would allow for other procedures as provided by law. Section 297 contains greater detail on the notice requirements for subsequent petitions and also authorizes electronic service.

Proposed amendments to section 362.4

This section requires that upon the termination of jurisdiction over a minor, and if there is a juvenile court custody order filed, the clerk of the receiving court must mail a copy of the order with the case number to the juvenile court and mail a copy to the parents. This proposal would add a cross-reference to new proposed section 212.5 to allow the court to send the order to the receiving court by electronic means and to electronically serve a copy of the order on the parents.

Proposed amendments to sections 364.05 and 366.05

These sections apply to social workers in counties of the first class; they are required to mail a copy of specified reports to certain parties. The proposal would authorize electronic service of these reports subject to the requirements of proposed new section 212.5.

Proposed amendments to section 366.21

This section provides for regular status review hearings for dependent children. There are several social worker reports referenced in this section. The proposal would add a specific reference to proposed new section 212.5 authorizing electronic service of the social worker report required to be provided to parents and others at least 10 calendar days prior to the hearing. The proposal would also authorize electronic service of the report containing a summary of the social worker's recommendation for disposition that must be provided to foster parents, relative caregivers, and certified foster parents.

Proposed amendments to section 366.26

This section applies to permanency hearings for dependent children and requires that a notice of hearing pursuant to this section must contain an advisement regarding the appellate rights and responsibilities of litigants. Currently, the appellate advisements may be given orally, if the party is present in court, or by first-class mail. In keeping with the approach of AB 879, this proposal would allow for electronic service of the notice of appellate advisements, subject to one exception: if the social worker will recommend the termination of parental rights at the hearing, electronic service may only be in addition to service by first-class mail. This exception is also stated in the proposed new section 212.5.

Proposed amendment to section 387

This section contains a notice provision for supplemental petitions to modify a previous order of placement. The proposal would authorize electronic service of supplemental petitions under proposed new section 212.5.

Proposed amendment to section 607.2

This sections requires the court to hold a hearing prior to termination of jurisdiction over a ward under specified circumstances. The proposal would authorize electronic service of the notice of hearing under this section.

Proposed amendment to section 630

This section sets forth the requirements for notice of an initial detention hearing in juvenile delinquency. Mirroring the approach with initial petition hearings in juvenile dependency, the proposal would prohibit the electronic service of notice of initial detention hearings under this section.

Proposed amendments to section 658

This section describes the notice required for jurisdictional hearings on initial and supplemental petitions. The proposal would prohibit electronic service of notice for a jurisdictional hearing on an initial petition when the child was detained and those persons entitled to notice were not present at the initial detention hearing. The proposal would authorize electronic service of notice of a jurisdictional hearing on a supplemental petition.

Proposed amendments to section 660

This section provides different notice requirements for a jurisdictional hearing depending on whether the minor was detained in custody and whether the parties and persons entitled to notice were present at the detention hearing. The proposal would authorize electronic service for these hearings, except for hearings where the child is detained and those persons entitled to service were not present at the detention hearing.

Proposed amendment to section 661

This section provides for a citation to appear to be issued by the juvenile court to parents of wards. The proposal would authorize electronic service of the citation only in addition to other forms of service required by law.

Proposed amendment to section 727.4

This section contains notice provisions for several types of juvenile delinquency hearings that occur after the initial petition hearing. These include wardship probation hearings and six-month and twelve-month hearings for dependents who are subsequently adjudged to be wards of the court. The proposal would allow for electronic service of notices of these hearings under proposed new section 212.5.

Proposed amendments to section 777

This section provides for service of notice of hearing on a violation of probation. The proposal authorizes service of a notice of hearing issued pursuant to subdivision (b) to be electronic service according to new proposed section 212.5. The proposal would authorize electronic service of a notice of hearing held pursuant to subdivision (d), in which there is an order to detain the minor pending adjudication of the alleged violation, only in addition to other legally-required forms of service.

Proposed amendment to section 778

This section provides for a hearing on a petition to modify an order of the court. The proposal would authorize electronic service of the notice of this hearing.

Proposed amendments to section 779

Section 779 requires that courts serve notice on the Director of the Youth Authority by U.S. mail when the court decides to change, modify, or set aside an order of commitment. This proposal would eliminate the requirement that service must be by U.S. mail.

Proposed amendment to section 785

This section provides for a hearing on a petition to terminate jurisdiction or modify an order of the court for a ward who has not been committed to the Youth Authority. The proposal would authorize electronic service of the notice of this hearing.

Proposed amendments to section 903.45

This section describes the process by which a county financial evaluation officer determines whether a parent must pay for the costs of care for a minor who is in the custody of the juvenile court. The statute provides that if a parent or guardian agrees to assume responsibility for certain costs, the order to pay those costs may be granted as long as a copy of the order is served on the person by mail. This proposal would authorize electronic service of this order under proposed new section 212.5.

Alternatives Considered

As an alternative, the committees considered extending AB 879's authorization of e-mail notices of hearings to juvenile delinquency hearings, without adopting electronic service in the juvenile context.

Implementation Requirements, Costs, and Operational Impacts

Implementation may require additional training and changes in court procedures in those courts that choose to allow for electronic service of notices of hearing and other documents. Because AB 879's authorization for e-mailing notices of hearings will be in place for two years before this proposal could go into effect, it is foreseeable that some courts may implement electronic notice in the interim; implementing this proposal should result in minimal implementation costs for these courts.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Are there other sections in the Welfare and Institutions Code that will require amendment in order to facilitate electronic filing or service in juvenile proceedings?
- Are there any juvenile dependency or delinquency proceedings for which this proposal recommends extending electronic service of the notice of the hearing that should remain limited to first-class mail or personal delivery?
- Should this proposal limit the persons who are authorized to obtain the consent to electronic service and file the consent with the court to parties and other persons and their attorneys?
- Is the provision requiring the use of encryption to preserve the confidentiality of electronic documents sufficient to ensure that juvenile records will be protected? Should the legislation provide more specificity on encryption? Or should more specific guidance be left for the rules?
- Is the prohibition on electronic service of psychological and medical evaluations sufficient to protect these documents from unwarranted disclosure? Are there other documents that should be included?
- Is it appropriate to limit electronic service to adults and minors who are at least 16 years old?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- How well would this proposal work in courts of different sizes?

Attachments and Link

1. Proposed amendments to the Welfare and Institutions Code, at pages 8–27
2. Link A: Assembly Bill 879 (Stats. 2015, ch. 219), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB879

Section 212.5 of the Welfare and Institutions Code would be added and sections 248, 248.5, 290.1, 290.2, 291, 292, 293, 294, 295, 297, 302, 316.1, 342, 362.4, 364.05, 366.05, 366.21, 366.26, 387, 607.2, 630, 658, 660, 661, 727.4, 777, 778, 779, 785 and 903.45, would be amended, effective January 1, 2018, to read:

- 1
2 **212.5.**
3 Unless otherwise provided by law, Section 1010.6 of the Code of Civil Procedure shall apply to
4 juvenile matters, with the following exceptions and conditions:
5 (a) Electronic service is authorized only if the county and the court choose to permit electronic
6 service.
7 (b) Electronic service on a party or other person shall be permitted only upon consent to receive
8 electronic service by the party or other person. A party or other person may withdraw prior
9 consent to electronic service. The Judicial Council shall create a form designed to implement this
10 section.
11 (c) Consent or withdrawal of prior consent to receive electronic service may be filed with the
12 court only by a party or other person entitled to service, or that person's attorney.
13 (d) If the party or other person to be served is a minor, electronic service shall be permitted only
14 upon consent by the minor and by the minor's attorney.
15 (e) Electronic service is not permitted:
16 (1) On any party or other person who is under the age of 16 years old; or
17 (2) Of a psychological or medical report of a minor.
18 (f) The party or other person shall be served both by electronic means and by other means
19 specified in the relevant statute if:
20 (1) The document to be served is the notice of hearing, or the appellate advisements required
21 pursuant to Section 366.26(1)(3)(A), for a hearing at which the social worker will recommend the
22 termination of parental rights; or
23 (2) The document to be served is a citation pursuant to Section 661, or a notice of hearing
24 pursuant to subdivision (d) of Section 777.
25 (g) If the minor is an Indian child, or the court has reason to know that an Indian child is
26 involved, service shall be provided exclusively in accordance with Section 224.2.
27 (h) Electronic service and electronic filing must be conducted in a manner that preserves and
28 ensures the confidentiality of records by encryption.

- 29
30 **248.**
31 (a) * * *
32 (b) Service, as provided in this section, shall be made as follows:
33 (1) * * *
34 (2) If paragraph (1) is not applicable, service shall be made by mail or by electronic service
35 pursuant to Section 212.5, within the time period specified in Section 248.5, to the last known
36 address of those persons or to the address designated by those persons appearing at the hearing
37 before the referee and the mailing documents served shall include, if applicable, the written
38 explanation of the right to seek review of the order. If the parent or guardian does not have a last
39 known address or electronic service address designated, then service by mail shall be to that
40 party in care of his or her counsel.
41

248.5.

All written findings and orders of the court shall be served by the clerk of the court personally, or by first-class mail, or by electronic service pursuant to Section 212.5, within three judicial days of their issuance on the petitioner, the minor or the minor's counsel, the parent or the parent's counsel, and the guardian or the guardian's counsel.

290.1.

If the probation officer or social worker determines that the child shall be retained in custody, he or she shall immediately file a petition pursuant to Section 332 with the clerk of the juvenile court, who shall set the matter for hearing on the detention hearing calendar. The probation officer or social worker shall serve notice as prescribed in this section.

~~(a)-(d) * * *~~

~~(e) Service of the notice shall be written or oral. If the person being served cannot read, notice shall be given orally. Except as provided in subdivisions (f), (g), and (h), written notice may be served by electronic mail if the county, or city and county, and the court choose to permit service by electronic mail and the person to be served has consented to service by electronic mail by signing Judicial Council Form EFS-005. Notice shall not be served electronically under this section.~~

~~(f) * * *~~

~~(g) Except as provided in subdivision (h), if notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic mail only if all of the following requirements are satisfied:~~

~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

~~(2) The child is 16 years of age or older.~~

~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-005.~~

~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing Judicial Council Form EFS-005.~~

~~(h) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic mail as well as by regular mail if all of the following requirements are satisfied:~~

~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

~~(2) The child is 14 or 15 years of age.~~

~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-005.~~

~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing Judicial Council Form EFS-005.~~

~~(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

290.2.

1 Upon the filing of a petition by a probation officer or social worker, the clerk of the juvenile
 2 court shall issue notice, to which shall be attached a copy of the petition, and he or she shall
 3 cause the same to be served as prescribed in this section.

4 (a)–(b) * * *

5 (c) Notice shall be served as follows:

6 (1) * * *

7 ~~(3) Except as provided in subdivisions (e), (f), and (g), notice may be served by electronic mail~~
 8 ~~in lieu of notice by first class mail if the county, or city and county, and the court choose to~~
 9 ~~permit service by electronic mail and the person to be served has consented to service by~~
 10 ~~electronic mail by signing Judicial Council Form EFS-005. Notice shall not be served~~
 11 ~~electronically under this section.~~

12 (d)–(e) * * *

13 ~~(f) Except as provided in subdivision (g), if notice is required to be provided to a child pursuant~~
 14 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~
 15 ~~mail only if all of the following requirements are satisfied:~~

16 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

17 ~~(2) The child is 16 years of age or older.~~

18 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
 19 ~~005.~~

20 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
 21 ~~Judicial Council Form EFS-005.~~

22 ~~(g) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~
 23 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~
 24 ~~of the following requirements are satisfied:~~

25 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

26 ~~(2) The child is 14 or 15 years of age.~~

27 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
 28 ~~005.~~

29 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
 30 ~~Judicial Council Form EFS-005.~~

31 ~~(h) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~
 32 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

34 **291.**

35 After the initial petition hearing, the clerk of the court shall cause the notice to be served in the
 36 following manner:

37 (a)–(d) * * *

38 (e) Service of the notice of the hearing shall be given in the following manner:

39 (1) If the child is detained and the persons required to be noticed are not present at the initial
 40 petition hearing, they shall be noticed by personal service or by certified mail, return receipt
 41 requested.

