

# Judicial Council of California • Administrative Office of the Courts

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## INVITATION TO COMMENT

**SPR13-03**

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Title	Action Requested
Appellate Procedure: Civil Case Information Statement	Review and Submit Comments by June 19, 2013
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 8.100	January 1, 2014
Proposed by	Contact
Appellate Advisory Committee Hon. Raymond J. Ikola, Chair	Heather Anderson, 415-865-7691 <a href="mailto:heather.anderson@jud.ca.gov">heather.anderson@jud.ca.gov</a>

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### Executive Summary and Origin

This proposal is intended to provide costs savings and efficiencies for the Court of Appeal by relieving the clerk of responsibility for mailing the appellant a copy of the *Civil Case Information Statement* (form APP-004) and decreasing the number of default notices that the clerk must issue by increasing the time the appellant has to file the statement after receiving notice from the clerk that the statement is due. This proposal originated from suggestions made by a member of the Appellate Advisory Committee.

### Background

Rule 8.100 of the California Rules of Court addresses the filing of a notice of appeal in an unlimited civil case. Subdivision (g) of this rule addresses requirements relating to the appellant completing and filing the *Civil Case Information Statement* (form APP-004) which provides the Court of Appeal with important information to help it in processing appeals. Typically, when a party is required to complete and file a Judicial Council form, the Rules of Court will so indicate and will set a deadline for the filing. The party is then responsible for obtaining a copy of the Judicial Council form from the California courts website, a law library, a court, or some other source.

In contrast, unlike any other appellate rule of which the committee is aware, rule 8.100(g)(1) currently requires that the clerk of the Court of Appeal mail appellants a copy of form APP-004 and notify them of the deadline for submitting the completed form. This requirement imposes atypical copying, mailing, and staff costs on the Court of Appeal.

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

Rule 8.100(g)(2) establishes the time within which an appellant must file a completed *Civil Case Information Statement*. Currently, this provision requires that the statement be filed within 10 days after the clerk mails the appellant notice that the statement is due. If the statement is not timely filed, subdivision (g)(3) requires the clerk to send the appellant a default notice. Given how long it can take for mail to be delivered, the current 10-day period often does not provide sufficient time for the appellant to receive this notice, complete the form, and get it to the court before the deadline expires. As a result, the clerk must often send default notices.

### **The Proposal**

This proposal is intended to provide significant cost savings and efficiencies for the Court of Appeal. First, it would eliminate the requirement that the clerk mail a copy of form APP-004 to the appellant. The committee's view is that this procedure is unnecessary. As with other forms that must be completed by a party, the appellant can obtain APP-004 from the California courts website, a law library, a court, or some other source. Eliminating this requirement would save the Court of Appeal the copying, postage, and staff costs associated with mailing this form to the appellant.

Second, this proposal would increase the time the appellant has to file APP-004 after receiving notice from the clerk that it is due. Increasing this time period should decrease the number of times that a default notice is unnecessarily issued. Reducing the number of default notices that must be sent by the clerk will decrease copying, postage, and staff costs for the Court of Appeal.

### **Alternatives Considered**

The committee considered not recommending any change to rule 8.100 but concluded that amending this rule would reduce costs for the Court of Appeal, thereby making it preferable to propose these amendments.

The committee also considered eliminating the current requirement that the clerk notify the appellant of the requirement to file a *Civil Case Information Statement*. However, the committee concluded that this notification is the best way to ensure quick filing of form APP-004.

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

This proposal should not impose significant implementation burdens on the superior courts or Court of Appeal and should provide significant cost savings for the Court of Appeal.

## 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 reasonably achieve the stated purpose?
- Would this proposal have an impact on public's access to the courts? If a positive impact, please describe. If a negative impact, what changes might lessen the impact?
- Should the references in this rule to the court mailing notices be modified to allow for other methods of notification, such as through electronic service, when it is permitted?

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

- Would the proposal provide costs savings? If so, please quantify. If not, what changes might be made that would provide savings, or greater savings?
- 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 two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- If this proposal would be cumbersome or difficult to implement in a court of your size, what changes would allow the proposal to be implemented more easily or simply in a court of your size?

Rule 8.100 of the California Rules of Court would be amended, effective January 1, 2014, to read:

1 **Rule 8.100. Filing the appeal**  
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3 **(a)–(f) \*\*\***  
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5 **(g) Civil case information statement**  
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- 7 (1) On receiving notice of the filing of a notice of appeal under (e)(1), the reviewing  
8 court clerk must promptly ~~mail~~ notify the appellant by mail a copy of that the *Civil*  
9 *Case Information Statement* (form APP-004) ~~and a notice that the statement~~ must be  
10 filed within ~~40~~ 15 days.  
11
- 12 (2) Within ~~40~~ 15 days after the clerk mails the notice required by (1), the appellant must  
13 serve and file in the reviewing court a completed *Civil Case Information Statement*,  
14 attaching a copy of the judgment or appealed order that shows the date it was  
15 entered.  
16
- 17 (3) If the appellant fails to timely file a case information statement under (2), the  
18 reviewing court clerk must notify the appellant by mail that the appellant must file  
19 the statement within 15 days after the clerk’s notice is mailed and that if the  
20 appellant fails to comply, the court may either impose monetary sanctions or dismiss  
21 the appeal. If the appellant fails to file the statement as specified in the notice, the  
22 court may impose the sanctions specified in the notice.  
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