



**Judicial Council of California**  
ADMINISTRATIVE OFFICE OF THE COURTS

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## REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 29, 2010

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Title	Agenda Item Type
Appellate Procedure: <i>Civil Case Information Statement</i>	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise form APP-004	January 1, 2011
Recommended by	Date of Report
Appellate Advisory Committee	September 10, 2010
Hon. Kathryn Doi Todd, Chair	Contact
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### Executive Summary

The Appellate Advisory Committee recommends revising the form used to provide the Court of Appeal with information about civil appeals by adding a page on which the appellant can provide necessary information concerning the parties to the appeal and their attorneys. Currently, appellants are asked to attach a page including this information, but they often fail to do so. This creates additional work for appellate court clerks and causes delay in appellate proceedings. Revising the form to include space for this information will increase the likelihood that the information is timely provided and thereby improve court administration.

### Recommendation

The Appellate Advisory Committee recommends that the Judicial Council, effective January 1, 2011, revise the *Civil Case Information Statement* (form APP-004) to add a page on which the appellant can provide information concerning the parties to the appeal and their attorneys.

The text of the revised form is attached at pages 5–7.

## **Previous Council Action**

The Judicial Council adopted the *Civil Case Information Statement* (originally as form APP-001) for mandatory use in October 2002. When a draft of that form was originally circulated for public comment, it included a page on which the appellant was to provide information concerning the parties to the appeal and their attorneys. The committee received comments from the California Appellate Court Clerks Association and one of the presiding justices of the Court of Appeal suggesting that this information be elicited in a more space-saving way. In response to these comments, the committee revised the proposed form to replace this page with a request that the appellant attach a list of all the parties and all their attorneys of record who will participate in the appeal.

In October 2009, the Judicial Council approved several changes to the *Civil Case Information Statement*, including adding a reminder to the note at the top of the form that the appellate must attach a list of all the parties and all their attorneys of record who will participate in the appeal. These changes were to take effect on July 1, 2010. The Appellate Advisory Committee subsequently received a suggestion from the California Appellate Court Clerks Association to add a page on which the appellant could provide information concerning the parties to the appeal and their attorneys. In April 2010, the committee recommended circulating this proposal for public comment. Because the proposed effective date of the changes recommended for circulation was January 1, 2011, however, this would have meant that the form would be revised twice within a six-month period. The committee was concerned that this might create confusion and potential burdens for the courts, litigants, and legal publishers, and therefore the committee asked the Judicial Council to delay implementation of the changes to the form approved in October 2009. At its April 23, 2010 meeting, the council revoked the version of the *Civil Case Information Statement* (form APP-004) that was to take effect July 1, 2010, and delayed implementation of the changes to APP-004 that the council approved at its October 2009, meeting until January 1, 2011.

## **Rationale for Recommendation**

In civil appeals to the Court of Appeal, the appellant is required to file a *Civil Case Information Statement* (form APP-004) shortly after filing the notice of appeal (see Cal. Rules of Court, rule 8.100(g)). This statement provides the Court of Appeal with information it needs for the appellate process, including information about the timeliness of the appeal and applicable service requirements. Part III of form APP-004 currently consists of the following note:

Please attach to this form a list of all the parties and all their attorneys of record who will participate in the appeal. For the parties, include the following information: the party's name and his or her designation in the trial court proceeding (plaintiff, defendant, etc.). For the attorneys, include the following information: name, State Bar number, mailing address, telephone number, fax number, and e-mail address.

In the experience of the clerks of the Courts of Appeal, many appellants miss this note in Part III and fail to provide the required information about the parties and their attorneys. This results in delays and in extra work for the clerks and the parties to correct this oversight. To help prevent these errors, this proposal would add a page to form APP-004 that provides spaces for the required information about the parties and their attorneys. Appellants could either fill in this new page or provide the required information on a separate page or pages.

