

# HOW TO HANDLE YOUR OWN APPEAL

A STEP BY STEP OVERVIEW

# OVERVIEW

- I can provide information about the appellate process, the steps needed to “perfect the appeal,” and how to argue your case;
- I cannot give legal advice, or answer questions specific to your case;
- Anything you say to me is not protected by attorney-client privilege;
- I will be discussing only appeals from UNLIMITED CIVIL CASE judgments. Limited Civil cases (involving less than \$25,000), have different procedures. Criminal, juvenile, conservatorship and guardianship cases will not be discussed because there is a statutory right to counsel in those cases.

With these Caveats in mind, Let Us Proceed.

# IMPORTANT RESOURCES

The Web site for the Judicial Branch has a special tab for Forms & Rules

- <http://www.courts.ca.gov/formsrules.htm>

Click the tab, and select Rules of Court to access the applicable Rules governing appeals. They are found under Title Eight.

- <http://www.courts.ca.gov/rules.htm>

If you select Forms, click Browse All Forms, and then select Appellate in the dialogue box, to find the relevant appellate forms.

# STEP ONE: NOTICE OF APPEAL

- The appeal begins with a timely notice of appeal. The key is *Timely*.
- Rule of thumb: the time to appeal usually commences to run on the date the judgment or appealable order is entered.
  - This may be an oral judgment or order memorialized in a minute order;
  - It may be a formal written judgment, accompanied by a notice of entry of judgment, but not necessarily.
  - To be safe, file your notice of appeal as soon as possible; there is no penalty for early filing, but a late filing deprives the court of appeal of jurisdiction.

# THE NOTICE OF APPEAL

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

**Notice:** Please read information on Appeal Procedures for Unlimited Civil Cases (Judicial Council form APP-001) before completing this form. This form must be filed in the superior court, not in the Court of Appeal. A copy of this form must also be served on the other party or parties to this appeal. You may use an applicable Judicial Council form (such as APP-009 or APP-008E) for the proof of service. When this document has been completed and a copy served, the original may then be filed with the court with proof of service.

1. NOTICE IS HEREBY GIVEN that (name): \_\_\_\_\_  
 appeals from the following judgment or order in this case, which was entered on (date): \_\_\_\_\_
- Judgment after jury trial
  - Judgment after court trial
  - Default judgment
  - Judgment after an order granting a summary judgment motion
  - Judgment of dismissal under Code of Civil Procedure, §§ 581d, 583.250, 583.380, or 583.430
  - Judgment of dismissal after an order sustaining a demurrer
  - An order after judgment under Code of Civil Procedure, § 904.1(a)(2)
  - An order or judgment under Code of Civil Procedure, § 904.1(a)(3)-(13)
  - Other (describe and specify code section that authorizes this appeal): \_\_\_\_\_
2. For cross-appeals only:
- a. Date notice of appeal was filed in original appeal: \_\_\_\_\_
  - b. Date superior court clerk mailed notice of original appeal: \_\_\_\_\_
  - c. Court of Appeal case number (if known): \_\_\_\_\_

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

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

# STEP 2: DESIGNATE THE RECORD ON APPEAL

- 10 Days after filing the Notice of Appeal, an appellant must serve and file a notice in the superior court designating the record.
- This is the key to securing review of the case by the Court of Appeal. Without a record, the only thing that the Court of Appeal will know about your case is that you filed a notice of appeal.
- Without a record, there is no way for the reviewing court to determine if a legal error was made in your case, or whether that error affected the judgment.
- Any Briefs filed must refer to factual matters with references to the record.
- So what is a record?

