

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT W23-02

Title

Appellate Procedure: Reporter’s Transcripts

Action Requested

Review and submit comments by January 20, 2023

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919

Proposed Effective Date

September 1, 2023

Proposed by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

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Executive Summary and Origin

The Appellate Advisory Committee proposes amending several rules relating to the format of reporter’s transcripts and borrowing the record on appeal. Code of Civil Procedure section 271 requires that as of January 1, 2023, a reporter’s transcript must be delivered in electronic form unless a party or person entitled to the transcript requests it in paper format. In recognition that most reporter’s transcripts will be in electronic form, this proposal would allow the transcripts to be in a single volume in most cases and would allow a party lending the record to another party to ask the court reporter to provide a read-only electronic copy of the reporter’s transcript to the borrowing party rather than sending its copy of the reporter’s transcript to the borrowing party. In addition, the proposal would clarify that, when it is submitted by a party in lieu of depositing the estimated cost of the transcript with the court, a certified transcript must comply with specified format requirements. This proposal originated with suggestions from the California Court Reporters Association.

Background

Effective January 1, 2018, Code of Civil Procedure section 271¹ was amended to change the default format for reporter’s transcripts from paper to electronic. The statute generally requires a court reporter to “deliver a transcript in electronic form, in compliance with the California Rules of Court, to any court, party, or person entitled to the transcript.” (§ 271(a).) As amended, the

¹ All further unspecified statutory references are to the Code of Civil Procedure.

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 It is circulated for comment purposes only.

statute contains three exceptions allowing for paper transcripts, two of which expire at the end of 2022:

- The party or person entitled to the transcript requests the reporter’s transcript in paper form;
- Prior to January 1, 2023, the court lacks the technical ability to use or store a transcript in electronic form and provides advance notice to the court reporter; and
- Prior to January 1, 2023, the court reporter lacks the technical ability to deliver a transcript in electronic form and provides advance notice of this fact to the court, party, or person entitled to the transcript. (*Ibid.*)

Thus, effective January 1, 2023, court reporters must deliver reporter’s transcripts in electronic form unless a party or person entitled to the transcript requests it in paper format.

In addition, the committee is aware that the Appellate Caseflow Workgroup is currently considering ways to make more efficient the preparation of an appellate record. Further proposals may flow from the recommendations of the workgroup.

The Proposal

General use of electronic transcripts

Rule 8.144 of the California Rules of Court establishes the general requirements for the format of reporter’s transcripts in civil appeals to the Court of Appeal. Through cross-references in rules 8.336(f), 8.395(g), 8.409(b), 8.610(d), 8.838(a), 8.866(b), and 8.919(b), these format requirements also apply in criminal appeals to the Court of Appeal, appeals from superior court decisions in death penalty–related habeas corpus proceedings, in juvenile appeals, in capital appeals to the Supreme Court, and in superior court appellate division appeals, respectively.

Rule 8.144(b)(6) currently requires that clerk’s and reporter’s transcripts must be produced in volumes of no more than 300 pages. As noted above, most reporter’s transcripts will now be in electronic form. A single electronic volume would have one set of indexes and may be easier for courts and parties to navigate and cite. The current 300-page volume limit does not appear to be necessary for transcripts in electronic form. However, rule 8.74(a)(5), relating to the format of electronic documents for purposes of e-filing in the appellate courts, provides that electronic documents may not be larger than 25 megabytes. This megabyte limit is important for functionality of documents within the appellate case management system and the appellate courts. This proposal would therefore amend rule 8.144 to allow reporter’s transcripts to be in a single volume but would require that such transcripts comply with the size limitations in rule 8.74(a)(5). In addition, to avoid the potential confusion that would be caused by differences in page numbering and citation if a reporter’s transcript in a case were delivered in both paper and electronic form, this proposal would retain the 300-page volume limit in cases in which a party or person entitled to a transcript requests that the transcript be provided in paper form. The committee would appreciate comments on whether the 300-page volume limit should also be changed for clerk’s transcripts that are in electronic form.