1 (2) If the child is detained and the persons required to be noticed are present at the initial petition
 2 hearing, they shall be noticed by personal service, ~~or by first-class mail,~~ or by electronic service
 3 pursuant to Section 212.5.

4 (3) If the child is not detained, the persons required to be noticed shall be noticed by personal
 5 service, ~~or by first-class mail,~~ or by electronic service pursuant to Section 212.5, unless the
 6 person to be served is known to reside outside the county, in which case service shall be by first-
 7 class mail or by electronic service pursuant to Section 212.5.

8 ~~Except as provided in subdivisions (g), (h), and (i), notice may be served by electronic mail in~~
 9 ~~lieu of notice by first class mail if the county, or city and county, and the court choose to permit~~
 10 ~~service by electronic mail and the person to be served has consented to service by electronic mail~~
 11 ~~by signing Judicial Council Form EFS-005.~~

12 (f)-(g) * * *

13 ~~(h) Except as provided in subdivision (i), if notice is required to be provided to a child pursuant~~
 14 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~
 15 ~~mail only if all of the following requirements are satisfied:~~

16 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

17 ~~(2) The child is 16 years of age or older.~~

18 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
 19 ~~005.~~

20 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
 21 ~~Judicial Council Form EFS-005.~~

22 ~~(i) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~
 23 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~
 24 ~~of the following requirements are satisfied:~~

25 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

26 ~~(2) The child is 14 or 15 years of age.~~

27 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
 28 ~~005.~~

29 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
 30 ~~Judicial Council Form EFS-005.~~

31 ~~(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~
 32 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

34 **292.**

35 The social worker or probation officer shall give notice of the review hearing held pursuant to
 36 Section 364 in the following manner:

37 (a)-(d) * * *

38 (e) Service of the notice shall be by personal service, by first-class mail, ~~or by certified mail,~~
 39 return receipt requested, addressed to the last known address of the person to be noticed, or by
 40 electronic service pursuant to Section 212.5. ~~Except as provided in subdivisions (f), (g), and (h),~~
 41 ~~notice may be served by electronic mail if the county, or city and county, and the court choose to~~
 42 ~~permit service by electronic mail and the person to be served has consented to service by~~
 43 ~~electronic mail by signing Judicial Council Form EFS-005.~~

1 (f) * * *

2 ~~(g) Except as provided in subdivision (h), if notice is required to be provided to a child pursuant~~
 3 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~
 4 ~~mail only if all of the following requirements are satisfied:~~

5 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

6 ~~(2) The child is 16 years of age or older.~~

7 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
 8 ~~005.~~

9 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
 10 ~~Judicial Council Form EFS-005.~~

11 ~~(h) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~
 12 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~
 13 ~~of the following requirements are satisfied:~~

14 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

15 ~~(2) The child is 14 or 15 years of age.~~

16 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
 17 ~~005.~~

18 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
 19 ~~Judicial Council Form EFS-005.~~

20 ~~(i) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~
 21 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

22
 23 **293.**

24 The social worker or probation officer shall give notice of the review hearings held pursuant to
 25 Section 366.21, 366.22, or 366.25 in the following manner:

26 ~~(a)-(d) * * *~~

27 (e) Service of the notice shall be by first-class mail addressed to the last known address of the
 28 person to be noticed, ~~or~~ by personal service on the person, or by electronic service pursuant to
 29 Section 212.5. Service of a copy of the notice shall be by personal service, ~~or~~ by certified mail,
 30 return receipt requested, by electronic service under Section 212.5, or any other form of notice
 31 that is equivalent to service by first-class mail. ~~Except as provided in subdivisions (g), (h), and~~
 32 ~~(i), notice may be served by electronic mail in lieu of notice by first-class mail if the county, or~~
 33 ~~city and county, and the court choose to permit service by electronic mail and the person to be~~
 34 ~~served has consented to service by electronic mail by signing Judicial Council Form EFS-005.~~

35 (f) * * *

36 (g) * * *

37 ~~(h) Except as provided in subdivision (i), if notice is required to be provided to a child pursuant~~
 38 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~
 39 ~~mail only if all of the following requirements are satisfied:~~

40 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

41 ~~(2) The child is 16 years of age or older.~~

42 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
 43 ~~005.~~

1 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
 2 ~~Judicial Council Form EFS-005.~~

3 ~~(i) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~
 4 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~
 5 ~~of the following requirements are satisfied:~~

6 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

7 ~~(2) The child is 14 or 15 years of age.~~

8 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
 9 ~~005.~~

10 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
 11 ~~Judicial Council Form EFS-005.~~

12 ~~(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~
 13 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

14
 15 **294.**

16 The social worker or probation officer shall give notice of a selection and implementation
 17 hearing held pursuant to Section 366.26 in the following manner:

18 ~~(a)-(d) * * *~~

19 ~~(d) Regardless of the type of notice required, or the manner in which it is served, once the court~~
 20 ~~has made the initial finding that notice has properly been given to the parent, or to any person~~
 21 ~~entitled to receive notice pursuant to this section, subsequent notice for any continuation of a~~
 22 ~~Section 366.26 hearing may be by first-class mail to any last known address, by an order made~~
 23 ~~pursuant to Section 296, by electronic service pursuant to Section 212.5, except as provided in~~
 24 ~~paragraphs (2) and (3) of subdivision (h) and subdivision (i), by electronic mail if the county, or~~
 25 ~~city and county, and the court choose to permit service by electronic mail and the person to be~~
 26 ~~served has consented to service by electronic mail by signing Judicial Council Form EFS-005, or~~
 27 ~~by any other means that the court determines is reasonably calculated, under any circumstance,~~
 28 ~~to provide notice of the continued hearing. However, if the recommendation changes from the~~
 29 ~~recommendation contained in the notice previously found to be proper, notice shall be provided~~
 30 ~~to the parent, and to any person entitled to receive notice pursuant to this section, regarding that~~
 31 ~~subsequent hearing.~~

32 ~~(e) * * *~~

33 ~~(f) Notice to the parents may be given in any one of the following manners:~~

34 ~~(1) If the parent is present at the hearing at which the court schedules a hearing pursuant to~~
 35 ~~Section 366.26, the court shall advise the parent of the date, time, and place of the proceedings,~~
 36 ~~their right to counsel, the nature of the proceedings, and the requirement that at the proceedings~~
 37 ~~the court shall select and implement a plan of adoption, legal guardianship, or long-term foster~~
 38 ~~care for the child. The court shall direct the parent to appear for the proceedings and then direct~~
 39 ~~that the parent be notified thereafter only by first-class mail to the parent's usual place of~~
 40 ~~residence or business only or by electronic service pursuant to Section 212.5. In lieu of notice by~~
 41 ~~first class mail, notice may be served by electronic mail if the county, or city and county, and the~~
 42 ~~court choose to permit service by electronic mail and the person to be served has consented to~~
 43 ~~service by electronic mail by signing Judicial Council Form EFS-005.~~

1 (2)–(3) * * *

2 (4) Delivery to a competent person who is at least 18 years of age at the parent’s usual place of
3 residence or business, and thereafter ~~mailed to~~ served on the parent named in the notice by first-
4 class mail at the place where the notice was delivered or by electronic service pursuant to Section
5 212.5.

6 (5) If the residence of the parent is outside the state, service may be made as described in
7 paragraph (1), (3), or (4) or by certified mail, return receipt requested.

8 (6) If the recommendation of the probation officer or social worker is legal guardianship or long-
9 term foster care, service may be made by first-class mail to the parent’s usual place of residence
10 or business or by electronic service pursuant to Section 212.5. ~~or, i~~ In the case of an Indian child,
11 tribal customary adoption, service may be made by first-class mail to the parent’s usual place of
12 residence or business. ~~In lieu of notice by first class mail, notice may be serviced by electronic~~
13 ~~mail if the county, or city and county, and the court choose to permit service by electronic mail~~
14 ~~and the person to be served has consented to service by electronic mail by signing Judicial~~
15 ~~Council Form EFS-005.~~

16 (7) If a parent’s identity is known but his or her whereabouts are unknown and the parent cannot,
17 with reasonable diligence, be served in any manner specified in paragraphs (1) to (6), inclusive,
18 the petitioner shall file an affidavit with the court at least 75 days before the hearing date, stating
19 the name of the parent and describing the efforts made to locate and serve the parent.

20 (A) If the court determines that there has been due diligence in attempting to locate and serve the
21 parent and the probation officer or social worker recommends adoption, service shall be to that
22 parent’s attorney of record, if any, by certified mail, return receipt requested. If the parent does
23 not have an attorney of record, the court shall order that service be made by publication of
24 citation requiring the parent to appear at the date, time, and place stated in the citation, and that
25 the citation be published in a newspaper designated as most likely to give notice to the parent.
26 Publication shall be made once a week for four consecutive weeks. Whether notice is to the
27 attorney of record or by publication, the court shall also order that notice be given to the
28 grandparents of the child, if their identities and addresses are known, by first-class mail or by
29 electronic service pursuant to Section 212.5.

30 (B) If the court determines that there has been due diligence in attempting to locate and serve the
31 parent and the probation officer or social worker recommends legal guardianship or long-term
32 foster care, no further notice is required to the parent, but the court shall order that notice be
33 given to the grandparents of the child, if their identities and addresses are known, by first-class
34 mail or by electronic service pursuant to Section 212.5.

