



# Judicial Council of California

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## INVITATION TO COMMENT

### SPR24-02

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**Title**

Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time

**Action Requested**

Review and submit comments by May 3, 2024

**Proposed Effective Date**

January 1, 2025

**Proposed Rules, Forms, Standards, or Statutes**

Amend Cal. Rules of Court, rules 8.100, 8.212, 8.360, 8.412, and 8.882; adopt form CR-127; revise forms APP-001-INFO, APP-004, APP-006, APP-101-INFO, APP-106, CR-126, JV-816, and JV-817

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**Proposed by**

Appellate Advisory Committee  
Hon. Louis Mauro, Chair

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### Executive Summary and Origin

The Appellate Advisory Committee proposes revising *Civil Case Information Statement* (form APP-004) to allow the appellant to provide a nonstatutory reason why the appeal is eligible for calendar preference and amending rule 8.100 to require the civil case information statement to be filed within 15 days after the Court of Appeal lodges the notice of appeal and assigns the appeal a case number. The Appellate Advisory Committee also proposes adopting a new mandatory form for requesting extensions of time to file a brief in misdemeanor appeals, revising all existing forms for requesting an extension of time to file briefs to make the forms mandatory, and revising the rules to reflect this new mandatory status. This proposal originated with a suggestion from the former Chief Justice's Appellate Caseflow Workgroup and a committee member.

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.*

## The Proposal

### **Civil case information statement rule and forms**

California Rules of Court, rule 8.100(g)(1) requires an appellant, within 15 days after the superior court sends notification that a notice of appeal has been filed, to serve and file in the reviewing court a completed *Civil Case Information Statement* (form APP-004). The committee proposes amending the due date in rule 8.100(g)(1) and revising form APP-004.

### ***Deadline for filing Civil Case Information Statement***

The committee has received feedback that appellants are, in practice, unable to comply with Rule 8.100(g)(1)'s current deadline because the reviewing court has not docketed and assigned the appeal a case number within 15 days after the notice of appeal has been filed. When this happens, there is no case in which the appellant can file the *Civil Case Information Statement*.

The committee proposes that rule 8.100(g)(1) be amended to require the appellant to serve and file a completed *Civil Case Information Statement* (form APP-004) within "15 days after the reviewing court lodges the notice of appeal and assigns the appeal a case number." Tying the deadline to the date that the reviewing court assigns a case number and lodges the notice of appeal will ensure that there is a case in the reviewing court where the appellant can file form APP-004, thus preventing confusion among appellants.

The committee further proposes that the instructions on form APP-004 and *Information on Appeal Procedures for Unlimited Civil Appeals* (form APP-001-INFO) be revised to reflect this new deadline. The committee also proposes revising APP-001-INFO to advise appellants that they can use the Appellate Courts Case Information website to check whether their notice of appeal has been lodged and the case has been assigned a case number.

### ***Calendar preference or priority***

Last December, the Appellate Caseflow Workgroup<sup>1</sup> made a number of recommendations on ways to improve the efficiency of the appellate process. Among recommendations referred to the Appellate Advisory Committee by the workgroup via the Executive and Planning Committee was for the advisory committee to propose revisions to form APP-004 to "allow litigants or counsel to identify an alternative, non-statutory ground for an appeal to be given priority."

For civil cases in the Court of Appeal, rule 8.240 governs calendar preference and requires a party seeking preference to promptly serve and file a motion for preference in the reviewing court. "Calendar preference" can mean an expedited appeal schedule, including expedited briefing and preference in setting the date of oral argument. The advisory committee comment to

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<sup>1</sup> The Appellate Caseflow Workgroup was appointed by former Chief Justice Tani G. Cantil-Sakauye in June 2022 and made its report to her in December 2022. The report is accessible at [https://newsroom.courts.ca.gov/sites/default/files/newsroom/2022-12/Appellate%20Caseflow%20Workgroup%20Report\\_Final.pdf](https://newsroom.courts.ca.gov/sites/default/files/newsroom/2022-12/Appellate%20Caseflow%20Workgroup%20Report_Final.pdf).

this rule advises that the rule covers motions for preference based on statute<sup>2</sup> as well as situations where the court should exercise its discretion to grant preference on a nonstatutory ground.<sup>3</sup>

Currently, item 2 of part II of form APP-004 reads: “This appeal is entitled to calendar preference/priority on appeal (*cite authority*).” The use of the word “entitled” and the direction to “cite authority” could be construed as narrowing the item only to cases where a statute expressly grants a type of case calendar preference or priority. To prevent this narrow reading, the committee proposes that the item be revised to read: “This appeal is eligible for calendar preference/priority on appeal (*cite authority or explain*).”

### **Extension of time rules and forms**

Rules 8.212, 8.360, and 8.412 of the California Rules of Court permit parties to apply to the Court of Appeal for an extension of time to file a brief in civil, criminal, and juvenile appeals, respectively. Extensions of time to file a brief in the appellate division are permitted by rule 8.882. Currently, parties may use one of five optional forms to request an extension of time to file a brief:

- *Application for Extension of Time to File Brief—Unlimited Civil Case* (form APP-006), in unlimited civil cases in the Court of Appeal
- *Application for Extension of Time to File Brief—Limited Civil Case* (form APP-106), in limited civil cases in the appellate division
- *Application for Extension of Time to File Brief—Criminal Case* (form CR-126), in criminal cases
- *Application for Extension of Time to File Brief—Juvenile Justice Case* (form JV-816), in juvenile justice cases
- *Application for Extension of Time to File Brief—Juvenile Dependency Case* (form JV-817), in juvenile dependency cases

For the reasons discussed below, the committee proposes revising these forms to make them mandatory for all parties seeking an extension of time to file a brief and revise the applicable rules of court to reflect this change. The committee also proposes that the council adopt a new mandatory form for seeking an extension of time to file a brief in misdemeanor appeals, *Application for Extension of Time to File Brief—Misdemeanor Case* (form CR-127).

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<sup>2</sup> For example, Code Civ. Proc., § 44 (probate proceedings, contested elections, libel by public official) or § 45 (judgments freeing minors from parental custody).

<sup>3</sup> See, e.g., *Warren v. Schechter* (1997) 57 Cal.App.4th 1189, 1199-1200 (finding court had discretion to grant appellate calendar preference where one of the parties was elderly and ailing).

### ***Mandatory extension-of-time forms***

In its report to the former Chief Justice, the Appellate Caseflow Workgroup recommended that the committee consider revising the extension-of-time forms to include items for the applicant to indicate that the appeal was a priority case and to describe the degree to which the requested extension would prejudice the parties. In addition to these substantive form recommendations, the Workgroup also suggested that the council “consider whether the rules of court should be modified to require the parties to include all or some of this information when they request an extension without using an approved form.” The Workgroup’s recommendations were designed to ensure that courts had sufficient information to evaluate whether there was good cause for the requested extension.

Earlier this year, the committee proposed, and the council approved, various revisions to the extension-of-time forms to implement the Workgroup’s recommendations and to generally improve the forms.<sup>4</sup> The committee also considered the Workgroup’s recommendation that the applicable rules be revised to require that applicants provide the same information on the forms when seeking an extension of time using some other application or motion.

The committee now proposes revising the extension-of-time forms to make them mandatory.<sup>5</sup> Requiring litigants to use the council’s forms when seeking an extension of time to file a brief would achieve the Workgroup’s goal of ensuring that reviewing courts have sufficient information to evaluate whether the requested extension is supported by good cause. In addition, the committee believes that this approach is superior to that suggested by the Workgroup in that it would ensure that the information in the applications is presented in a predictable, easy-to-find format.<sup>6</sup>

To advise litigants that these forms are now mandatory, the committee also proposes amending rules 8.212, 8.360, 8.412, and 8.882 to indicate that parties seeking an extension of time to file a brief must use the appropriate council form. Additionally, the committee proposes revising *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001-INFO) and

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<sup>4</sup> Judicial Council of Cal., Advisory Com. Rep., *Appellate Procedure: Forms for Extension of Time* (June 29, 2023), <https://jcc.legistar.com/LegislationDetail.aspx?ID=6299977&GUID=F7BCCFE4-23CB-4FF7-8A8D-9EC0E4DED062>.

<sup>5</sup> In addition to this change, this proposal would revise form APP-006 to provide more space to the applicant to list the reasons why the extension of time is needed. The proposal would also revise form APP-106 to provide a check box for the applicant to indicate the need for additional space and attach a declaration.

<sup>6</sup> In February 2024, the First District Court of Appeal issued its opinion in *Public Guardian of Contra Costa County v. K.Y.*, No. A166825. In this opinion, the court suggested that the Judicial Council consider (1) clarifying which form should be used for conservatorship or other civil commitment cases, and (2) having the applicable extension of time form prompt the parties to indicate the date on which the challenged order expires. The committee seeks specific comment on whether a new extension of time form or further rules and form revisions are needed to implement this decision.

*Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO) to further advise litigants of this change.<sup>7</sup>

### ***New extension-of-time application form for use in misdemeanor cases***

Currently, there is no council form by which the parties in a misdemeanor appeal can request an extension of time to file their briefs. Form CR-126, while applicable in criminal appeals, is formatted for use in the Court of Appeal. Form APP-106 is formatted for use in the appellate division but is applicable in limited civil appeals only.

The committee is therefore proposing the adoption of a new mandatory form, *Application for Extension of Time to File Brief—Misdemeanor Case* (form CR-127). This form is substantively similar to form CR-126 but formatted for use in the appellate division.

### ***Additional minor revisions***

The committee proposes making the following minor revisions to the extension-of-time forms:

- Adding an item on each form for the party requesting an extension to indicate how many days they are requesting for the extension.
- Revising the language on the item asking about whether a previous court order granting an extension was marked “no further,” to make the item clearer to litigants.
- Removing the references to cross-appeal briefs from form CR-126. Given the relative rarity of cross-appeals in criminal cases, the committee believes that the form can be simplified by removing these references. If there is a cross-appeal in a criminal case and an extension of time is sought, the committee envisions that the requesting party would use the “supplemental or other brief” option.
- Revising forms CR-126 and JV-816 to direct the party requesting the extension to address prejudice to the parties, as opposed to just prejudice to the defendant or juvenile, respectively.

### **Alternatives Considered**

The committee considered proposing that the civil case information statement deadline be 15 days after the reviewing court “dockets” the appeal but concluded that self-represented litigants may be confused by this term.

The committee considered proposing that the applicable rules of court require extension-of-time applications to include certain information but opted to propose that the existing council forms be made mandatory for the reasons discussed above.

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<sup>7</sup> Attached proposed form APP-101-INFO also incorporates changes from a separate proposal relating to form appellate briefs in limited civil appeals. This separate proposal is being circulated for public comment simultaneously with this proposal.

The committee considered not proposing any changes to the civil case information statement and extension-of-time rules and forms but rejected this option because the proposal would aid appellate efficiency.

### **Fiscal and Operational Impacts**

The committee anticipates no fiscal or operational impacts on the courts as a result of the proposed amendments and revisions. Implementation requirements for courts would involve making litigants, court staff, and judicial officers aware of the changes.

#### **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?
- As discussed in footnote 6, should the committee recommend adoption of a new extension of time form for use in conservatorship or other civil commitment cases or, alternatively, should the committee recommend other revisions to rules or forms to implement the *Public Guardian of Contra Costa v. K.Y.* decision?

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 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. Cal. Rules of Court, rules 8.100, 8.212, 8.360, 8.412, and 8.882, at pages 7–9
2. Forms APP-001-INFO, APP-004, APP-006, APP-101-INFO, APP-106, CR-126, CR-127, JV-816, and JV-817, at pages 10–56

Rules 8.100, 8.212, 8.360, 8.412, and 8.882 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 8.100. Filing the appeal**

2  
3 (a)–(f) \* \* \*

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

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

13  
14 (2) \* \* \*

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16 **Rule 8.212. Service and filing of briefs**

17  
18 (a) \* \* \*

19  
20 (b) **Extensions of time**

21  
22 (1)–(2) \* \* \*

23  
24 (3) Before the brief is due, a party may apply to the presiding justice for an  
25 extension of each period under (a), or under rule 8.200(c)(6) or (7), on a  
26 showing that there is good cause and that:

27  
28 (A) The applicant was unable to obtain—or it would have been futile to  
29 seek—the extension by stipulation; or

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31 (B) The parties have stipulated to the maximum extension permitted under  
32 (1) and the applicant seeks a further extension.

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34 (4) A party need not apply for an extension or relief from default if it can file its  
35 brief within the time prescribed by rule 8.220(a). The clerk must file a brief  
36 submitted within that time if it otherwise complies with these rules.

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38 (5) Parties seeking an extension of time to file a brief must use *Application for*  
39 *Extension of Time to File Brief—Unlimited Civil Case* (form APP-006).

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41 (c) \* \* \*

Rules 8.100, 8.212, 8.360, 8.412, and 8.882 of the California Rules of Court would be amended, effective January 1, 2025, to read:

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

**(a)–(b)** \* \* \*

**(c) Time to file**

- (1) The appellant’s opening brief must be served and filed within 40 days after the record is filed in the reviewing court.
- (2) The respondent’s brief must be served and filed within 30 days after the appellant’s opening brief is filed.
- (3) The appellant must serve and file a reply brief, if any, within 20 days after the respondent files its brief.
- (4) The time to serve and file a brief may not be extended by stipulation, but only by order of the presiding justice under rule 8.60. Parties seeking an extension of time to file a brief must use *Application for Extension of Time to File Brief—Criminal Case* (form CR-126).

(5)–(6) \* \* \*

**(d)–(f)** \* \* \*

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

**(a)–(b)** \* \* \*

**(c) Extensions of time**

The superior court may not order any extensions of time to file briefs. Except in appeals governed by rules 8.416 and 8.417, the reviewing court may order extensions of time for good cause. Parties seeking an extension of time to file a brief must use *Application for Extension of Time to File Brief—Juvenile Justice Case* (form JV-816) or *Application for Extension of Time to File Brief—Juvenile Dependency Case* (form JV-817).

**(d)–(e)** \* \* \*

**Rule 8.882. Briefs by parties and amici curiae**



Rules 8.100, 8.212, 8.360, 8.412, and 8.882 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 (a) \* \* \*

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3 (b) Extensions of time

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5 (1)–(2) \* \* \*

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7 (3) Before the brief is due, a party may apply to the presiding judge of the  
8 appellate division for an extension of the time period for filing a brief under  
9 (a). The application must show that there is good cause to grant an extension  
10 under rule 8.811(b). In civil appeals, the application must also show that:

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12 (A) The applicant was unable to obtain—or it would have been futile to  
13 seek—the extension by stipulation; or

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15 (B) The parties have stipulated to the maximum extension permitted under  
16 (1) and the applicant seeks a further extension.

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18 (4) A party need not apply for an extension or relief from default if it can file its  
19 brief within the time prescribed by (c). The clerk must file a brief submitted  
20 within that time if it otherwise complies with these rules.

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22 (5) Parties seeking an extension of time to file a brief must use *Application for*  
23 *Extension of Time to File Brief—Limited Civil Case* (form APP-106) in  
24 limited civil appeals or *Application for Extension of Time to File Brief—*  
25 *Misdemeanor Case* (form CR-127) in misdemeanor appeals.

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27 (c)–(e) \* \* \*

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## GENERAL INFORMATION

### 1 What does this information sheet cover?

This information sheet tells you about appeals in unlimited civil cases. These are civil cases in which the amount of money claimed is more than \$35,000, as well as other types of cases, such as those filed in family court, probate court, and juvenile court.

If you are the party who is appealing (asking for the trial court's decision to be reviewed), you are called the APPELLANT, and you should read "Information for the Appellant," starting on page 3. If you received notice that another party in your case is appealing, you are called the RESPONDENT and you should read "Information for the Respondent," starting on page 13.

This information sheet does not cover everything you may need to know about appeals in unlimited civil cases. It gives you a general idea of the appeal process. To learn more:

- Read [rules 8.100–8.278](#) of the California Rules of Court, which set out the procedures for unlimited civil appeals. You can get these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).
- Read the local rules and find out about self-help resources for the district in which you filed your appeal at [www.courts.ca.gov/courtsofappeal.htm](http://www.courts.ca.gov/courtsofappeal.htm).
- Visit the Self-Help Guide to the California Courts at <https://selfhelp.courts.ca.gov/>.
- Review the counties included in each appellate district at [www.courts.ca.gov/documents/appdistmap.pdf](http://www.courts.ca.gov/documents/appdistmap.pdf).

### 2 What is an appeal?

An appeal is a request to a higher court to review a decision made by a judge or jury in the superior court. In an unlimited civil case, the court hearing the appeal is the Court of Appeal for the district in which the superior court is located. The lower court—called the "trial court" in this information sheet—is the superior court.

It is important to understand that **an appeal is NOT a new trial**. The Court of Appeal will not consider new evidence, such as the testimony of new witnesses or new exhibits.

The appellate court's job is to review a record of what happened in the trial court and the trial court's decision to see if certain kinds of legal errors were made.

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

- *Information on Appeal Procedures for Limited Civil Cases* (form [APP-101-INFO](#))
- *Information on Appeal Procedures for 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](http://www.courts.ca.gov/forms).