Rule 8.153 permits a party that has not purchased its own copy of the record to request another party, in writing, to lend it that party's copy of the record. Under this existing rule, after it has prepared its brief, the lending party must send its electronic or paper copy of a reporter's transcript to the borrowing party. To reduce the time and costs for parties associated with sending reporter's transcripts, this proposal would amend rule 8.153(a) to provide lending parties with the additional option of asking the court reporter to provide a read-only electronic copy of the reporter's transcript to the borrowing party. To ensure that the borrowing party receives the reporter's transcript in time to prepare its brief, the proposed amendment would also set a time frame for the lending party to make this request of the court reporter and would require the court reporter to promptly send the copy to the borrowing party. The committee would particularly appreciate comments about whether this option should be available in all cases or only when the lending party's copy of the reporter's transcript is in paper form, given that party costs associated with lending a reporter's transcript in electronic form are likely to be low. The committee would also appreciate comments on what format requirements should be applied to a transcript sent by a court reporter under this amendment.

Rule 8.153(b) requires that the borrowing party return the copy of the record it borrowed when it serves its brief or the time to file its brief has expired. This requirement makes sense when the lending party has a paper version of the record or has purchased a reporter's transcript in electronic form and is lending that electronic reporter's transcript;² however, it may not make sense for other portions of the record that are in electronic form. Clerk's transcripts and administrative records that are part of the record on appeal may be in electronic form and a lending party who provides a borrowing party with an electronic copy of these items may not want or need that copy to be returned. Similarly, if rule 8.153 is amended as proposed to permit a court reporter to provide a borrowing party with a read-only copy of an electronic reporter's transcript, the court reporter may not want or need that copy to be returned. The committee would therefore appreciate comments on whether it is necessary for the borrowing party to return an electronic copy of either the clerk's transcript or an administrative record provided by the lending party or a read-only electronic copy of the reporter's transcript provided by the court reporter.

Pagination of reporter's transcripts in cases in which there are multiple reporters

Rule 8.144(f) addresses the pagination of reporter's transcripts in cases in which more than one court reporter reported portions of the proceedings. Subdivision (1) of this provision requires that each reporter estimate the number of pages in each segment reported and inform the designated primary reporter of the estimate. The primary reporter must then assign beginning and ending page numbers for each segment of the transcript.

Current rule 8.144(f)(2) and (3) address what a court reporter in a multiple-reporter case should do if a segment is either longer or shorter than the assigned number of pages. If the segment exceeds the assigned number of pages, the rule currently requires that the reporter number the

² Government Code section 69954(d) generally prohibits anyone who has purchased a reporter's transcript from providing it to anyone else.

additional pages with the ending page number, a hyphen, and a new number, starting with 1 and continuing consecutively. For example, if the last page number assigned to a segment was 300, additional pages in this segment would be numbered 300-1, 300-2, 300-3, etc. If a segment has fewer than the assigned number of pages, the rule currently requires that on the certificate page, the reporter must add a hyphen to the last page number used, followed by the segment's assigned ending page number. For example, if the last page number assigned to a segment was 300, but only 256 pages were used, the certificate would identify the last page in the segment as 256-300.

The California Court Reporters Association indicates that the use of hyphens on these pages of a reporter's transcript can create problems in correctly printing sections of the transcript. According to the association, the hyphen format is interpreted by Adobe software as designating a range of pages to be printed. To correct this problem, this proposal would amend rule 8.144(f)(2) and (3) to replace the requirement to use a hyphen with a requirement to use a plus sign in these situations. So, for example, if the last page number assigned to a segment was 300 and the segment was longer than 300 pages, additional pages in this segment would be numbered 300+1, 300+2, 300+3, etc. Similarly, if the last page number assigned to a segment was 300, but only 256 pages were used, the certificate would identify the last page in the segment as 256+300. The committee would particularly appreciate comments about whether transcript users anticipate any difficulties printing, or navigating to, pages numbered using this plus-sign format.

Rule 8.144(b)(2)(D) recognizes that, because of the possibility of segments being longer or shorter than the assigned number of pages in multiple-reporter cases, the pages of the reporter's transcripts in such cases may not be consecutively numbered. Rule 8.452(e), relating to augmenting the record in writ proceedings to review an order setting a hearing under Welfare and Institutions Code section 366.26, and rule 8.456(e), relating to augmenting the record in writ proceedings to review an order designating or denying specific placement of a dependent child after termination of parental rights, require that copies of items to be added to the record, including transcripts, be consecutively numbered. To make these provisions consistent with rule 8.144(b)(2)(D), which articulates an exception to consecutive pagination in multiple reporter cases, this proposal would amend rules 8.452(e)(3) and 8.456(e)(3) to provide a similar exception. In addition, rules 8.452(e)(4) and 8.456(e)(4), which use cross-references to rule 8.122 (relating to clerk's transcripts) and rule 8.130 (relating to reporter's transcripts) to explain how parties must identify documents and transcripts that they are unable to attach to their augmentation motion, would be amended to provide more specific citations to the particular subdivisions of rules 8.122 and 8.130 that explain how to identify documents to be included in a clerk's transcript and proceedings to be included in a reporter's transcript.

