

## RUPRO ACTION REQUEST FORM

**RUPRO Meeting:** September 12, 2014

<p>RUPRO action requested:</p> <p style="text-align: center;"><b>Recommend JC approval (has circulated for comment)</b></p>
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<p>Title: Fee Waivers: Payments Over Time and Specific Fees Included in Waivers</p>	<p>Rules: <b>3.50, 3.51, 3.52, 3.55, and 8.818</b></p> <p>Standards:</p> <p>Forms: <b>FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-008, FW-012, APP-001, and APP-015/FW-015-INFO</b></p>
<p>Committee or other entity submitting the proposal: Civil and Small Claims Advisory Committee Judge Patricia M. Lucas, Chair</p> <p>Appellate Advisory Committee Judge Raymond Ikola, Chair</p>	<p>Staff contact: Anne M. Ronan, 415-865-8933, <a href="mailto:anne.ronan@jud.ca.gov">anne.ronan@jud.ca.gov</a> Heather Anderson, 415-865-7691, <a href="mailto:heather.anderson@jud.ca.gov">heather.anderson@jud.ca.gov</a></p>

<p><b>If requesting July 1 or out of cycle, explain:</b> The committees are proposing a March 1, 2015 effective date of all the rules and forms because, as discussed in the report, it is likely that a further change will be required to a chart contained on two of the forms in February 2015. Deferring the effective date of all recommended amendments and revisions to March 1 will allow the council to approve the next set of changes before the new forms go into effect, and will eliminate the need for a second round of changes to those forms.</p> <p>Also note, while most of this proposal has been circulated for comment, the amendments regarding court reporter fees to rules 3.55(7) and 3.56, and revisions to forms FW-002, FW-005, and FW-012 reflecting those amendments, were not part of the circulated proposal. The recommendation to revise those portions of the rules and forms arose from comments received to the circulated proposal and, as discussed in the report, are a technical change to bring the rules and forms in compliance with the mandate of current law.</p>
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<p><b>Additional Information for RUPRO:</b> (To facilitate RUPRO’s review of your proposal, please include any relevant information not contained in the attached summary, including any substantial argument in opposition and any expected individual or organization likely to support or oppose the proposal.)</p> <p>A description of the opposition to the proposal and the committee’s response to it is contained in the report.</p>
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## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 28, 2014

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Title	Agenda Item Type
Fee Waivers: Payments Over Time and Specific Fees Included in Waivers	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; revise forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-008, FW-012, APP-001, and APP-015/FW-015-INFO	March 1, 2015
Recommended by	Date of Report
Civil and Small Claims Advisory Committee Hon. Patricia M. Lucas, Chair	August 21, 2014
Appellate Advisory Committee Hon. Raymond Ikola, Chair	Contact
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	Legal Services, Judicial Council

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### Executive Summary

The Civil and Small Claims Advisory Committee recommends modifying the fee waiver rules and forms to (1) permit parties to waive the right to a hearing prior to the court's issuing an order denying a fee waiver application if the court has authorized payments over time following the denial and the parties are satisfied with making payments over time; (2) limit payments over time to first appearance fees and a payment period of three months; and (3) make other clarifying changes to the *Request to Waive Court Fees* (form FW-001). These changes should eliminate the costs to parties and the court for unnecessary hearings and limit the administrative burden of payments over time.

In addition, the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee jointly recommend amendments to the rules that list the court fees that must be

waived as part of an initial fee waiver and those that may be waived at the court's discretion. The Appellate Advisory Committee recommends amending these rules to consolidate the list of mandatorily waived fees in one rule and to also list the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript. The Civil and Small Claims Advisory Committee recommends further rule amendments to reflect a recent change in law that mandates that any fees charged for the court's cost for court reporting services be included in a waiver. Several fee waiver forms and information sheets would be revised to reflect these changes.

## **Recommendation**

1. The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective March 1, 2015, amend California Rules of Court, rule 3.52 and *Request to Waive Court Fees* (form FW-001), *Information Sheet on Waiver of Superior Court Fees and Costs* (FW-001-INFO), and superior court fee waiver order forms (forms FW-003 and FW-008) to more directly address the payment of filing fees over time—including limiting such payment plans to initial filing fees and generally limiting the time period to three months—and to provide for an informed waiver of an advance hearing if such payments are satisfactory to the party in the event a fee waiver is denied. Other nonsubstantive, clarifying changes would be made to the forms at the same time.
2. The Civil and Small Claims Advisory Committee and Appellate Advisory Committee recommend that the Judicial Council, effective March 1, 2015:
  - Amend California Rules of Court, rules 3.55, 3.56, and 8.818 to:
    - a. consolidate in rule 3.55 the list of superior court fees relating to appellate matters that are waived as part of an initial fee waiver, including adding the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript on appeal; and
    - b. reflect in rules 3.55 and 3.56 the new statutory requirement that court fees for court reporting services be included in all fee waivers, and add an advisory committee comment to rule 3.55 to clarify that the inclusion of all court reporter's fees in the rule is not intended to mandate that a court reporter be provided for all fee waiver recipients.
  - Revise the list of waived fees on all the fee waiver order forms (forms FW-002, FW-003, FW-005, FW-008, and FW-012) and information sheets (forms FW-001-INFO, APP-001, and APP-015/FW-015-INFO) to reflect the changes in rules 3.55 and 3.56.
3. The Appellate Advisory Committee recommends that the Judicial Council, effective March 1, 2015, further revise form APP-001 to reflect recent changes in appellate fees, rules, and procedures.

The text of the amended rules and the revised forms are attached at pages 22–40. (The recommended revisions are highlighted on the forms.)

## Previous Council Action

The Judicial Council last amended the rules on fee waivers in July 2009, to implement council-sponsored legislation that revised the fee waiver procedures. New and revised forms became operative at that same time. Since then, only minor changes have been made to the rules and forms—primarily annual revisions of an income eligibility chart on forms FW-001 and APP-015/FW-015 to reflect changes in the federal poverty guidelines on which the chart is based.

The list of superior court fees that must be waived under rule 3.55 as part of an initial fee waiver was referenced in a report to the council in 2013. A proposal to establish a new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter's transcript on appeal was approved by the Judicial Council at its October 2013 meeting, and the new fee took effect on January 1, 2014. In the report to the council on the proposal, the Appellate Advisory Committee and the Court Executives Advisory Committee indicated that, based on the public comments received, they would recommend that this fee be added to the list of superior court fees that must be waived under rule 3.55 as part of an initial fee waiver.

## Rationale for Recommendation

### Payments of trial court fees over time

Government Code section 68634<sup>1</sup> governs how an application for a fee waiver is to be handled by the trial court.<sup>2</sup> A court may deny a fee waiver without a prior hearing only if the application is incomplete or because the information provided conclusively establishes that the applicant is not eligible. (§ 68634(e)(2) and (3).) If the information in the application does not establish that the applicant meets the eligibility requirements for a fee waiver but does not *conclusively* establish that the applicant is not eligible for one, then the court must hold an eligibility hearing with 10 days' notice to the applicant. (§ 68634(e)(5).) If at that hearing the court finds the applicant not eligible for a fee waiver (and so denies the fee waiver), the court may grant a partial waiver or permission to pay fees over time. (*Id.*)

To implement this statutory provision for allowing payments over time only after a hearing, the Judicial Council includes on its current *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008) an item in which a court may order payments of filing fees or other items (to be identified in the order) over time. Several judicial officers<sup>3</sup> and the Ad Hoc Advisory Committee on Trial Court Efficiencies have requested that a similar item be added to the order form that is used when no hearing is required, *Order on Court Fee Waiver (Superior Court)* (form FW-003). The judicial officers have recommended that hearings should not be required before the grant of installment payments because many parties do not want to have to appear in court for a fee waiver eligibility hearing if they are going to be permitted to make payments over

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<sup>1</sup> Unless otherwise indicated, all statutory references are to the Government Code.

<sup>2</sup> A separate statute, Government Code section 68634.5, addresses the handling of fee waiver applications in the appellate courts.

<sup>3</sup> Express requests have been received from judicial officers in the Superior Courts of Solano, San Diego, and Contra Costa Counties.

time. The judicial officers noted that requiring a hearing before all orders permitting payments over time is unnecessarily burdensome to both parties and courts.

As the same time, several court administrators have raised concerns that, when payments over time are permitted, problems can arise in ultimately collecting the full amount if the time period for payments is too long. When a time period of a year or more is allowed, the decisions on substantive issues can be issued and the main case completed long before the time for payment concludes—particularly in unlawful detainer cases and certain family law proceedings—and the unsuccessful parties in such cases are often unwilling to pay any remaining fees. In addition, spreading the payments out over a long period places a heavy administrative burden on the courts. The administrators suggested that the time period over which payments could be made should be fairly short. In addition, in those cases that do go on for a longer period, court administrators have asked for clarification as to exactly what filing fees are covered by an order permitting payments over time—only the initial filing fee or also fees for filing motions or ex parte applications.

Because statute mandates that a court provide an applicant with the opportunity for a hearing before denying a fee waiver and instead permitting payments over time, that provision may not be changed by rule of court.<sup>4</sup> This proposal would not, therefore, eliminate the opportunity for a hearing before the grant of payments over time when a fee waiver is denied, but rather provides that an applicant may make an informed waiver of the right to such a hearing and thus avoid unnecessary court appearances. The proposal would also limit the applications of payments over time to the initial filing fees and, as a general rule, limit the time period in which the payments can be made to three months. A court may, at its discretion, provide for a longer time period.

The committees propose making all the amendments to the fee waiver rules and forms effective March 1, 2015, because further amendments to a chart on forms FW-001 and APP-015/FW-015 will be needed if, as expected, the federal poverty guideline are amended in late January. The March effective date will result in those forms only being amended once in 2015.

The details of the recommended rule amendments and form revisions are described below.

**Rule 3.52.**<sup>5</sup> This rule, concerning how a superior court processes a fee waiver application, would be amended in a few places.

- The rule would be clarified to provide that an order on a fee waiver application that is issued without a hearing should be on form FW-003. (Rule 3.52(2).)<sup>6</sup>
- A new subdivision would be added regarding payments over time, limiting such orders to initial filing fees; providing that such payments should be for a period of three months, unless a court finds good cause for a longer period; and allowing orders

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<sup>4</sup> The Judicial Council is authorized to make rules regarding payment of court fees in installments by applicants not eligible for a fee waiver (see Gov. Code, § 68640), but is not authorized to make rules inconsistent with statute.

<sup>5</sup> All references to rules in this report are to the California Rules of Court.

<sup>6</sup> This is not a substantive change in the rule, which already distinguishes between orders issued with or without a hearing. (Cf. rule 3.52(3) (any order issued determining an application for an initial fee waiver *after* a hearing in the trial court must be made on *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008).)

- permitting such payments to be made on form FW-003—and so without a hearing—if the advance hearing has been waived. (Rule 3.52(6).)
- Renumbered subdivision (7) would be revised to allow courts a grace period after this latest revision of the order forms, in which they may use forms created within their own electronic case management system rather than the Judicial Council so long as the forms met certain requirements. This is similar to the grace period provided when the current forms were adopted in 2009.

***Form FW-001, Request to Waive Court Fees would be revised as follows:***

- Item 5a, for eligibility based on eligibility to receive public benefits, would be amended to further abbreviate some of the longer names of the public benefits programs, to make one name longer (the descriptor of Supplemental Security Income) to avoid confusion, and to include an express reference to the information sheet (form FW-001-INFO) where the full names of all the public benefits programs can now be found.
- Item 5b, for eligibility based on a household’s income being below 125% of the federal poverty guideline (§ 68633(b)), would not be amended at this time. The chart showing the maximum amount of income for this type of eligibility would be retained.<sup>7</sup> The specific amounts will be changed if, as expected, the federal poverty guidelines are revised in late January.
- Item 5c, for eligibility based on income not being sufficient for common necessities of life (§ 68633(c)), would be amended to clarify that any request for payments over time is only an alternative request in the event that a fee waiver is denied. The instruction that an applicant checking this basis for eligibility must complete all of the items on the back of the form has been moved and made more emphatic, in response to requests by several court administrators to emphasize this direction.

The option to request to “waive some court fees” would be deleted from the item. While a partial waiver is a possible outcome for an applicant denied a waiver based on income not being sufficient for common necessities, there is no express statutory basis for asking for a partial waiver and, based on the experience of advisory committee members, a partial fee waiver is seldom, if ever, requested unless in conjunction with a full waiver. Removal of the item reduces confusion and provides more space on the form.