# APPELLANT'S NOTICE DESIGNATING THE RECORD

ATTORNEY OR PARTY WITHOUT ATTORNEY		STATE BAR NUMBER:	APP-003	
NAME:		FOR COURT USE ONLY		
FIRM NAME:				
STREET ADDRESS:				
CITY:	STATE:			ZIP CODE:
TELEPHONE NO.:	FAX NO.:			
E-MAIL ADDRESS:				
ATTORNEY FOR (name):				
SUPERIOR COURT OF CALIFORNIA, COUNTY OF				
STREET ADDRESS:				
MAILING ADDRESS:				
CITY AND ZIP CODE:				
BRANCH NAME:				
PLAINTIFF/PETITIONER:		SUPERIOR COURT CASE NUMBER:		
DEFENDANT/RESPONDENT:				
OTHER PARENT/PARTY:				
APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)		COURT OF APPEAL CASE NUMBER (if known):		
RE: Appeal filed on (date):				
Notice: Please read Information on Appeal Procedures for Unlimited Civil Cases (form APP-001-INFO) before completing this form. This form must be filed in the superior court, not in the Court of Appeal.				

## 1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

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

- a.  A clerk's transcript under rule 8.122. (You must check (1) or (2) and fill out the clerk's transcript section (item 4) on pages 2 and 3 of this form.)
- (1)  I will pay the superior court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.
- (2)  I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (a) or (b)):
- (a)  An order granting a waiver of court fees and costs under rules 3.50–3.58; or
- (b)  An application for a waiver of court fees and costs under rules 3.50–3.58. (Use Request to Waive Court Fees form FW-001) to prepare and file this application.)
- b.  An appendix under rule 8.124.
- c.  The original superior court file under rule 8.126. (NOTE: Local rules in the Court of Appeal, First, Third, and Fourth Appellate Districts, permit parties to stipulate (agree) to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.)
- d.  An agreed statement under rule 8.134. (You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)

## 2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

I choose to proceed (you must check a or b below):

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

CASE NAME:	SUPERIOR COURT CASE NUMBER:																
<p>2. b. <input type="checkbox"/> WITH the following record of the oral proceedings in the superior court (you must check (1), (2), or (3) below):</p> <p>(1) <input type="checkbox"/> A reporter's transcript under rule 8.130. (You must fill out the reporter's transcript section (item 5) on pages 3 and 4 of this form.) I have (check all that apply):</p> <p>(a) <input type="checkbox"/> Deposited with the superior court clerk the approximate cost of preparing the transcript by including the deposit with this notice as provided in rule 8.130(b)(1).</p> <p>(b) <input type="checkbox"/> Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).</p> <p>(c) <input type="checkbox"/> Attached the reporter's written waiver of a deposit under rule 8.130(b)(3)(A) for (check either (i) or (ii)):</p> <p>(i) <input type="checkbox"/> all of the designated proceedings.</p> <p>(ii) <input type="checkbox"/> part of the designated proceedings.</p> <p>(d) <input type="checkbox"/> Attached a certified transcript under rule 8.130(b)(3)(C).</p> <p>(2) <input type="checkbox"/> An agreed statement. (Check and complete either (a) or (b) below.)</p> <p>(a) <input type="checkbox"/> I have attached an agreed statement to this notice.</p> <p>(b) <input type="checkbox"/> All the parties have stipulated (agreed) in writing to try to agree on a statement. (You must attach a copy of this stipulation to this notice.) I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.</p> <p>(3) <input type="checkbox"/> A settled statement under rule 8.137. (You must check (a), (b), or (c) below, and fill out the settled statement section (item 6) on page 4.)</p> <p>(a) <input type="checkbox"/> The oral proceedings in the superior court were not reported by a court reporter.</p> <p>(b) <input type="checkbox"/> The oral proceedings in the superior court were reported by a court reporter, but I have an order waiving fees and costs.</p> <p>(c) <input type="checkbox"/> I am asking to use a settled statement for reasons other than those listed in (a) or (b). (You must serve and file the motion required under rule 8.137(b) at the same time that you file this form. You may use form APP-025 to prepare the motion.)</p>																	
<p>3. RECORD OF AN ADMINISTRATIVE PROCEEDING TO BE TRANSMITTED TO THE COURT OF APPEAL</p> <p><input type="checkbox"/> I request that the clerk transmit to the Court of Appeal under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the superior court (give the title and date or dates of the administrative proceeding):</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <thead> <tr> <th style="width: 70%; font-size: x-small;">Title of Administrative Proceeding</th> <th style="width: 30%; font-size: x-small;">Date or Dates</th> </tr> </thead> <tbody> <tr><td> </td><td> </td></tr> </tbody> </table>		Title of Administrative Proceeding	Date or Dates														
Title of Administrative Proceeding	Date or Dates																
<p>4. NOTICE DESIGNATING CLERK'S TRANSCRIPT</p> <p>(You must complete this section if you checked item 1a above indicating that you choose to use a clerk's transcript as the record of the documents filed in the superior court.)</p> <p>a. Required documents. The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed, or if that is not available, the date the document was signed.</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 5px;"> <thead> <tr> <th style="width: 80%; font-size: x-small;">Document Title and Description</th> <th style="width: 20%; font-size: x-small;">Date of Filing</th> </tr> </thead> <tbody> <tr> <td style="font-size: x-small;">(1) Notice of appeal</td> <td> </td> </tr> <tr> <td style="font-size: x-small;">(2) Notice designating record on appeal (this document)</td> <td> </td> </tr> <tr> <td style="font-size: x-small;">(3) Judgment or order appealed from</td> <td> </td> </tr> <tr> <td style="font-size: x-small;">(4) Notice of entry of judgment (if any)</td> <td> </td> </tr> <tr> <td style="font-size: x-small;">(5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (if any)</td> <td> </td> </tr> <tr> <td style="font-size: x-small;">(6) Ruling on one or more of the items listed in (5)</td> <td> </td> </tr> <tr> <td style="font-size: x-small;">(7) Register of actions or docket (if any)</td> <td> </td> </tr> </tbody> </table>		Document Title and Description	Date of Filing	(1) Notice of appeal		(2) Notice designating record on appeal (this document)		(3) Judgment or order appealed from		(4) Notice of entry of judgment (if any)		(5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (if any)		(6) Ruling on one or more of the items listed in (5)		(7) Register of actions or docket (if any)	
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APP-003 [Rev. January 1, 2016] <span style="float: right;">APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (Unlimited Civil Case) <span style="float: right;">Page 2 of 4</span></span>																	