### 3 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).

### 4 Can I appeal any decision the trial court made?

No. Generally, you can only appeal the final judgment—the decision at the end that decides the whole case. Other rulings made by the trial court before the final judgment generally cannot be separately appealed but can be reviewed only later as part of an appeal of the final judgment. There are a few exceptions to this general rule. [Code of Civil Procedure section 904.1](#) lists a few types of orders in an unlimited civil case that can be appealed right away. These include orders that:

- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum.
- Grant a new trial or deny a motion for judgment notwithstanding the verdict.
- Discharge or refuse to discharge an attachment or grant a right to attach.
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction. Note: Injunctions include restraining orders.
- Appoint a receiver.
- Are made after final judgment in the case.



- Are made appealable by the Family Code or the Probate Code.

You should consult with a lawyer or a court self-help center to determine if your order is final and appealable. Go to [www.courts.ca.gov/selfhelp-selfhelpcenters.htm](http://www.courts.ca.gov/selfhelp-selfhelpcenters.htm) to find information about the self-help center in your county.

(You can view [Code of Civil Procedure section 904.1](#) using the link below: [leginfo.legislature.ca.gov/faces/codes.xhtml](http://leginfo.legislature.ca.gov/faces/codes.xhtml).)

## 5 What does the appellant need to prove to win on appeal?

The appellant must prove that an error in the trial court proceedings was made and that the error affected the outcome of the court's or jury's decision. An error that affected the outcome of the case is called a "prejudicial error."

An error can include things like errors made by the judge about the law, errors or misconduct by the lawyers or by the jury, incorrect instructions given to the jury, or insufficient evidence to support the judgment, order, or other decision being appealed. Note: This is not a complete list of all possible errors.

When the appellant argues that the error was based on insufficient evidence to support the judgment or other decision being appealed, the Court of Appeal will determine whether there was "substantial evidence" to support the judgment, order, or other decision being appealed. But in conducting its review, the Court of Appeal only looks to see if there was evidence that reasonably supports the decision.

The Court of Appeal generally will not reconsider the jury's or the trial court's conclusions about which side had more or stronger evidence or whether witnesses were believable. It only determines whether the evidence is sufficient to support the judgment, order, or other decision.

The Court of Appeal will generally not overturn the judgment, order, or other decision being appealed unless the record shows a prejudicial error was made. The winning party does not have to prove that the judgment, order, or other decision was correct. Instead, it is up to the appellant to prove that the error was made and that the error affected the outcome of the case.

## 6 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 an unlimited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer.

If you decide not to use a lawyer, you must put your address, telephone number, fax number (if available), and email address (if available) on the first page of every document you file with the court.

However, if you need to keep your contact information private (for instance, in an appeal involving a domestic violence restraining order), you may give a different mailing address instead. But if you use a different address, be sure to check it regularly to stay informed about your case and about your obligations regarding your case.

You must keep the Court of Appeal, the trial court (if the trial court proceedings continue or are expected to continue), and the other parties in your case informed of any change in your contact information for service of notices and other documents relating to the appeal.

For your trial court case, you may complete *Notice of Change of Address or Other Contact Information* (form [MC-040](#)), file it in the trial court, and have it served on the parties in the case.

For your case in the Court of Appeal, you may refer to form MC-040 as an example of the information that you need to include in a notice regarding the change in your contact information. That notice must be filed in the Court of Appeal and served on the parties in the appellate case.

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

You have to hire your own lawyer if you want one. You can get information about finding a lawyer on the Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help](http://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help).



**INFORMATION FOR THE APPELLANT**

This part of the information sheet is written for the appellant—the party who is appealing the trial court’s decision. It explains some of the rules and procedures relating to appealing a decision in an unlimited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 13 of this information sheet.

**8 How do I start my appeal?**

First, you must serve and file a notice of appeal. The notice of appeal tells the other party or parties in the case and the trial court that you are appealing the trial court’s decision. You may use *Notice of Appeal/Cross-Appeal—Unlimited Civil Case* (form [APP-002](#)) to prepare a notice of appeal in an unlimited civil case. You can get form APP-002 at any courthouse or county law library or online at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm).

**9 How do I “serve and file” the notice of appeal?**

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (“serve”) the notice of appeal to the other party or parties in the way required by law. If the notice of appeal is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice of appeal has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the notice of appeal, who was served with the notice of appeal, how the notice of appeal was served (by mail, in person, or electronically), and the date the notice of appeal was served.
- Bring or send (by mail or electronically) the original notice of appeal and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice of appeal you are planning to file for your own records before you file it with the court.

Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the notice of appeal to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

**10 Is there a deadline to serve and file my notice of appeal?**

Yes. Generally, in an unlimited civil case, the notice of appeal must be served on the other party or parties in the case and filed with the clerk of the superior court within **60 days** after the trial court clerk or a party serves either (1) a document called a “Notice of Entry” of the trial court judgment or appealable order or (2) a file-stamped copy of the judgment or appealable order.

If the clerk or a party served neither of these documents, the notice of appeal must be filed within 180 days after entry of judgment or appealable order (generally, the date the judgment or appealable order is file-stamped).

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

If a notice of appeal has been filed in a case, any other party to the case may file its own appeal from the same judgment or order. This is called a “cross-appeal.”

To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal or within 20 days after the clerk of the superior court mails notice of the first appeal, whichever is later. A party that wishes to cross-appeal may use *Notice of Appeal/Cross-Appeal—Unlimited Civil Case* (form [APP-002](#)) to file this notice in an unlimited civil case.

**11 Do I have to pay a fee to file a notice of appeal?**

Yes. Unless the court waives this fee, you must pay a fee for filing your notice of appeal. You can ask the clerk of the court where you are filing the notice of appeal what the fee is or look up the fee for an appeal in an unlimited civil case in the current Statewide Civil Fee Schedule at [www.courts.ca.gov/7646.htm](http://www.courts.ca.gov/7646.htm) (see the “Appeal and Writ Related Fees” section near the end of the schedule).



If you cannot afford to pay the fee, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

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

Filing a notice of appeal does NOT automatically postpone most judgments or orders, such as those requiring you to pay another party money, deliver property to another party, or comply with child custody or visitation orders (see Code of Civil Procedure sections 917.1–917.9 and 1176; you can get a copy of these laws at [www.leginfo.legislature.ca.gov/faces/codes.xhtml](http://www.leginfo.legislature.ca.gov/faces/codes.xhtml)). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request or some other procedure authorizes a stay (such as filing a bond in appropriate cases).

In most cases, if the trial court denies your request for a stay, you can apply to the Court of Appeal for a stay. If you do not get a stay and you do not do what the trial court ordered you to do, court proceedings to collect the money or otherwise enforce the judgment or order may be started against you.

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

Within 15 days after the Court of Appeal lodges the notice of appeal and assigns the appeal a case number, the appellant must serve and file in the Court of Appeal a completed *Civil Case Information Statement* (form [APP-004](#)), attaching a copy of the judgment or appealed order that shows the date it was entered. See [rules 8.100](#) and [8.104](#) of the California Rules of Court. You may check to see if your notice of appeal has been lodged and a case number assigned to your appeal by going to the Appellate Courts Case Information website located at [appellatecases.courtinfo.ca.gov/index.cfm](http://appellatecases.courtinfo.ca.gov/index.cfm).

In addition, since the Court of Appeal justices were not there to see what happened in the trial court, an official record of what happened must be prepared and sent to the Court of Appeal for its review.

Within 10 days of filing the notice of appeal, the appellant must tell the trial court in writing (designate) what documents and oral proceedings, if any, to include in the record that will be sent to the Court of Appeal. You will need to designate all parts of the record that the Court of Appeal will need to decide the issues you raised in the appeal.

You can use *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) to designate the record in an unlimited civil case. You can get form APP-003 at any courthouse or county law library or online at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm).

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

- Have somebody over 18 years old mail, deliver, or electronically send (serve) the notice to the other party or parties in the way required by law. If the notice is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the notice has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the notice, who was served with the notice, how the notice was served (by mail, in person, or electronically), and the date the notice was served.
- Bring or send (by mail or electronically) the original notice and the proof of service to the trial court that issued the judgment, order, or other decision you are appealing. You should make a copy of the notice you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the notice to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.





You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

## 14 What is the official record of the trial court proceedings?

There are three parts of the official record:

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

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

### a. Record of the documents filed in the trial court

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

- A *clerk’s transcript* or an *appendix*,
- The original *trial court file*, or
- An *agreed statement*.

Read below for more information about these options.

#### (1) Clerk’s transcript or appendix

**Description:** A clerk’s transcript is a compilation of the documents filed in the trial court that is prepared by the trial court clerk. An appendix is a compilation of these documents prepared by a party. (Cal. Rules of Court, rule [8.124](#).)

**Contents:** Certain documents, such as the notice of appeal and the trial court judgment or order being appealed, must be included in the clerk’s transcript or appendix. These documents are listed in rule [8.122\(b\)](#) and rule [8.124\(b\)](#) of the California Rules of Court and in Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case) (form [APP-003](#)).