35 (C) * * *

36 (g)(1) * * *

37 (h) (1) Notice to all counsel of record shall be by first-class mail; or by electronic service
38 pursuant to Section 212.5. ~~by electronic mail if the county, or city and county, and the court~~
39 ~~choose to permit service by electronic mail and the person to be served has consented to service~~
40 ~~by electronic mail by signing Judicial Council Form EFS-005.~~

41 (2) ~~Except as provided in paragraph (3), if notice is required to be provided to a child, written~~
42 ~~notice may be served on the child by electronic mail only if all of the following requirements are~~
43 ~~satisfied:~~

1 ~~(A) The county, or city and county, and the court choose to permit service by electronic mail.~~

2 ~~(B) The child is 16 years of age or older.~~

3 ~~(C) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
4 ~~005.~~

5 ~~(D) The attorney for the child has consented to service of the minor by electronic mail by signing~~
6 ~~Judicial Council Form EFS-005.~~

7 ~~(3) If notice is required to be provided to a child, written notice may be served on the child by~~
8 ~~electronic mail as well as by regular mail if all of the following requirements are satisfied:~~

9 ~~(A) The county, or city and county, and the court choose to permit service by electronic mail.~~

10 ~~(B) The child is 14 or 15 years of age.~~

11 ~~(C) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
12 ~~005.~~

13 ~~(D) The attorney for the child has consented to service of the minor by electronic mail by signing~~
14 ~~Judicial Council Form EFS-005.~~

15 ~~(i)-(l) * * *~~

16 ~~(m) Notwithstanding any choice by a county, or city and county, and the court to permit service~~
17 ~~of written notice of court proceedings by electronic mail, or consent by any person to service of~~
18 ~~written notice by electronic mail by signing Judicial Council Form EFS-005, notice of any~~
19 ~~hearing at which the county welfare department is recommending the termination of parental~~
20 ~~rights may only be served electronically by electronic mail only if notice is also given by another~~
21 ~~means of service provided for in this section.~~

22 ~~(n) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~
23 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

24
25 **295.**

26 The social worker or probation officer shall give notice of review hearings held pursuant to
27 Sections 366.3 and 366.31 and for termination of jurisdiction hearings held pursuant to Section
28 391 in the following manner:

29 ~~(a)-(d) * * *~~

30 ~~(e) Service of notice shall be by first-class mail addressed to the last known address of the person~~
31 ~~to be provided notice or by electronic service pursuant to Section 212.5. Except as provided in~~
32 ~~subdivisions (g), (h), and (i), notice may be served by electronic mail in lieu of notice by first-~~
33 ~~class mail if the county, or city and county, and the court choose to permit service by electronic~~
34 ~~mail and the person to be served has consented to service by electronic mail by signing Judicial~~
35 ~~Council Form EFS-005. In the case of an Indian child, notice shall be by registered mail, return~~
36 ~~receipt requested.~~

37 ~~(f)-(g) * * *~~

38 ~~(h) Except as provided in subdivision (i), if notice is required to be provided to a child pursuant~~
39 ~~to paragraph (4) or (5) of subdivision (a), written notice may be served on the child by electronic~~
40 ~~mail only if all of the following requirements are satisfied:~~

41 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

42 ~~(2) The child is 16 years of age or older.~~

1 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
2 ~~005.~~

3 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
4 ~~Judicial Council Form EFS-005.~~

5 ~~(i) If notice is required to be provided to a child pursuant to paragraph (4) or (5) of subdivision~~
6 ~~(a), written notice may be served on the child by electronic mail as well as by regular mail if all~~
7 ~~of the following requirements are satisfied:~~

8 ~~(1) The county, or city and county, and the court choose to permit service by electronic mail.~~

9 ~~(2) The child is 14 or 15 years of age.~~

10 ~~(3) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
11 ~~005.~~

12 ~~(4) The attorney for the child has consented to service of the minor by electronic mail by signing~~
13 ~~Judicial Council Form EFS-005.~~

14 ~~(j) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~
15 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

16
17 **297.**

18 ~~(a) Notice required for an initial petition filed pursuant to Section 300 is applicable to a~~
19 ~~subsequent petition filed pursuant to Section 342. A subsequent petition filed pursuant to Section~~
20 ~~342 shall be noticed pursuant to Sections 290.1 and 290.2, except that service may be electronic~~
21 ~~service pursuant to Section 212.5.~~

22 (b) Upon the filing of a supplemental petition pursuant to Section 387, the clerk of the juvenile
23 court shall immediately set the matter for hearing within 30 days of the date of the filing, and the
24 social worker or probation officer shall cause notice thereof to be served upon the persons
25 required by, and in the manner prescribed by, Sections 290.1, 290.2, and 291, except that service
26 may be electronic service pursuant to Section 212.5.

27 ~~(c)-(d) * * *~~

28
29 **302.**

30 (a) * * *

31 (b) Unless their parental rights have been terminated, both parents shall be notified of all
32 proceedings involving the child. In any case where the social worker is required to provide a
33 parent or guardian with notice of a proceeding at which the social worker intends to present a
34 report, the social worker shall also provide both parents, whether custodial or noncustodial, or
35 any guardian, or the counsel for the parent or guardian a copy of the report prior to the
36 hearing, ~~either personally by personal service, or by first-class mail, or by electronic service~~
37 pursuant to Section 212.5. The social worker shall not charge any fee for providing a copy of a
38 report required by this subdivision. The social worker shall keep confidential the address of any
39 parent who is known to be the victim of domestic violence.

40 ~~(c)-(d) * * *~~

41
42 **316.1.**

43 (a)(1) * * *

1 ~~(2) Except as provided in subdivisions (b) and (c), in addition to providing his or her permanent~~
2 ~~mailing address, the court may, if the county, or city and county, and the court choose to permit~~
3 ~~service by electronic mail, permit any party who is entitled to notice of court proceedings, upon~~
4 ~~his or her consent to service by electronic mail by signing Judicial Council Form EFS-005, to~~
5 ~~voluntarily provide the court with a designated electronic mail address for the purpose of~~
6 ~~receiving notice by electronic mail. Upon his or her appearance before the court, each party who~~
7 ~~consents to electronic service pursuant to Section 212.5 by electronic mail shall designate for the~~
8 ~~court his or her electronic mail service address. The court shall advise each party that the~~
9 ~~electronic mail service address will be used by the court and the social services agency for~~
10 ~~purposes of providing notice pursuant to Sections 290.1, 290.2, 291, 292, 293, 294, 295, 297,~~
11 ~~and 342, unless and until the party notifies the court or the social services agency of a new~~
12 ~~electronic mail service address in writing or unless the party withdraws consent to electronic~~
13 ~~service.~~

14 ~~(b) Except as provided in subdivision (c), the court may permit a child who appears before the~~
15 ~~court and who is entitled to notice of court proceedings to voluntarily provide the court with a~~
16 ~~designated electronic mail address for the purpose of receiving notice by electronic mail only~~
17 ~~under the following circumstances:~~

18 ~~(1) If the child is 16 years of age or older, notice shall be served by first class mail, or if all of the~~
19 ~~following requirements are satisfied, by electronic mail:~~

20 ~~(A) The county, or city and county, and the court choose to permit service by electronic mail.~~
21 ~~(B) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
22 ~~005.~~

23 ~~(C) The attorney for the child has consented to service of the minor by electronic mail by signing~~
24 ~~Judicial Council Form EFS-005.~~

25 ~~(2) If the child is 14 or 15 years of age, written notice may be served on the child by electronic~~
26 ~~mail as well as by regular mail if all of the following requirements are satisfied:~~

27 ~~(A) The county, or city and county, and the court choose to permit service by electronic mail.~~
28 ~~(B) The child has consented to service by electronic mail by signing Judicial Council Form EFS-~~
29 ~~005.~~

30 ~~(C) The attorney for the child has consented to service of the minor by electronic mail by signing~~
31 ~~Judicial Council Form EFS-005.~~

32 ~~(c) Notice of court proceedings by electronic mail is not permitted in any of the following~~
33 ~~circumstances:~~

34 ~~(1) For notice of any hearing at which the county welfare department is recommending~~
35 ~~termination of parental rights, in which case notice may only be served by electronic mail if~~
36 ~~supplemental and in addition to first class mail.~~

37 ~~(2) If the social worker or probation officer knows or has reason to know that an Indian child is~~
38 ~~involved, in which case notice shall be given in accordance with Section 224.2.~~

39 ~~(3) If the person entitled to notice is a child under 14 years of age.~~

40 ~~(d) The Judicial Council may develop a form for the designation of a permanent mailing address~~
41 ~~by parents and guardians for use by the courts and social services agencies.~~

42 ~~(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed,~~
43 ~~unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.~~

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342.

In any case in which a minor has been found to be a person described by Section 300 and the petitioner alleges new facts or circumstances, other than those under which the original petition was sustained, sufficient to state that the minor is a person described in Section 300, the petitioner shall file a subsequent petition. This section does not apply if the jurisdiction of the juvenile court has been terminated prior to the new allegations.

Unless otherwise provided by law, all procedures and hearings required for an original petition are applicable to a subsequent petition filed under this section.

362.4

When the juvenile court terminates its jurisdiction over a minor who has been adjudged a dependent child of the juvenile court prior to the minor's attainment of the age of 18 years, and proceedings for dissolution of marriage, for nullity of marriage, or for legal separation, of the minor's parents, or proceedings to establish the paternity of the minor child brought under the Uniform Parentage Act, Part 3 (commencing with Section 7600) of Division 12 of the Family Code, are pending in the superior court of any county, or an order has been entered with regard to the custody of that minor, the juvenile court on its own motion, may issue a protective order as provided for in Section 213.5 or as defined in Section 6218 of the Family Code, and an order determining the custody of, or visitation with, the child.

Any order issued pursuant to this section shall continue until modified or terminated by a subsequent order of the superior court. The order of the juvenile court shall be filed in the proceeding for nullity, dissolution, or legal separation, or in the proceeding to establish paternity, at the time the juvenile court terminates its jurisdiction over the minor, and shall become a part thereof.

If no action is filed or pending relating to the custody of the minor in the superior court of any county, the juvenile court order may be used as the sole basis for opening a file in the superior court of the county in which the parent, who has been given custody, resides. The court may direct the parent or the clerk of the juvenile court to transmit the order to the clerk of the superior court of the county in which the order is to be filed. The clerk of the superior court shall, immediately upon receipt, open a file, without a filing fee, and assign a case number.

The clerk of the superior court shall, upon the filing of any juvenile court custody order, send a copy of the order with the case number by first-class mail or by electronic means pursuant to Section 212.5 ~~a copy of the order with the case number~~ to the juvenile court and to the parents at the address listed on the order. The Judicial Council shall adopt forms for any custody or restraining order issued under this section. These form orders shall not be confidential.

364.05.

Notwithstanding Section 364, in a county of the first class, a copy of the report required pursuant to subdivision (b) of Section 364 shall be provided to all parties at least 10 calendar days prior to the hearing. This may be accomplished by mailing or electronically serving pursuant to Section 212.5 the report at least 15 calendar days prior to the hearing to a party whose address is within the State of California, or at least 20 calendar days prior to the hearing to a party whose address

1 is outside the State of California. The court shall grant a reasonable continuance, not to exceed
2 10 calendar days, upon request by any party or his or her counsel on the ground that the report
3 was not provided at least 10 calendar days prior to the hearing as required by this section, unless
4 the party or his or her counsel has expressly waived the requirement that the report be provided
5 within the 10-day period or the court finds that the party's ability to proceed at the hearing is not
6 prejudiced by the lack of timely service of the report. In making this determination, the court
7 shall presume that a party is prejudiced by the lack of timely service of the report, and may find
8 that the party is not prejudiced only by clear and convincing evidence to the contrary.

9
10 **366.05.**

11 Notwithstanding subdivision (c) of Section 366.21, in a county of the first class, any
12 supplemental report filed in connection with a status review hearing held pursuant to subdivision
13 (a) of Section 366 shall be provided to the parent or legal guardian and to counsel for the child at
14 least 10 calendar days prior to the hearing. This may be accomplished by mailing or
15 electronically serving pursuant to Section 212.5 the report at least 15 calendar days prior to the
16 hearing to a party whose address is within the State of California, or at least 20 calendar days
17 prior to the hearing to a party whose address is outside the State of California. The court shall
18 grant a reasonable continuance, not to exceed 10 calendar days, upon request by any party or his
19 or her counsel on the ground that the report was not provided at least 10 calendar days prior to
20 the hearing as required by this section, unless the party or his or her counsel has expressly
21 waived the requirement that the report be provided within the 10-day period or the court finds
22 that the party's ability to proceed at the hearing is not prejudiced by the lack of timely service of
23 the report. In making this determination, the court shall presume that a party is prejudiced by the
24 lack of timely service of the report, and may find that the party is not prejudiced only by clear
25 and convincing evidence to the contrary.