Note that the version of the form attached to this report and proposed for adoption effective January 1, 2011, incorporates all the changes approved by the council at its October 2009 meeting, except the addition to the note at the top of the form regarding attaching a list of the parties and attorneys. This note would not be included in light of the committee's recommendation that the form include a page for providing this information.

### **Comments, Alternatives Considered, and Policy Implications**

The proposed revisions to form APP-004 were circulated for public comment between April 19 and June 18, 2010, as part of the regular spring comment cycle. Twelve individuals or organizations submitted comments on the proposal. Seven commentators agreed with the proposal, four agreed with the proposal if modified, and one did not indicate a position on the proposal. The full text of the comments received and the committee's responses are set out in the attached comment chart at pages 8–10, and the substantive comments are discussed below.

As circulated for public comment, the proposed form would have required that the information concerning parties and attorneys be supplied by filling out the new page of the form. One commentator suggested that parties be allowed to submit the required information either by filling out this new page of the form or by attaching a separate page or pages including the required information. The commentator noted that generating this information in the form of an attachment might be easier for some litigants. The committee agreed with this suggestion and revised the introductory paragraph of this part of the form to include these options.

The California Appellate Court Clerks Association submitted several suggested changes, all of which the committee incorporated into the proposal. In addition, the committee further revised the introductory paragraph of this part of the form. The paragraph currently lists all of the party and attorney information that must be provided. Now that the form will include spaces to provide this information, listing these items in the introductory paragraph is duplicative. The revised introductory paragraph therefore deletes the itemization of this information and also provides clearer directions for completing the form.

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

This revision should reduce court costs by reducing the number of cases in which appellate court clerks must make extra efforts to obtain necessary information from appellants about the parties and their attorneys.

## **Relevant Strategic Plan Goals and Operational Plan Objectives**

Because this proposal recommends revision of a form to improve practice and procedure, it supports the policy of promoting innovative and effective practices for processing cases underlying Goal III, Modernization of Management and Administration (Goal III.B. Policies 1 and 2).

## **Attachments**

1. Form APP-004, at pages 5–7.
2. Chart of comments, at pages 8–10

<b>CIVIL CASE INFORMATION STATEMENT</b>	Court of Appeal Case Number (if known)
COURT OF APPEAL, _____ APPELLATE DISTRICT, DIVISION _____	<b>DRAFT NOT APPROVED BY JUDICIAL COUNCIL 7/26/2010</b>
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  _____	
TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	
APPELLANT:  RESPONDENT:	
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
JUDGES (all who participated in case):	Superior Court Case Number:
<b>NOTE TO APPELLANT: You must file this form with the clerk of the Court of Appeal within 10 days after the clerk mails you a notice that this form must be filed. You must attach to this form (1) 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"); and (2) proof of service of this form on all parties to the 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]).</b>	

**PART I – APPEAL INFORMATION**

**A. APPEALABILITY**

1. Appeal is from:

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

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

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

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

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

**C. BANKRUPTCY OR OTHER STAY**

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

APPELLATE CASE TITLE:	APPELLATE COURT CASE NUMBER:
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**D. APPELLATE CASE HISTORY** (*Provide additional information, if necessary, on attachment I.D.*)

Is there now, or has there previously been, any appeal, writ, or other proceeding related to this case pending in any California appellate court?  Yes  No (*If yes, insert name of appellate court*):

Appellate court case no.:

Title of case:

Name of trial court:

Trial court case no.:

**E. SERVICE REQUIREMENTS**

Is service of documents in this matter, including a notice of appeal, petition, or brief, required on the Attorney General or other nonparty public officer or agency under California Rules of Court, rule 8.29 or a statute? Yes  No  (*If yes, please indicate the rule or statute that applies*):