**Clerk’s transcript.** If you want any documents other than those listed in rule [8.122\(b\)](#) to be included in the clerk’s transcript, you must tell the trial court in your notice designating the record on appeal. You can use form [APP-003](#) to do this. You will need to identify each document you want included in the clerk’s transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.

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

**Cost:** The appellant is responsible for paying for preparing a clerk’s transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk’s transcript.

You must do one of the following three things within 10 days after the clerk sends this bill or the Court of Appeal may dismiss your appeal:

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

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



**Appendix:** If you choose to prepare an appendix of the documents filed in the superior court, rather than designating a clerk’s transcript, that appendix must include all of the documents and be prepared in the form required by rule [8.124](#) of the California Rules of Court. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the appellant will pay the cost.

The party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the Court of Appeal has ordered otherwise) and file the appendix in the Court of Appeal. The appellant’s appendix or a joint appendix must be served and filed before or together with the appellant’s opening brief. See [\(16\)](#) for information about the brief.

## **(2) Trial court file**

**When available:** If the Court of Appeal has a local rule allowing this, and the parties agree, the clerk can send the Court of Appeal the original trial court file instead of a clerk’s transcript as a record of documents filed in the trial court (see rule [8.128](#) of the California Rules of Court).

**Cost:** As with a clerk’s transcript, the appellant is responsible for paying for preparing the trial court file. The trial court clerk will send you a bill for this preparation cost.

You must do one of the following things within 10 days after the clerk sends this bill or the Court of Appeal may dismiss your appeal:

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

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

## **(3) Agreed statement**

**Description:** An agreed statement is a summary of the trial court proceedings agreed to by the parties. (See: rule [8.134](#) of the California Rules of Court.)

**When available:** If the trial court proceedings were not recorded by a court reporter or if you do not want to use that option, you can choose (elect) to use an agreed statement as the record of the oral proceedings. Please note that it may take more of your time to prepare an agreed statement than to use a reporter’s transcript, if it is available.

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

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

**Preparation:** If you elect to use this option, you must file either (1) an agreed statement or (2) a written agreement (called a “stipulation”) that the parties are trying to agree on a statement, along with your notice designating the record on appeal. If you file the stipulation and the parties agree on a statement, you must file the statement within 40 days after filing the notice of appeal. If you file the stipulation and the parties cannot agree on the statement, you must file a new notice designating the record within 50 days after filing the notice of appeal.



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

***Important!*** The type of record of the oral proceedings that you choose, including a reporter’s transcript or a settled statement, should be carefully considered, as it may affect your appeal. You should consult with a lawyer to determine the best option in your case.

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

You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying for preparing this record or for preparing an initial draft of the record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the Court of Appeal. **If the Court of Appeal does not receive this record, you may forfeit your arguments on appeal, or the Court of Appeal may make presumptions in favor of the judgment or order.**

In an unlimited civil case, you can use *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) to tell the trial court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get form [APP-003](#) at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

There are three ways in which a record of the oral proceedings can be prepared for the Court of Appeal:

- If you or the other party arranged to have a court reporter present during the trial court proceedings, the reporter can prepare a record, called a “*reporter’s transcript*.”
- You can use an *agreed statement*.
- You can use a *settled statement*.

Read below for more information about these options.

**(1) Reporter’s transcript**

***Description:*** A reporter’s transcript is a written record (sometimes called a “verbatim” record) of the oral proceedings in the trial court prepared by a court reporter. Rule [8.130](#) of the California Rules of Court establishes the requirements for reporter’s transcripts.

***When available:*** If a court reporter was present in the trial court and made a record of the oral proceedings, you can choose (elect) to have the court reporter prepare a reporter’s transcript for the Court of Appeal. But a court reporter might not have been present unless you or another party in your case had made specific arrangements to have a court reporter present. If you are unsure, check with the trial court to see if a court reporter made a record of the oral proceedings in your case before choosing this option.

***Contents:*** If you elect to use a reporter’s transcript, you must identify by date (this is called “designating”) what proceedings you want to be included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—*Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#))—to do this.

If you elect to use a reporter’s transcript, the respondent also has the right to designate additional proceedings to be included in the reporter’s transcript. If you elect to proceed





without a reporter's transcript, however, the respondent may not designate a reporter's transcript without first getting an order from the Court of Appeal.

**Cost:** The appellant is responsible for paying for preparing a reporter's transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter's transcript. You must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule 8.130 with the trial court clerk within 10 days after this notice is sent. (See rule [8.130](#) for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. Money from a special fund, called the Transcript Reimbursement Fund, may be available to help you pay for the transcript. You can get information about this fund at [www.courtreportersboard.ca.gov/consumers/index.shtml#rtf](http://www.courtreportersboard.ca.gov/consumers/index.shtml#rtf).

If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a settled statement, which are described below.

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

## (2) Agreed statement

**Description:** An agreed statement is a written summary of the trial court proceedings agreed to by all the parties. See rule [8.134](#) of the California Rules of Court.

**When available:** If the trial court proceedings were not recorded by a court reporter or if you do not want to use that option, you can choose (elect) to use an agreed statement as the record of the oral proceedings. Please note that it may take more of your time to prepare an agreed statement than to use a reporter's transcript, if it is available.

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

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

**Preparation:** If you elect to use this option, you must file either (1) an agreed statement or (2) a written agreement (called a "stipulation") that the parties are trying to agree on a statement, along with your notice designating the record on appeal. If you file the stipulation and the parties agree on a statement, you must file the statement within 40 days after filing the notice of appeal. If you file the stipulation and the parties cannot agree on the statement, you must file a new notice designating the record within 50 days after filing the notice of appeal.

## (3) Settled statement

**Description:** A settled statement is a summary of the trial court proceedings that is approved by the trial court judge who conducted those proceedings (the term "judge" includes commissioners, referees, hearing officers, and temporary judges).

**When available:** Under rule [8.137](#) of the California Rules of Court, you can choose (elect) to use a settled statement as the record of the oral



proceedings if (1) the trial court proceedings were not recorded by a court reporter or (2) if you have an order waiving your court fees and costs. Please note that it may take more of your time to prepare a settled statement than to use a reporter's transcript, if it is available.

If you want to use a settled statement as the record of the oral proceedings for reasons other than the two previously mentioned, you must file a motion to ask the trial court for an order. You may use *Appellant's Motion to Use a Settled Statement (Unlimited Civil Case)* (form APP-025) for this purpose. Read rule [8.137](#) about the requirements of your motion or request for order.

**Contents:** A settled statement must include:

- A statement of the points you (the appellant) are raising on appeal;
- A condensed narrative of the oral proceedings that you specified in the notice designating the record on appeal or motion. The condensed narrative is a summary of the testimony of each witness and other evidence that is relevant to the issues you are raising on appeal; and
- A copy of the judgment or order you are appealing attached to the settled statement.

**Preparing a proposed settled statement:** If you elect to use a settled statement, you must prepare a proposed settled statement. You may use *Appellant's Proposed Settled Statement (Unlimited Civil Case)* (form [APP-014](#)) to prepare your proposed statement. You can get the form at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms).

(See rule 8.137 of the California Rules of Court for more information about what must be included in a settled statement and the procedures for preparing a statement. You can get a copy of this rule at any courthouse or county law library or online at [www.courts.ca.gov/rules](http://www.courts.ca.gov/rules).)

***Serving and filing a proposed settled statement:***

You must serve and file the proposed statement within 30 days after filing your notice electing to use a settled statement or within 30 days after the trial court clerk sends, or a party serves, the order granting the motion to use a settled statement.

“Serve and file” means that you must:

- Have somebody over 18 years old mail, deliver, or electronically send (serve) the proposed settled statement to the respondent in the way required by law. If the proposed statement is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the proposed settled statement has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail, in person, or electronically), and the date the proposed statement was served.
- File the original proposed settled statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).



**Respondent's review:** The respondent has 20 days from the date you serve your proposed settled statement to serve and file either:

- Proposed changes (called “amendments”) to the proposed statement; or
- If the oral proceedings in the trial court were reported by a court reporter, a notice indicating that the respondent is electing to provide a reporter’s transcript instead of proceeding with a settled statement.

**Review of appellant’s proposed settled statement:** If the respondent proposes changes, the trial court judge then reviews both your proposed statement and the respondent’s proposed amendments. The trial judge will either make or order you (the appellant) to make any corrections or modifications to the statement that are needed to make sure that the statement provides an accurate summary of the testimony and other evidence relevant to the issues you indicated you are raising on appeal. For more information, see rule [8.137\(f\)](#) of the California Rules of Court. See also rule [8.140](#), which explains the consequences for a party’s failure to make corrections that are ordered to be made to the proposed statement.

**Request for hearing to review proposed settled statement:** No later than 10 days after the respondent files proposed amendments, or the time to do so has expired, a party may request a hearing to review and correct the proposed statement. No hearing will be held unless ordered by the trial court judge. A judge will not ordinarily order a hearing unless there is a factual dispute about a material aspect of the trial court proceeding. If there is a hearing, see rule [8.137](#) for more information.