26
27 **366.21.**

28 (a)-(b) * * *

29 (c) At least 10 calendar days prior to the hearing, the social worker shall file a supplemental
30 report with the court regarding the services provided or offered to the parent or legal guardian to
31 enable him or her to assume custody and the efforts made to achieve legal permanence for the
32 child if efforts to reunify fail, including, but not limited to, efforts to maintain relationships
33 between a child who is 10 years of age or older and has been in out-of-home placement for six
34 months or longer and individuals who are important to the child, consistent with the child's best
35 interests; the progress made; and, where relevant, the prognosis for return of the child to the
36 physical custody of his or her parent or legal guardian; and shall make his or her
37 recommendation for disposition. If the child is a member of a sibling group described in
38 subparagraph (C) of paragraph (1) of subdivision (a) of Section 361.5, the report and
39 recommendation may also take into account those factors described in subdivision (e) relating to
40 the child's sibling group. If the recommendation is not to return the child to a parent or legal
41 guardian, the report shall specify why the return of the child would be detrimental to the child.
42 The social worker shall provide the parent or legal guardian, counsel for the child, and any court-
43 appointed child advocate with a copy of the report, including his or her recommendation for

1 disposition, at least 10 calendar days prior to the hearing. The report may be served
 2 electronically pursuant to Section 212.5. In the case of a child removed from the physical
 3 custody of his or her parent or legal guardian, the social worker shall, at least 10 calendar days
 4 prior to the hearing, provide a summary of his or her recommendation for disposition to any
 5 foster parents, relative caregivers, and certified foster parents who have been approved for
 6 adoption by the State Department of Social Services when it is acting as an adoption agency or
 7 by a county adoption agency, community care facility, or foster family agency having the
 8 physical custody of the child. The social worker shall include a copy of the Judicial Council
 9 Caregiver Information Form (JV-290) with the summary of recommendations to the child's
 10 foster parents, relative caregivers, or foster parents approved for adoption, in the caregiver's
 11 primary language when available, along with information on how to file the form with the
 12 court. The summary of the recommendation may be served electronically pursuant to Section
 13 212.5.

14 (d)-(l) * * *

15
 16 **366.26.**

17 (a)-(k) * * *

18 (l)(1)-(2) * * *

19 (3) The Judicial Council shall adopt rules of court, effective January 1, 1995, to ensure all of the
 20 following:

21 (A) A trial court, after issuance of an order directing a hearing pursuant to this section be held,
 22 shall advise all parties of the requirement of filing a petition for extraordinary writ review as set
 23 forth in this subdivision in order to preserve any right to appeal in these issues. This notice shall
 24 be made orally to a party if the party is present at the time of the making of the order. ~~or~~ If the
 25 party is not present at the time of making the order, this notice shall be made by the clerk of the
 26 court by first-class mail by the clerk of the court to the last known address of a party not present
 27 at the time of making the order or by electronic service pursuant to Section 212.5. If the notice is
 28 for a hearing at which the social worker will recommend the termination of parental rights,
 29 service may be electronic service only in addition to service by first-class mail.

30 (B)-(D) * * *

31 (4) * * *

32 (5) This subdivision shall only apply to cases in which an order to set a hearing pursuant to this
 33 section is issued on or after January 1, 1995.

34 (m)-(n) * * *

35
 36 **387.**

37 (a)-(c) * * *

38 (d) Upon the filing of the supplemental petition, the clerk of the juvenile court shall immediately
 39 set the same for hearing within 30 days, and the social worker shall cause notice thereof to be
 40 served upon the persons and in the manner prescribed by Sections 290.1 and 291, except that
 41 service under this subdivision may be electronic service pursuant to Section 212.5.

42 (e) * * *

43

1 **607.2**

2 (a) On and after January 1, 2012, the court shall hold a hearing prior to terminating jurisdiction
3 over a ward who satisfies any of the following criteria:

4 (1)–(3) * * *

5 (4) Service of the notice of hearing may be electronic service pursuant to Section 212.5

6 (b) At a hearing during which termination of jurisdiction over a ward described in subdivision (a)
7 is being considered, the court shall take one of the following actions:

8 (1) * * *

9 (2)(A) * * *

10 (B) The court shall set a hearing within 20 judicial days of the date of the order described in
11 subparagraph (A) to review the child welfare services department's decision and may either
12 affirm its decision not to file a petition pursuant to Section 300 or order the child welfare
13 services department to file a petition pursuant to Section 300. Service of the notice of hearing
14 may be electronic service pursuant to Section 212.5

15 (3)–(6) * * *

16 (c)–(d) * * *

17

18 **630.**

19 (a) If the probation officer determines that the minor shall be retained in custody, he shall
20 immediately proceed in accordance with Article 16 (commencing with Section 650) to cause the
21 filing of a petition pursuant to Section 656 with the clerk of the juvenile court who shall set the
22 matter for hearing on the detention calendar. Immediately upon filing the petition with the clerk
23 of the juvenile court, if the minor is alleged to be a person described in Section 601 or 602, the
24 probation officer or the prosecuting attorney, as the case may be, shall serve such minor with a
25 copy of the petition and notify him of the time and place of the detention hearing. The probation
26 officer, or the prosecuting attorney, as the case may be, shall thereupon notify each parent or
27 each guardian of the minor of the time and place of such hearing if the whereabouts of each
28 parent or guardian can be ascertained by due diligence. Such notice may be given orally. Service
29 under this subdivision shall not be made electronically.

30 (b) * * *

31

32 **658.**

33 (a) Except as provided in subdivision (b), upon the filing of the petition, the clerk of the juvenile
34 court shall issue a notice, to which shall be attached a copy of the petition, and he or she shall
35 cause the same to be served upon the minor, if the minor is eight or more years of age, and upon
36 each of the persons described in subdivision (e) of Section 656 whose residence addresses are set
37 forth in the petition and thereafter before the hearing upon all persons whose residence addresses
38 become known to the clerk. If the court has ordered the care, custody, and control of the minor to
39 be under the supervision of the probation officer for foster care placement pursuant to
40 subdivision (a) of Section 727, the clerk shall also issue a copy of that notice to any foster
41 parents, preadoptive parents, legal guardians or relatives providing care to the minor. The clerk
42 shall issue a copy of the petition, to the minor's attorney and to the district attorney, if the district

1 attorney has notified the clerk of the court that he or she wishes to receive the petition,
 2 containing the time, date, and place of the hearing. Service under this subdivision may be
 3 electronic service pursuant to Section 212.5 except that electronic service is not authorized if the
 4 minor is detained and those persons entitled to notice are not present at the initial detention
 5 hearing.

6 (b) Upon the filing of a supplemental petition where the minor has been declared a ward of the
 7 court or a probationer under Section 602 in the original matter, the clerk of the juvenile court
 8 shall issue a notice, to which shall be attached a copy of the petition, and he or she shall cause
 9 the notice to be served upon the minor, if the minor is eight or more years of age, and upon each
 10 of the persons described in subdivision (e) of Section 656 whose residence addresses are set forth
 11 in the supplemental petition and thereafter known to the clerk. The clerk shall issue a copy of the
 12 supplemental petition to the minor's attorney, and to the district attorney if the probation officer
 13 is the petitioner, or, to the probation officer if the district attorney is the petitioner, containing the
 14 time, date, and place of the hearing. If the court has ordered the care, custody, and control of the
 15 minor to be under the supervision of the probation officer for foster care placement pursuant to
 16 subdivision (a) of Section 727, the clerk shall also issue a copy of that notice to any foster
 17 parents, preadoptive parents, legal guardians, or relatives providing care to the minor. Service
 18 under this subdivision may be electronic service pursuant to Section 212.5.

19
 20 **660.**

21 (a) Except as provided in subdivision (b), if the minor is detained, the clerk of the juvenile court
 22 shall cause the notice and copy of the petition to be served on all persons required to receive that
 23 notice and copy of the petition pursuant to subdivision (e) of Section 656 and Section 658, either
 24 personally or by certified mail with request for return receipt, as soon as possible after filing of
 25 the petition and at least five days prior to the time set for hearing, unless the hearing is set less
 26 than five days from the filing of the petition, in which case, the notice and copy of the petition
 27 shall be served at least 24 hours prior to the time set for hearing. Service under this subdivision
 28 shall not be made electronically.

29 (b) If the minor is detained, and all persons entitled to notice pursuant to subdivision (e) of
 30 Section 656 and Section 658 were present at the detention hearing, the clerk of the juvenile court
 31 shall cause the notice and copy of the petition to be served on all persons required to receive the
 32 notice and copy of the petition, ~~either personally by personal service, or~~ by first-class mail, or by
 33 electronic service pursuant to Section 212.5, as soon as possible after the filing of the petition
 34 and at least five days prior to the time set for hearing, unless the hearing is set less than five days
 35 from the filing of the petition, in which case the notice and copy of the petition shall be served at
 36 least 24 hours prior to the time set for the hearing. Service under this subdivision may be
 37 electronic service pursuant to Section 212.5 except that electronic service is not authorized if the
 38 minor is detained and those persons entitled to notice are not present at the detention hearing.

39 (c) If the minor is not detained, the clerk of the juvenile court shall cause the notice and copy of
 40 the petition to be served on all persons required to receive the notice and copy of the
 41 petition, ~~either personally by personal service, or~~ by first-class mail, or by electronic service
 42 pursuant to Section 212.5, at least 10 days prior to the time set for hearing. If that person is
 43 known to reside outside of the county, the clerk of the juvenile court shall ~~mail~~ serve the notice

1 and copy of the petition, by first-class mail or by electronic service pursuant to Section 212.5, to
 2 that person, as soon as possible after the filing of the petition and at least 10 days before the time
 3 set for hearing. Failure to respond to the notice shall in no way result in arrest or detention. In the
 4 instance of failure to appear after notice by first-class mail or electronic service, the court shall
 5 direct that the notice and copy of the petition is to be personally served on all persons required to
 6 receive the notice and a copy of the petition. However, if the whereabouts of the minor are
 7 unknown, personal service of the notice and a copy of the petition is not required and a warrant
 8 for the arrest of the minor may be issued pursuant to Section 663. Personal service of the notice
 9 and copy of the petition outside of the county at least 10 days before the time set for hearing is
 10 equivalent to service by first-class mail or electronic service. Service may be waived by any
 11 person by a voluntary appearance entered in the minutes of the court or by a written waiver of
 12 service filed with the clerk of the court at or prior to the hearing.

13 (d) * * *

14
 15 **661.**

16 In addition to the notice provided in Sections 658 and 659, the juvenile court may issue its
 17 citation directing any parent, guardian, or foster parent of the person concerning whom a petition
 18 has been filed to appear at the time and place set for any hearing or financial evaluation under the
 19 provisions of this chapter, including a hearing under the provisions of Section 257, and directing
 20 any person having custody or control of the minor concerning whom the petition has been filed
 21 to bring the minor with him or her. The notice shall in addition state that a parent, guardian, or
 22 foster parent may be required to participate in a counseling or education program with the minor
 23 concerning whom the petition has been filed. If the proceeding is one alleging that the minor
 24 comes within the provisions of Section 601, the notice shall in addition contain notice to the
 25 parent, guardian, or other person having control or charge of the minor that failure to comply
 26 with the compulsory school attendance laws is an infraction, which may be charged and
 27 prosecuted before the juvenile court judge sitting as a superior court judge. In those cases, the
 28 notice shall also include notice that the parent, guardian, or other person having control or charge
 29 of the minor has the right to a hearing on the infraction before a judge different than the judge
 30 who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the
 31 provisions of Section 170.6 of the Code of Civil Procedure. Personal service of the citation shall
 32 be made at least 24 hours before the time stated therein for the appearance. Service under this
 33 section may be electronic service only in addition to other forms of service required by law.