Rule 8.144(d)(1)(C) requires that transcripts in electronic form ensure that the electronic page counter in the PDF file viewer matches the transcript page numbering. This generally makes it easier to navigate to or print particular pages. However, if, as recognized by rule 8.144(f), a segment of a reporter's transcript in a multiple-reporter case is longer or shorter than the number of pages assigned, then the page numbers on the transcript will not match the electronic page counter in the PDF file viewer. In recognition of this existing discrepancy, this proposal would

amend rule 8.144(d)(1)(C) to add an exception to the requirement that the electronic page counter in the PDF file viewer match the transcript page numbering in multiple-reporter cases in which a transcript segment is either longer or shorter than the assigned number of pages.

Requirement that certified transcripts comply with formatting requirements when submitted in lieu of making a deposit for a reporter's transcript

Rule 8.130 establishes procedures relating to reporter's transcripts in civil appeals to the Court of Appeal. Under this rule, appellants who wish to use a reporter's transcript must file a notice with the trial court that designates which of the oral proceedings from the trial court they want included in the reporter's transcript. Respondents may then designate additional proceedings to be included in the transcript. Rule 8.130(b) requires that, with its notice designating proceedings to be included in a reporter's transcript, each designating party must deposit with the superior court clerk the approximate cost of transcribing the proceedings, or it may substitute one of the items permitted by 8.130(b)(3): a reporter's written waiver of deposit, a copy of a Transcript Reimbursement Fund application, or a certified transcript of all the proceedings designated by the party.

Sometimes a party in a trial court proceeding will purchase reporter's transcripts of the proceedings before any appeal is filed, such as when a party needs a transcript as part of a writ petition during the trial court proceedings. In recognition of the fact that parties may already have purchased the transcripts that they need for an appeal, rule 8.130(b)(3)(C) allows the deposit of a certified transcript of all the proceedings designated by the party as a permissible substitute for a deposit of the cost of transcribing the designated proceedings. Similar provisions also appear in rules 8.834, 8.866, and 8.919 relating to reporter's transcripts in appeals to the superior court appellate division in civil, misdemeanor, and infraction cases, respectively.

As discussed above, under rule 8.144, there are format requirements for reporter's transcripts used as part of the record on appeal. Rules 8.130, 8.834, 8.866, and 8.919 all require that a certified reporter's transcript submitted in lieu of depositing the cost for transcribing designated proceedings must comply with these format requirements. Among other things, rule 8.144 requires that

- The pages in reporter's transcripts be consecutively numbered;
- The cover of each volume identify the page numbers within that volume and the case name, number, and appellate counsel contact information; and
- The transcript include chronological and alphabetical indexes to the entire reporter's transcript.

However, transcripts prepared during the trial court proceedings do not comply with some or all of these format requirements. To comply with rules 8.130, 8.834, 8.866, and 8.919, such certified transcripts must typically be re-paginated and new covers and indexes created.

The California Court Reporters Association indicates that, despite the requirement in these rules that the transcript comply with the format requirements of rule 8.144, in some cases some courts

have accepted as a substitute for a deposit transcripts that are not in the appropriate format. The association further indicates that when this happens, court reporters have sometimes been tasked with fixing these transcripts to comply with the rule requirements.

The advisory committee comment to rule 8.130 makes clear that the intent of subdivision (b) is that certified transcripts submitted by a party only be accepted by a court as a substitute for a deposit if these transcripts meet the format requirements of rule 8.144:

[S]ubdivision (b) makes clear that the certified transcript may be filed in lieu of a deposit for the transcript only where the certified transcript contains all of the proceedings identified in the notice of designation and the transcript complies with the format requirements of rule 8.144.