**Additional review procedures:** If there is no hearing after the respondent proposes changes to the settled statement, and if the judge makes any

corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you and the respondent for your review.

If the judge orders you to make any corrections or modifications to the proposed statement, you must serve and file the corrected or modified statement within the time ordered by the judge. See rule [8.140](#), which explains the consequences for a party’s failure to make corrections to the proposed statement.

If you or the respondent disagree with anything in the modified or corrected statement, you have 10 days from the date the modified or corrected statement is sent to you to serve and file proposed amendments or objections to the statement. The judge then reviews the modified or corrected statement and any proposed modifications. If the judge decides that further corrections or modifications are necessary, the review process described above takes place again.

**Completion and certification:** If the judge does not order any corrections or modifications to the proposed statement, the judge must promptly certify the statement as an accurate summary of the evidence and testimony of each witness relevant to the issues you indicated you are raising on appeal.

Alternatively, the parties may serve and file a stipulation (agreement) that the statement as originally served or corrected or modified is correct. Such a stipulation is equivalent to the judge’s certification of the statement.

**Sending settled statement to the Court of Appeal:** Once the trial court judge certifies the statement or the trial court receives the parties’ stipulation, the trial court clerk will send the statement to the Court of Appeal as required under rule [8.150](#) of the California Rules of Court.



**c. Exhibits**

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk's transcript unless you ask that they be included in your notice designating the record on appeal. *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form [APP-003](#)) includes a space for you to make this request.

You also can ask the trial court to send original exhibits to the Court of Appeal at the time briefs are filed. (See rule [8.224](#) for more information about this procedure and see below for information about briefs.)

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

**15 What happens after the official record has been prepared?**

As soon as the record on appeal is complete, the clerk of the trial court will send it to the Court of Appeal for the district in which the trial court is located. When the Court of Appeal receives the record, it will send you a notice telling you when you must file your brief in the Court of Appeal.

**16 What is a brief?**

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

You should read rules [8.200–8.224](#) of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in unlimited civil appeals, including requirements for the format and length of these briefs. You can get copies of these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules.htm](http://www.courts.ca.gov/rules.htm).

**Contents and format of briefs:** If you are the appellant, your brief, called an "appellant's opening brief," must clearly explain the legal errors you believe were made in the trial court. Your brief must refer to the exact places in the clerk's transcript and the reporter's transcript (or the other forms of the record you are using) that support your argument. Each brief must be no longer than 14,000 words if produced on a computer, including footnotes. A brief produced on a typewriter must not be longer than 50 pages. The brief must contain a table of contents and a table of authorities. The cover of appellant's opening brief filed in paper form must be green. For other content and formatting requirements for the brief, read rules [8.40](#) and [8.204](#) of the California Rules of Court.

Remember that an appeal is not a new trial. The Court of Appeal will not consider new evidence, such as new exhibits or the testimony of new witnesses, so do not include any new evidence in your brief.

**Serving and filing:** You must serve and file your opening brief within 40 days after the record is filed in the Court of Appeal or 70 days from the date the appellant chooses to proceed with no reporter's transcript under rule [8.124](#). "Serve and file" means that you must:

- Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a "proof of service." *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.





- File the original brief and the proof of service with the Court of Appeal. You should make a copy of the brief you are planning to file for your own records before you file it with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.
- Note: If a party chooses to prepare an appendix of the documents filed in the trial court instead of designating a clerk’s transcript, the appellant’s appendix or a joint appendix must be served and filed before or together with the appellant’s opening brief.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 60 days (see [rule 8.212\(b\)](#) for requirements for these agreements). You can also apply to the presiding justice of the Court of Appeal to extend the time for filing this brief if you can show good cause for an extension (see [rule 8.63](#) for information about extensions of time). You **must** use *Application for Extension of Time to File Brief—Unlimited Civil Case* (form [APP-006](#)) to ask the court for an extension.

**If you do not file your brief by the deadline set by the Court of Appeal, the court may dismiss your appeal.**

## 17 What happens after I file my brief?

Within 30 days after you serve and file your brief, the respondent must respond by serving and filing a respondent’s brief. Within 20 days after the respondent’s brief was filed, you may, but are not required to, file another brief replying to the respondent’s brief. This is called a “reply brief.”

## 18 What happens after all the briefs have been filed?

After all the briefs have been filed or the time to file them has passed, the Court of Appeal will contact you to tell you the date for oral argument in your case or ask if you want to participate in oral argument.

## 19 What is “oral argument”?

“Oral argument” is not a chance to present new evidence. Instead, it is a chance to orally explain the arguments you made in your brief to the Court of Appeal justices. You do not have to participate in oral argument if you do not want to; you can notify the Court of Appeal that you want to “waive” oral argument. If all parties waive oral argument, the justices will decide your appeal based on the briefs and the appellate record. But if any party requests oral argument, the Court of Appeal will hold oral argument.

If you choose to participate in oral argument, you will have a limited amount of time as set by the court.

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

You can find more information about oral argument in appeals cases in [rule 8.256](#) of the California Rules of Court and online at [www.courts.ca.gov/12421.htm](http://www.courts.ca.gov/12421.htm).

## 20 What happens after oral argument?

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

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

If you do not want to continue with your appeal, you must notify the court. If the record has not yet been filed in the Court of Appeal, file *Abandonment of Appeal (Unlimited Civil Case)* (form [APP-005](#)) in the superior court.

If the record has already been filed in the Court of Appeal, file *Request for Dismissal of Appeal (Civil Case)* (form [APP-007](#)) in the Court of Appeal.



**INFORMATION FOR THE RESPONDENT**

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

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

You do not *have* to do anything, but there may be consequences if you do nothing. The notice of appeal simply tells you that another party is appealing the trial court’s decision. However, this would be a good time to get advice from a lawyer, if you want it. You do not *have* to have a lawyer; if you are an individual (not a corporation, for example), you are allowed to represent yourself in an appeal in an unlimited civil case. But appeals can be complicated and you will have to follow the same rules that lawyers have to follow.

If you have any questions about the appeal procedures, you should talk to a lawyer. You must hire your own lawyer if you want one. You can get information about finding a lawyer on the Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help](http://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help).

**23 If the other party appealed, can I appeal too?**

Yes. Even if another party has already appealed, you may still appeal the same judgment or order. This is called a “cross-appeal.” To cross-appeal, you must serve and file a notice of appeal. You can use *Notice of Appeal/Cross-Appeal—Unlimited Civil Case* (form [APP-002](#)) to file this notice in an unlimited civil case. Please read the information for appellants about filing a notice of appeal, starting on page 3 of this information sheet, if you are considering filing a cross-appeal.

**24 Is there a deadline to file a cross-appeal?**

Yes. You must serve and file your notice of appeal within either the regular time for filing a notice of appeal (generally 60 days after service of Notice of Entry of the judgment or a file-stamped copy of the judgment) or within 20 days after the clerk of the trial court serves notice of the first appeal, whichever is later.

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

You do not *have* to do anything, but there may be consequences if you do nothing. A notice designating the record on appeal lets you know what kind of official record the appellant has asked to be sent to the Court of Appeal. Depending on the kind of record chosen by the appellant, however, you may have the option to:

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

Look at the appellant’s notice designating the record on appeal to see what kind of record the appellant has chosen and read about that form of the record in the response to question 14 above. Then read below for what your options are when the appellant has chosen that form of the record.

**a. Clerk's transcript or appendix**

**Clerk’s transcript:** If the appellant is using a clerk’s transcript, you have the option of asking the clerk to include additional documents in the clerk’s transcript. To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk’s transcript. You may use *Respondent’s Notice Designating Record on Appeal—Unlimited Civil Case* (form [APP-010](#)) for this purpose.



Whether or not you ask for additional documents to be included in the clerk's transcript, you must pay a fee if you want a copy of the clerk's transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk's transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk's notice was sent.

If you cannot afford to pay this cost, you can ask the trial court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form [FW-001](#)). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). The trial court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk's transcript for you unless you deposit payment for the cost or obtain a fee waiver.

**Appendix:** If the appellant is using an appendix, and you and the appellant have not agreed to a joint appendix, you may prepare a separate respondent's appendix. See pages 5–6 for more information about preparing an appendix.

If the appellant chooses a clerk's transcript but does not have a waiver of the fee for a clerk's transcript, you can choose an appendix instead of a clerk's transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent's Notice Designating Record on Appeal—Unlimited Civil Case* (form APP-010) within 10 days after the appellant's notice designating the record on appeal is filed.