- New item 7, Waiver of Hearing With Payments Over Time, would be added at the top of the second page. The text describes the party’s right to a hearing before a denial of a fee waiver, along with the possibility of waiving that right in the event a court allows payments over time. There are also instructions on how to provide facts to support good cause for making payments over a period longer than three months. Two check boxes are included so that the applicant can indicate whether or not he or she is waiving an advance hearing.

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<sup>7</sup> See discussion below in Alternatives Considered, at page 10.

- Items 9, 10, and 12, seeking financial information, would be amended, so that all items in the left column of the form will be for gross income figures—rather than some seeking net income and others gross—and the item for payroll deductions has been moved from the income items to the list of expenses in renumbered item 12 (*Your Monthly Deductions and Expenses*). The text in these items has also been clarified.

**Form FW-001-INFO.** Some new items have been added to the *Information Sheet on Waiver of Superior Court Fees and Costs* and three current items have been revised, as described below. The changes will make this a two-page form.

- Paragraph 1 in the general instructions section, containing a list of fees that will be waived if a fee waiver is granted, would be revised to add two fees regarding appellate records and to revise the item for court reporter’s fees to include all such fees.<sup>8</sup>
- Paragraph 2, listing the fees the court has the discretion to waive upon an additional request for waiver from the parties, would be revised to delete the item regarding court reporter’s fees for a hearing after 60 days from the list of items the court has the discretion to waive, as all court reporter’s fees are now automatically included in any fee waiver.
- Paragraph 3 is a new item added to provide information about the possibility of a court’s permitting payment of the initial filing fee over time if a fee waiver request is denied. It identifies the item on the application form in which to ask the court to consider such an alternative and describes the applicant’s potential right to a hearing in advance of a fee waiver denial and the possibility of giving up this right if the applicant does not want a hearing should payments over time be permitted by the court. It also warns the applicant that, if payments over time are permitted, the period of time will generally be for up to only three months unless the party provides the court with good cause for a longer time, and instructs the applicant on how to show good cause.
- A new paragraph on public benefits programs would be added to list the full names of all the public programs listed in item 5b on the fee waiver application. The programs are in the same order as they appear on the application form.
- The paragraph on court collections would be amended to expand the warning that the court can use collection proceedings and add a fee and costs for collection, to include the court’s efforts to collect any unpaid fees that a party was permitted to pay over time.
- The paragraph on prisoner applicants would be revised to include a citation to the portion of the fee waiver statutes addressing applications by prisoners (§ 68635). This is an area that has caused some confusion among applicants and, while there has not yet been a separate set of forms developed for prisoner applications, the committee concluded that a

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<sup>8</sup> The rationale for amending rules 3.55 and 3.52 regarding these fees, which is the reason for these revisions, is discussed below in the section on **Fees Waived by Initial Fee Waiver**.

cross-reference to the applicable statute may be helpful.

**Form FW-003.** The *Order on Court Fee Waiver (Superior Court)* would be revised to:

- Add new item 4c. The major change to item 4 would be the addition of this new sub-item on payments over time. It parallels the item on payments over time on the current form for an order after hearing (see form FW-008, at item 5b(2)) with the following changes:
  - The item begins with a finding that the right to a hearing has been waived and a note that the fee waiver application has been denied (with a cross-reference to the item on the order in which the denial and the reasons for the denial are stated).
  - There is a reference to proposed rule 3.52(d), which provides a general limit of three months' time to such deferrals. The Civil and Small Claims Advisory Committee intends this rule reference to be a reminder to the judicial officers as well as parties of the time limitation.
  - The type of fees that may be paid over time is now limited to "initial" filing fees, rather than just "filing fees." This change is intended to reflect the amended rule that the order allowing payments over time does not extend to fees for filing motions.
  
- Item 4a. The other changes proposed to this form, not related to payments over time, are all in the first section of item 4, on the first page of the form, as follows:
  - The current direction to "check one", which indicates that the form could be used only to rule on either a *Request to Waive Court Fees* or a *Request to Waive Additional Court Fees*, but not both, has been removed.
  - Item 4a(1) has been amended to include a reference to the rule of court providing for waiver of fees on appeals, some of which occur in the superior court.
  - The item for court reporter's fees has been amended in item 4(a)(1) and deleted from item 4(a)(2) to reflect proposed changes in rule 3.55 and 3.56.
  - The two new items for fees proposed for addition to rule 3.55, relating to trial court fees for appellate records, are added to the list of waived fees and costs in item 4a(1), and the other item relating to appellate fees has been expanded to track the language of the rule more exactly in light of the additional space available on the revised form.
  - Current item 4a(3), Fee Waiver for Appeal, has been deleted because the items listed were duplicative of those already listed in item 4a(1).

**Form FW-008.** The *Order on Court Fee Waiver After Hearing (Superior Court)* would be revised in parallel with the changes described above in form FW-003, in that item 5a, listing the items included in a fee waiver, would be amended in all the ways item 4a on form FW-003 has been amended, and item 5b(2), regarding payments over time, would be amended to include the limitations of payments over time described above on form FW-003.

### **Fees waived by initial fee waiver**

**Background.** Last year, the Appellate Advisory Committee and the Court Executives Advisory Committee circulated for public comment a proposal to amend the California Rules of Court relating to reporter's transcripts in civil appeals. Among other things, that proposal recommended the establishment of a new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter's transcript on

appeal. Because this was a new fee, the committees anticipated that there would be questions about the potential waiver of this fee. The invitation to comment therefore also specifically solicited comments on whether this fee should be listed among the superior court fees that must be waived under rule 3.55 or may be waived under rule 3.56. All four commentators who responded to this question suggested that the new fee should be on the list of specific superior court fees and costs that must be waived as part of an initial fee waiver under rule 3.55.

As indicated above, the proposal to establish the new \$50 fee was approved by the Judicial Council at its October 2013 meeting, and the new fee took effect on January 1, 2014. In the report to the Judicial Council, the committees indicated that, based on the public comments received, they would recommend that this fee be added to the list of superior court fees that must be waived under rule 3.55 as part of an initial fee waiver.

There is also another rule—rule 8.818, part of the appellate division rules—that currently includes a separate list of superior court fees that must be waived as part of an initial fee waiver in an appeal in a limited civil case. The list in rule 8.818 identifies several of the same fees as rule 3.55. However, it also includes one fee that is not currently identified in rule 3.55: the fee for transcribing or copying an official electronic recording. Because this fee is not currently listed in rule 3.55, there may be confusion about whether it must be waived as part of an initial fee waiver.

There has also been a recent change in the law regarding court reporting fees in trial courts that must be reflected in the fee waiver rules and forms. Government Code section 68086 on court reporter's fees was amended a year ago to include a \$30 court reporter fee for hearings taking less than an hour, as well as pro rated daily fees for hearings taking less than half a day. That statute has recently been amended further to expressly require that court reporting services provided at the expense of the court must be waived for a person who has been granted a fee waiver under section 68631. (See § 68086(b).) This statutory amendment requires that rule 3.55(7) and rule 3.56(4) be amended not only so that the \$30 fee is covered, but also so that the time distinction in the current rules, giving a court the discretion to waive the reporter fees for a hearing more than 60 days after the grant of the fee waiver, is eliminated. As the rules currently read, they are in conflict with statute.

***Proposal regarding rules on fees.*** The Appellate Advisory Committee recommends amending rule 3.55, which lists the superior court fees and costs that must be waived upon granting an application for an initial fee waiver, to add to this list the new \$50 fee to be paid to the superior court by those litigants who deposit funds with the court to hold in trust to pay for a reporter's transcript on appeal. The proposed language of the amendment is based on language from rules 8.130 and 8.334 referring to the \$50 fee as being for "the superior court to hold this deposit [for the reporter's transcript] in trust."

In the interest of ensuring that all of the fees that the superior court must waive upon granting an application for an initial fee waiver can easily be found in one place, the committee recommends further amending rule 3.55 to add the fee now listed in rule 8.818—for transcribing official electronic recordings—to the list of superior court fees in rule 3.55 that must be waived and

amending rule 8.818 to simply cross-reference to rule 3.55 for the list of fees that must be waived.

The Civil and Small Claims Advisory Committee recommends amending rule 3.55(7), which currently includes on the list of fees that must be waived only those court reporters fees for hearing held within 60 days of the issuance of the fee waiver order, to eliminate the time restriction in light of the new mandate in Government Code section 68086(b) that all court reporter's fees otherwise charged by a court are waived for a party who has received a fee waiver. For the same reason, the committee recommends that the item including reporter's fees for hearing held more than 60 days after the issuance of the fee waiver order be deleted from the list of fees the court has discretion to grant a waiver for in rule 3.56, since the waiver of such fees are no longer discretionary. An advisory committee comment has been added following rule 3.55 to clarify that the inclusion of such fees in the list of waived fees is in no way intended to mandate that reporters be provided by the court for all hearings or trials at which a fee waiver recipient appears.

***Trial court forms.*** Several trial court forms would be revised to reflect the amendments to rules 3.55 and 3.56.

- *Forms FW-001-INFO, FW-003, FW-008.* As noted above, form FW-001-INFO, the information sheet on waiver of superior court fees, and forms FW-003 and FW-008, the primary superior court fee waiver order forms, currently identify the superior court fees that must be waived upon granting an application for an initial fee waiver. As noted above, these forms would be revised to reflect the proposed amendments to rule 3.55 in addition to the changes relating to payments over time.
- *Form FW-002, Request to Waive Additional Court Fees (Superior Court).* This form is used by a party to request that a court exercise its discretion to waive one or more of the court fees that are not automatically included in a fee waiver. Item 5 of this form would be revised to delete the item for court reporters' fees for hearings 60 days after the fee waiver has been granted. Such fees are now automatically included in any fee waiver and so should not be included in this application for waiver of additional fees.
- *Form FW-005, Notice: Waiver of Court Fees (Superior Court).* This is the form issued by a court when a fee waiver is granted by operation of law when no court action is taken within five days of filing a request. The only change to this form is in item 4, where the item for court reporter's fees has been amended to include all such fees, and the two new appellate fees have been added.
- *Form FW-012, Order on Court Fee Waiver After Reconsideration Hearing (Superior Court).* The only change to this form is in item 6d(2), where the item for court reporter's fees has been amended to parallel that same item in the other orders.<sup>9</sup>

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<sup>9</sup> These revisions and three of these forms, forms FW-002, FW-005, and FW-012, were not among those circulated for comment. The committee is recommending that the council approve the further changes without circulation, as "minor substantive change[s] that [are] unlikely to create controversy," under rule 10.22(d)(2). While the change to the law to waive all such fees may have been likely to create a controversy, the changes to the rule and forms now that the law is in effect are not, in that they are essentially mandated by the change in statute. Making the changes

**Appellate Court Forms.** Two appellate court forms would also be revised.

*APP-015/FW-015-INFO, and APP-001.* The *Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO) is the form that provides litigants with information about waiver of appellate court fees and *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001) provides general information about appeals to the Court of Appeal in civil cases, including information about fee waivers. Both of these forms currently identify the superior court fees related to appeals that must be waived upon granting an application for an initial fee waiver. These forms would be revised in the following places to reflect the proposed amendments to rule 3.55:

Because form APP-001 must be revised to reflect these changes in the fee waiver rules, the Appellate Advisory Committee is also recommending a number of other updates to form APP-001 to reflect recent changes in appellate fees, rules, and procedures, including:

- Updating the amount of the fee to file a notice of appeal (page 1, item 4);
- Adding information about new fees for respondents (page 1, item 4);
- Reflecting that there are permissible substitutes to depositing funds with the court for a reporter's transcript (page 2, item 5, Reporter's Transcript section, middle paragraph);
- Updating rule references and the procedures relating to designation of the record (pages 2 and 3, item 5, Clerk's Transcript or Appendix section);
- Updating the procedures for filing a *Civil Case Information Statement* (form APP-004) (page 3, item 8); and
- Updating information about required copies of briefs (page 4, item 10, Service and Filing of Briefs section).

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

### **Summary of comments received**

The proposal was circulated with an invitation to comment in spring 2014. Fourteen comments were received, some extensive, from 16 different commentators (3 public interest law organizations from Los Angeles submitted a joint comment). Comments were received from 5 courts (Los Angeles, Orange, Riverside, Sacramento, and San Diego), a judicial officer (from San Bernardino), a family law facilitator, 2 State Bar committees, 2 county bar associations, an individual lawyer, the Joint Rules Working Group of the Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee (TCPJAC/CEAC), and the three public interest law organizations (Harriett Buhai Center for Family Law, Western Center on Law & Poverty, and Public Counsel).