Furthermore, the 2013 report to the Judicial Council that recommended adoption of this requirement states that this requirement would “clearly place responsibility on the designating party for ensuring that such transcripts are in the proper format.”³

This proposal would amend rules 8.130, 8.834, 8.866, and 8.919 to state that a certified transcript submitted by a party must not be accepted as a substitute for a deposit under these rules unless it complies with the applicable format requirements. Provisions in the advisory committee comments accompanying these rules that address this requirement would also be amended to provide examples of the types of formatting changes that would need to be made to comply with the rules—consecutive pagination, required appellate cover information, and indexes. Note that, under rules 8.130(d)(3), 8.140, 8.842, 8.874, and 8.924, if a party fails to submit an authorized substitute for a deposit, the clerk will send the party notice of this default and the party will have an opportunity to correct the problem.

This proposal would also make several additional clarifying amendments to rules 8.838, 8.866, and 8.919 relating to appellate division proceedings. Rule 8.838 would be amended to add a cross-reference to rule 8.144(a) to specify section 271’s application in limited civil appeals and to replace a provision relating to the 300-page volume limit with a cross-reference to the relevant subdivision of rule 8.144. Rules 8.866 and 8.919 would be amended to replace cross-references to rule 8.144 with references to rule 8.834 to ensure consistency of transcript format in appellate division proceedings.

References to “electronic format”

Code of Civil Procedure section 271 refers to reporter’s transcripts being delivered in “electronic form.” Rules 8.144(d), 8.204(a), and 8.622(a) currently have references to reporter’s transcripts or the record on appeal being in “electronic format.” To ensure consistency of language between

³ Judicial Council of Cal., Advisory Com. Rep., *Appellate Procedure: Reporter’s Transcripts in Civil Appeals* (Aug. 2, 2013), p. 7, www.courts.ca.gov/documents/jc-20131025-itemA7.pdf. See also discussion on page 14 of this report: “The committees note that . . . the proposed amendments would require that transcripts that a party deposits in lieu of depositing funds for a reporter’s transcript be in the format required by rule 8.144.”

section 271 and the appellate rules, this proposal would change these references to “electronic form.”

Alternatives Considered

The committee considered suggestions to add references to Code of Civil Procedure section 271 to several rules that address reporter’s transcripts. The stated purpose of these suggestions was to ensure that court reporters follow the requirements of section 271 to send transcripts electronically. The committee concluded that adding references to the statute in these rules was not necessary. As noted above, rule 8.144 establishes the format requirements for reporter’s transcripts in appellate proceedings, both directly and through cross-references in other rules. Subdivision (a) of this rule already provides that its provisions must be applied in a manner consistent with Code of Civil Procedure section 271.

The committee also considered suggestions to amend several rules that address sending the record to, or filing it with, the reviewing court, to provide that if the trial court lacks the technical ability to deliver the reporter’s transcript in electronic form to the reviewing court and all the parties, the court reporter may send the reporter’s transcript. The stated purpose of these suggested amendments was to allow reviewing courts to receive electronic transcripts while trial courts were working on changes to their document management systems that would allow them to receive, use, store, and transmit a transcript in electronic form. It is the committee’s understanding that trial courts now have tools available to them to handle reporter’s transcripts delivered to them in electronic form. Given this, the committee determined that these suggested rule amendments were not necessary at this time.

In addition, the committee considered a further proposal for pagination in multiple-reporter cases. The California Court Reporters Association indicated that waiting to assign page numbers until estimates have been received from all court reporters in a case can cause delay in the preparation of transcripts because reporters may not be readily accessible due to illness, vacation, or other reasons. To expedite the preparation of transcripts in multiple-reporter cases, they proposed allowing the primary reporter to assign beginning and ending page numbers to each segment of a transcript without getting estimates from the court reporters. This is known as block numbering. Although the committee recognized the potential benefits of such an amendment in expediting transcript preparation, the committee is not proposing such a change at this time. As noted above, even under the current rules, transcripts in multiple-reporter cases may not be consecutively numbered and the pagination may not match the page number shown in the PDF viewer. Committee members described current difficulties in navigating within transcripts that vary from the normal format requirements in these ways and expressed great concern that the use of block numbering would increase the instances of transcripts with these navigational difficulties. The committee is, however, seeking further input about whether block numbering should be permitted and is also seeking input on whether there is a way to eliminate these navigational difficulties by either including a second method of consecutive pagination, similar to the older method of Bates-stamping pages, or by repagination of these transcripts.