#### **b. Reporter's transcript**

If the appellant is using a reporter's transcript, you have the option of asking for additional proceedings to be included in the reporter's transcript. To do this, within 10 days after the appellant files its notice designating the record on appeal, you must serve and file a notice designating additional proceedings to be included in the reporter's transcript. You may use *Respondent's Notice Designating Record on Appeal—Unlimited Civil Case* (form [APP-010](#)) for this purpose.

Whether or not you ask for additional proceedings to be included in the reporter's transcript, you must generally pay a fee if you want a copy of the reporter's transcript. The trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter's transcript. If you want a copy of the reporter's transcript, you must deposit payment for this cost (and a fee for the trial court) or one of the substitutes allowed by rule [8.130](#) with the trial court clerk within 10 calendar days after this notice is sent. (See rule [8.130](#) for more information about this deposit and the permissible substitutes, such as a waiver of this deposit signed by the court reporter.)

Unlike the fee for preparing a clerk's transcript, the court cannot waive the fee for preparing a reporter's transcript. Money from a special fund, called the Transcript Reimbursement Fund, may be available to help you pay for the transcript. You can get information about this fund at [www.courtreportersboard.ca.gov/consumers/index.shtml#trf](http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf).

The reporter will not prepare a copy of the reporter's transcript for you unless you deposit the cost of the transcript, or provide one of the permissible substitutes, or your application for payment by the Transcript Reimbursement Fund is approved.

#### **c. Agreed statement**

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 40 days after the appellant files its notice of appeal. See rule [8.134](#) of the California Rules of Court.

#### **d. Settled statement**

If the appellant elects to use a settled statement (a summary of the trial court proceedings that is approved by the trial court), the appellant will send you a proposed settled statement to review. You will have 20 days from the date the appellant served you this proposed statement to serve and file either:



- Suggested changes (called “amendments”) that you think are needed to make sure that the settled statement provides an accurate summary of the evidence and testimony of each witness relevant to the issues the appellant is raising on appeal (see page 10 of this form and rule [8.137\(e\)–\(h\)](#) for more information about the amendment process); or
- If the oral proceedings in the trial court were reported by a court reporter, a notice indicating that you are choosing to provide a reporter’s transcript, at your expense, instead of proceeding with a settled statement (see [rule 8.137\(e\)\(2\)](#) for the requirements for choosing to provide a reporter’s transcript).

Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the proposed amendments to the appellant in the way required by law. If the proposed amendments are mailed or personally delivered, it must be by someone who is not a party to the case—so not you.

- Make a record that the proposed amendments have been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record. The proof of service must show who served the proposed amendments, who was served with the proposed amendments, how the proposed amendments were served (by mail, in person, or electronically), and the date the proposed amendments were served.
- File the original proposed amendments and the proof of service with the trial court. You should make a copy of the proposed amendments you are planning to file for your own records before you file them with the court. Unless you are filing electronically, it is a good idea to bring or mail an extra copy of the proposed amendments to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

## **26** What happens after the official record has been prepared?

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

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

You should read rules [8.200–8.224](#) of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in unlimited civil appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at [www.courts.ca.gov/rules.htm](http://www.courts.ca.gov/rules.htm).

The appellant serves and files the first brief, called an “appellant’s opening brief.” You must respond by serving and filing a “respondent’s brief” within 30 days after the appellant’s opening brief is filed. “Serve and file” means that you must:

- Have somebody over 18 years old mail, personally deliver, or electronically send (serve) the brief to the other parties in the way required by law. If the brief is mailed or personally delivered, it must be by someone who is not a party to the case—so not you.
- Make a record that the brief has been served. This record is called a “proof of service.” *Proof of Service (Court of Appeal)* (form [APP-009](#)) or *Proof of Electronic Service (Court of Appeal)* (form [APP-009E](#)) can be used to make this record.





The proof of service must show who served the brief, who was served with the brief, how the brief was served (by mail, in person, or electronically), and the date the brief was served.

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

You can get more information about how to serve court papers and proof of service from *Information Sheet for Proof of Service (Court of Appeal)* (form [APP-009-INFO](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 60 days (see rule 8.212(b) for requirements for these agreements). You can also apply to the presiding justice of the Court of Appeal to extend the time for filing this brief if you can show good cause for an extension. You **must** use *Application for Extension of Time to File Brief—Unlimited Civil Case* (form [APP-006](#)) to ask the court for an extension.

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

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

## 27 What happens after all the briefs have been filed?

After all the briefs have been filed or the time to file them has passed, the Court of Appeal will contact you to tell you the date for oral argument in your case or ask if you want to participate in oral argument.

## 28 What is “oral argument”?

“Oral argument” is not a chance to present new evidence. Instead, it is a chance to orally explain the arguments you made in your brief to the Court of Appeal justices. You do not have to participate in oral argument if you do not want to; you can notify the Court of Appeal that you want to “waive” oral argument. If all parties waive oral argument, the justices will decide your appeal based on the briefs and the appellate record. But if any party requests oral argument, the Court of Appeal will hold oral argument.

If you choose to participate in oral argument, you will have a limited amount of time as set by the court.

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

You can find more information about oral argument in appeals cases in rule [8.256](#) of the California Rules of Court and online at [www.courts.ca.gov/12421.htm](http://www.courts.ca.gov/12421.htm).

## 29 What happens after oral argument?

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

<p><b>COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____</b></p>	<p>COURT OF APPEAL CASE NUMBER (if known):</p>
<p>ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____</p> <p>NAME: _____</p> <p>FIRM NAME: _____</p> <p>STREET ADDRESS: _____</p> <p>CITY: _____ STATE: _____ ZIP CODE: _____</p> <p>TELEPHONE NO.: _____ FAX NO.: _____</p> <p>EMAIL ADDRESS: _____</p> <p>ATTORNEY FOR (name): _____</p>	<p><i>FOR COURT USE ONLY</i></p> <p style="font-size: 24pt; font-weight: bold;">DRAFT</p> <p style="font-size: 24pt; font-weight: bold;">02.14.2024</p> <p style="font-size: 24pt; font-weight: bold;">Not approved by Judicial Council</p>
<p>APPELLANT: _____</p> <p>RESPONDENT: _____</p>	<p>SUPERIOR COURT CASE NUMBER: _____</p>
<p><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____</b></p> <p>STREET ADDRESS: _____</p> <p>MAILING ADDRESS: _____</p> <p>CITY AND ZIP CODE: _____</p> <p>BRANCH NAME: _____</p>	<p>JUDGES (all who participated in case): _____</p>
<p><b>CIVIL CASE INFORMATION STATEMENT</b></p>	
<p><b>NOTE TO APPELLANT:</b> You must file this form with the clerk of the Court of Appeal <b>within 15 days after the Court of Appeal lodges the notice of appeal and assigns the appeal a case number.</b> 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]).</p>	

**PART I – APPEAL INFORMATION**

1. APPEALABILITY

a. 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):

b. 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):

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

- a. Date of entry of judgment or order appealed from:
- b. 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:
- c. 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:

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

3. 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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4. APPELLATE CASE HISTORY (*Provide additional information, if necessary, on attachment 4.*) 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.:

#### 5. 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*)

Rule 8.29 (e.g., constitutional challenge; state or county party)  Code Civ. Proc., § 1355 (Escheat)

Bus. & Prof. Code, §16750.2 (Antitrust)

Gov. Code, § 946.6(d) (Actions against public entities)

Bus. & Prof. Code, § 17209 (Unfair Competition Act)

Gov. Code, § 4461 (Disabled access to public buildings)

Bus. & Prof. Code, § 17536.5 (False advertising)

Gov. Code, § 12656(a) (False Claims Act)

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)

Health & Saf. Code, § 19954.5 (Accessible seating and accommodations)

Health & Saf. Code, § 19959.5 (Disabled access to privately funded public accommodations)

Civ. Code, § 55.2 (Disabled access to public conveyances, accommodations, and housing)

Pub. Resources Code, § 21167.7 (CEQA)

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

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

a.  Conservatorship

b.  Contract

c.  Eminent domain

d.  Equitable action (1)  Declaratory relief (2)  Other (*describe*):

e.  Family law

f.  Guardianship

g.  Probate

h.  Real property rights (1)  Title of real property (2)  Other (*describe*):

i.  Tort

(1)  Medical malpractice

(2)  Product liability

(3)  Other personal injury

(4)  Personal property

(5)  Other tort (*describe*):

j.  Trust proceedings

k.  Writ proceedings in superior court

(1)  Mandate (Code Civ. Proc., § 1085) (2)  Administrative mandate (Code Civ. Proc., § 1094.5)

(3)  Prohibition (Code Civ. Proc., § 1102) (4)  Other (*describe*):

l.  Other action (*describe*):

2.  This appeal is eligible for calendar preference/priority on appeal (*cite authority or explain*):



APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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NOTICE TO PARTIES: A copy of this form must be served on the other party or parties to this appeal. If served by mail or personal delivery, THE MAILING OR DELIVERY MUST BE PERFORMED BY SOMEONE WHO IS NOT A PARTY TO THE APPEAL. 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 *Civil Case Information Statement (Appellate)* 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)