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without circulation would allow all the changes to the fee waiver forms and rules to take place at the same time, rather than having some forms continue to be in non-compliance with the law until next July.

Of the 16 commentators:

- 2 *agree* with the proposal as circulated: Superior Court of Riverside County and the Committee on Administration of Justice (CAJ), with CAJ expressly agreeing that there should be a method to waive the advance hearing when the party agrees to payments over time.<sup>10</sup>
- 6 *agree* with the proposal *but propose it be modified*: the individual attorney, individual judge, family law facilitator, Orange County Bar Association, Superior Courts of Orange County and San Diego County (many of the modifications requested have been made, as described below);
- 6 *oppose* making the proposed changes relating to installment, payments: the three public interest law groups, Superior Court of Los Angeles County and Superior Court of Sacramento County, and the TCPJAC/CEAC Joint Rules Working Group; and
- 2 commented only on the appellate portion of the proposal: Appellate Courts Section of Los Angeles Bar and Committee on Appellate Courts of State Bar.

A chart listing all commentators and showing all the comments received and modifications requested is attached, at pages 41–71. In light of the variety of issues in this proposal, and the variety of concerns raised, the comments chart is organized by subject matter. The chart starts with a list of all commentators in alphabetical order, and a note of the position taken by the commentator. The comments are then organized by topics, so that it is easier to see comments on each topic all together.

The main points raised by the commentators and the committees’ proposed responses are summarized below, by topic.

### **Comments on payments of trial court fees over time**

***Opposition to proposal.*** As noted above, while the majority of commentators agree with the proposal generally, at least with some minor modifications, six commentators oppose the proposal. All six note that the proposal will encourage courts to make more orders for payments over time rather than either granting fee waiver applications or simply denying them outright—and conclude that this is not desirable. But the commentators have different reasons for why they view the expected outcome negatively.

The Superior Court of Los Angeles County and the TCPJAC/CEAC Joint Rules Working Group, in identical comments, expressed concern that the increased amount of orders allowing payments over time will increase the work of court staff, requiring substantial additional staff time for processing multiple payments, especially with older court computerized case systems and with the fact that cash will frequently be involved. The commentators are also concerned that

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<sup>10</sup> The Family and Juvenile Law Advisory Committee and the Access and Fairness Advisory Committee also reviewed the proposal as circulated, and provided informal comments to staff. The large majority of members of both groups who reviewed the invitation to comment were in favor of going forward with the proposal to allow a party to waive a hearing before receiving permission to make payments over time in the event the fee waiver request was denied. The groups noted that procedures could be used to provide better access to the courts for lower-income parties who are not eligible for fee waivers generally. A few members of the Family and Juvenile Law Advisory Committee were opposed to the proposal, noting that payments over time are seldom completed by the parties and place a heavy administrative burden on the courts, and so should not be facilitated.

collections will be difficult and time consuming. The Superior Court of Sacramento County agrees that the proposed amendments would burden the courts more than benefit them, due to the increased time that would have to be spent on handling multiple payments and collections.

While the advisory committee agrees that payments over time are administratively burdensome, the majority concluded that the benefits of this proposal (eliminating some hearings) was a benefit to the court, particularly because the statute already provides that judicial officers should consider the alternative of payments over time at any eligibility hearing at which the court denies a fee waiver application. (See § 68634(c)(5), at last paragraph.) The proposal would not change or expand the law authorizing payments over time; it just attempts to ease the requirement for hearings before such payments are permitted. The advisory committee also notes that there is no mandate in the statute (or in the rules or forms) that courts authorize payments over time for all parties who are denied a fee waiver—this option is within a court’s discretion.

The three public interest law groups oppose the proposal from a different viewpoint, from the harm they perceive it will cause to the parties. They have provided an extensive comment pointing out the flaws they perceive in the proposal. Their first stated concern is that the statute providing for payments over time rather than a fee waiver (Government Code section 68634(c)(5)) is itself contrary to law, citing a Supreme Court opinion to support this position:

. . . *Earls v. Superior Court* (1971) 6 Cal.3d 109. The trial court there denied a fee waiver application because the court concluded the applicant could set aside a little money over a number of months to pay the fee. The Supreme Court rejected this approach, concluding, “We know of no authority permitting a court to deny an application to proceed in forma pauperis upon the ground that, although the applicant is currently indigent, he may, over a period of months, succeed in accumulating the amount necessary to defray his costs.” (*Id.* at p. 117.)

“The right of an indigent civil litigant to proceed in forma pauperis is grounded in a common law right of access to the courts and constitutional principles of due process.” (*Cruz v. Superior Court* (2004) 120 Cal.App.4th 175, 185, emphasis added.) Because of this, and because of the holding in *Earls*, the practice of ordering payment of fees over time, even though permitted by statute, is constitutionally suspect.

The fee waiver statute, however, which was enacted after the *Earls* decision, can be read as consistent with that decision, because it expressly authorizes a court to allow payments over time or a partial waiver only when a court has determined that a party is *not* indigent at the time of the application, and so is not eligible for a full fee waiver under the standards of the statute, and when the court provides a written statement of the reasons why not. (See § 68634(c)(5), last sentence.)

The commentators also expressed skepticism that courts can make the kind of fine distinction required to determine that a party cannot pay the full court fee while paying for the common necessities of life (the standard for a fee waiver under § 68632(c)), but can afford to pay for part

of the court fees, calling such a decision an “exercise in false precision,” which, while theoretically possible, should not be encouraged. The majority of the committee disagreed that this type of decision-making was beyond the normal scope of judicial officer’s work.

In addition to opposing the practice of installment payments altogether, the public interest group commentators also raise several objections concerning the specifics of this proposal, which can be read in their entirety in the comments chart, but are summarized here, along with the advisory committee’s responses:

- A request for payments over time should not be on the application form because it is not a type of relief that may be requested, but only an option for a court as part of a denial of a fee waiver application.

The advisory committee agrees that permission for payments over time is indeed an alternative to be considered only in the event that a fee waiver has been denied, and has modified the text of the form to more clearly express this. (See also § 68640, which authorizes the council to make rules of court to allow parties who are not eligible for a fee waiver to pay court fees in installments.)

- The application form is contradictory, because if someone wants all fees to be waived, they do not want to pay the initial fee over time.

The form has been modified in light of this comment to reflect that the payments over time would only be considered as an alternative if the fee waiver request is denied.

- The application form should not include a prospective waiver, but instead, if payments over time to be made, the court should have the opportunity to make such an order as a tentative order, with a hearing date scheduled, and allow the party to either appear at a hearing or waive the hearing and accept the payments over time.

The committee concluded that this alternative would be significantly more burdensome for the court, without a significant added benefit to the parties. As now modified, the form makes it clear that the party can request a hearing after the order has been issued, should the party wish to do so, and that there is a form which may be used for such a request.

- Order form FW-003 should not include a space to deny application for payments over time, because there should not be a separate request for such a thing to begin with for court to rule on.

The committee agreed with this comment and has eliminated the item for denial of a request for payments over time. The committee is not recommending that the fee waiver forms be used for stand-alone requests for payments over time.

- Rules 3.50 and 3.51 should not be amended because there should not be any specific applications for installments of payment over time.

The committee agreed that the forms should not be used for specifically requesting installment payments over time except as an alternative when a fee waiver application has been denied, and so is no longer recommending amendments to these rules.

- If the provisions on forms and rules are changed to include requests for installment payments, they should also include requests for partial waivers.

The committee disagreed. It concluded that partial waivers are a more complex alternative and could only be granted after a hearing.

***Requests to modify proposal regarding payments over time.*** There were several requests for modifications to the forms, some to sections not related to the payment of fees over time (the committee also revised the financial information worksheet on the form). Those requests not directed to payments over time, but to other proposed changes to forms, can be found in the section of the chart entitled “Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008”. Requests for modifications that relate to payments over time are included in the first topic section of the chart and summarized here.

***Restrictions on payments over time.*** Several commentators (Judge Frangie from San Bernardino, Ms. Larsen (Family Law Facilitator from Shasta County), the Orange County Bar Association, and some of the judicial officers at Superior Court of Orange County) state that the three-month default period for payments over time included in the proposed rules and forms is too restrictive, and that a longer period of six months or a year would be preferable. On the other hand, some judicial officers at the Orange County court believed that three months was appropriate. The Civil and Small Claims Advisory committee concluded that, in light of administrative burdens on the court of handling payments over time, three months is an appropriate time frame, with each judicial officer retaining discretion to provide for a longer period where good cause is shown. This conclusion is in accordance with opinion of the Access and Fairness Advisory Committee and the majority of the members of the Family and Juvenile Law Advisory Committee.<sup>11</sup>

As to limiting the payments over time to the initial filing fee, a couple of comments were received, with a family law facilitator disagreeing with the limitation altogether, and proposing that all filing fees—including motion fees—should be covered by the payment plans. Superior Court of Orange County, however, questioned how the option of allowing payments of other fees over time would work. Would another fee waiver application be required? With another option for a full fee waiver hearing (if no waiver of advance hearing agreed to)? And would the new application be required each time a motion or other item triggering a filing fee is filed? The committee agrees that the idea of allowing payments over time for all kinds of filing fees is overly complex and would be too much of a burden on the courts.

***Specific request for payments over time.*** Two commentators (Superior Court of Orange County and Orange County Bar) suggested changes to the item on the application form requesting payments over time (form FW-001 at 5c), suggesting that the request for such payments should only be applicable should a fee waiver be denied. The committee agreed and the form has been modified to reflect this suggestion.

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<sup>11</sup> The Access and Fairness Advisory Committee found the three-month period to be reasonable, as long as the court retained discretion to make it longer. The Family and Juvenile Law Advisory Committee members who reviewed the proposal split on this point, with a majority agreeing with the three-month period so long as the court has the discretion to make longer, and the rest opining that a six-month period would be preferable.

The Orange County Bar and Ms. Larsen also noted that there was no instruction or space provided on the form for a party to show good cause for getting a longer time for payments. The committee has now added instructions to the information sheet and to item 7 on the application form.

Superior Court of Orange County pointed out that forms FW-001 and FW-001-INFO are silent as to when fees are due if payment plan request is denied. The Civil and Small Claims Advisory Committee notes that the application form has never contained information as to when payment is due if the fee waiver request is denied; rather, such information has been included on the order forms, and may be found on forms FW-003 and FW-008.

*Text of waiver of hearing in advance.* Several commentators find the text of the waiver (form FW-001 at item 7) as circulated awkward and incomplete, and requested it be changed to more closely track the information sheet. (See comments of Ms. Larson, Orange County Bar Association, Superior Courts of Orange and San Diego Counties.) The Civil and Small Claims Advisory Committee agreed and has further modified the text of this item and paragraph 3 of the information sheet in light of the suggestions made by the commentators.

*Order re payments over time.* Orange County Bar Association objected that the order form, FW-003, does not provide for a statement of reasons for denial of installment payments at item 4b(3) although the law requires statement of reasons for denying a fee waiver request. As noted above, the committee has deleted the possibility of a separate request for payments over time, so the separate item for denial of such a request (which was on the circulated form) has been deleted from the form recommended here. Payments over time will only be considered in the event that the fee waiver request is denied, and the reasons for that denial must be included in form FW-003 at item 4b(2).

Family law facilitator Larson commented that there is no provision included in the order allowing for a party to request a hearing post-order. She notes that the proposed waiver is expressly for an advance hearing on the issue of a denial of fee waiver, but not a waiver of all hearing rights. The committee agrees and has modified the form to clarify that, even when payments over time are authorized, a party whose fee waiver has been denied must be provided with the opportunity to request a hearing. (See form FW-003, at item 4b(2). )

### **Comments on chart on forms showing income eligibility dollar amounts and effective date**

As noted above, the fee waiver application, form FW-001, contains a chart showing the income amounts for fee waiver eligibility based on 125% of the current poverty guidelines.<sup>12</sup> Members of the council's Rules and Projects Committee suggested that this chart be removed from FW-001 on the grounds that such amounts (and hence the form) have to be revised almost every year.

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<sup>12</sup> Government Code section 68632(b) provides that a fee waiver should be given to any applicant "whose monthly income is 125 percent or less of the current poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services." Note that this chart also appears on the appellate information sheet regarding fee waivers (form APP-015/FW-015-INFO).

The suggestion was that the information could instead be maintained on the Judicial Council's website, where revisions would not automatically result in changes to the forms. To assist in assessing this suggestion, the invitation to comment asked for specific input on this issue.