The committee considered the alternative of not taking any action but concluded that the proposed amendments relating to the use of a single volume for reporter's transcripts in electronic form, pagination in multiple-reporter cases, and format requirements for certified transcripts submitted in lieu of a deposit for a reporter's transcript would be helpful to courts, litigants, and court reporters.

Fiscal and Operational Impacts

The committee anticipates that fiscal and operational impacts of this proposal on courts will be minimal. Reviewing courts may find single-volume electronic reporter's transcripts more efficient to use and the other proposed changes may reduce errors and questions regarding transcript format. There may be some additional education required for court staff related to not accepting a certified transcript in lieu of a deposit if the transcript is not in the appropriate format.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Should the 300-page volume limit be changed for clerk's transcripts that are in electronic form?
- When a party is lending the record to another party, should the option of asking a court reporter to send the borrowing party a copy of the reporter's transcript in electronic form be available in all cases or only when the lending party's copy of the reporter's transcript is in paper form?
- What format requirements should be applied to a transcript sent by a court reporter to a borrowing party?
- Is it necessary for a party borrowing the record from another party to return an electronic copy of either the clerk's transcript or an administrative record provided by the lending party or a read-only electronic copy of the reporter's transcript provided by the court reporter?
- Do transcript users anticipate any difficulties printing, or navigating to, pages numbered using the plus-sign format?
- Should the rules permit block numbering?
- Can transcripts in multiple reporter cases easily include the equivalent of Bates-stamped page numbers or easily be repaginated to avoid the navigational problems that occur when the pagination of such transcripts is not consecutive and does not match the page number shown in the PDF viewer?

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 4 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 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.834, 8.838, 8.622, 8.866, and 8.919, at pages 10–20
2. Link A: Code of Civil Procedure section 271,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=271.&lawCode=CCP

Rules 8.130, 8.144, 8.153, 8.204, 8.452, 8.456, 8.622, 8.834, 8.838, 8.866, and 8.919 of the California Rules of Court would be amended, effective September 1, 2023, to read:

1 **Rule 8.130. Reporter’s transcript**

2
3 (a) * * *

4
5 (b) **Deposit or substitute for cost of transcript**

6
7 (1)–(2) * * *

8
9 (3) Instead of a deposit under (1), the party may substitute:

10
11 (A) The reporter’s written waiver of a deposit. A reporter may waive the
12 deposit for a part of the designated proceedings, but such a waiver
13 replaces the deposit for only that part.

14
15 (B) A copy of a Transcript Reimbursement Fund application filed under
16 (c)(1).

17
18 (C) A certified transcript of all of the proceedings designated by the party.
19 The transcript submitted by the party must not be accepted as a
20 substitute for a deposit under (1) unless it complies ~~must comply~~ with
21 the format requirements of rule 8.144.

22
23 (c)–(h) * * *

24
25 **Advisory Committee Comment**

26
27 **Subdivision (a).** * * *

28
29 **Subdivision (b).** Where a certified transcript has been previously prepared, subdivision (b) makes
30 clear that the certified transcript may be filed in lieu of a deposit for the transcript only where the
31 certified transcript contains all of the proceedings identified in the notice of designation and the
32 transcript complies with the format requirements of rule 8.144 (e.g., cover information,
33 renumbered pages, required indexes). Otherwise, where a certified transcript has been previously
34 prepared for only some of the designated proceedings, subdivision (b)(1) authorizes a reduced fee
35 to be deposited for those proceedings. This reduced deposit amount was established in
36 recognition of the holding in *Hendrix v. Superior Court of San Bernardino County* (2011) 191
37 Cal.App.4th 889 that the statutory rate for an original transcript only applies to the first
38 transcription of the reporter’s notes. The amount of the deposit is based on the rate established by
39 Government Code section 69950(b) for a first copy of a reporter’s transcript purchased by any
40 court, party, or other person who does not simultaneously purchase the original.

41
42 * * *

1
2 **Rule 8.144. Form of the record**

3
4 (a) * * *

5
6 (b) **Format**

7
8 (1)–(5) * * *

9
10 (6) *Volumes*

11
12 (A) Clerks' transcripts and, except as provided in (B), reporters' transcripts
13 must be produced in volumes of no more than 300 pages.

14
15 (B) If a reporter's transcript is being delivered in electronic form to all
16 courts, parties, and persons entitled to the transcript, it may be
17 produced in a single volume but must comply with the requirements of
18 rule 8.74(a)(5).