<b>COURT OF APPEAL</b>	<b>APPELLATE DISTRICT, DIVISION</b>	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NUMBER:		SUPERIOR COURT CASE NUMBER:
NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.:		<b>DRAFT 2.07.2024 Not approved by Judicial Council</b>
EMAIL ADDRESS: ATTORNEY FOR ( <i>name</i> ):		
APPELLANT:  RESPONDENT:		
<b>APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— UNLIMITED CIVIL CASE</b>		
<b>Notice: Please read Judicial Council form <a href="#">APP-001-INFO</a> before completing this form.</b>		

1. a. 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 Cal. Rules of Court, rule [8.216](#))
  - combined appellant's reply brief (ARB) and respondent's brief (RB) (see Cal. Rules of Court, rule [8.216](#))
  - appellant's reply brief (ARB)
  - supplemental or other brief
- b. now due on (*date*): \_\_\_\_\_
- c. be extended to (*date*): \_\_\_\_\_ for an extension of (*total number of days sought*): \_\_\_\_\_ days.
2. I  have  have not received a Cal. Rules of Court, rule [8.220](#) default 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 use the words "no further" in a prior order or directive granting an extension?**  Yes  No
4. I am unable to file a stipulation to an extension because
- the other party is unwilling to stipulate to an extension.
  - the maximum stipulated time has already been used.
  - other reason (*please specify*): \_\_\_\_\_
5. The last brief filed by any party was  AOB  RB  RB and AOB  ARB and RB  ARB  Other filed on (*date*): \_\_\_\_\_
6. The record in this case is
- |                              | Volumes (#) | Pages (#) | Date filed |
|------------------------------|-------------|-----------|------------|
| 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.  This appeal is eligible for, or has been granted, calendar preference/priority (*cite authority or explain*):

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-031A](#)) for this purpose. (*Please address the Cal. Rules of Court, rule [8.63](#) factors, including possible prejudice to the parties*):

10. 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](#)).

11. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). 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)



**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 \$35,000 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](http://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-INFO](#))
- *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](http://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.**





**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 email 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 Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help](http://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help).

**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 [leginfo.legislature.ca.gov/faces/codes.xhtml](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](http://www.courts.ca.gov/forms).

**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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://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](http://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](http://www.courts.ca.gov/forms). You can file this application either before you file your notice of appeal or with your notice of appeal. The court will review this application to determine if you are eligible for a fee waiver.

### **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.legislature.ca.gov/faces/codes.xhtml](http://www.leginfo.legislature.ca.gov/faces/codes.xhtml)). These kinds of judgments or orders will be postponed, or “stayed,” only if you request a stay and the court grants your request. 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.

### **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 *Appellant's 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](http://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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://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 what was said in the trial court (this is called the "oral proceedings")
- A record of the documents filed in the trial court (other than exhibits)
- 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 what was said in the trial court (the "oral proceedings")

The first 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 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 *Appellant's 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](http://www.courts.ca.gov/forms).

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

- 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.”
- 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.
- You can use an agreed statement.
- 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 included in the reporter’s transcript. You can use the same form you used to tell the court you wanted to use a reporter’s transcript—*Appellant's Notice Designating Record on Appeal (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](http://www.courtreportersboard.ca.gov/consumers/index.shtml#rtf). If you are unable to pay the cost of a reporter’s transcript, a record of the oral proceedings can be prepared in other ways, by using an agreed statement or a 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.

**Contents:** If you elect to use a transcript of an official electronic recording, you must identify by date (this is called “designating”) what proceedings you want included in the transcript. You can use the same form you used to tell the court you wanted to use a transcript of an official electronic recording—*Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this.

**Cost:** The appellant is responsible for paying the court for the cost of either (a) preparing a transcript *or* (b) making a copy of the official electronic recording.

(a) If you elect to use a transcript of an official electronic recording, you will need to deposit the estimated cost of preparing the transcript with the trial court clerk and pay the trial court a \$50 fee. There are two ways to determine the estimated cost of the transcript:

- You can use the amounts listed in rule 8.130 (b)(1)(B) for each full or half day of court proceedings to estimate the cost of making a transcript of the proceeding you have designated in your notice designating the record on appeal. Deposit this estimated amount and the \$50 fee with the trial court clerk when you file your notice designating the record on appeal.

- You can ask the trial court clerk for an estimate of the cost of preparing a transcript of the proceedings you have designated in your notice designating the record on appeal. You must deposit this amount and the \$50 fee with the trial court within 10 days of receiving the estimate from the clerk.

(b) If the court has a local rule permitting the use of a copy of the electronic recording itself, rather than a transcript, and you have attached your agreement with the other parties to do this (“stipulation”) to the notice designating the record on appeal that you filed with the court, the trial court clerk will provide you with an estimate of the costs for this copy of the recording. You must pay this amount to the trial court.

If you cannot afford to pay the cost of preparing the transcript, the \$50 fee, or the fee for the copy of the official electronic recording, you can ask the court to waive these costs. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). The 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. (See rule 8.836 of the California Rules of Court.)

**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 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](http://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](http://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.
- 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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://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.

## b. Record of the documents filed in the trial court

The second 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:

- A clerk’s transcript or an appendix
- The original *trial court file* or
- An *agreed statement*

Read below for more information about these options.

### (1) Clerk’s transcript or appendix

**Description:** A clerk’s transcript is a record of the documents filed in the trial court prepared by the clerk of the trial court. An appendix is a record of these documents prepared by a party. (See rule 8.845 of the California Rules of 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 or appendix. These documents are listed in rule 8.832(a) and rule 8.845(b) of the California Rules of Court and in *Appellant’s Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103).

**Clerk’s transcript:** 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](http://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.

**Appendix:** If you choose to prepare an appendix of the documents filed in the superior court, rather than designating a clerk's transcript, that appendix must include all of the documents and be prepared in the form required by rule 8.845 of the California Rules of Court. The parties may prepare separate appendixes or stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the appellant will pay the cost.

The party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the appellate division has ordered otherwise) and file the appendix in the appellate division. The appellant's appendix or a joint appendix must be served and filed before or together with the appellant's opening brief. See (15) for information about the brief.

## (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](http://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**

**When available:** If you and the respondent have already agreed to use an agreed statement as the record of the oral proceedings (see a(3) above) and 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.

**c. Exhibits**

The third part of the official record of the trial court proceeding is the exhibits, such as photographs, documents, or other items that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court. Exhibits are considered part of the record on appeal, but the clerk will not include any exhibits in the clerk’s transcript unless you ask that they be included in your notice designating the record on appeal. *Appellant’s Notice Designating Record on Appeal (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 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](http://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.

You may, but are not required to, fill out *Appellant’s Opening Brief—Limited Civil Case* (form APP-200) and use it as your opening brief. You can get more information about using this form opening brief from *Information on Using Form Appellate Briefs* (form APP-200-INFO).

**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 or 60 days from the date the appellant chooses to proceed with no reporter’s transcript under rule 8.845. “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.
- Note: If a party chooses to prepare an appendix of the documents filed in the trial court instead of designating a clerk's transcript, the appellant's appendix or a joint appendix must be served and filed before or together with the appellant's opening brief.

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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

You and the other parties can agree (stipulate) to extend the time for filing this brief by up to 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 must 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 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](http://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 Self-Help Guide to the California Courts at [selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help](http://selfhelp.courts.ca.gov/get-free-or-low-cost-legal-help).

**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 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. 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](http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf). The reporter will not prepare a copy of the reporter's transcript for you unless you deposit the cost of the transcript, or 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.

#### **b. 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.

#### **c. 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 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 the appellant 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 Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.htm).

#### **d. Clerk's transcript or appendix**

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

To do this, within 10 days after the appellant serves its notice designating the record on appeal, you must serve and file a notice designating additional documents to be included in the clerk's transcript. You may use *Respondent's Notice Designating Record on Appeal—Limited Civil Case* (form APP-110) for this purpose.





Whether or not you ask for additional documents to be included in the clerk’s transcript, you must pay a fee if you want a copy of the clerk’s transcript. The trial court clerk will send you a notice indicating the cost for a copy of the clerk’s transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk’s notice was sent.

If you cannot afford to pay this cost, you can ask the court to waive it. To do this, you must fill out and file a *Request to Waive Court Fees* (form FW-001). You can get form FW-001 at any courthouse or county law library or online at [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms). The court will review this application and determine if you are eligible for a fee waiver. The clerk will not prepare a copy of the clerk’s transcript for you unless you deposit payment for the cost or obtain a fee waiver.

**Appendix:** If the appellant is using an appendix, and you and the appellant have not agreed to a joint appendix, you may prepare a separate respondent’s appendix. See pages 8–9 for more information about preparing an appendix.