34
 35 **727.4.**

36 (a)(1) Notice of any hearing pursuant to Section 727, 727.2, or 727.3 shall be ~~mailed~~ served by
 37 the probation officer to the minor, the minor's parent or guardian, any adult provider of care to
 38 the minor including, but not limited to, foster parents, relative caregivers, preadoptive parents,
 39 community care facility, or foster family agency, and to the counsel of record if the counsel of
 40 record was not present at the time that the hearing was set by the court, by first-class
 41 mail addressed to the last known address of the person to be notified, ~~or shall be personally~~
 42 served by personal service on those persons, or by electronic service pursuant to Section 212.5,
 43 not earlier than 30 days nor later than 15 days preceding the date of the hearing. The notice shall

1 contain a statement regarding the nature of the status review or permanency planning hearing and
 2 any change in the custody or status of the minor being recommended by the probation
 3 department. The notice shall also include a statement informing the foster parents, relative
 4 caregivers, or preadoptive parents that he or she may attend all hearings or may submit any
 5 information he or she deems relevant to the court in writing. The foster parents, relative
 6 caregiver, and preadoptive parents are entitled to notice and opportunity to be heard but need not
 7 be made parties to the proceedings. Proof of notice shall be filed with the court.

8 (2) * * *

9 (b)–(d) * * *

10
 11 **777.**

12 An order changing or modifying a previous order by removing a minor from the physical
 13 custody of a parent, guardian, relative, or friend and directing placement in a foster home, or
 14 commitment to a private institution or commitment to a county institution, or an order changing
 15 or modifying a previous order by directing commitment to the Youth Authority shall be made
 16 only after a noticed hearing.

17 (a) * * *

18 (b) Upon the filing of such notice, the clerk of the juvenile court shall immediately set the same
 19 for hearing within 30 days, and the probation officer shall cause notice of it to be served upon the
 20 persons and in the manner prescribed by Sections 658 and 660. Service under this subdivision
 21 may be electronic service pursuant to Section 212.5.

22 (c) * * *

23 (d) An order for the detention of the minor pending adjudication of the alleged violation may be
 24 made only after a hearing is conducted pursuant to Article 15 (commencing with Section 625) of
 25 this chapter. Service under this subdivision may be electronic service only in addition to other
 26 forms of service required by law.

27
 28 **778.**

29 (a)(1) * * *

30 (2) If it appears that the best interests of the child may be promoted by the proposed change of
 31 order or termination of jurisdiction, the court shall order that a hearing be held and shall give
 32 prior notice, or cause prior notice to be given, to such persons and by such means as prescribed
 33 by Sections 776 and 779, by electronic service pursuant to Section 212.5, and, in such instances
 34 as the means of giving notice is not prescribed by such sections, then by such means as the court
 35 prescribes.

36 (b)(1)–(4) * * *

37
 38 **779.**

39 The court committing a ward to the Youth Authority may thereafter change, modify, or set aside
 40 the order of commitment. Ten days' notice of the hearing of the application therefor shall be
 41 served ~~by United States mail~~ upon the Director of the Youth Authority. In changing, modifying,
 42 or setting aside the order of commitment, the court shall give due consideration to the effect

1 thereof upon the discipline and parole system of the Youth Authority or of the correctional
2 school in which the ward may have been placed by the Youth Authority. Except as provided in
3 this section, nothing in this chapter shall be deemed to interfere with the system of parole and
4 discharge now or hereafter established by law, or by rule of the Youth Authority, for the parole
5 and discharge of wards of the juvenile court committed to the Youth Authority, or with the
6 management of any school, institution, or facility under the jurisdiction of the Youth Authority.
7 Except as provided in this section, this chapter does not interfere with the system of transfer
8 between institutions and facilities under the jurisdiction of the Youth Authority. This section
9 does not limit the authority of the court to change, modify, or set aside an order of commitment
10 after a noticed hearing and upon a showing of good cause that the Youth Authority is unable to,
11 or failing to, provide treatment consistent with Section 734.

12 However, before any inmate of a correctional school may be transferred to a state hospital, he or
13 she shall first be returned to a court of competent jurisdiction and, after hearing, may be
14 committed to a state hospital for the insane in accordance with law.

15
16 **785.**

17 (a) Where a minor is a ward of the juvenile court, the wardship did not result in the minor's
18 commitment to the Youth Authority, and the minor is found not to be a fit and proper subject to
19 be dealt with under the juvenile court law with respect to a subsequent allegation of criminal
20 conduct, any parent or other person having an interest in the minor, or the minor, through a
21 properly appointed guardian, the prosecuting attorney, or probation officer, may petition the
22 court in the same action in which the minor was found to be a ward of the juvenile court for a
23 hearing for an order to terminate or modify the jurisdiction of the juvenile court. The court shall
24 order that a hearing be held and shall give prior notice, or cause prior notice to be given, to those
25 persons and by the means prescribed by Sections 776 and 779, by electronic service pursuant to
26 Section 212.5, or where the means of giving notice is not prescribed by those sections, then by
27 such means as the court prescribes.

28 (b)-(d) * * *

29
30 **903.45.**

31 (a) * * *

32 (b) In a county where a board of supervisors has designated a county financial evaluation officer,
33 the juvenile court shall, at the close of the disposition hearing, order any person liable for the
34 cost of support, pursuant to Section 903, the cost of legal services as provided for in Section
35 903.1, probation costs as provided for in Section 903.2, or any other reimbursable costs allowed
36 under this code, to appear before the county financial evaluation officer for a financial evaluation
37 of his or her ability to pay those costs. If the responsible person is not present at the disposition
38 hearing, the court shall cite him or her to appear for a financial evaluation. In the case of a
39 parent, guardian, or other person assessed for the costs of transport, food, shelter, or care of a
40 minor under Section 207.2 or 903.25, the juvenile court shall, upon request of the county
41 probation department, order the appearance of the parent, guardian, or other person before the
42 county financial evaluation officer for a financial evaluation of his or her ability to pay the costs
43 assessed.

1 If the county financial evaluation officer determines that a person so responsible has the ability
2 to pay all or part of the costs, the county financial evaluation officer shall petition the court for
3 an order requiring the person to pay that sum to the county or court, depending on which entity
4 incurred the expense. If the parent or guardian is liable for costs for legal services pursuant to
5 Section 903.1, the parent or guardian has been reunified with the child pursuant to a court order,
6 and the county financial evaluation officer determines that repayment of the costs would harm
7 the ability of the parent or guardian to support the child, then the county financial evaluation
8 officer shall not petition the court for an order of repayment, and the court shall not make that
9 order. In addition, if the parent or guardian is currently receiving reunification services, and the
10 court finds, or the county financial officer determines, that repayment by the parent or guardian
11 will pose a barrier to reunification with the child because it will limit the ability of the parent or
12 guardian to comply with the requirements of the reunification plan or compromise the parent's or
13 guardian's current or future ability to meet the financial needs of the child, or in any case in
14 which the court finds that the repayment would be unjust under the circumstances of the case,
15 then the county financial evaluation officer shall not petition the court for an order of repayment,
16 and the court shall not order repayment by the parent or guardian. In evaluating a person's ability
17 to pay under this section, the county financial evaluation officer and the court shall take into
18 consideration the family's income, the necessary obligations of the family, and the number of
19 persons dependent upon this income. A person appearing for a financial evaluation has the right
20 to dispute the county financial evaluation officer's determination, in which case he or she is
21 entitled to a hearing before the juvenile court. The county financial evaluation officer, at the time
22 of the financial evaluation, shall advise the person of his or her right to a hearing and of his or
23 her rights pursuant to subdivision (c).

24 At the hearing, a person responsible for costs is entitled to have, but shall not be limited to, the
25 opportunity to be heard in person, to present witnesses and other documentary evidence, to
26 confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her,
27 and to receive a written statement of the findings of the court. The person has the right to be
28 represented by counsel, and, if the person is unable to afford counsel, the right to appointed
29 counsel. If the court determines that the person has the ability to pay all or part of the costs,
30 including the costs of any counsel appointed to represent the person at the hearing, the court shall
31 set the amount to be reimbursed and order him or her to pay that sum to the county or court,
32 depending on which entity incurred the expense, in a manner in which the court believes
33 reasonable and compatible with the person's financial ability.

34 If the person, after having been ordered to appear before the county financial evaluation officer,
35 has been given proper notice and fails to appear as ordered, the county financial evaluation
36 officer shall recommend to the court that the person be ordered to pay the full amount of the
37 costs. Proper notice to the person shall contain all of the following:

38 (1)-(3) * * *

39 (4) A warning that if the person fails to appear before the county financial evaluation officer, the
40 officer will recommend that the court order the person to pay the costs in full.

41 If the county financial evaluation officer determines that the person has the ability to pay all or a
42 portion of these costs, with or without terms, and the person concurs in this determination and
43 agrees to the terms of payment, the county financial evaluation officer, upon his or her written

1 evaluation and the person's written agreement, shall petition the court for an order requiring the
2 person to pay that sum to the county or the court in a manner that is reasonable and compatible
3 with the person's financial ability. This order may be granted without further notice to the
4 person, provided a copy of the order is served on the person by mail or by electronic means
5 pursuant to section 212.5.
6 However, if the county financial evaluation officer cannot reach an agreement with the person
7 with respect to either the liability for the costs, the amount of the costs, the person's ability to
8 pay the costs, or the terms of payment, the matter shall be deemed in dispute and referred by the
9 county financial evaluation officer back to the court for a hearing.
10 (c)-(d) * * *

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR16-__

<p>Title Criminal Procedure: Application of Code of Civil Procedure section 1010.6(a) and (b) to Criminal Actions</p> <p>Proposed Rules, Forms, Standards, or Statutes Add Penal Code section ____</p> <p>Proposed by Criminal Law Advisory Committee Hon. Tricia Ann Bigelow, Chair</p> <p>Information Technology Advisory Committee Hon. Terence L. Bruiniers, Chair</p>	<p>Action Requested Review and submit comments by June 14, 2016</p> <p>Proposed Effective Date January 1, 2018</p> <p>Contact Kimberly DaSilva, (415) 865-4534 kimberly.dasilva@jud.ca.gov</p> <p>Tara Lundstrom, (415) 865-7650 tara.lundstrom@jud.ca.gov</p>
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Executive Summary and Origin

The Information Technology Advisory Committee (ITAC) is leading a modernization project to amend the statutes and California Rules of Court to facilitate electronic filing and service and to foster modern e-business practices. This proposal, developed jointly by ITAC and the Criminal Law Advisory Committee, would provide express authority for permissive electronic filing and service in criminal proceedings by adding a statute to the Penal Code applying the electronic filing and service provisions of Code of Civil Procedure section 1010.6 to criminal actions.

Background

The project is progressing in two phases. Phase one occurred during 2015 and involved developing and amending the Rules of Court effective January 1, 2016. Phase two is taking place during 2016, for rules effective January 1, 2017 and statutes effective January 1, 2018.

Phase one focused on technical changes to the Rules of Court. In most cases these changes accounted for digital copies, e-mailing, and electronic filing where those practices were already authorized by statute but where the rules had not yet been revised to acknowledge existing practices. In the absence of express legislation authorizing electronic filing and service in criminal proceedings, the committees did not recommend similar proposed amendments to the Criminal Rules of Court.