Five commentators opposed removing the chart from the forms in spite of the annual revisions required: Committee on Administration of Justice of State Bar, family law facilitator Larsen, the Orange County Bar Association, and Superior Courts of Orange and Riverside Counties. The two courts noted that having the chart of the form was valuable to court staff and judicial officers as well as to fee waiver applicants.

Two commentators, Superior Court of Los Angeles County and TCPJAC/CEAC Joint Rules Working Group, made identical comments, noting the cost of having to revise the form yearly. They propose, instead, that form FW-001 could include a pointer to the website containing the information *and* that an optional form be created that would include both the information in the family size/income eligibility chart and explanations of the public benefits abbreviations (which they suggest be removed from the proposed INFO sheets). According to these commentators, courts could then choose to use that optional form if they wished, to hand out to all applicants or to post in clerk's office of self-help center.

Because FW-001 is used in both the superior court and Court of Appeal, removal of the chart from this form would impact both levels of court. For this reason, both the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee considered this issue. In addition, informal comments on this issue were received from the Family and Juvenile Law Advisory Committee and the Access and Fairness Advisory Committee. All of these Judicial Council committees agree with the majority of the commentators that the chart should stay on the form, in order to assist both the applicants and the courts in determining eligibility.

The Civil and Small Claims Advisory Committee and the Appellate Advisory Committee particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, many without easy access to the Internet, and that they are asserting their eligibility under penalty of perjury. The committees also note that the chart was originally on the information sheet, rather than the application, but was moved to the application in 2009 at the recommendation of the Fee Waiver Working Group that developed the fee waiver legislation sponsored by the council back at that time. They proposed the move in order to make clearer to both the applicant and the court the factual basis for the applicant's assertion being made under penalty of perjury that he or she is eligible for a fee waiver under section 68632(b). In addition, the committees noted that, since the amendments to reflect the change in eligibility amounts are regularly issued in late February of each year, courts can plan for the changes in stocking the fee waiver forms.

All the commentators who addressed the issue support delaying the effective date of all changes recommended here until March 1, 2015, so that any changes to the income charts in form FW-001 and form APP-015/FW-015 would be made at the same time as all the other changes. This would eliminate the need to have one version of those forms go into effect on January 1, 2015, only to have to amend them the following month. If the proposed revisions to the forms are

adopted by the council, and if, as expected, the federal poverty guidelines are changed in late January 2015, the Civil and Small Claims Advisory Committee will return to the council by circulating order in February 2015 to seek approval of revisions of the dollar figures on the income charts, so that the charts can be changed before the new forms go into effect.

### **Comments on types of fees included in all initial fee waivers**

*Appellate fees.* Three commentators—the Appellate Courts Section of the Los Angeles County Bar, the State Bar’s Committee on Appellate Courts of, and Superior Court of San Diego County—submitted comments on the proposal to amend rule 3.55 and related forms to add the two additional appellate fees that must be waived as part of an initial fee waiver. All agreed with the proposed amendments to the rule and the resulting changes to the forms to reflect the change.

The Superior Court of Los Angeles County and TCPJAC/CEAC Joint Rules Working Group raised a somewhat different issue relating to appellate fees, stating that appellate fees should not be referenced in the initial fee waiver forms (presumably meaning in the application form FW-001, which includes request for waiver of fees for appeals, and the two order forms, FW-003 and FW-008) because it was confusing to applicants to see information regarding appellate fees on forms at the start of the case. Removing this information from the fee waiver forms would be an important substantive change and thus is not the type of change that can be considered for implementation without public comment having been sought. When the current fee waiver forms were adopted in 2009 to implement changes in the fee waiver statutes, the committees specifically considered and sought public comment on whether to have a single fee waiver application or separate applications for the trial and appellate courts. Based on the public comments, the committees specifically recommended the adoption of a single fee waiver application form in 2009. Removing the appellate fee references from these forms requires the committees to reconsider that earlier policy decision. The committees will add this suggestion to the list of proposals for future consideration by the committees.

*Trial court fees.* Several commentators also raised some points about some of trial court fees listed in rule 3.55, with particularly strong concerns raised by both the Superior Court of Orange County and Superior Court of San Diego County concerning the recent amendments to Government Code section 68086 regarding court reporter’s fees that they believe should be reflected in modifications to current rule 3.55(7). As the commentators note, the Government Code section on court reporter’s fees was amended this past year to expressly require that the fees for all court reporting services provided at the expense of the court—whether a daily fee or the new \$30 fee for a short hearing—must be waived for a person who has been granted a fee waiver under section 68631. (See §68086(b).) The three public interest law groups that jointly commented on the circulated proposal also sent a separate joint proposal to the committee that that rules 3.55(7) and 3.56(4) should be changed, to reflect the current state of the law under section 68086 that the waiver of court reporter’s fees is now unconditional and cannot be time-restricted by rule of court.

As discussed above, the Civil and Small Claims Advisory Committee agrees that, as the rules currently read, the two rules are in conflict with statute. The committee is recommending that

further modifications be made to rules 3.55 and 3.56, and to the forms that include the lists of items in those rules.

### **Other alternatives considered**

In addition to the alternatives raised in the comments, the following alternatives were considered by the committees.

***No change.*** The Civil and Small Claims Advisory Committee initially considered the alternative of not amending the fee waiver rules and forms to address the issue of payments over time. The committee recognizes that these forms and the fee waiver procedures are both complex and very heavily used in the courts and that, as a result, any change will place a burden on the courts, requiring training of court clerks and judicial officers who deal with fee waivers. In addition, revising the forms to provide for installment payments on the order issued without a hearing (form FW-003) necessarily lengthens the form, which will become three-pages long—a length some courts may find burdensome. The goal of these changes, however, is to save parties and courts the time and expense of unnecessary court appearances. Because the change has been urged by sitting judicial officers who regularly handle fee waiver applications, and because the change was recommended by the Ad Hoc Advisory Committee on Trial Court Efficiencies, et al., the majority of the committee concluded that proposing amendments to effect the requested change is appropriate.<sup>13</sup>

The Appellate Advisory Committee similarly considered not proposing amendments to the fee waiver rules and forms. However, based on the comments received last year, the committee concluded that it was important to specifically provide that the new fee for holding deposits for reporters' transcripts in trust is among those superior court fees that must be waived when an initial fee waiver is granted. Given that changes to the fee waiver rules and forms were being considered by both the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee, the committees also concluded that it would be most economical to consider all of the potential changes to these forms at the same time.

***Separate forms for payments over time.*** The Civil and Small Claims Advisory Committee considered the alternative of leaving the current fee waiver forms as they exist, and adding another set of forms (application and order) solely focused on requests for payments over time. This alternative had the advantage of leaving the fee waiver forms unchanged and so might result in a lesser training burden on the courts. However, the committee concluded that a second set of forms and procedures would not solve the current problem of courts and parties not wanting to have to appear for a hearing should a court denying a fee waiver permit a party to make payments over time. While such forms could be useful for the small number of individuals who are seeking only the relief of making payments over time, without requesting any waiver of their fees, they would not help relieve the burden of unnecessary hearings for parties who do apply for fee waivers. Those individuals who want a fee waiver if possible, but who are willing to settle

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<sup>13</sup> One member of the committee voted to leave the forms and rules as they currently stand regarding payments over time.

for the payments over time as an alternative, would still be able to get such relief only following a hearing. The committee concluded that this alternative was not a useful one.

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

The proposal regarding payments over time will impose a need for training of court clerks and judicial officers on the amended forms and new procedures for handling requests from parties willing to give up their right to an advanced hearing before such payments may be permitted. It will also impose a cost in producing or procuring new forms. Some of that cost, at least as to the application forms, could be minimized by making the effective date March 1, 2015 so that any changes to three of the forms because of a change in the federal poverty guidelines could be made at the same time. It is anticipated that costs will also be offset to some degree by courts being able to eliminate hearings in cases where parties have agreed to waivers.

Adding the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript to the list of fees that must be waived when an initial fee waiver is granted may result in a reduction in revenues to the trial court from this fee. It is anticipated that this reduction would be small, as indigent parties may already request that the court waive this fee under rule 3.56(6) (“Other fees or expenses as itemized in the application”). There may also be some offsetting reduction in costs, as the court will not have to consider separate requests to waive this fee.

### **Attachments**

1. Cal. Rules of Court, rules 3.52, 3.55, 3.56, and 8.818, at pages 20–22.
2. Forms FW-001, FW-002, FW-003, FW-005, FW-008, FW-012, APP-001, and APP-015-INFO, at pages 23–40
3. Chart of comments, at pages 41–71.

California Rules of Court, rules 3.52, 3.55, 3.56, and 8.818 would be amended, effective March 1, 2015, to read:

1 **Title 3. Civil Rules**

2  
3 **Division 2. Waiver of Fees and Costs**

4  
5 **Rule 3.52. Procedure for determining application**

6  
7 The procedure for determining an application is as follows:

- 8  
9 (1) The trial court must consider and determine the application as required by Government  
10 Code sections 68634 and 68635.  
11  
12 (2) An order determining an application for an initial fee waiver without a hearing must be  
13 made on *Order on Court Fee Waiver (Superior Court)* (form FW-003), except as provided  
14 in ~~(6)~~ (7) below.  
15  
16 ~~(3)–(5)~~ \*\*\*  
17  
18 (6) On denial of a fee waiver application, any order allowing payment of initial filing fees over  
19 time should limit the time for payments to three months unless there is good cause for a  
20 longer time. The order may be issued on form FW-003 if the party has expressly waived a  
21 hearing.  
22  
23 (7) Until January 1, ~~2013~~ 2016, a court with a computerized case management system may  
24 produce electronically generated court fee waiver orders as long as:  
25 (A) The document is substantively identical to the mandatory Judicial Council form it is  
26 replacing;  
27 (B) Any electronically generated form is identical in both language and legally  
28 mandated elements, including all notices and advisements, to the mandatory  
29 Judicial Council form it is replacing; and  
30 (C) The order is an otherwise legally sufficient court order, as provided in rule 1.31(g),  
31 concerning orders not on Judicial Council mandatory forms.  
32

33 **Rule 3.55. Court fees and costs included in all initial fee waivers**

34  
35 Court fees and costs that must be waived upon granting an application for an initial fee waiver  
36 include:

- 37  
38 (1) Clerk's fees for filing papers;  
39  
40 (2) Clerk's fees for reasonably necessary certification and copying;  
41

- 1 (3) Clerk’s fees for issuance of process and certificates;
- 2
- 3 (4) Clerk’s fees for transmittal of papers;
- 4
- 5 (5) Court-appointed interpreter’s fees for parties in small claims actions;
- 6
- 7 (6) Sheriff’s and marshal’s fees under article 7 of chapter 2 of part 3 of division 2 of title 3 of
- 8 the Government Code (commencing with section 26720);
- 9
- 10 (7) Reporter’s ~~daily~~ fees for attendance at hearings and trials, if the reporter is provided by the
- 11 court held within 60 days of the date of the order granting the application;
- 12
- 13 (8) The court fee for a telephone appearance under Code of Civil Procedure section 367.5; ~~and~~
- 14
- 15 (9) Clerk’s fees for preparing, copying, certifying, and transmitting the clerk’s transcript on
- 16 appeal to the reviewing court and the party. A party proceeding under an initial fee waiver
- 17 must specify with particularity the documents to be included in the clerk’s transcript on
- 18 appeal;
- 19
- 20 (10) The fee under rule 8.130(b) or rule 8.834(b) for the court to hold in trust the deposit for a
- 21 reporter’s transcript on appeal; and
- 22
- 23 (11) The clerk’s fee for preparing a transcript of an official electronic recording under rule
- 24 8.835 or a copy of such an electronic recording.
- 25

**Advisory Committee Comment**

The inclusion of court reporter’s fees in the fees waived upon granting an application for an initial fee waiver is not intended to mandate that a court reporter be provided for all fee waiver recipients. Rather, it is intended to include within a waiver all fees mandated under the Government Code for the cost of court reporting services provided by a court.