If the appellant chooses a clerk’s transcript but does not have a waiver of the fee for a clerk’s transcript, you can choose an appendix instead of a clerk’s transcript, and the appeal will proceed by appendix. To choose an appendix, you can fill out and file *Respondent’s Notice Designating Record on Appeal—Limited Civil Case* (form APP-110) within 10 days after the appellant’s notice designating the record on appeal is filed.

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

You may, but are not required to, fill out *Respondent’s Brief—Limited Civil Case* (form APP-201) and use it as your answering brief. You can get more information about using this form answering brief from *Information on Using Form Appellate Briefs* (form APP-200-INFO).





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 **must** 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.

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.

Clerk stamps date here when form is filed.

**DRAFT  
02.14.2024  
Not approved  
by Judicial  
Council****Instructions**

- This form is only for requesting an extension of time to file a brief in an appeal in a **limited civil case**. Note that any rules referenced in this form are from the California Rules of Court.
- 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](http://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](#)) and on the Self-Help Guide to the California Courts at [www.courts.ca.gov/selfhelp-serving.htm](http://www.courts.ca.gov/selfhelp-serving.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 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: \_\_\_\_\_

Mailing address (*if different*): \_\_\_\_\_  
Street City State ZipPhone: \_\_\_\_\_ Email: \_\_\_\_\_  
Street City State Zip

- c. Party'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 ZipPhone: \_\_\_\_\_ Email: \_\_\_\_\_  
Street City State Zip

Fax: \_\_\_\_\_



Case Name: \_\_\_\_\_

- 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): \_\_\_\_\_
  - Supplemental or other 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): \_\_\_\_\_  
For an extension of (total number of days sought): \_\_\_\_\_ days.
- 4 I  have  have not received a default notice under rule 8.882(c) from the clerk that this brief must be filed within 15 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) \_\_\_\_\_
- 6 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.
  - The maximum stipulated time has already been used.
  - Other reason (please describe the reason):  
\_\_\_\_\_  
\_\_\_\_\_
- 7  This appeal is eligible for calendar preference/priority because (cite authority or explain):  
\_\_\_\_\_
- 8 The reason I need an extension to file this brief is (describe the reason you need an extension; please address the rule 8.811(b) factors, including possible prejudice to the parties):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
 

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write “Attachment 8” for a title. You may use form APP-031A.
- 9 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): \_\_\_\_\_
  - The appellant’s reply brief, filed on (date): \_\_\_\_\_
  - A supplemental or other brief, filed on (date): \_\_\_\_\_
- 10 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

<b>COURT OF APPEAL</b>	<b>APPELLATE DISTRICT, DIVISION</b>	COURT OF APPEAL CASE NUMBER:
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.:		SUPERIOR COURT CASE NUMBER:
NAME:		<b>DRAFT</b> <b>02.14.2024</b> <b>Not approved</b> <b>by Judicial</b> <b>Council</b>
FIRM NAME:		
STREET ADDRESS:		
CITY: STATE: ZIP CODE:		
TELEPHONE NO.: FAX NO.:		
EMAIL ADDRESS: ATTORNEY FOR (name):		
APPELLANT:		
RESPONDENT:		
<b>APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— CRIMINAL CASE</b>		

1. a. I (name): \_\_\_\_\_ request that the time to file (check one)
- appellant's opening brief (AOB)
- respondent's brief (RB)
- appellant's reply brief (ARB)
- supplemental or other brief
- b. now due on (date): \_\_\_\_\_
- c. be extended to (date): \_\_\_\_\_ for an extension of (total number of days sought): \_\_\_\_\_ days.
2. I  have  have not received a Cal. Rules of Court, rule [8.360\(c\)\(5\)](#) default 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 use the words "no further" in a prior order or directive granting an extension?  Yes  No
4. The last brief filed by any party was  AOB  RB  ARB  Other filed on (date): \_\_\_\_\_
5. The record in this case is
- |                        | Volumes (#) | Pages (#) | Date filed |
|------------------------|-------------|-----------|------------|
| Clerk's Transcript:    | _____       | _____     | _____      |
| Reporter's Transcript: | _____       | _____     | _____      |
| Augmentation/Other:    | _____       | _____     | _____      |
6. Defendant was convicted of (specify): \_\_\_\_\_
7. The conviction is based on a (check one)
- jury or court trial.
- 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-031A](#)) for this purpose.

*(Please address the Cal. Rules of Court, rule [8.63](#) factors, including possible prejudice to the parties):*

11. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). 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)





Case Name: \_\_\_\_\_

- 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): \_\_\_\_\_
  - Supplemental or other 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): \_\_\_\_\_ for a total extension of (number of days sought): \_\_\_\_\_ days.
  
- 4 I  have  have not received a default notice under rule 8.882(c) from the clerk that this brief must be filed within 30 days.
  
- 5 The time to file the brief (check all that apply):
  - Has not been extended before.
  - Has been extended before by the court. The court granted (number of extensions) \_\_\_\_\_ totaling (number of days) \_\_\_\_\_
  
- 6 Defendant was convicted of (specify): \_\_\_\_\_
  
- 7 The conviction is based on (check all that apply):
  - Jury trial or court trial.
  - Plea of guilty or no contest.
  
- 8 The reason I need an extension to file this brief is (describe the reason you need an extension; please address the rule 8.811(b) factors, including possible prejudice to the parties):
 

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Check here if there is not enough space for your answer. Put your complete answer on an attached sheet of paper, and write “Attachment 6” for a title. You may use form APP-031A.
  
- 9 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): \_\_\_\_\_
  - The appellant’s reply brief, filed on (date): \_\_\_\_\_
  - A supplemental or other brief, filed on (date): \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or print your name

\_\_\_\_\_  
Signature of party or attorney

<b>COURT OF APPEAL</b>	<b>APPELLATE DISTRICT, DIVISION</b>	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.:		<b>DRAFT 02.07.2024 Not approved by Judicial Council</b>
EMAIL ADDRESS: ATTORNEY FOR ( <i>name</i> ):		
Case Name: In re _____, person(s), coming under the juvenile court law		
APPELLANT: RESPONDENT:		
<b>APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— JUVENILE JUSTICE CASE</b>		

1. a. 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 Cal. Rules of Court, rule [8.216](#))
  - combined appellant's reply brief (ARB) and respondent's brief (RB) (see Cal. Rules of Court, rule [8.216](#))
  - appellant's reply brief (ARB)
  - supplemental or other brief
- b. now due on (*date*): \_\_\_\_\_
- c. be extended to (*date*): \_\_\_\_\_ for an extension of (*total number of days sought*): \_\_\_\_\_ days.
2. I  have  have not received a Cal. Rules of Court, rule [8.412\(d\)\(1\)](#) default 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 use the words "no further" in a prior order or directive granting an extension?  Yes  No
4. The last brief filed by any party was  AOB  RB  RB and AOB  ARB and RB  ARB  Other 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:
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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-031A](#)) for this purpose.

*(Please address the Cal. Rules of Court, rule [8.63](#) factors, including possible prejudice to the parties. Note that an exceptional showing of good cause is required in cases subject to Cal. Rules of Court, rule [8.417](#).)*

10. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). 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)

<b>COURT OF APPEAL</b>	<b>APPELLATE DISTRICT, DIVISION</b>	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.: EMAIL ADDRESS: ATTORNEY FOR (name):		DRAFT 02.07.2024 Not approved by Judicial Council
Case Name: In re _____, person(s), coming under the juvenile court law		
APPELLANT: RESPONDENT:		
<b>APPLICATION FOR EXTENSION OF TIME TO FILE BRIEF— JUVENILE DEPENDENCY CASE</b>		

1. a. 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 Cal. Rules of Court, rule [8.216](#))
  - combined appellant's reply brief (ARB) and respondent's brief (RB) (see Cal. Rules of Court, rule [8.216](#))
  - appellant's reply brief (ARB)
  - supplemental or other brief
- b. now due on (date): \_\_\_\_\_
- c. be extended to (date): \_\_\_\_\_ for an extension of (total number of days sought): \_\_\_\_\_ days.
2. I  have  have not received a Cal. Rules of Court, rule [8.412\(d\)\(1\)](#) default 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 use the words "no further" in a prior order or directive granting an extension?  Yes  No
4. The last brief filed by any party was  AOB  RB  RB and AOB  ARB and RB  ARB  Other filed on (date): \_\_\_\_\_
5. The record in this case is
 

	Volumes (#)	Pages (#)	Date filed
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:
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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-031A](#)) for this purpose.  
*(Please address the Cal. Rules of Court, rule [8.63\(b\)](#) factors, including possible prejudice to the parties. Note that an exceptional showing of good cause is required in cases subject to Cal. Rules of Court, rule [8.416.](#))*

8. A proof of service of this application on all other parties is attached (see Cal. Rules of Court, rule [8.60\(c\)](#)). 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)