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

Phase two includes the present legislative proposal to add a Penal Code section authorizing permissive electronic filing and service in criminal proceedings. It will also focus on more substantive changes to the Rules of Court and concurrent legislative proposals.

The Proposal

Code of Civil Procedure section 1010.6 authorizes electronic filing and service of documents in civil proceedings. There is no corresponding authority in the Penal Code to authorize electronic filing and service of documents in criminal cases.

Section 1010.6 authorizes electronic filing and service of documents in civil proceedings as follows:

- (a) A document may be served electronically in an action filed with the court as provided in this section . . .
- (b) A trial court may adopt local rules permitting electronic filing of documents . . .

(Code Civ. Proc., § 1010.6(a), (b).)

However, because some county justice partners may not have the resources to undertake electronic filing and service in criminal cases, this proposal only incorporates the permissive provisions of section 1010.6 into the Penal Code. Under this proposal, courts would not be authorized to require mandatory electronic filing and service in criminal actions. Rather, for those courts with the resources to implement electronic filing and service in criminal matters, this proposal would provide them with express authority to do so, provided the parties consent to electronic filing and service.

This proposal would add section ___ to Part 2, Title 5, Chapter ___, of the Penal Code, applying section 1010.6 to criminal proceedings.

Alternatives Considered

The committees considered whether proposing amendments to the Criminal Rules of Court authorizing electronic filing and service absent express statutory authority was appropriate. It concluded that express statutory authority would be clearer.

Implementation Requirements, Costs, and Operational Impacts

Because the proposal is permissive, rather than mandatory, county justice partners would not be required to electronically file and serve in criminal proceedings. Rather, the proposal would provide the option where the county justice partners are technologically capable of making the transition and where the court offers electronic filing and service. Because of this, no implementation costs or operational impacts would be forced upon courts or counties. It is anticipated that efficiencies and cost savings gained through implementing electronic filing and

service procedures in criminal proceedings would offset any significant costs or operational impacts on participating counties.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 1 year from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachment

1. Proposed new Penal Code section ____, at page 4

Section ___ of the Penal Code would be added, effective January 1, 2018, to read:

1 **Applicability of Code of Civil Procedure section 1010.6; exceptions**

2

3 (a) Subdivisions (a) and (b) of the Code of Civil Procedure section 1010.6 are applicable
4 to criminal actions, except as otherwise provided in this Code.

5

6 (b) The Judicial Council shall adopt uniform rules for the electronic filing and service of
7 documents in criminal cases in the trial courts of this state.

8

DRAFT

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INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title

Technology: Modernization of the Rules of Court to Facilitate E-Business, E-Filing, and E-Service (Phase II of the Rules Modernization Project)

Action Requested

Review and submit comments by June 14, 2016

Proposed Effective Date

January 1, 2017

Proposed Rules, Forms, Standards, or Statutes

Amend rules 2.100, 2.103, 2.104, 2.105, 2.109, 2.110, 2.111, 2.114, 2.118, 2.140, 2.251, 2.252, 2.256, 2.306, 2.551, 2.577, 3.250, 3.751, 3.823, 3.1110, 3.1113, 3.1302, 3.1306, 3.1362, 5.66, 5.380, 5.390, and 5.392.

Contact

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

Proposed by

Information Technology Advisory Committee
 Hon. Terence L. Bruiniers, Chair

Civil and Small Claims Advisory Committee

Hon. Raymond M. Cadei, Chair

Family and Juvenile Law Advisory Committee

Hon. Jerilyn L. Borack, Cochair
 Hon. Mark A. Juhas, Cochair

Executive Summary and Origin

The Information Technology Advisory Committee, the Civil and Small Claims Advisory Committee, and the Family and Juvenile Law Advisory Committee recommend amending various rules in titles 2, 3, and 5 of the California Rules of Court as part of phase II of the Rules Modernization Project. These proposed amendments are substantive changes to the rules that are intended to promote electronic filing, electronic service, and modern e-business practices.

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

Background

The Information Technology Advisory Committee (ITAC) is leading the Rules Modernization Project, a multi-year 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 is coordinating with other advisory committees, including the Civil and Small Claims Advisory Committee (CSCAC) and the Family and Juvenile Law Advisory Committee (FJLAC), with relevant subject-matter expertise.

The Rules Modernization Project is being carried out in two phases. Last year, the advisory committees completed phase I—an initial round of technical rule amendments to address language in the rules that was incompatible with the current statutes and rules governing electronic filing and service and with e-business practices in general. This year, the committees are undertaking phase II, which involves a more in-depth examination of any statutes and rules that may hinder electronic filing, electronic service, and modern e-business practices.

The Proposal

The proposal includes new formatting rules for electronic documents. It also includes proposed amendments to the various rules identified by the committees during phase I as requiring a substantive change, as well as technical amendments that were missed during phase I.

The proposed amendments to rules in titles 2 and 3 have been reviewed and recommended by ITAC and CSCAC; those in title 5 have been reviewed and recommended by ITAC and FJLAC.

Formatting of electronically filed documents

Rule 2.256(b) states the formatting requirements for electronically filed documents. This proposal would add references to rule 2.256(b) in rules 2.100, 2.114, and 2.104 to clarify that the formatting requirements in rule 2.256(b) apply to electronically filed “papers,” exhibits, and forms.

Text-searchable electronic “papers.” This proposal would amend rule 2.256(b) to provide that an electronically filed document must be text searchable unless it is an exhibit or Judicial Council form. This requirement would apply to “papers,” which are defined in rule 2.3(2) as “all documents except exhibits, 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.” This proposal is intended to discourage litigants from printing and scanning “papers” before electronically filing them, which creates documents that are not text searchable.

Because converting from a document created with word processing software to portable document format (“PDF”) may result in a slight reduction or enlargement of font size in the document, this proposal would amend rule 2.118 by adding a new subdivision (a)(3) to provide that a clerk may not reject papers for filing solely because “[t]he font size is not exactly the point

size required by rules 2.104 and 2.110(c) on papers submitted electronically in portable document format (PDF). Minimal variation in font size may result from converting a document created using word processing software to PDF format.”

Electronic bookmarks for exhibits. This proposal would amend rule 3.1110(f) to require that electronic exhibits contain electronic bookmarks, unless they are submitted by a self-represented litigant. The electronic bookmarks must have (1) links to the first page of each exhibit and (2) titles that identify the exhibit number or letter and briefly describe the exhibit. This proposal would add an Advisory Committee Comment that would state that, under current technology, software programs that allow users to apply electronic bookmarks to electronic documents are available for free. In addition, this proposal would amend rule 3.1113(i) to require electronic bookmarking where authorities or cases are lodged in electronic form.

Page numbering

This proposal would amend the rules governing pagination for “papers,” motion documents, and motion memoranda—rules 2.109, 3.1110(c), and 3.1113(h)—to provide that page numbering must begin with the first page and use only Arabic numerals (e.g., 1, 2, 3) and that the page number need not appear on the first page. These proposed amendments recognize that judicial officers find it easier to navigate electronic documents when the page number in the footer matches the page number of the electronic document. To provide for consistency, this method of page numbering would apply to both electronic and paper documents; and, as a result, the pages of tables of content in memoranda will no longer be paginated using lower-case Roman numerals.

To ensure that the proposed amendment to rule 3.1113(h) would not alter the number of pages allowed for memoranda, this proposal would also amend rule 3.1113(d) by providing that caption pages are not counted in determining whether a memorandum exceeds the page limit. Subdivision (d) already provides that exhibits, declarations, attachments, the table of contents, the table of authorities, and the proof of service are not counted.

Proof of electronic service

This proposal would amend rule 2.251(i) to conform the requirements for proof of electronic service to the statutes and rules governing electronic service. It would also eliminate the requirement that the person filling out the proof of electronic service state the time of electronic service.

Electronic service by a party. In stating the requirements for proof of electronic service, rule 2.251(i) incorporates the requirements for proof of mailing in Code of Civil Procedure section 1013a, subject to several exceptions. Rule 2.251(i) does not currently provide an exception to the requirement in Code of Civil Procedure section 1013a that proof of service by mail be made by affidavit or certificate showing that the “the person making the service” is “not a party to the cause.” This requirement contradicts the statute and rules governing electronic service, which expressly allow for electronic service by a party. (See Code Civ. Proc., § 1010.6(a)(1)(A); Cal.

Rules of Court, rule 2.251(e).) This proposal would add another exception to rule 2.251(i) to recognize that parties may electronically serve documents under the current statutes and rules governing electronic service.

Time of electronic service. This proposal would amend rule 2.251(1) to remove the requirement that the proof of electronic service state the time of electronic service. In practice, this requirement has proved unworkable: the person filling out the proof of electronic service will not know the precise time of electronic service until after the document is served. Because this requirement also appears in the proof of service for fax filing, this proposal would make the same change to rule 2.306(h)(1).

Paper courtesy copies

At present, the rules are silent as to whether paper courtesy copies may be required when documents are filed electronically. This proposal would add a new subdivision (i) to 2.252 to provide that a judge may request that electronic filers submit paper courtesy copies of an electronically filed document.

“Return” of lodged records

This proposal would amend the rules addressing lodged materials—rules 3.1302(b), 2.577(d)(4) and 3.1302(b)—to provide a new process for “returning” materials lodged in electronic form. The proposed amendment to rules 3.1302, 2.577(d)(4), and 3.1302(b) would instruct court staff to permanently delete the lodged record if in electronic form and to provide notice of the deletion to the submitting party.

During phase I of the Rules Modernization Project, the Judicial Council amended these rules to provide for the return of materials lodged in electronic form. The advisory committees and commentators raised concerns that distinct from paper materials, the return of electronic materials did not necessarily mean that the court would be required to delete the electronic record maintained in its document management system. At the same time, the advisory committees expressed concerns that deletion alone would not provide any notice to the submitting party that the court no longer retained the lodged materials. Based on these concerns, the committees decided to revisit these rules this year and provide for a new process that addresses these concerns.

Additional technical amendments to the rules

Lastly, this rules proposal would make additional technical amendments to the rules that were not identified during phase I of the Rules Modernization Project. These technical changes include the following:

- Amending rule 2.104 to clarify that the font size must be not smaller than 12 points on papers if they are filed electronically or on paper;
- Amending rule 2.110 to refer to “font” instead of “type”;

- Amending rule 2.111(1) to delete the language “if available” in reference to fax and e-mail addresses on the first page of papers;
- Amending rule 2.551(b)(3)(B) to replace language related to paper documents with language that is inclusive of electronic documents;
- Amending rules 2.551(f) and 2.577(g) to provide that if sealed records are in electronic form, the court must establish appropriate access controls to ensure that only authorized persons may access them;
- Amending rule 3.250(b) to describe the process for retaining the originals of papers that are not filed where the originals are in electronic form;
- Amending rule 3.751 to recognize that a party may agree to electronic service, or a court may require electronic service by local rule or court order, under rule 2.251 in complex civil cases;
- Amending rule 3.823(d) to cross-reference Code of Civil Procedure sections 1013 and 1010.6;
- Amending rule 3.1306 to provide that a party who requests judicial notice of material in electronic form must make arrangements to have it electronically accessible to the court at the time of the hearing;
- Amending rule 3.1362 to recognize that an attorney requesting to be relieved as counsel may serve notice of the motion and motion, the declaration, and the proposed order by electronic means, subject to certain safeguards;
- Amending rule 5.66 to recognize that the proof of service of a response to a petition or complaint may be on *Proof of Electronic Service* (form POS-050/EFS-050);
- Amending rules 5.380(c), 5.390(e), 5.392(b), (d), and (f) to replace the term “mail” and “mailing” with “serve” and “serving”; and
- Amending rule 5.390(e) to recognize that a clerk may file a certificate of electronic service.