**Rule 3.56. Additional court fees and costs that may be included in initial fee waiver**

Necessary court fees and costs that may be waived upon granting an application for an initial fee waiver, either at the outset or upon later application, include:

- 38 (1) Jury fees and expenses;
- 39
- 40 (2) Court-appointed interpreter’s fees for witnesses;
- 41
- 42 (3) Witness fees of peace officers whose attendance is reasonably necessary for prosecution or
- 43 defense of the case;

- 1  
2 ~~(4) Reporter's fees for attendance at hearings and trials held more than 60 days after the date~~  
3 ~~of the order granting the application;~~  
4  
5 ~~(54)~~ Witness fees of court-appointed experts; and  
6  
7 ~~(65)~~ Other fees or expenses as itemized in the application.  
8  
9

10 **Title 8. Appellate Rules**

11  
12 **Division 2. Rules Relating to the Superior Court Appellate Division**

13  
14 **Chapter 1. General Rules Applicable to Appellate Division Proceedings**  
15

16 **Rule 8.818. Waiver of fees and costs**

17  
18 **(a)-(c) \* \* \***

19  
20 **(d) Court fees and costs waived**

21  
22 Court fees and costs that must be waived upon granting an application for initial waiver of  
23 court fees and costs ~~include:~~ are listed in rule 3.55. The court may waive other necessary  
24 court fees and costs itemized in the application upon granting the application, either at the  
25 outset or upon later application.

26  
27 ~~(1) The fee for filing the notice of appeal;~~

28  
29 ~~(2) The clerk's fees for preparing and certifying the clerk's transcript on appeal and for~~  
30 ~~copying and transmitting a copy of this transcript to the applicant;~~

31  
32 ~~(3) The fee for preparing a transcript of an official electronic recording under rule 8.835~~  
33 ~~or a copy of such an electronic recording; and~~

34  
35 ~~(4) Any court fee for telephonic oral argument.~~

36  
37 **(e)-(f) \* \* \***

Clerk stamps date here when form is filed.

DRAFT
08/20/14
NOT APPROVED BY
THE JUDICIAL COUNCIL

If you are getting public benefits, are a low-income person, or do not have enough income to pay for your household's basic needs and your court fees, you may use this form to ask the court to waive your court fees.

- You cannot give the court proof of your eligibility,
Your financial situation improves during this case, or
You settle your civil case for \$10,000 or more.

Fill in court name and street address:

Superior Court of California, County of

Fill in case number and name:

Case Number:

Case Name:

1 Your Information (person asking the court to waive the fees):

Name:
Street or mailing address:
City: State: Zip:
Phone number:

2 Your Job, if you have one (job title):

Name of employer:
Employer's address:

3 Your Lawyer, if you have one (name, firm or affiliation, address, phone number, and State Bar number):

a. The lawyer has agreed to advance all or a portion of your fees or costs (check one): Yes No

b. (If yes, your lawyer must sign here) Lawyer's signature:

If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.

4 What court's fees or costs are you asking to be waived?

- Superior Court (See Information Sheet on Waiver of Superior Court Fees and Costs (form FW-001-INFO).)
Supreme Court, Court of Appeal, or Appellate Division of Superior Court (See Information Sheet on Waiver of Appellate Court Fees (form APP-015/FW-015-INFO).)

5 Why are you asking the court to waive your court fees?

- I receive (check all that apply; see form FW-001-INFO for definitions): Food Stamps Supp. Sec. Inc.
SSP Medi-Cal County Relief/Gen. Assist. IHSS CalWORKS or Tribal TANF CAPI
My gross monthly household income (before deductions for taxes) is less than the amount listed below. (If you check 5b, you must fill out 8, 9, and 10 on page 2 of this form.)

Table with 6 columns: Family Size, Family Income, Family Size, Family Income, Family Size, Family Income. Includes a note: If more than 6 people at home, add \$422.92 for each extra person.

c. I do not have enough income to pay for my household's basic needs and the court fees. I ask the court to: (check all boxes that apply, and you must fill out page 2):

- Waive all court fees and costs.
If the fee waiver is denied, let me pay my initial Superior Court filing fee over time (see item 7 on page 2).

6 Check here if you asked the court to waive your court fees for this case in the last six months. (If your previous request is reasonably available, please attach it to this form and check here:)

I declare under penalty of perjury under the laws of the State of California that the information I have provided on this form and all attachments is true and correct.

Date:

Print your name here

Sign here



Your name: \_\_\_\_\_

If you checked 5a on page 1, do not fill out below. If you checked 5b, fill out questions 8, 9, and 10 only. If you checked 5c, you **must** fill out this entire page. If you need more space, attach form MC-025 or attach a sheet of paper and write Financial Information and your name and case number at the top.

**7 Waiver of Hearing With Payments Over Time**

If your fee waiver is denied, you may be allowed to pay your filing fee in Superior Court over time, generally over 3 months. State law sometimes requires that the court set a hearing for you to be able to speak with the court about the fee waiver request before the court denies it. If you are willing to give up that hearing **now** in the event that (1) the court denies your fee waiver and (2) the court permits you to make payments over time, then you should check item 7a below.

A court may allow up to 3 months for payment of the filing fee, unless you can show a really good reason for a longer time. (*Cal. Rules of Court, rule 3.52(6).*) If you have a good reason for needing more than 3 months, set out the reasons on form MC-025 and attach it to this form.

- a.  I waive any right to a hearing in advance of denial of my fee waiver request if the court allows payments over time.
- b.  I do not waive any right I have to a hearing at court before my request for a waiver is denied.

**8**  Check here if your income changes a lot from month to month. If it does, complete the form based on your average income for the past 12 months.

**9 Your Gross Monthly Income**

a. List the source and amount of **any** income you get each month, including: wages or other income from work before deductions, spousal/child support, retirement, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest, trust income, annuities, net business or rental income, reimbursement for job-related expenses, gambling or lottery winnings, etc.

- (1) \_\_\_\_\_ \$ \_\_\_\_\_
- (2) \_\_\_\_\_ \$ \_\_\_\_\_
- (3) \_\_\_\_\_ \$ \_\_\_\_\_
- (4) \_\_\_\_\_ \$ \_\_\_\_\_

b. Your total monthly income: \$ \_\_\_\_\_

**10 Household Income**

a. List the income of all other persons living in your home who depend in whole or in part on you for support, or on whom you depend in whole or in part for support.

Name	Age	Relationship	Gross Monthly Income
(1) _____	_____	_____	\$ _____
(2) _____	_____	_____	\$ _____
(3) _____	_____	_____	\$ _____
(4) _____	_____	_____	\$ _____

b. Total monthly income of persons above: \$ \_\_\_\_\_

**Total monthly income and household income (9b plus 10b):** \$ \_\_\_\_\_

To list any other facts you want the court to know, such as unusual medical expenses, family emergencies, or why you need more than 3 months for payments over time, attach form MC-025 or attach a sheet of paper and write Financial Information and your name and case number at the top.

Check here if you attach another page.

**Important! If your financial situation or ability to pay court fees improves, you must notify the court within five days on form FW-010.**

**11 Your Money and Property**

- a. Cash \$ \_\_\_\_\_
- b. All financial accounts (*List bank name and amount*):
  - (1) \_\_\_\_\_ \$ \_\_\_\_\_
  - (2) \_\_\_\_\_ \$ \_\_\_\_\_
  - (3) \_\_\_\_\_ \$ \_\_\_\_\_
- c. Cars, boats, and other vehicles
 

Make / Year	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
(3) _____	\$ _____	\$ _____
- d. Real estate
 

Address	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
- e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):
 

Describe	Fair Market Value	How Much You Still Owe
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____

**12 Your Monthly Deductions and Expenses**

- a. List any payroll deductions and the monthly amount below:
  - (1) \_\_\_\_\_ \$ \_\_\_\_\_
  - (2) \_\_\_\_\_ \$ \_\_\_\_\_
  - (3) \_\_\_\_\_ \$ \_\_\_\_\_
  - (4) \_\_\_\_\_ \$ \_\_\_\_\_
- b. Rent or house payment & maintenance \$ \_\_\_\_\_
- c. Food and household supplies \$ \_\_\_\_\_
- d. Utilities and telephone \$ \_\_\_\_\_
- e. Clothing \$ \_\_\_\_\_
- f. Laundry and cleaning \$ \_\_\_\_\_
- g. Medical and dental expenses \$ \_\_\_\_\_
- h. Insurance (life, health, accident, etc.) \$ \_\_\_\_\_
- i. School, child care \$ \_\_\_\_\_
- j. Child, spousal support (another marriage) \$ \_\_\_\_\_
- k. Transportation, gas, auto repair and insurance \$ \_\_\_\_\_
- l. Installment payments (*list each below*):
 

Paid to:		
(1) _____	\$ _____	\$ _____
(2) _____	\$ _____	\$ _____
(3) _____	\$ _____	\$ _____
- m. Wages/earnings withheld by court order \$ \_\_\_\_\_
- n. Any other monthly expenses (*list each below*):
 

	How Much?
(1) _____	\$ _____
(2) _____	\$ _____
(3) _____	\$ _____

**Total monthly expenses (add 12a –12n above):** \$ \_\_\_\_\_

**INFORMATION SHEET ON WAIVER OF SUPERIOR COURT FEES AND COSTS**

If you have been sued or if you wish to sue someone, or if you are filing or have received a family law petition, and if you cannot afford to pay court fees and costs, you may not have to pay them in order to go to court. If you are getting public benefits, are a low-income person, or do not have enough income to pay for your household's basic needs *and* your court fees, you may ask the court to waive all or part of your court fees.

1. To make a request to the court to waive your fees in superior court, complete the *Request to Waive Court Fees* (form FW-001). If you qualify, the court will waive all or part of its fees for the following:
  - Filing papers in superior court (other than for an appeal in a case with a value of over \$25,000)
  - Making and certifying copies
  - Sheriff's fee to give notice
  - Court fee for telephone hearing
  - Reporter's fee for attendance at hearing or trial, ~~if a reporter is provided by the court.~~
  - Preparing, certifying, copying, and sending the clerk's transcript on appeal.
  - Holding in trust the deposit for a reporter's transcript on appeal under rule 8.833 or 8.834
  - Making a transcript or copy of an official electronic recording under rule 8.835
  - Giving notice and certificates
  - Sending papers to another court department
  - Having a court-appointed interpreter in small claims court
2. You may ask the court to waive other court fees during your case in superior court as well. To do that, complete a *Request to Waive Additional Court Fees (Superior Court)* (form FW-002). The court will consider waiving fees for items such as the following, or other court services you need for your case:
  - Jury fees and expenses
  - Fees for court-appointed experts
  - Other necessary court fees
  - Fees for a peace officer to testify in court
  - Court-appointed interpreter fees for a witness
3. If your fee waiver is denied, you may be allowed to pay your filing fee in superior court over time, generally over three months. If your fee waiver is denied and if you want the court to consider allowing you to pay the filing fee over time, check box 5c(ii) on your *Request to Waive Court Fees*. State law sometimes requires that the court set a hearing for you to be able to speak about the fee waiver request before the court denies it. If you are willing to give up that hearing *now* in the event that (1) the court denies your fee waiver and (2) the court permits you to make payments over time, then you should check item 7a on the request form and fill out all the other sections of that form.
 

A court may allow up to three months for payment of the filing fee, unless you can show a good reason for needing a longer time. See Cal. Rules of Court, rule 3.52(6). If you have a good reason for needing more than three months, you should set out the reasons on form MC-025 and attach it to your *Request to Waive Court Fees*.
4. If you want the Appellate Division of Superior Court or the Court of Appeal to review an order or judgment against you and you want the court fees waived, ask for and follow the instructions on *Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO).