19
20 (7) * * *

21
22 (c) * * *

23
24 (d) **Additional requirements for reporter's transcript delivered in electronic form**

25
26 (1) *General*

27
28 In addition to complying with (b), a reporter's transcript delivered in
29 electronic ~~format~~ form must:

30
31 (A)–(B) * * *

32
33 (C) Ensure that the electronic page counter in the PDF file viewer matches
34 the transcript page numbering except as provided in (f)(2) or (3).

35
36 (D)–(H) * * *

37
38 (2) *Multivolume or multireporter transcripts*

39
40 In addition to the requirements in (1), for multivolume or multireporter
41 transcripts delivered in electronic ~~format~~ form, each individual reporter must
42 provide a digitally and electronically signed certificate with his or her
43 respective portion of the transcript. If the court reporter lacks the technical

1 ability to provide a digital signature, then only an electronic signature is
2 required.

3
4 (3) * * *

5
6 (e) * * *

7
8 **(f) Pagination in multiple reporter cases**

9
10 (1) In a multiple reporter case, each reporter must promptly estimate the number
11 of pages in each segment reported and inform the designated primary reporter
12 of the estimate. The primary reporter must then assign beginning and ending
13 page numbers for each segment.

14
15 (2) If a segment exceeds the assigned number of pages, the reporter must number
16 the additional pages with the ending page number, a ~~hyphen~~ plus sign, and a
17 new number, starting with 1 and continuing consecutively.

18
19 (3) If a segment has fewer than the assigned number of pages, on the last page of
20 the segment, before the certificate page, the reporter must state in parentheses
21 “(next volume and page number is ____),” and on the certificate page, the
22 reporter must add a ~~hyphen~~ plus sign to the last page number used, followed
23 by the segment’s assigned ending page number.

24
25 (g) * * *

26
27 **Rule 8.153. Lending the record**

28
29 **(a) Request**

30
31 Within 20 days after the record is filed in the reviewing court, a party that has not
32 purchased its own copy of the record may request another party, in writing, to lend
33 it that party’s copy of the record. The other party must then lend its copy of the
34 record when it serves its brief. In lieu of lending its copy of the reporter’s transcript
35 to the requesting party, within 5 days of receiving a request to borrow the record,
36 the lending party may ask the court reporter, in writing, to send an electronic read-
37 only copy of the reporter’s transcript to the requesting party. The court reporter
38 must promptly send the copy to the requesting party.

39
40 (b) * * *

1 **Rule 8.204. Contents and format of briefs**

2
3 **(a) Contents**

4
5 (1) Each brief must:

6
7 (A)–(B) * * *

8
9 (C) Support any reference to a matter in the record by a citation to the
10 volume and page number of the record where the matter appears. If any
11 part of the record is submitted in an electronic ~~format~~ form, citations to
12 that part must identify, with the same specificity required for the
13 printed record, the place in the record where the matter appears.

14
15 (2) * * *

16
17 **(b)–(e) * * ***

18
19
20 **Rule 8.452. Writ petition to review order setting hearing under Welfare and**
21 **Institutions Code section 366.26**

22
23 **(a)–(d) * * ***

24
25 **(e) Augmenting or correcting the record in the reviewing court**

26
27 (1)–(2) * * *

28
29 (3) A party must attach to its motion a copy, if available, of any document or
30 transcript that it wants added to the record. Except as provided in rule
31 8.144(f) for reporter’s transcripts in multiple reporter cases, the pages of the
32 attachment must be consecutively numbered, beginning with the number one.
33 If the reviewing court grants the motion, it may augment the record with the
34 copy.

35
36 (4) If the party cannot attach a copy of the matter to be added, the party must
37 identify it as required under rules 8.122(a)(1) and 8.130(a)(1).

38
39 (5)–(6) * * *

40

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

4
5 **(a)–(d) * * ***

6
7 **(e) Augmenting or correcting the record in the reviewing court**

8
9 **(1)–(2) * * ***

10
11 (3) A party must attach to its motion a copy, if available, of any document or
12 transcript that it wants added to the record. Except as provided in rule
13 8.144(f) for reporter’s transcripts in multiple reporter cases, the pages of the
14 attachment must be consecutively numbered, beginning with the number one.
15 If the reviewing court grants the motion, it may augment the record with the
16 copy.