Alternatives Considered

In proposing amendments to individual rules, the committees considered various alternatives and have requested comment on several of these alternatives. Specifically, they are asking for comments on (1) whether electronically filed exhibits should be text searchable to the extent feasible; (2) whether the proposal to allow for paper courtesy copies by request of a judge would hinder or promote efforts to move courts toward paperless case environments; and (3) whether concerns about metadata would discourage litigants from converting papers created with word processing software to PDF and instead encourage scanning them and applying Optical Character Recognition (“OCR”) software.

Implementation Requirements, Costs, and Operational Impacts

The committees expect that the proposed amendments would result in efficiency gains and cost savings for the courts at minimal expense, if any, to litigants. Requiring that electronic papers be text searchable would assist judicial officers and research attorneys, while also saving courts the significant cost and delay of applying OCR software to electronically filed documents. At the same time, it is not expected to result in additional costs to litigants, who may readily convert

documents created using word processing software, including open source software, to PDF. The conversion process is faster and less expensive than printing and scanning papers.

Electronic bookmarks will facilitate and expedite the review of electronic exhibits by judicial officers and research attorneys. Adding electronic bookmarks to electronic exhibits would not result in any additional costs to litigants as open source software is available. Electronic bookmarks are also cheaper and less time intensive to apply compared to tabbing or separating paper exhibits. Because self-represented parties are exempt from the bookmarking requirement, it would not negatively impact them.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee [or other proponent] is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should the rules require that electronic exhibits be text searchable to the extent feasible?
- Does the proposal to require that “papers” be text searchable encourage converting documents created using word processing documents to PDF? Would concerns about metadata associated with the PDF instead encourage scanning and applying OCR software? Or is this concern easily mitigated by Electronic Filing Service Providers or by applying data scrubbing software?
- Would the proposed rule on paper courtesy copies hinder or promote efforts to move courts toward paperless case environments?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Proposed amendments to titles 2, pages 7–13
2. Proposed amendments to title 3, pages 14–18
3. Proposed amendments to title 5, pages 19–21

The California Rules of Court, rules 2.100, 2.103, 2.104, 2.105, 2.109, 2.110, 2.111, 2.114, 2.118, 2.140, 2.251, 2.252, 2.256, 2.306, 2.551, 2.577, 3.250, 3.751, 3.823, 3.1110, 3.1113, 3.1302, 3.1306, 3.1362, 5.66, 5.380, 5.390, and 5.392 would be amended, effective January 1, 2017, to read as follows:

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Title 2. Trial Court Rules

Rule 2.100. Form and format of papers presented for filing in the trial courts

(a)–(b) * * *

(c) Electronic format of papers

Papers that are submitted or filed electronically must meet the requirements in rule 2.256(b).

Rule 2.103. Size, quality, and color of papers

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.

Rule 2.104. ~~Printing;~~ Font size; printing

Unless otherwise specified in these rules, all papers filed must be prepared using a font size not smaller than 12 points. 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 a font not smaller than 12 points.~~

Rule 2.105. Font style

The font style must be essentially equivalent to Courier, Times New Roman, or Arial.

Rule 2.109. Page numbering

Each page must be numbered consecutively at the bottom unless a rule provides otherwise for a particular type of document. The page numbering must begin with the first page and use only Arabic numerals (e.g., 1, 2, 3). The page number need not appear on the first page.

Rule 2.110. Footer

(a)–(b) * * *

1 (c) **Type Font size**
2

3 The title of the paper in the footer must be in at least 10-point type font.
4

5 **Rule 2.111. Format of first page**
6

7 The first page of each paper must be in the following form:
8

- 9 (1) In the space commencing 1 inch from the top of the page with line 1, to the left of
10 the center of the page, the name, office address or, if none, residence address or
11 mailing address (if different), telephone number, fax number and e-mail address (~~if~~
12 ~~available~~), and State Bar membership number of the attorney for the party in whose
13 behalf the paper is presented, or of the party if he or she is appearing in person. The
14 inclusion of a fax number or e-mail address on any document does not constitute
15 consent to service by fax or e-mail unless otherwise provided by law.
16

17 (2)–(11) * * *
18

19 **Rule 2.114. Exhibits**
20

21 Exhibits submitted with papers not filed electronically may be fastened to pages of the
22 specified size and, when prepared by a machine copying process, must be equal to
23 computer-processed materials in legibility and permanency of image. Exhibits submitted
24 with papers filed electronically must meet the requirements in rule 2.256(b), except for
25 subdivision (b)(3).
26

27 **Rule 2.118. Acceptance of papers for filing**
28

29 (a) **Papers not in compliance**
30

31 The clerk of the court must not accept for filing or file any papers that do not
32 comply with the rules in this chapter, except the clerk must not reject a paper for
33 filing solely on the ground that:
34

- 35 (1) It is handwritten or hand-printed; ~~or~~
36
37 (2) The handwriting or hand printing on the paper is in a color other than
38 black or blue-black; or
39
40 (3) The font size is not exactly the point size required by rules 2.104 and
41 2.110(c) on papers submitted electronically in portable document
42 format (PDF). Minimal variation in font size may result from

1 converting a document created using word processing software to PDF
 2 format.

3
 4 (b)–(c) * * *

5
 6 **Rule 2.140. Judicial Council forms**

7
 8 Judicial Council forms are governed by the rules in this chapter and chapter 4 of title
 9 1. Electronic Judicial Council forms must meet the requirements in rule 2.256(b), except
 10 for subdivision (b)(3).

11
 12 **Rule 2.251. Electronic service**

13
 14 (a)–(h) * * *

15
 16 (i) **Proof of service**

17
 18 (1) Proof of electronic service may be by any of the methods provided in Code of
 19 Civil Procedure section 1013a, except that with the following exceptions:

20
 21 (A) The proof of electronic service does not need to state that the person
 22 making the service is not a party to the case.

23
 24 (B) The proof of electronic service must state:

25
 26 (A~~1~~) The electronic service address of the person making the service,
 27 in addition to that person's residence or business address;

28
 29 (B~~2~~) The date ~~and time~~ of the electronic service, instead of the date
 30 and place of deposit in the mail;

31
 32 (C~~3~~) The name and electronic service address of the person served, in
 33 place of that person's name and address as shown on the
 34 envelope; and

35
 36 (D~~4~~) That the document was served electronically, in place of the
 37 statement that the envelope was sealed and deposited in the mail
 38 with postage fully prepaid.

39
 40 (2) * * *

41
 42 (3) Under rule 3.1300(c), proof of electronic service of the moving papers must
 43 be filed at least five court days before the hearing.

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(4) * * *

(j) * * *

Rule 2.252. General rules on electronic filing of documents

(a)–(h) * * *

(i) Paper courtesy copies

A judge may request that electronic filers submit paper courtesy copies of an electronically filed document.

Rule 2.256. Responsibilities of electronic filer

(a) * * *

(b) Format of documents to be filed electronically

A document that is filed electronically with the court must be in a format specified by the court unless it cannot be created in that format. The format adopted by a court must meet the following requirements:

(1)–(2) * * *

(3) The document must be text searchable, unless it is an exhibit or Judicial Council or local form.

If a document is filed electronically under the rules in this chapter and cannot be formatted to be consistent with a formatting rule elsewhere in the California Rules of Court, the rules in this chapter prevail.

Rule 2.306. Service of papers by fax transmission

(a)–(g) * * *

(h) Proof of service by fax

Proof of service by fax may be made by any of the methods provided in Code of Civil Procedure section 1013(a), except that:

1 (1) The ~~time~~, date, and sending fax machine telephone number must be used
2 instead of the date and place of deposit in the mail;

3
4 (2)–(5) * * *

5
6 **Rule 2.551. Procedures for filing records under seal**

7
8 (a) * * *

9
10 (b) **Motion or application to seal a record**

11
12 (1)–(2) * * *

13
14 (3) *Procedure for party not intending to file motion or application*

15
16 (A) * * *

17
18 (B) If the party that produced the documents and was served with the notice
19 under (A)(iii) fails to file a motion or an application to seal the records
20 within 10 days or to obtain a court order extending the time to file such
21 a motion or an application, the clerk must promptly ~~remove~~ transfer all
22 the documents in (A)(i) from the envelope, container, or secure
23 electronic file ~~where they are located and place them in~~ to the public
24 file. If the party files a motion or an application to seal within 10 days
25 or such later time as the court has ordered, these documents are to
26 remain conditionally under seal until the court rules on the motion or
27 application and thereafter are to be filed as ordered by the court.

28
29 (4)–(5) * * *

30
31 (6) *Return of lodged record*

32
33 If the court denies the motion or application to seal, the clerk must either (i)
34 return the lodged record if in paper form to the submitting party and or (ii)
35 permanently delete the lodged record if in electronic form and send notice of
36 the deletion to the submitting party. The clerk must not place ~~it~~ the lodged
37 record in the case file unless that party notifies the clerk in writing that the
38 record is to be filed. Unless otherwise ordered by the court, the submitting
39 party must notify the clerk within 10 days after the order denying the motion
40 or application.

41
42 (c)–(d) * * *

43

1 (e) **Order**

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

11

12 (2)–(4) * * *

13

14 (f) **Custody of sealed records**

15

16 Sealed records must be securely filed and kept separate from the public file in the

17 case. If the sealed records are in electronic form, appropriate access controls must

18 be established to ensure that only authorized persons may access the sealed records.

19

20 (g)–(h) * * *

21

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

23

24 (a) * * *

25

26 (b) **Application to file records in confidential name change proceedings under seal**

27

28 An application by a confidential name change petitioner to file records under seal

29 must be filed at the time the petition for name change is submitted to the court. The

30 application must be made on the *Application to File Documents Under Seal in*

31 *Name Change Proceeding Under Address Confidentiality Program (Safe at*

32 *Home)* (form NC-410) and be accompanied by a *Declaration in Support of*

33 *Application to File Documents Under Seal in Name Change Proceeding Under*

34 *Address Confidentiality Program (Safe at Home)* (form NC-420), containing facts

35 sufficient to justify the sealing.

36

37 (c) * * *

38

39 (d) **Procedure for lodging of petition for name change**

40

41 (1)–(3) * * *

42

1 (4) If the court denies the application to seal, the clerk must either (i) return the
 2 lodged record if in paper form to the petitioner or (ii) permanently delete the
 3 lodged record if in electronic form and send notice of the deletion to the
 4 petitioner. The clerk and must not place ~~it~~ the lodged record in the case file
 5 unless the petitioner notifies the clerk in writing within 10 days after the
 6 order denying the application that the unsealed petition and related papers are
 7 to be filed.

8
 9 (e) * * *

10
 11 (f) **Order**

12
 13 (1)–(2) * * *

14
 15 (3) For petitions transmitted in paper form, if the court grants an order sealing a
 16 record, the clerk must strike out the notation required by (d)(2) on the
 17 *Confidential Cover Sheet* that the matter is filed “CONDITIONALLY
 18 UNDER SEAL,” add a notation to that sheet prominently stating “SEALED
 19 BY ORDER OF THE COURT ON (DATE),” and file the documents under
 20 seal. For petitions transmitted electronically, the clerk must file the court’s
 21 order, ~~store~~ maintain the record ordered sealed in a secure manner, and
 22 clearly identify the record as sealed by court order on a specified date.