**IMPORTANT INFORMATION!**

- **You are signing your request under penalty of perjury. Answer truthfully, accurately, and completely.**
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **Public benefits programs listed on the application form.** In item 5 on the *Request to Waive Court Fees*, there is a list of programs from which you may be receiving benefits, listed by the abbreviations they are commonly known by. The full names of those programs can be found in Government Code section 68632(a), and are also listed here:
  - Medi-Cal
  - Food Stamps—California Food Assistance Program, CalFresh Program, or SNAP
  - Supp. Sec. Inc.—Supplemental Security Income (not Social Security)
  - SSP—State Supplemental Payment
  - County Relief/General Assistance—County Relief, General Relief (GR), or General Assistance (GA)
  - IHSS—In Home Supportive Services
  - CalWORKS—California Work Opportunity and Responsibility to Kids Act
  - Tribal TANF—Tribal Temporary Assistance for Needy Families
  - CAPI—Cash Assistance Program for Aged, Blind, or Disabled Legal Immigrants

- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court within five days if your finances improve or if you become able to pay court fees or costs during this case. (File *Notice to Court of Improved Financial Situation or Settlement* (form FW-010) with the court.) You may be ordered to repay any amounts that were waived after your eligibility came to an end.
- **If you receive a judgment or support order in a family law matter:** You may be ordered to pay all or part of your waived fees and costs if the court finds your circumstances have changed so that you can afford to pay. You will have the opportunity to ask the court for a hearing if the court makes such a decision.
- **If you win your case in the trial court:** In most circumstances the other side will be ordered to pay your waived fees and costs to the court. The court will not enter a satisfaction of judgment until the court is paid. (This does not apply in unlawful detainer cases. Special rules apply in family law cases. (Government Code section 68637(d), (e).)
- **If you settle your civil case for \$10,000 or more:** Any trial court–waived fees and costs must first be paid to the court out of the settlement. **The court will have a lien on the settlement in the amount of the waived fees and costs.** The court may refuse to dismiss the case until the lien is satisfied. A request to dismiss the case (use form CIV-110) must have a declaration under penalty of perjury that the waived fees and costs have been paid. Special rules apply to family law cases.
- **The court can collect fees and costs due to the court.** If waived fees and costs are ordered paid to the trial court, **or if you fail to make the payments over time,** the court can start collection proceedings and add a \$25 fee plus any additional costs of collection to the other fees and costs owed to the court.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or earlier if a court finds that you are not eligible for a fee waiver.
- **If you are in jail or state prison:** Prisoners may be required to pay the full cost of the filing fee in the trial court but may be allowed to do so over time. **See Government Code section 68635.**

*Clerk stamps date here when form is filed.*

**DRAFT**

**7/14/14**

**Not approved by the  
Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number and name:*

**Case Number:**

**Case Name:**

This form asks the court to waive *additional* court fees that are not covered in a current order. If you have not already received an order that waived or reduced your court fees, you must complete and file a *Request to Waive Court Fees (Superior Court)*, form FW-001, along with this form.

**1 Your Information** (*person asking the court to waive the fees*):

Name: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Phone number: \_\_\_\_\_

**2 Your lawyer, if you have one** (*name, firm or affiliation, address, phone number, and State Bar number*):

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

a. The lawyer has agreed to advance all or a portion of your fees or costs (*check one*):  Yes  No

b. (*If yes, your lawyer must sign here*):

Lawyer's signature: \_\_\_\_\_

*If your lawyer is not providing legal-aid type services based on your low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.*

**3** Date your *last* court fee waiver order, if any, was granted: \_\_\_\_\_

**4** Has your financial situation improved since your last *Request to Waive Court Fees*?  No  Yes (*If yes, you must fill out a new Request to Waive Court Fees, form FW-001, and attach it to this form.*)

**5** What other fees do you want your court fee waiver order to cover? (*Check all that apply*):

- a.  Jury fees and expenses
- b.  Court-appointed interpreter fees for a witness
- c.  Fees for a peace officer to testify in court
- d.  Fees for court-appointed experts
- e.  Other (*specify*): \_\_\_\_\_

**6** Why do you need these other services? (*Explain*):

\_\_\_\_\_  
 \_\_\_\_\_

**Notice:** The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

**I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.**

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

\_\_\_\_\_  
*Print your name here*

\_\_\_\_\_  
  
*Sign here*

**Order on Court Fee Waiver  
(Superior Court)**

*Clerk stamps date here when form is filed.*

**DRAFT  
08/20/2014  
NOT APPROVED  
BY  
THE JUDICIAL COUNCIL**

**1 Person who asked the court to waive court fees:**  
Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**2 Lawyer, if person in 1 has one** (name, address, phone number, e-mail, and State Bar number): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3** A request to waive court fees was filed on (date): \_\_\_\_\_  
 The court made a previous fee waiver order in this case on (date): \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number and name:*

**Case Number:**

**Case Name:**

**Read this form carefully. All checked boxes  are court orders.**

**Notice:** The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

**4** After reviewing your:  *Request to Waive Court Fees*  *Request to Waive Additional Court Fees*  
**the court makes the following orders:**

a.  The court **grants** your request, as follows:

- (1)  **Fee Waiver.** The court grants your request and waives your court fees and costs listed below. (*Cal. Rules of Court, rules 3.55 and 8.818.*) You do not have to pay the court fees for the following:
- Filing papers in Superior Court
  - Making copies and certifying copies
  - Sheriff’s fee to give notice
  - Court fee for phone hearing
  - Reporter’s fee for attendance at hearing or trial, **if reporter provided by the court**
  - Preparing, certifying, **copying, and sending** the clerk’s transcript on appeal
  - **Holding in trust the deposit for a reporter’s transcript on appeal under rule 8.130 or 8.834**
  - **Making a transcript or copy of an official electronic recording under rule 8.835**
  - Giving notice and certificates
  - Sending papers to another court department
  - Court-appointed interpreter in small claims court

- (2)  **Additional Fee Waiver.** The court grants your request and waives your additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- Jury fees and expenses
- Fees for a peace officer to testify in court
- Fees for court-appointed experts
- Court-appointed interpreter fees for a witness
- Other (specify): \_\_\_\_\_

Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

b.  The court **denies** your fee waiver request, as follows:

**Warning!** If you miss the deadline below, the court cannot process your request for hearing or the court papers you filed with your original request. If the papers were a notice of appeal, the appeal may be dismissed.

(1)  The court **denies** your request because it is incomplete. You have **10 days** after the clerk gives notice of this order (see date of service on next page) to:

- Pay your fees and costs, or
- File a new revised request that includes the items listed below (*specify incomplete items*):

\_\_\_\_\_

(2)  The court **denies** your request because the information you provided on the request shows that you are not eligible for the fee waiver you requested (*specify reasons*): \_\_\_\_\_

The court has enclosed a blank *Request for Hearing About Court Fee Waiver Order (Superior Court)*, form FW-006. You have **10 days** after the clerk gives notice of this order (see date of service on next page) to:

- Pay your fees and costs in full or the amount listed in c. below, or
- Ask for a hearing in order to show the court more information. (*Use form FW-006 to request hearing.*)

c.  Having waived the right to a hearing, and the fee waiver having been denied (*see b(2) above*), you may pay your initial filing fee over time. (See *Cal. Rules of Court, rule 3.52(6)*.) You must make monthly payments of at least \$ \_\_\_\_\_ beginning (*date*): \_\_\_\_\_ and then payable on the 1st of each month after that, until the fees are paid in full.

You must pay all other court fees and costs as they are due.

d.  The court needs more information to decide whether to grant your request. You must go to court on the date below. The hearing will be about (*specify questions regarding eligibility*): \_\_\_\_\_

Bring the following proof to support your request if reasonably available:

\_\_\_\_\_

Name and address of court if different from above:

**Hearing Date** → Date: \_\_\_\_\_ Time: \_\_\_\_\_ \_\_\_\_\_  
 Dept.: \_\_\_\_\_ Room: \_\_\_\_\_ \_\_\_\_\_  
 \_\_\_\_\_

**Warning!** If item d is checked, and you do not go to court on your hearing date, the judge will deny your request to waive court fees, and you will have 10 days to pay your fees. If you miss that deadline, the court cannot process the court papers you filed with your request. If the papers were a notice of appeal, the appeal may be dismissed.

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

Signature of (check one):  Judicial Officer  Clerk, Deputy

**This is a Court Order.**

Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Request for Accommodation*, Form MC-410. (Civil Code, § 54.8.)

**Clerk's Certificate of Service**

I certify that I am not involved in this case and (*check one*):  A certificate of mailing is attached.

I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

**Notice: Waiver of Court Fees  
(Superior Court)**

*Clerk stamps date here when form is filed.*

**DRAFT 8/20/14  
Not approved  
by the  
Judicial Council**

**1 Person who asked the court to waive court fees:**  
Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_

**2 Lawyer, if person in 1 has one: (name, address, phone number, e-mail, and State Bar number):**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3 Your Request to Waive Court Fees was filed on (date):**  
\_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**  
\_\_\_\_\_  
**Case Name:**  
\_\_\_\_\_

**4 Your request is **granted** by operation of law because no court action was taken within five days after it was filed. A fee waiver is granted for the following court fees and costs (Cal. Rules of Court, rule 3.55):**

- Filing papers
- Giving notice and certificates
- Sending papers to another court department
- Court fee for phone hearing
- Reporter’s fee for attendance at hearing or trial, **if reporter provided by the court**
- Preparing, **certifying, copying,** and sending the clerk’s transcript on appeal
- **Holding in trust the deposit for a reporter's transcript on appeal under rules 8.130 or 8.834**
- **Making a transcript or copy of an official electronic recording under rule 8.835**
- Making copies and certifying copies
- Sheriff’s fee to give notice
- Court-appointed interpreter in small claims court

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**Notice:** The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

**Clerk's Certificate of Service**

I certify that I am not involved in this case and (check one):  A certificate of mailing is attached.  
 I handed a copy of this notice to the party and attorney, if any, listed in 1 and 2, at the court, on the date below.  
 This notice was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in 1 and 2, from (city): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**Order on Court Fee Waiver After Hearing (Superior Court)**

*Clerk stamps date here when form is filed.*

**DRAFT**

**08/20/14**

**NOT APPROVED BY JUDICIAL COUNCIL**

**1 Person who asked the court to waive court fees:**

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

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**2 Lawyer, if person in 1 has one (name, address, phone number, e-mail, and State Bar number):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**3 A request to waive court fees was filed (date):** \_\_\_\_\_

**4 There was a hearing on (date):** \_\_\_\_\_  
**at (time):** \_\_\_\_\_ **in (Department):** \_\_\_\_\_

The following people were at the hearing (check all that apply):

Person in 1  Lawyer in 2

Others (names): \_\_\_\_\_  
\_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number and name:*

**Case Number:**

**Case Name:**

**Read this form carefully. All checked boxes  are court orders.**

**Notice:** The court may order you to answer questions about your finances and later order you to pay back the waived fees. If this happens and you do not pay, the court can make you pay the fees and also charge you collection fees. If there is a change in your financial circumstances during this case that increases your ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010.) If you win your case, the trial court may order the other side to pay the fees. If you settle your civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

**5 After reviewing your:**  Request to Waive Court Fees  Request to Waive Additional Court Fees **the court makes the following order:**

a.  The court **grants** our request and waives your court fees and costs as follows:

(1)  **Fee Waiver.** The court **grants** your request and waives your court fees and costs listed below (*Cal. Rules of Court, rules 3.55 and 8.818.*) You do not have to pay the court fees for the following:

- Filing papers in superior court
- Making copies and certifying copies
- Sheriff's fee to give notice
- Reporter's fee for attendance at hearing or trial, **if reporter provided by the court**
- Preparing and certifying the clerk's transcript on appeal
- **Holding in trust the deposit for a reporter's transcript on appeal under rule 8.130 or 8.834**
- **Making a transcript or copy of an official electronic recorder under rule 8.835**
- Giving notice and certificates
- Sending papers to another court department
- Court-appointed interpreter in small claims court
- Court fees for phone hearing

(2)  **Additional Fee Waiver.** The court **grants** your request and waives your additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- Jury fees and expenses
- Fees for court-appointed experts
- Other: (specify): \_\_\_\_\_
- Fees for a peace officer to testify in court
- Court-appointed interpreter fees for a witness



<b>Case Name:</b> _____	<b>Case Number:</b> _____
-------------------------	---------------------------

- b.  The court **denies** your request and **will not waive or reduce** your fees and costs.
- (1) The reason for this denial is as follows:
- (a)  Your request is incomplete, and you did not provide the information that the court requested (*specify items missing*): \_\_\_\_\_
- (b)  You did not go to court on the hearing date to provide the information the court needed to make a decision.
- (c)  The information you provide shows that you are not eligible for the fee waiver you requested because (*check all that apply*):
- i.  Your income is too high.
- ii.  Other (*explain*): \_\_\_\_\_
- (d)  There is not enough evidence to support a fee waiver.
- (e)  Other (*state reasons*): \_\_\_\_\_
- (2)  You may pay your initial filing fee over time. (See *Cal. Rules of Court, rule 3.52(6)*.) You must make monthly payments of at least \$ \_\_\_\_\_ beginning (*date*): \_\_\_\_\_ and then payable on the 1st of each month after that, until the fee is paid in full.  
You must pay all other court fees and costs as they are due.
- c.  The court **partially grants** your request so you can pay court fees without using money you need to pay for your household's basic needs. You are ordered to pay a portion of your fees, **as checked below**. The court only partially grants the request because (*state reasons for partial denial*): \_\_\_\_\_

- (1)  You must pay \_\_\_\_\_ % of your court fees.
- (2)  The court waives some fees. The fees checked below are waived. You must pay all other court fees.
- |  |   |
|--|---|
| <input type="checkbox"/> Filing papers at superior court   | <input type="checkbox"/> Giving notice and certificates                 |
| <input type="checkbox"/> Sheriff's fee to give notice  | <input type="checkbox"/> Sending papers to another court department     |
| <input type="checkbox"/> Court-appointed interpreter   | <input type="checkbox"/> Court-appointed interpreter fees for a witness |
| <input type="checkbox"/> Reporter's fee <b>for attendance at trial or hearing if reporter provided by the court.</b> |   |
| <input type="checkbox"/> Jury fees and expenses  | <input type="checkbox"/> Fees for a peace officer to testify in court   |
| <input type="checkbox"/> Court-appointed experts' fees   | <input type="checkbox"/> Court fees for telephone hearings              |
| <input type="checkbox"/> Making certified copies   |   |
| <input type="checkbox"/> Other ( <i>specify</i> ): _____   |   |
- (3)  Other (*specify*): \_\_\_\_\_

**Warning! If b or c above are checked:** You have **10 days** after the clerk gives notice of this order (see date below) to pay your fees as ordered, unless there is a later date for beginning payments in item b(2). If you do not pay, your court papers will not be processed. If the papers are a notice of appeal, your appeal may be dismissed.