# APPELLANT'S NOTICE DESIGNATING RECORD

APP-003

CASE NAME: \_\_\_\_\_ SUPERIOR COURT CASE NUMBER: \_\_\_\_\_

**4. NOTICE DESIGNATING CLERK'S TRANSCRIPT**

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

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

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

See additional pages. (Check here if you need more space to list additional documents. List these documents on a separate page or pages labeled "Attachment 4b," and start with number (12).)

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

I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. (For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence. If the superior court has returned a designated exhibit to a party, the party in possession of the exhibit must deliver it to the superior court clerk within 10 days after service of this notice designating the record. (Rule 8.122(a)(3).))

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

See additional pages. (Check here if you need more space to list additional exhibits. List these exhibits on a separate page or pages labeled "Attachment 4c," and start with number (5).)

**5. NOTICE DESIGNATING REPORTER'S TRANSCRIPT**

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

a. **Format of the reporter's transcript**

I request that the reporters provide (check one):

(1)  My copy of the reporter's transcript in electronic format.

(2)  My copy of the reporter's transcript in paper format.

(3)  My copy of the reporter's transcript in electronic format and a second copy in paper format.

(Code Civ. Proc., § 271.)

APP-003 [Rev. January 1, 2019] **APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL** (Unlimited Civil Case) Page 3 of 4

APP-003

CASE NAME: \_\_\_\_\_ SUPERIOR COURT CASE NUMBER: \_\_\_\_\_

5. b. **Proceedings**

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

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

See additional pages. (Check here if you need more space to list additional proceedings. List these exhibits on a separate page or pages labeled "Attachment 5b," and start with number (5).)