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

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

**PART II – NATURE OF ACTION**

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

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

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





**SPR10-05****Appellate Procedure: Civil Case Information Statement** (revise form APP-004)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Proposed Committee Response</b>
1.	Appellate Court Committee San Diego County Bar Association by by Kevin K. Green Chair	AM	We support SPRI 0-05, with one modest suggestion. On the proposed new page to be added to form APP-004, the fields for "Name of Party" and "Name of Attorney" seem small and should be larger. Otherwise, litigants may need to resort to additional pages solely because the name of a party or its attorney is too long to squeeze into the standard-size fields.	The committee agrees with this suggestion and has revised the proposal to add more space for the party and attorney names.
2.	Elliot Bien Bien & Summers Novato	AM	As worded, the proposal would require a hand-typed listing of party and attorney information on a Judicial Council form rather than a word-processed listing as an attachment. Because the latter is so much easier to generate, I'd like to suggest that parties be allowed to submit the required information either way. It's a minor issue in isolation, but I think it's worthwhile to keep reminding our rule-makers to be user friendly.	The committee agrees with this suggestion and has revised the introductory paragraph on the form to provide that the appellant can attach a separate list that includes all of the information requested as an alternative to completing this part of the form.
3.	California Association of Legal Support Professionals by Brett Peters Sacramento	A	The addition of the third page for the required information would save our clients and our staff from having to make repeat trips to a Court of Appeal. Our members make an untold number of extra trips each year because so many law firms miss the small statement requesting the information. We support the proposed change.	No response required.
4.	California Appellate Court Clerks Association by Joseph Lane	AM	Our proposed changes are in the attached form and the changes to the portion that is filled out as to each party apply to the whole form. Our	The committee has revised the proposal to incorporate the changes suggested by this commentator. In addition, based on discussions

**SPR10-05****Appellate Procedure: *Civil Case Information Statement*** (revise form APP-004)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Proposed Committee Response</b>
			changes remove redundant language, provide more space and move the information as to whether the party is represented by counsel self-represented to a more logical location. [Commentor attached marked up APP-004 form]	with this commentataor, the committee has further revised the introductory paragraph to eliminate duplicative language and make the instructions clearer.
5.	Committee on Appellate Courts State Bar of California by T. Peter Pierce, Chair San Francisco	A	The Committee supports this proposal.	No response required.
6.	Hon. Judith D.McConnell Administrative Presiding Justice Court of Appeal, Fourth Appellate District	AM	I appreciate the Committee’s proposed revision to the <i>Civil Case Information Statement</i> (form APP-004) to include party and attorney information. When the Appellate Advisory Committee considers additional changes to the rules, I ask that it consider one further amendment to this form. It currently requires the appellant to specify the date when a motion for a new trial, to vacate the judgement, for judgment notwithstanding the verdict or for reconsideration of an appealable order was filed, but does not require that the appellant attach copies of the relevant documents. Because the date on which the notice of intention (in the case of a motion for a new trial or to vacate judgment), or the date on which a motion for JNOV or reconsideration, was filed is critical in determining whether the time to appeal was extended under rule 8.108(b), I suggest the appellant be required to attach copies of any	No response required.  In a separate invitation to comment, the committee asked for input on whether these notices and motions should be attached to the Civil Case Information Statement rather than included in the clerk’s transcript. Because the committee received limited feedback on this idea, the committee decided not to recommend this change at this time, but will consider it further during the next committee year.

**SPR10-05****Appellate Procedure: Civil Case Information Statement** (revise form APP-004)

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Proposed Committee Response</b>
			such notice of intention or notice of motion to the form.	
7.	Orange County Bar Association by Lei Lei Wang Ekvall Newport Beach	A	No additional comment.	No response required.
8.	Superior Court of Los Angeles County	A	No additional comment.	No response required.
9.	Superior Court of Sacramento County	NI	The court has reviewed the proposed change but does not have any comments to submit.	No response required.
10.	Superior Court of San Bernardino County by Debra Meyers Deputy Court Executive Officer/General Counsel	A	Agree; however, rule does not affect the Appellate Dept.	No response required.
11.	Superior Court of San Diego County by Michael M. Roddy Court Executive Officer	A	Our court would like to expressly thank the Appellate Advisory Committee for their hard work and well-considered proposal.	No response required.
12.	Nancy Neal Yeend Los Altos	A	Support this simple, yet important fundamental change.	No response required.