17
18 (4) If the party cannot attach a copy of the matter to be added, the party must
19 identify it as required under rules 8.122(a)(1) and 8.130(a)(1).

20
21 **(5)–(6) * * ***

22
23
24 **Rule 8.622. Certifying the trial record for accuracy**

25
26 **(a) Request for corrections or additions**

27
28 (1) Within 90 days after the clerk delivers the record to defendant’s appellate
29 counsel:

30
31 (A) Any party may serve and file a request for corrections or additions to
32 the record. Immaterial typographical errors that cannot conceivably
33 cause confusion are not required to be brought to the court’s attention.
34 Items that a party may request to be added to the clerk’s transcript
35 include a copy of any exhibit admitted in evidence, refused, or lodged
36 that is a document in paper or electronic ~~format~~ form. The requesting
37 party must state the reason that the exhibit needs to be included in the
38 clerk’s transcript. Parties may file a joint request for corrections or
39 additions.

40
41 (B) * * *

42
43 **(2)–(4) * * ***

1
2 **(b)–(e) * * ***

3
4
5 **Rule 8.834. Reporter’s transcript**

6
7 **(a) * * ***

8
9 **(b) Deposit or substitute for cost of transcript**

10
11 (1) * * *

12
13 (2) Within 10 days after the clerk notifies the appellant of the estimated cost of
14 preparing the reporter’s transcript—or within 10 days after the reporter
15 notifies the appellant directly—the appellant must do one of the following:

16
17 (A) Deposit with the clerk an amount equal to the estimated cost and a fee
18 of \$50 for the superior court to hold this deposit in trust;

19
20 (B)–(C) * * *

21
22 (D) File a certified transcript of all of the designated proceedings. The
23 transcript submitted by the party must not be accepted as a substitute
24 for a deposit under (A) unless it complies ~~must comply~~ with the format
25 requirements of rule 8.144 8.838; or

26
27 (E) * * *

28
29 (3) * * *

30
31 **(c)–(f) * * ***

32
33 **Rule 8.838. Form of the record**

34
35 **(a) Paper and format**

36
37 Except as otherwise provided in this rule, clerk’s and reporter’s transcripts must
38 comply with the requirements of rule 8.144(a), (b)(1)–(4) and (6), (c), and (d).

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

41
42 **(c) Binding and cover**

1 (1) If filed in paper form, clerk's and reporter's transcripts must be bound on the
2 left margin ~~in volumes of no more than 300 sheets~~, except that transcripts
3 may be bound at the top if required by a local rule of the appellate division.
4

5 (2)–(3) * * *

6
7
8 **Rule 8.866. Preparation of reporter's transcript**
9

10 **(a) When preparation begins**

11
12 (1) * * *

13
14 (2) If the notice sent to the reporter by the clerk under rule 8.864(a)(1) indicates
15 that the appellant is the defendant and that the defendant was not represented
16 by appointed counsel at trial:

17
18 (A) * * *

19
20 (B) The clerk must promptly notify the appellant and his or her counsel of
21 the estimated cost of preparing the reporter's transcript. The
22 notification must show the date it was sent.

23
24 (C) Within 10 days after the date the clerk sent the notice under (B), the
25 appellant must do one of the following:

26
27 (i) Deposit with the clerk an amount equal to the estimated cost of
28 preparing the transcript;

29
30 (ii)–(iii) * * *

31
32 (iv) File a certified transcript of all of the proceedings required to be
33 included in the reporter's transcript under rule 8.865. The
34 transcript submitted by the appellant must not be accepted as a
35 substitute for a deposit under (i) unless it complies ~~must comply~~
36 with the format requirements of rule ~~8.144~~ 8.838;

37
38 (v)–(vii) * * *

39
40 (D) If the trial court determines that the appellant is not indigent, within 10
41 days after the date the clerk sends notice of this determination to the
42 appellant, the appellant must do one of the following:
43

1 (i) Deposit with the clerk an amount equal to the estimated cost of
2 preparing the transcript;

3
4 (ii) * * *

5
6 (iii) File a certified transcript of all of the proceedings required to be
7 included in the reporter's transcript under rule 8.865. The
8 transcript submitted by the appellant must not be accepted as a
9 substitute for a deposit under (i) unless it complies ~~must comply~~
10 with the format requirements of rule 8.144 8.838;

11
12 (iv)–(vi) * * *

13
14 (E) * * *

15
16 **(b) Format of transcript**

17
18 The reporter's transcript must comply with rule 8.144 8.838.