**6. NOTICE DESIGNATING PROCEEDINGS TO BE INCLUDED IN SETTLED STATEMENT**

(You must complete this section if you checked item 2b(3) above indicating you choose to use a settled statement.) I request that the following proceedings in the superior court be included in the settled statement. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)

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

See additional pages. (Check here if you need more space to list additional proceedings. List these proceedings on a separate page or pages labeled "Attachment 6," and start with number (5).)

7. a. The proceedings designated in 5b or 6  include  do not include all of the testimony in the superior court.

b. If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal. (Rule 8.130(a)(2) and rule 8.137(d)(1) provide that your appeal will be limited to these points unless the Court of Appeal permits otherwise.) Points are set forth:  Below  On a separate page labeled "Attachment 7."

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

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF APPELLANT OR ATTORNEY)

APP-003 [Rev. January 1, 2019] **APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL** (Unlimited Civil Case) Page 4 of 4

For your protection and privacy, please press the Clear This Form button after you have printed the form.

[Print this form](#) [Save this form](#) [Clear this form](#)

# RECORD ON APPEAL

- Trial court proceedings comprise
  - (a) documents filed in the court, which are maintained in the Clerk's file; and
  - (b) oral proceedings that take place in the courtroom, such as motion hearings, evidentiary hearings where witnesses testify, etc.

We will first look at the Documents

# RECORD ON APPEAL

- Record of Documents Filed
  - A party appealing a judgment can provide to the court of appeal the documents filed in the case in one of several different ways:
    - A Clerk's Transcript
    - An Appellant's Appendix
    - A Joint Appendix

# DOCUMENTS: CLERK'S TRANSCRIPT

- Rule 8.122: On the form, appellant designates what documents he/she/it wants included in the materials to be reviewed by the court of appeal. Usually, the initial complaint/petition, any dispositive motion and order, and/or any instructions given (at a jury trial), formal judgment or ruling, etc.
- List the document by name, and give the filing date
- There will be a money deposit and a fee charged for the transcript unless the party obtains a Fee Waiver, form APP-015, <http://www.courts.ca.gov/documents/app015info.pdf>

# DOCUMENTS: APPENDICES

- Instead of a Clerk's Transcript, the appealing party can file an Appellant's Appendix, after checking the appropriate box on the Designation form, per Rule 8.124. A respondent can file one, too, if the appellant's appendix is incomplete. Or, the parties may work together to prepare a Joint Appendix.
- Contents of Appendix: All the relevant documents that would otherwise go in the Clerk's Transcript may be compiled into an appendix.
- All documents must be file stamped, and there must be an index

# ORAL PROCEEDINGS

- If there was a trial or evidentiary proceeding with witness testimony, you may need a record of the oral proceedings.
  - E.g., if there was a trial, and you feel the court erroneously excluded evidence, you need a record of the trial court excluding the evidence.
  - Similarly, if the court gave reasons for a ruling and you feel they were wrong, you need a record of the court's ruling.
- There are Two Ways to provide the Court of Appeal with a record of Oral Proceedings:
  - A reporter's transcript
  - A Settled Statement
- On the Notice Designating the Record, Tell the Court which type of record you will provide.

# ORAL PROCEEDINGS: REPORTER'S TRANSCRIPT

- If you plan to rely on a reporter's transcript, enter the information about the date and time of the hearing on the form for designating the record, and provide the court reporter's name and number.
- You will need to pay the reporter for preparation of the record. For a fraction of a day, a deposit of \$325 may be required unless the proceeding was previously transcribed.
- There is a transcript reimbursement fund, but it will not completely cover.
- If there was no court reporter present, you cannot use a reporter's transcript.

# ORAL PROCEEDINGS: SETTLED STATEMENT

- If there was no court reporter, you may provide a Settled Statement on Appeal, a written narrative of what transpired in the trial court.
- This option needs to be designated on the form for designating the record.
- Must be done within 10 days after the Notice Designating the Record
- New Forms:
  - <http://www.courts.ca.gov/documents/app025.pdf>
  - <http://www.courts.ca.gov/documents/app104.pdf>
- Agreed Statements: Too rare to consider.