23
 24 (4)–(5) * * *

25
 26 (g) **Custody of sealed records**

27
 28 Sealed records must be securely filed and kept separate from the public file in the
 29 case. If the sealed records are in electronic form, appropriate access controls must
 30 be established to ensure that only authorized persons may access the sealed records.

31
 32 (h) * * *

33
 34

1 **Title 3. Civil Rules**

2

3 **Rule 3.250. Limitations on the filing of papers**

4

5 (a) * * *

6

7 (b) **Retaining originals of papers not filed**

8

9 (1) Unless the paper served is a response, the party who serves a paper listed in

10 (a) must retain the original with the original proof of service affixed. If

11 served electronically under rule 2.251, the proof of electronic service must

12 meet the requirements in rule 2.251(i).

13

14 (2) The original of a response must be served, and it must be retained by the

15 person upon whom it is served.

16

17 (3) An original must be retained under (1) or (2) in the paper or electronic form

18 in which it was created or received.

19

20 (4) All original papers must be retained until six months after final disposition of

21 the case, unless the court on motion of any party and for good cause shown

22 orders the original papers preserved for a longer period.

23

24 (c) * * *

25

26 **Rule 3.751. Electronic service**

27

28 Parties may consent to electronic service, or the court may require electronic

29 service by local rule or court order, under rule 2.251. The court may provide in a

30 case management order that documents filed electronically in a central electronic

31 depository available to all parties are deemed served on all parties.

32

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

34

35 (a)–(c) * * *

36

37 (d) **Delivery of documents**

38

39 For purposes of this rule, “delivery” of a document or notice may be accomplished

40 manually, by electronic means under Code of Civil Procedure section 1010.6 and

41 rule 2.251, or ~~by mail~~ in the manner provided by Code of Civil Procedure section

42 1013. If service is by electronic means, the times prescribed in this rule for delivery

43 of documents, notices, and demands are increased as provided by Code of Civil

1 Procedure section 1010.6. by two days. If service is in the manner provided by mail
 2 Code of Civil Procedure section 1013, the times prescribed in this rule are
 3 increased as provided by five days that section.

4
 5 **Rule 3.1110. General format**

6
 7 (a)–(b) * * *

8
 9 (c) **Pagination of documents**

10
 11 Documents ~~bound together~~ must be consecutively paginated. ~~If the document is~~
 12 ~~filed electronically,~~ The page numbering must begin with the first page and use
 13 only Arabic numerals (e.g., 1, 2, 3). The page number need not appear on the first
 14 page.

15
 16 (d)–(e) * * *

17
 18 (f) **Format of exhibits**

19
 20 (1) An index of exhibits must be provided. The index must briefly describe the
 21 exhibit and identify the exhibit number or letter and page number.

22
 23 (2) Pages from a single deposition must be designated as a single exhibit.

24
 25 (3) Each paper exhibit must be separated by a hard 8½ x 11 sheet with hard
 26 paper or plastic tabs extending below the bottom of the page, bearing the
 27 exhibit designation. ~~An index to exhibits must be provided. Pages from a~~
 28 single deposition and associated exhibits must be designated as a single
 29 exhibit.

30
 31 (4) Electronic exhibits must meet the requirements in rule 2.256(b), except for
 32 subdivision (b)(3). Unless they are submitted by a self-represented party,
 33 electronic exhibits must include electronic bookmarks with links to the first
 34 page of each exhibit and with bookmark titles that identify the exhibit
 35 number or letter and briefly describe the exhibit.

36
 37 (g) * * *

38
 39 **Advisory Committee Comment**

40
 41 **Subdivision (f)(4).** Under current technology, software programs that allow users to apply
 42 electronic bookmarks to electronic documents are available for free.

1 **Rule 3.1113. Memorandum**

2
3 (a)–(c) * * *

4
5 **(d) Length of memorandum**

6
7 Except in a summary judgment or summary adjudication motion, no opening or
8 responding memorandum may exceed 15 pages. In a summary judgment or summary
9 adjudication motion, no opening or responding memorandum may exceed 20 pages. No
10 reply or closing memorandum may exceed 10 pages. The page limit does not include the
11 caption page, exhibits, declarations, attachments, the table of contents, the table of
12 authorities, or the proof of service.

13
14 (e)–(g) * * *

15
16 **(h) Pagination of memorandum**

17
18 ~~(1) The pages of a memorandum must be numbered consecutively beginning with~~
19 ~~the first page and using only Arabic numerals (e.g., 1, 2, 3). The page number need~~
20 ~~not appear on the first page.~~

21
22 ~~(2) Notwithstanding any other rule, a memorandum that includes a table of~~
23 ~~contents and a table of authorities must be paginated as follows:~~

24
25 ~~(A) The caption page or pages must not be numbered;~~

26
27 ~~(B) The pages of the tables must be numbered consecutively using lower-~~
28 ~~case roman numerals starting on the first page of the tables; and~~

29
30 ~~(C) The pages of the text must be numbered consecutively using Arabic~~
31 ~~numerals starting on the first page of the text.~~

32
33 **(i) Copies of authorities**

34
35 (1) A judge may require that if any authority other than California cases, statutes,
36 constitutional provisions, or state or local rules is cited, a copy of the
37 authority must be lodged with the papers that cite the authority, and if in
38 paper form, the authority must be tabbed or separated as required by rule
39 3.1110(f)(3). If in electronic form, the authority must be electronically
40 bookmarked as required by rule 3.1110(f)(4).

41
42 (2) If a California case is cited before the time it is published in the advance
43 sheets of the Official Reports, the party must include the title, case number,

1 date of decision, and, if from the Court of Appeal, district of the Court of
 2 Appeal in which the case was decided. A judge may require that a copy of
 3 that case must be lodged, ~~and~~ If in paper form, the copy must be tabbed or
 4 separated as required by rule 3.1110(f)(3). If in electronic form, the copy
 5 must be electronically bookmarked as required by rule 3.1110(f)(4).
 6

7 (3) * * *

8
 9 (j)–(m) * * *

10
 11 **Rule 3.1302. Place and manner of filing**

12
 13 (a) * * *

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~~ a notice of deletion may be sent. After determination of the matter,
 21 the clerk may mail or send the material if in paper form back to the party lodging it.
 22 If the lodged material is in electronic form, the clerk may permanently delete it.
 23 The clerk must send notice of the deletion to the party who lodged the material.
 24

25 **Rule 3.1306. Evidence at hearing**

26
 27 (a)–(b) * * *

28
 29 (c) **Judicial notice**

30
 31 A party requesting judicial notice of material under Evidence Code sections 452 or
 32 453 must provide the court and each party with a copy of the material. If the
 33 material is part of a file in the court in which the matter is being heard, the party
 34 must:

- 35
 36 (1) Specify in writing the part of the court file sought to be judicially noticed;
 37 and
 38
 39 (2) Make arrangements with the clerk to have the file in the courtroom or
 40 electronically accessible to the court at the time of the hearing.
 41

42 **Rule 3.1362. Motion to be relieved as counsel**

43

1 (a)–(c) * * *

2
3 (d) **Service**

4
5 The notice of motion and motion, the declaration, and the proposed order must be
6 served on the client and on all other parties who have appeared in the case. The
7 notice may be by personal service, electronic service, or mail.

8
9 (1) If the notice is served on the client by mail under Code of Civil Procedure
10 section 1013, it must be accompanied by a declaration stating facts showing
11 that either:

12
13 (~~1~~A) The service address is the current residence or business address of the
14 client; or

15
16 (~~2~~B) The service address is the last known residence or business address of
17 the client and the attorney has been unable to locate a more current
18 address after making reasonable efforts to do so within 30 days before
19 the filing of the motion to be relieved.

20
21 (2) If the notice is served on the client by electronic service under Code of Civil
22 Procedure section 1010.6 and rule 2.251, it must be accompanied by a
23 declaration stating that the electronic service address is the client’s current
24 electronic service address.

25
26 As used in this rule, “current” means that the address was confirmed within 30 days
27 before the filing of the motion to be relieved. Merely demonstrating that the notice
28 was sent to the client’s last known address and was not returned or no electronic
29 delivery failure message was received is not, by itself, sufficient to demonstrate
30 that the address is current. If the service is by mail, Code of Civil Procedure section
31 1011(b) applies.

32
33 (e) * * *

1 **Title 5. Family and Juvenile Rules**
2

3 **Rule 5.66. Proof of service**
4

5 **(a) Requirements to file proof of service**
6

7 Parties must file with the court a completed form to prove that the other party
8 received the petition or complaint or response to petition or complaint.
9

10 **(b) Methods of proof of service**
11

12 (1) The proof of service of summons may be on a form approved by the Judicial
13 Council or a document or pleading containing the same information required
14 in *Proof of Service of Summons* (form FL-115).
15

16 (2) The proof of service of response to petition or complaint may be on a form
17 approved by the Judicial Council or a document or pleading containing the
18 same information required in *Proof of Service by Mail* (form FL-335)-~~or~~
19 *Proof of Personal Service* (form FL-330), or *Proof of Electronic Service*
20 (form POS-050/EFS-050).
21

22 **Rule 5.380. Agreement and judgment of parentage in Domestic Violence Prevention**
23 **Act cases**
24

25 **(a)–(b) * * ***
26

27 **(c) Notice of Entry of Judgment**
28

29 When an Agreement and Judgment of Parentage (form DV-180) is filed, the court
30 must ~~mail~~ serve a *Notice of Entry of Judgment* (form FL-190) on the parties.
31

32 **Rule 5.390. Bifurcation of issues**
33

34 **(a)–(d) * * ***
35

36 **(e) Notice by clerk**
37

38 Within 10 days after the order deciding the bifurcated issue and any statement of
39 decision under rule 3.1591 have been filed, the clerk must ~~mail~~ serve copies to the
40 parties and file a certificate of mailing or a certificate of electronic service.
41

42 **Rule 5.392. Interlocutory appeals**
43

1 (a) * * *

2
3 (b) **Certificate of probable cause for appeal**

4
5 (1) * * *

6
7 (2) If it was not in the order, within 10 days after the clerk ~~mails~~ serves the order
8 deciding the bifurcated issue, a party may notice a motion asking the court to
9 certify that there is probable cause for immediate appellate review of the
10 order. The motion must be heard within 30 days after the order deciding the
11 bifurcated issue is ~~mailed~~ served.

12
13 (3) The clerk must promptly ~~mail~~ serve notice of the decision on the motion to
14 the parties. If the motion is not determined within 40 days after ~~mailing of~~
15 serving the order on the bifurcated issue, it is deemed granted on the grounds
16 stated in the motion.

17
18 (c) * * *

19
20 (d) **Motion to appeal**

21
22 (1) If the certificate is granted, a party may, within 15 days after the ~~mailing of~~
23 court serves the notice of the order granting it, serve and file in the Court of
24 Appeal a motion to appeal the decision on the bifurcated issue. On ex parte
25 application served and filed within 15 days, the Court of Appeal or the trial
26 court may extend the time for filing the motion to appeal by not more than an
27 additional 20 days.

28
29 (2)-(6) * * *

30
31 (e) * * *

32
33 (f) **Proceedings if motion to appeal is granted**

34
35 (1) * * *

36
37 (2) The partial record filed with the motion will be considered the record for the
38 appeal unless, within 10 days from the date notice of the grant of the motion
39 is ~~mailed~~ served, a party notifies the Court of Appeal of additional portions of
40 the record that are needed for the full consideration of the appeal.

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

43

1 (g)-(h) ***
2

DRAFT