19
20 **(c)–(f)** * * *

21
22 **Advisory Committee Comment**

23
24 **Subdivision (a).** If the appellant was not represented by the public defender or other appointed
25 counsel in the trial court, the appellant must use *Defendant's Financial Statement on Eligibility*
26 *for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form
27 CR-105) to show indigency. This form is available at any courthouse or county law library or
28 online at www.courts.ca.gov/forms.

29
30 **Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii).** Sometimes a party in a trial court proceeding will
31 purchase reporter's transcripts of all or part of the proceedings before any appeal is filed. In
32 recognition of the fact that such transcripts may already have been purchased, this rule allows an
33 appellant, in lieu of depositing funds for a reporter's transcript, to deposit with the trial court a
34 certified transcript of the proceedings necessary for the appeal. Subdivisions (a)(2)(C)(iv) and
35 (a)(2)(D)(iii) make clear that the certified transcript may be filed in lieu of a deposit for a
36 reporter's transcript only where the certified transcript contains all of the proceedings required
37 under rule 8.865 and the transcript complies with the format requirements of rule 8.144 8.838
38 (e.g., cover information, renumbered pages, required indexes).

1 **Rule 8.919. Preparation of reporter’s transcript**

2
3 **(a) When preparation begins**

4
5 (1) * * *

6
7 (2) If the notice sent to the reporter by the clerk under rule 8.915(a)(3) indicates
8 that the appellant is the defendant:

9
10 (A) * * *

11
12 (B) The clerk must promptly notify the appellant and his or her counsel of
13 the estimated cost of preparing the reporter’s transcript. The
14 notification must show the date it was sent.

15
16 (C) Within 10 days after the date the clerk sent the notice under (B), the
17 appellant must do one of the following:

18
19 (i) Deposit with the clerk an amount equal to the estimated cost of
20 preparing the transcript;

21
22 (ii)–(iii) * * *

23
24 (iv) File a certified transcript of all of the proceedings required to be
25 included in the reporter’s transcript under rule 8.918. The
26 transcript submitted by the appellant must not be accepted as a
27 substitute for a deposit under (i) unless it complies ~~must comply~~
28 with the format requirements of rule 8.144 8.838;

29
30 (v)–(vii) * * *

31
32 (D) If the trial court determines that the appellant is not indigent, within 10
33 days after the date the clerk sends notice of this determination to the
34 appellant, the appellant must do one of the following:

35
36 (i) Deposit with the clerk an amount equal to the estimated cost of
37 preparing the transcript;

38
39 (ii) * * *

40
41 (iii) File a certified transcript of all of the proceedings required to be
42 included in the reporter’s transcript under rule 8.918. The
43 transcript submitted by the appellant must not be accepted as a

1 substitute for a deposit under (i) unless it complies ~~must comply~~
2 with the format requirements of rule ~~8.144~~ 8.838;

3
4 (iv)–(vi) * * *

5
6 (E) * * *

7
8 **(b) Format of transcript**

9
10 The reporter’s transcript must comply with rule ~~8.144~~ 8.838.

11
12 **(c)–(f)** * * *

13
14 **Advisory Committee Comment**

15
16 **Subdivision (a).** The appellant must use *Defendant’s Financial Statement on Eligibility for*
17 *Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form CR-
18 105) to show indigency. This form is available at any courthouse or county law library or online
19 at www.courts.ca.gov/forms.

20
21 **Subdivisions (a)(2)(C)(iv) and (a)(2)(D)(iii).** Sometimes a party in a trial court proceeding will
22 purchase a reporter’s transcripts of all or part of the proceedings before any appeal is filed. In
23 recognition of the fact that such transcripts may already have been purchased, this rule allows an
24 appellant, in lieu of depositing funds for a reporter’s transcript, to deposit with the trial court a
25 certified transcript of the proceedings necessary for the appeal. Subdivisions (a)(2)(C)(iv) and
26 (a)(2)(D)(iii) make clear that the certified transcript may be filed in lieu of a deposit for a
27 reporter’s transcript only where the certified transcript contains all of the proceedings required
28 under rule 8.865 and the transcript complies with the format requirements of rule ~~8.144~~ 8.838
29 (e.g. cover information, renumbered pages, required indexes).