# EXHIBITS - DOCUMENTARY

- Documentary exhibits may be included in Clerk's Transcript (with proper designation) or an Appendix
- Documents or exhibits in the possession of the opposing part may be obtained from that party. All parties are required to cooperate with such requests. (Rule 8.124 (c).)

# STEP 3: Civil Case Information Sheet

- Due 15 days after it has been received from the Court of Appeal.  
(This is just page 1 of 4)

TO BE FILED IN THE COURT OF APPEAL		APP-004
COURT OF APPEAL, APPELLATE DISTRICT, DIVISION		COURT OF APPEAL CASE NUMBER (if known)
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.		FOR COURT USE ONLY
NAME:		
FIRM NAME:		
STREET ADDRESS:		
CITY: STATE: ZIP CODE:		
TELEPHONE NO.: FAX NO.:		
E-MAIL ADDRESS:		
ATTORNEY FOR (name):		
APPELLANT:		
RESPONDENT:		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS:		
MAILING ADDRESS:		
CITY AND ZIP CODE:		
BRANCH NAME:		
JUDGES (if who participated in case):		
SUPERIOR COURT CASE NUMBER:		
CIVIL CASE INFORMATION STATEMENT		
<b>NOTE TO APPELLANT:</b> You must file this form with the clerk of the Court of Appeal within 15 days after the clerk mails you the notification of the filing of the notice of appeal required under rule 8.100(e)(1). You must attach to this form a copy of the judgment or order being appealed that shows the date it was entered (see Cal. Rules of Court, rule 8.104 for definition of "entered"). A copy of this form must also be served on the other party or parties to this appeal. (CAUTION: An appeal in a limited civil case (Code Civ. Proc., § 85) may be taken ONLY to the appellate division of the superior court (Code Civ. Proc., § 904.2) or to the superior court (Code Civ. Proc., § 116.710 [small claims cases]).		
PART I – APPEAL INFORMATION		
A. APPEALABILITY		
1. Appeal is from:		
<input type="checkbox"/> Judgment after jury trial		
<input type="checkbox"/> Judgment after court trial		
<input type="checkbox"/> Default judgment		
<input type="checkbox"/> Judgment after an order granting a summary judgment motion		
<input type="checkbox"/> Judgment of dismissal under Code Civ. Proc., § 581d, 583.250, 583.360, or 583.430		
<input type="checkbox"/> Judgment of dismissal after an order sustaining a demurrer		
<input type="checkbox"/> An order after judgment under Code Civ. Proc., § 904.1(a)(2)		
<input type="checkbox"/> An order or judgment under Code Civ. Proc., § 904.1(a)(3)–(13)		
<input type="checkbox"/> Other (describe and specify code section that authorizes this appeal):		
2. Does the judgment appealed from dispose of all causes of action, including all cross-actions between the parties?		
<input type="checkbox"/> Yes <input type="checkbox"/> No (If no, please explain why the judgment is appealable):		
B. TIMELINESS OF APPEAL (Provide all applicable dates.)		
1. Date of entry of judgment or order appealed from:		
2. Date that notice of entry of judgment or a copy of the judgment was served by the clerk or by a party under California Rules of Court, rule 8.104:		
3. Was a motion for new trial, for judgment notwithstanding the verdict, for reconsideration, or to vacate the judgment made and denied?		
<input type="checkbox"/> Yes <input type="checkbox"/> No (If yes, please specify the type of motion):		
Date notice of intention to move for new trial (if any) filed:		
Date motion filed: Date motion denied: Date denial served:		
4. Date notice of <input type="checkbox"/> appeal or <input type="checkbox"/> cross-appeal filed:		
C. BANKRUPTCY OR OTHER STAY		
Is there a related bankruptcy case or a court-ordered stay that affects this appeal? <input type="checkbox"/> Yes <input type="checkbox"/> No		
(If yes, please attach a copy of the bankruptcy petition [without attachments] and any stay order.)		
Page 1 of 4		
Form Adopted for Mandatory Use Judicial Council of California APP-004 (Rev. January 1, 2017)		
CIVIL CASE INFORMATION STATEMENT (Appellate)		
www.courts.ca.gov		