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

\_\_\_\_\_  
*Signature of Judicial Officer*

**Clerk's Certificate of Service**

I certify that I am not involved in this case and (*check one*):  A certificate of mailing is attached.

I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

*Clerk stamps date here when form is filed.*

**DRAFT  
8/20/14  
Not approved  
by the  
Judicial Council**

① Name of person who asked the court to waive court fees:  
\_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

② Lawyer, if person in ① has one: *(name, address, phone number, e-mail,  
and State Bar number):*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

③ The court made a previous fee waiver order in this case on *(date)*:  
\_\_\_\_\_

④ The court sent you a notice to go to court about your fee waiver on *(date)*:  
\_\_\_\_\_

**Read this form carefully. All checked  boxes are court orders.**

⑤ There was a hearing on *(date)*: \_\_\_\_\_  
at *(time)*: \_\_\_\_\_ in *(Department)*: \_\_\_\_\_  
The following people were at the hearing *(check all that apply)*:  
 Person in ①       Lawyer in ②  
 Others *(names)*: \_\_\_\_\_  
\_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

- ⑥ After considering the information provided at the hearing, **the court makes the following order:**
- a.  No Change to Fee Waiver. The *Order on Court Fee Waiver* issued by this court on *(date)*: \_\_\_\_\_ remains in effect. No change is made at this time.
  - b.  Fee Waiver Is Ended as of: *(date)*: \_\_\_\_\_. The court finds that beginning on that date you were no longer eligible for a fee waiver because: \_\_\_\_\_  
\_\_\_\_\_
    - (1)  You must pay all court fees in this case from the date of this order.
    - (2)  You must also pay the court \$ \_\_\_\_\_ for fees that were initially waived after you were no longer eligible.
      - (a)  You must pay that amount within 10 days of this order.
      - (b)  You may pay that amount in monthly payments of \$ \_\_\_\_\_ beginning *(date)*: \_\_\_\_\_ and payable on the 1st of each month after that until paid in full.
  - c.  **Fee Waiver Is Retroactively Withdrawn.** The court finds that you were never entitled to a fee waiver in this case because: \_\_\_\_\_  
\_\_\_\_\_
    - (1) You must pay all court fees in this case from the date of this order.
    - (2)  You must also pay the court \$ \_\_\_\_\_ for fees that the court initially waived.
      - (a)  You must pay that amount within 10 days of this order.
      - (b)  You may pay that amount in monthly payments of \$ \_\_\_\_\_ beginning *(date)*: \_\_\_\_\_ and payable on the 1st of each month after that until paid in full.

Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

6 d.  Fee Waiver Is Modified. The court finds that you obtained the initial fee waiver in bad faith, for an improper purpose, or to needlessly increase the costs of litigation. The court places the following limitations on the fee waiver that was granted to you:

- (1)  You must pay all court fees in this case from the date of this order.
- (2)  From the date of this order, only the following court fees will be waived (*court to check all that apply*).

**You must pay for all court fees that are not checked below:**

- Filing papers at superior court     Making certified copies     Giving notice and certificates
- Sheriff's fee to give notice     Sending papers to another court department
- Court-appointed interpreter     Court-appointed interpreter fees for a witness
- Reporter's fee for attendance at hearing or trial, **if reporter provided by court**
- Jury fees and expenses     Fees for a peace officer to testify in court
- Court-appointed expert's fees     Court fees for telephone hearings
- Other (*specify*): \_\_\_\_\_

(3)  Other modification: \_\_\_\_\_

e.  Other Order: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

 \_\_\_\_\_  
*Signature of Judge or Judicial Officer*

**Clerk's Certificate of Service**

I certify that I am not involved in this case and (*check one*):     A certificate of mailing is attached.

I handed a copy of this order to the party and attorney, if any, listed in ① and ②, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ① and ②, from (*city*): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

## INFORMATION ON APPEAL PROCEDURES FOR UNLIMITED CIVIL CASES

The following is general information about the procedures for appeals of unlimited civil cases (“unlimited civil case” generally means a civil case in which the amount in controversy is more than \$25,000; see Code of Civil Procedure sections 85 and 88). This information is not intended to be comprehensive, but to provide an overview to help guide you through the appeal process. **You should thoroughly read rules 8.100–8.276 of the California Rules of Court. If you have questions about the appellate process, you should consult an attorney of your own choosing.**

### 1. NATURE OF AN APPEAL

An appeal is a review of a court’s decision by another court. A party may appeal an unfavorable judgment and certain orders in an unlimited civil case made in the superior court to the Court of Appeal for the district in which the superior court is located. Generally, the appeal must be based on an argument that a **legal error** was made by the superior court. An appeal is not a retrial. You will not be permitted to introduce new evidence, and the appellate court will not reassess conflicting evidence. You may not appeal on behalf of a friend, a spouse, a child, or other relative (unless you are a legally appointed guardian).

### 2. PARTIES

The party filing the appeal is called the APPELLANT. The party against whom the appeal is brought is called the RESPONDENT.

## STEPS IN THE APPEAL PROCESS AT THE SUPERIOR COURT

### 3. NOTICE OF APPEAL

To appeal from a superior court decision in an unlimited civil case, the appellant must file a notice of appeal **in the superior court** (Cal. Rules of Court, rule 8.100). A notice of appeal tells the other party or parties in the case and the superior court that you are appealing the decision of the superior court. You may use Judicial Council form APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)*, to file a notice of appeal in an unlimited civil case.

The notice of appeal must be served on the other party or parties in the case and filed with the clerk of the superior court. Generally, this service and filing must be completed within **60 calendar days** after the clerk or a party serves either a notice of entry of judgment or a file-stamped copy of the judgment. If neither of these documents is served, the notice of appeal must be filed within **180 calendar days** after entry of judgment (generally the date the judgment is file-stamped). **If your notice of appeal is filed late, your appeal will be dismissed** (Cal. Rules of Court, rules 8.104 and 8.108).

If a notice of appeal has been filed in a case, any other party to the case may file its own appeal from the same judgment or order. This is called a cross-appeal. To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal or within 20 days after the clerk of the superior court mails notice of the first appeal, whichever is later (Cal. Rules of Court, rule 8.108). You may use Judicial Council form APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)*, to file this notice in an unlimited civil case.

### 4. FEES ON APPEAL

The notice of appeal must be accompanied by a \$775 filing fee (Gov. Code, §§ 68926 and 68926.1) made payable to “Clerk, Court of Appeal” and a \$100 deposit (Gov. Code, § 68926.1) made payable to “Clerk of the Superior Court.” **Parties other than the appellant must pay a fee of \$390 when they file their first document in the Court of Appeal.** If you do not have the money for the fees, you may submit an application for waiver of court fees and costs on appeal under rules 8.26 and 3.50–3.63 of the California Rules of Court (Cal. Rules of Court, rule 8.100).

### 5. DESIGNATION OF RECORD

See rules 8.120–8.163 of the California Rules of Court, which govern the preparation of the record on appeal.

Since the appellate court was not present at the trial or other proceedings in the superior court, there must be an official record of the proceedings from the superior court for the appellate court to review in assessing the appeal. Within 10 days of filing the notice of appeal, the appellant must tell the superior court in writing (“designate”) what documents and oral proceedings, if any, to include in the record that will be sent to the Court of Appeal. **You will need to designate all the parts of the record that the Court of Appeal will need to decide the issues you raise in the appeal.** You can use Judicial Council form APP-003, *Notice Designating Record on Appeal (Unlimited Civil Case)* to designate the record in an unlimited civil case.

### Reporter’s Transcript

A court reporter’s transcript is a written record (often called the “verbatim” record) of the oral proceedings in the superior court. A reporter’s transcript is not required but is usually necessary.

Within 10 days of filing the notice of appeal, the appellant must serve and file with the superior court clerk either a notice designating a reporter’s transcript or a notice of intent to proceed without a reporter’s transcript (Cal. Rules of Court, rule 8.121). You can use Judicial Council form APP-003, *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* to file this notice in an unlimited civil case.

If the appellant chooses to designate a reporter’s transcript, **among other things**, the notice designating this transcript must specify the date of each proceeding to be included in the transcript and must be served on each known court reporter (Cal. Rules of Court, rule 8.130). The names of the court reporters who reported the proceedings are found in the superior court clerk’s minute orders, which are prepared for each day of the proceedings and then placed in the superior court file.

With the notice designating the reporter’s transcript, the appellant must deposit the approximate cost of transcribing the proceedings designated **or one of the substitutions authorized by rule 8.130(b)(3)** (Cal. Rules of Court, rule 8.130). The cost may be obtained from the reporter’s written estimate or calculated at \$650 per day (more than three hours of court time) or \$325 per fraction of a day (less than three hours of court time) **for proceedings that were not previously transcribed. For previously transcribed proceedings, the deposit is calculated at \$160 per day (more than three hours of court time) or \$80 per fraction of a day (less than three hours of court time).** If the appellant deposits these funds with the court, the appellant must also pay the court a \$50 fee for holding this deposit in trust, unless the trial court has waived the appellant’s fees under rules 3.50–3.63 (Cal. Rules of Court, rule 8.130).

Within 10 days after service of the appellant’s designation of the reporter’s transcript, the respondent may serve and file a notice designating additional proceedings to be included in the reporter’s transcript (Cal. Rules of Court, rule 8.130). Respondent must pay for the cost of transcribing any additional proceedings designated.

If the appellant chooses to proceed without a reporter’s transcript, the respondent may not designate a reporter’s transcript without first obtaining an order from the reviewing court (Cal. Rules of Court, rule 8.130).

### Clerk’s Transcript or Appendix

The clerk’s transcript is a compilation of the documents filed in the superior court **that is prepared by the clerk. An appendix is a compilation of these documents prepared by a party** (Cal. Rules of Court, rule 8.124). Within 10 days of filing the notice of appeal, the appellant must serve and file with the superior court clerk a notice **indicating what form of the record of the documents filed in the trial court the appellant wants to use.** You can use Judicial Council form APP-003, *Appellant’s Notice Designating Record on Appeal (Unlimited Civil Case)* to file this notice in an unlimited civil case.

If the appellant chooses to designate a clerk’s transcript, the appellant must identify (designate) **the documents from the court file that the appellant wants the superior court to include in the clerk’s transcript** (Cal. Rules of Court, rule 8.122). Each document designated for inclusion in the clerk’s transcript must be identified by its title and filing date. If the filing date is not known, the date the document was signed may be used instead (Cal. Rules of Court, rule 8.122).

Within 10 days after service of a notice designating the documents to be included in the clerk’s transcript, respondent may serve and file a notice designating additional documents to be included in the clerk’s transcript (Cal. Rules of Court, rule 8.122).

The superior court clerk will send the appellant a bill for the cost of preparing an original and one copy of the transcript (Cal. Rules of Court, rule 8.122). **Unless the trial court has waived the appellant's fees and costs under rules 3.50–3.63**, this bill must be paid within 10 days or the appeal may be dismissed by the Court of Appeal.

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

## 6. FILING OF CLERK'S AND REPORTER'S TRANSCRIPTS (IF ANY)

If the appellant chooses to designate a clerk's transcript, after all the fees have been paid, the superior court clerk will compile the requested documents into a transcript format and forward the original clerk's transcript, together with the original reporter's transcript, if any, to the Court of Appeal for filing. A copy of the transcript(s) will be sent to the appellant. If the respondent has purchased a copy, the clerk's transcript will also be mailed to the respondent (Cal. Rules of Court, rules 8.122, 8.130, and 8.150).

