

# Judicial Council of California

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## INVITATION TO COMMENT SPR17-06

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<b>Title</b> Appellate Procedure: Payment for Partially Prepared Reporter's Transcripts	<b>Action Requested</b> Review and submit comments by April 28, 2017
<b>Proposed Rules, Forms, Standards, or Statutes</b> Amend Cal. Rules of Court, rules 8.866 and 8.919	<b>Proposed Effective Date</b> January 1, 2018
<b>Proposed by</b> Appellate Advisory Committee Hon. Louis R. Mauro, Chair	<b>Contact</b> Heather Anderson, 415-865-7691 heather.anderson@jud.ca.gov

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### Executive Summary and Origin

The Appellate Advisory Committee is proposing amendments to the rules regarding preparation of reporters' transcripts in misdemeanor and infraction appeals to add language providing for paying court reporters out of funds deposited by an appellant for portions of transcripts that have been prepared at the point the appeal is abandoned or dismissed. This proposal is based on a suggestion received from a court reporters' association.

### Background

Subdivision (f) of rule 8.130, relating to reporters' transcripts in civil appeals to the Court of Appeal, and rule 8.834(d), relating to reporters' transcripts in civil appeals to the superior court appellate division, both provide for paying court reporters for portions of transcripts that were already completed at the point an appeal is abandoned or dismissed using funds deposited by the appellant. In some cases, appellants in misdemeanor and infraction cases also deposit funds to pay for reporters' transcripts. The rules relating to these transcripts do not currently address using the deposited funds to pay for portions of transcripts that have been prepared at the time an appeal is abandoned or dismissed.

### The Proposal

The committee is proposing that rules 8.866 and 8.919, which address reporters' transcripts in misdemeanor and infraction appeals, respectively, be amended to provide that if the appellant deposited funds with the court for a reporter's transcript and the appeal is abandoned or dismissed, the clerk will pay the court reporter out of these deposited funds for the portion of the

*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.*

transcript that was completed before the abandonment or dismissal of the appeal and will refund any excess deposit to the appellant.

### **Alternatives Considered**

The committee considered not recommending any changes to these rules, but concluded that it would be appropriate for these rules to treat deposits for reporters' transcripts in misdemeanor and infraction appeals that are abandoned or dismissed consistent with the way these deposits are treated in civil appeals.

### **Implementation Requirements, Costs, and Operational Impacts**

These amendments would impose some additional duties on superior court clerks to make payments to court reporters from funds deposited for reporters' transcripts in misdemeanor and infraction appeals that are abandoned or dismissed. The committee believes that the operational impacts of this change are likely to be small because of the small number of cases in which this situation is likely to arise.

### **Request for Specific Comments**

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

- 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?

### **Attachments and Links**

1. Proposed amendments to Cal. Rules of Court, rules 8.866 and 8.919, at pages 3–6

Rules 8.866 and 8.919 of the California Rules of Court would be amended, effective January 1, 2018, to read:

1 **Title 8. Appellate Rules**

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

4  
5 **Chapter 3. Appeals and Records in Misdemeanor Cases**

6  
7 **Article 2. Record in Misdemeanor Appeals**

8  
9 **Rule 8.866. Preparation of reporter's transcript**

10  
11 (a)-(c) \* \* \*

12  
13 (d) **When preparation must be completed**

14  
15 (1)-(2) \* \* \*

16 (3) If the appellant deposited with the clerk an amount equal to the estimated cost of  
17 preparing the transcript and the appeal is abandoned or dismissed before the reporter  
18 has filed the transcript, the reporter must inform the clerk of the cost of the portion of  
19 the transcript that the reporter has completed. The clerk must pay that amount to the  
20 reporter from the appellant's deposited funds and refund any excess deposit to the  
21 appellant.

22  
23 **Chapter 5. Appeals in Infraction Cases**

24  
25 **Article 2. Record in Infraction Appeals**

26  
27 **Rule 8.919 Preparation of reporter's transcript**

28  
29 (a)-(c) \* \* \*

30  
31 (d) **When preparation must be completed**

32 (1)-(2) \* \* \*

33 (3) If the appellant deposited with the clerk an amount equal to the estimated cost of  
34 preparing the transcript and the appeal is abandoned or dismissed before the  
35 reporter has filed the transcript, the reporter must inform the clerk of the cost of the  
36 portion of the transcript that the reporter has completed. The clerk must pay that  
37 amount to the reporter from the appellant's deposited funds and refund any excess  
38 deposit to the appellant.