# E-Filing

- Self-represented parties are exempt from the mandatory rule requiring e-filing.
- However, a self-represented litigant may e-file.
- The Court's website (<http://www.courts.ca.gov/4dca.htm>) has links with instructions for e-filing formatting, and link for TrueFiling, a firm that handles e-filing for a fee.

# STEP 4: APPELLATE BRIEFS

- After the record has been filed, the next step is Briefing stage. The appellant's brief is due 40 days after the record is certified. The respondent's brief is due 30 days after the appellant's brief; and the appellant's reply brief is due 20 days after the respondent's brief is filed. Failure to file appellant's brief could result in dismissal.
- All briefs must include:
  - Table of Contents, Table of Authorities
  - State Each Point under a separate heading or subheading, summarizing the point and supporting each by argument and citation of authority
  - Support any reference to a matter in the record by a citation to the volume and page number where that matter appears.
- Appellant's Opening Brief must also:
  - State the nature of the action, the relief sought in the trial court and the judgment or order appealed from;
  - State that the judgment appealed from is final or explain why it is appealable
  - Provide a summary of the significant facts limited to matters in the record.

# FORM OF BRIEFS

- 8.5 by 11 inches page;
- Font size no smaller than 13-point
- NO LINE Numbers
- Margins 1.5 inches on left and right, 1 inch top and bottom
- Pages consecutively numbered
- Proper cover: Green for appellant's opening brief; Yellow for respondent's brief; Tan for appellant's reply brief
- Certificate of word count

# CERTIFICATE OF INTERESTED PARTIES

- A certificate of interested parties (Rule 8.208) alerts the Court of Appeal to possible conflicts of interests involving an appellate justice.
- Applies to Business or other Entities who are parties on appeal.
- Accompanying your first filing (motion or brief), file a certificate. If filed with a brief, it goes just inside the cover.
- List any other entity or party that the party knows has an ownership interest of 10 percent or more in the party.
- If you are not an entity that is a party, just indicate there are no other interested parties.

# CERTIFICATE OF INTERESTED PARTIES

TO BE FILED IN THE COURT OF APPEAL APP-008

<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.: _____		
E-MAIL ADDRESS: _____		
ATTORNEY FOR (name): _____		
APPELLANT/ PETITIONER: _____		
RESPONDENT/ REAL PARTY IN INTEREST: _____		
<b>CERTIFICATE OF INTERESTED ENTITIES OR PERSONS</b>		
(Check one): <input type="checkbox"/> INITIAL CERTIFICATE <input type="checkbox"/> SUPPLEMENTAL CERTIFICATE		
<b>Notice:</b> Please read rules 8.208 and 8.488 before completing this form. You may use this form for the initial certificate in an appeal when you file your brief or a prebriefing motion, application, or opposition to such a motion or application in the Court of Appeal, and when you file a petition for an extraordinary writ. You may also use this form as a supplemental certificate when you learn of changed or additional information that must be disclosed.		

1. This form is being submitted on behalf of the following party (name): \_\_\_\_\_

2. a.  There are no interested entities or persons that must be listed in this certificate under rule 8.208.  
b.  Interested entities or persons required to be listed under rule 8.208 are as follows:

Full name of interested entity or person	Nature of interest (Explain):
(1) _____	_____
(2) _____	_____
(3) _____	_____
(4) _____	_____
(5) _____	_____

Continued on attachment 2.

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

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

\_\_\_\_\_  
(TYPE OR PRINT NAME)

\_\_\_\_\_  
(SIGNATURE OF APPELLANT OR ATTORNEY)

Page 1 of 1

Form Approved for Optional Use  
Judicial Council of California  
APP-008 (Rev. January 1, 2017)      **CERTIFICATE OF INTERESTED ENTITIES OR PERSONS**      Cal. Rules of Court, rules 8.208, 8.488  
www.courts.ca.gov

For your protection and privacy, please press the Clear This Form button after you have printed the form.

# BRIEFING

- Remember that the reviewing court does not consider new facts or new evidence.
- An appeal is not a new trial
- The reviewing court **ONLY** reviews the record to determine 2 things:
  - Did the trial court commit a legal error?
  - Did the error affect the outcome in a negative way?
- Issues raised on appeal must be preserved for review by timely objection or motion in the trial court.
- Harmless errors will not require reversal.

# BRIEFING

- On appeal, a reviewing court determines if legal error was committed by applying certain “Standards of Review.” As an appellant, you need to research which standard applies in your case and explain how that standard has been met.
- There are 3 common standards of review:
  - Abuse of discretion
  - Independent/De Novo
  - Substantial Evidence

# BRIEFING

- Even after you demonstrate that a legal error was committed by the trial court, you must then demonstrate that the error was prejudicial, i.e., it affected the outcome. There are 3 common standards of prejudice:
  - Harmless error
    - The California Constitution prohibits reversals on certain grounds unless the error constituted a “miscarriage of justice.” This has been interpreted as meaning the error was so bad that the outcome would have been more favorable if it had not occurred.
  - Federal Harmless error
    - If the error involved violation of a federal constitutional right, prejudice is presumed unless the responding party shows it was harmless beyond a reasonable doubt. Does not apply much in civil cases.

# STEP 5: ORAL ARGUMENT AND DECISION

- After the briefing stage is over, the Clerk of the Court of Appeal will send a notice asking the parties if anyone wants to orally argue the case.
- Cannot raise new issues at oral argument
- The court is familiar with the briefs
- Oral Argument calendar is prepared 3-4 months in advance
- Argument is limited to 15 minutes per side
- After argument, the cause is submitted for final decision.
- Decision is normally filed within 90 days of submission.

# STEP 6: Post-Decision

- If there is a material mistake of facts or misapplication of law in the opinion, you have 15 days to file a petition for rehearing.
- The opinion becomes final 30 days after the opinion is filed.
- If further review is sought in the California Supreme Court, a Petition for Review must be filed within 10 days after the opinion is final.
  - E.g., if the opinion is filed on 1/1/2019, a petition for rehearing would have to be filed No Later Than 1/16/19;
  - The opinion would become final on 1/31/19; and
  - Any petition for review would have to be filed in the California Supreme Court No Later Than 2/10/2019. (When the deadline falls on a weekend or holiday, the next business day is the deadline. So in this example, the petition for review would have to be file by 2/11/2019.)

# POST-DECISION

- More considerations:
  - The party prevailing in the Court of Appeal in civil cases other than juvenile cases, is entitled to costs on appeal. Thus, if you lose the appeal, you may be ordered to pay the other party's costs on appeal.
  - This does not include attorneys' fees, unless your civil case involved a matter where attorneys' fees may be recovered.
  - Costs include: filing fees, cost of preparing the record, cost of service by mail of documents and briefs, costs of any surety bond.
  - If the Court of Appeal determines that the appeal is frivolous, sanctions may be imposed. Sanctions may be sought by the opposing party, or the court may impose them on its own motion. A frivolous appeal is one taken solely to cause delay, or includes matters not relevant to the appeal, or involves flagrant violation of the rules of court.

# CONCLUSION

- This is just a very brief overview of the appellate process. It is my intention that this will give you information on where to look for information about the rules governing the appeal, how to obtain a record of the trial proceedings, and what to expect on your appellate path.
- The Riverside County Law Library is an excellent source books about civil appeals, with samples in them. Hopefully, a better prepared self-represented civil litigant will have a better chance of success on appeal.