## 7. ABANDONMENT OF APPEAL

If the appellant decides not to proceed with the appeal and the record has not yet been filed in the Court of Appeal, the appellant must file an abandonment of appeal in the superior court (Cal. Rules of Court, rule 8.244). You can use Judicial Council form APP-005, *Abandonment of Appeal (Unlimited Civil Case)*, for this purpose.

## STEPS IN THE APPEAL PROCESS AT THE COURT OF APPEAL

### 8. CIVIL CASE INFORMATION STATEMENT

**Within 15 days after the trial court clerk mails out a notice that a notice of appeal has been filed in an unlimited civil case**, the appellant must serve and file in the Court of Appeal a completed *Civil Case Information Statement* (form APP-004), attaching a copy of the judgment or appealed order that shows the date it was entered (Cal. Rules of Court, rules 8.100 and 8.104).

### 9. SERVING AND FILING APPENDIX IN LIEU OF CLERK'S TRANSCRIPT

If a party chooses to prepare an appendix of the documents filed in the superior court under rule 8.124 rather than designating a clerk's transcript, the party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the Court of Appeal has ordered otherwise) and file the appendix in the Court of Appeal. A joint appendix or an appellant's appendix must be served and filed with the appellant's opening brief. A respondent's appendix, if any, must be served and filed with the respondent's brief. An appellant's reply appendix, if any, must be served and filed with the appellant's reply brief (Cal. Rules of Court, rule 8.124).

### 10. BRIEFS

A brief is a party's written description of the facts in the case, the relevant law, and the party's argument. The preparation and filing of briefs is governed by rules 8.200–8.224 of the California Rules of Court. Parties are encouraged to read these rules thoroughly and comply accordingly.

#### Contents and Format of Briefs

See rule 8.204 of the California Rules of Court.

The brief must clearly explain, using references to the clerk's and reporter's transcripts (or other form of the record being used), the claimed legal errors in the superior court proceedings. Each brief must be no longer than 14,000 words if produced on a computer (you can rely on the word count provided by your computer in meeting this requirement) or up to 50 pages if produced on a typewriter. The brief must contain a table of contents and a table of authorities.

#### Service and Filing of Briefs

The appellant's opening brief must be served and filed within 40 days after the record is filed in the Court of Appeal or 70 days from the date the appellant elects to proceed under rule 8.124 with no reporter's

transcript. The cover of the appellant's opening brief must be green (Cal. Rules of Court, rules 8.212 and rule 8.40).

The respondent's brief must be served and filed within 30 days after the appellant's opening brief is filed. If this brief is the first document you have filed in the Court of Appeal in this case, you may have to pay a filing fee with the brief. The cover of the respondent's brief must be yellow.

The appellant's reply brief, if any, must be served and filed within 20 days after the respondent's brief is filed. The cover of the appellant's reply brief must be tan.

Generally, an original and four paper copies of each brief, along with proof of service, must be filed with the Court of Appeal. However, the court may provide by local rule that an electronic copy of the brief substitutes for one or more of the paper copies. If a brief is not filed electronically under rules 8.70–8.79, one electronic copy must be submitted to the Court of Appeal or, if it would cause undue hardship for the party filing the brief to submit an electronic copy to the Court of Appeal, the party may instead serve four paper copies on the California Supreme Court (Cal. Rules of Court, rule 8.212). The addresses of the California Supreme Court, Courts of Appeal, and superior courts can be found on the Internet at [www.courts.ca.gov/courts.htm](http://www.courts.ca.gov/courts.htm).

A copy of each brief must be served on all counsel and self-represented parties and on the superior court clerk for delivery to the trial judge. In some instances a copy of each brief must also be served on the Attorney General or the local district attorney. See rule 8.29 of the California Rules of Court and the *Civil Case Information Statement* (form APP-004).

Cover:	Appellant's opening brief—green Respondent's brief—yellow Appellant's reply brief—tan
File:	Original plus 4 paper copies along with proof of service in the Court of Appeal, unless court has local rule substituting electronic copy for one or more paper copies
Submit:	1 electronic copy to the Court of Appeal (or, if this is a hardship, serve 4 paper copies on the California Supreme Court)
Serve:	Superior court—1 copy All counsel All self-represented parties

### Extension of Time to File Brief

If the time to file a brief has not already been extended by the court on application of a party, the parties may extend the time to file a brief for up to 60 days by filing a stipulation (agreement) in the Court of Appeal (Cal. Rules of Court, rule 8.212).

An application for extension of time must be filed with the Court of Appeal before the brief is due when:

- The parties cannot agree to a stipulation; or
- The parties have stipulated to the maximum automatic extension permitted under rule 8.212 of the California Rules of Court, and the applicant seeks a further extension.

Judicial Council form APP-006, *Application for Extension of Time to File Brief (Civil Case)*, can be used to apply to the Court of Appeal for an extension of time to file a brief.

## 11. DISMISSAL OF APPEAL

If the appellant decides not to proceed with the appeal after the record has been filed in the Court of Appeal, the appellant must file a request for dismissal in the Court of Appeal (Cal. Rules of Court, rule 8.244). You can use Judicial Council form APP-007, *Request for Dismissal of Appeal (Civil Case)* for this purpose (Cal. Rules of Court, rule 8.244).

INFORMATION SHEET ON WAIVER OF APPELLATE COURT FEES  
(SUPREME COURT, COURT OF APPEAL, APPELLATE DIVISION)

If you file an appeal, a petition for a writ, or a petition for review in a civil case, such as a family law case or a case in which you sued someone or someone sued you, you must generally pay a filing fee to the court. If you are a party other than the party who filed the appeal or the petition, you must also generally pay a fee when you file your first document in a case in the Court of Appeal or Supreme Court. You and the other parties in the case may also have to pay other court fees in these proceedings, such as fees to prepare or get a copy of a clerk’s transcript in an appeal. However, if you cannot afford to pay these court fees and costs, you may ask the court to issue an order saying you do not have to pay these fees (this is called “waiving” these fees).

1. Who can get their court fees waived? The court will waive your court fees and costs if:

- **You are getting public assistance**, such as Medi-Cal, Food Stamps, Supplemental Security Income (not Social Security), State Supplemental Payment, County Relief/General Assistance, In-Home Supportive Services, CalWORKS, Tribal Temporary Assistance for Needy Families, or Cash Assistance Program for Aged, Blind, and Disabled.
- **You have a low income level.** Under the law you are considered a low-income person if the gross monthly income (before deductions for taxes) of your household is less than the amount listed below:

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income
1	\$1,215.63	3	\$2,061.46	5	\$2,907.30
2	\$1,638.55	4	\$2,484.38	6	\$3,330.21

*If more than 6 people at home, add \$422.92 for each extra person.*

- **You do not have enough income to pay for your household’s basic needs and your court fees .**

2. What fees and costs will the court waive? If you qualify for a fee waiver, the Supreme Court, Court of Appeal, or Appellate Division will waive the filing fee for the notice of appeal, a petition for a writ, a petition for review, or the first document filed by a party other than the party who filed the appeal or petition, and any court fee for participating in oral argument by telephone. The trial court will also waive costs related to the clerk’s transcript on appeal, the fee for the court to hold in trust the deposit for a reporter’s transcript on appeal under rule 8.130(b) or rule 8.834(b) of the California Rules of Court, and the fees for making a transcript or copy of an official electronic recording under rule 8.835. If you are the appellant (the person who is appealing the trial court decision), the fees waived include the deposit required under Government Code section 68926.1 and the costs for preparing and certifying the clerk’s transcript and sending the original to the reviewing court and one copy to you. If you are the respondent (a party other than the appellant in a case that is being appealed), the fees waived include the costs for sending you a copy of the clerk’s transcript. You can also ask the trial court to waive other necessary court fees and costs.

The court **cannot** waive the fees for preparing a reporter’s transcript in a civil case. A special fund, called the Transcript Reimbursement Fund, may help pay for the transcript. (See <http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf> and Business and Professions Code sections 8030.2 and following for more information about this fund.) If you are unable to pay the cost of a reporter’s transcript, a record of the oral proceedings can be prepared in other ways, by preparing an agreed statement or, in some circumstances, a statement on appeal or settled statement.

3. How do I ask the court to waive my fees?

- **Appeal in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** In a limited civil case, if the trial court already issued an order waiving your court fees and that fee waiver has not ended (fee waivers automatically end 60 days after the judgment), the fees and costs identified in item 2 above are already waived; just give the court a copy of your current fee waiver. If you do not already have an order waiving your fees or you had a fee waiver but it has ended, you must complete and file a *Request to Waive Court Fees* (form FW-001). If you are the appellant (the party who is appealing), you should check both boxes in item 4 on FW-001 and file the completed form with your notice of appeal. If you are the respondent (a party other than the appellant in a case that is being appealed), the completed form should be filed in the court when the fees you are requesting to be waived, such as the fee for the clerk’s transcript or telephonic oral argument, are due.

- **Writ Proceeding in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** If you want the Superior Court to waive the fees in a writ proceeding in a limited civil case, you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box. The completed form should be filed with your petition for a writ.
- **Appeal in Other Civil Cases.** If you want the court to waive fees and costs in an appeal in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box to ask the Court of Appeal to waive the fee for filing the notice of appeal or, if you are a respondent (a party other than the one who filed the appeal), the fee for the first document you file in the Court of Appeal. Check both boxes if you also want the trial court to waive your costs for the clerk's transcript (if the trial court already issued an order waiving your fees *and that fee waiver has not ended*, you do not need to check the first box; **the fees and costs identified in item 2 above are already waived**, just give the court a copy of your current fee waiver). If you are the appellant, the completed form should be submitted with your notice of appeal (if you check both boxes in item 4, the court may ask for two signed copies of this form). If you are the respondent, the completed form should be submitted at the time the fee you are asking the court to waive is due. For example, file the form in the trial court with your request for a copy of the clerk's transcript if you are asking the court to waive the transcript fee or file the form in the Court of Appeal with the first document you file in that court if you are asking the court to waive the fee for filing that document. To request waiver of a court fee for telephonic oral argument, you should file the completed form in the Court of Appeal when the fee for telephonic oral argument is due.
- **Writ Proceeding in Other Civil Cases.** If you want the Supreme Court or Court of Appeal to waive the fees and costs in a writ proceeding in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner (the party filing the petition), the completed form should be submitted with your petition for a writ in the Supreme Court or Court of Appeal clerk's office. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court or Court of Appeal.
- **Petition for Review.** If you want to request that the Supreme Court waive the fees in a petition for review proceeding, you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner, you should submit the completed form with your petition for review. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court.

#### IMPORTANT INFORMATION!

- **Fill out your request completely and truthfully.** When you sign your request for a fee waiver, you are declaring under penalty of perjury that the information you have provided is true and correct.
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court immediately if your finances improve or if you become able to pay court fees or costs during this case (file form FW-010 with the court). You may be ordered to repay any amounts that were waived after your eligibility ended. If the trial court waived your fees and costs and you settle your case for \$10,000 or more, the trial court will have a lien on the settlement in the amount of the waived fees.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or when the court finds that you are not eligible for a fee waiver.

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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

<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.	AM	See comments on specific provisions below.	
2.	Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	A	As a whole, CAJ agrees with the proposed amendments and supports the amendments as proposed to the Rules of Court and the Forms.  See comments on specific provisions below.	
3.	Committee on Appellate Courts State Bar of California By: Saul Bercovitch, Staff Attorney	A	See comments on specific provisions below.	
4.	Magda Conant Oceanside, California	AM	See comments on specific provisions below.	
5.	Hon. Janet M. Frangie Superior Court of San Bernardino County	AM	See comments on specific provisions below.	
6.	<i>[joint comment by three legal aid organizations in Los Angeles area]</i> -Harriett Buhai Center for Family Law By: Betty Norwind, Executive Director and David S. Ettinger, Member Board of Directors -Western Center on Law & Poverty By: Richard A. Rothschild, Director of Litigation	N	On behalf of the Harriett Buhai Center for Family Law, Western Center on Law & Poverty, and Public Counsel, we write concerning SPR 14-05, which proposes various changes to rules and forms concerning waivers of court fees and costs for indigent litigants. We appreciate the opportunity to comment. (Last month, we separately submitted our own proposal to make other changes to the fee	

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
	-Public Counsel By: Lisa R. Jaskol Directing Attorney - Appellate Law		waiver rules and forms.) See comments on specific provisions below.	
7.	Stacy Larsen Family Law Facilitator Superior Court of Shasta County	AM	See comments on specific provisions below.	
8.	Orange County Bar Association By: Thomas Bienert, Jr., President	AM	See comments on specific provisions below.	
9.	Superior Court of Los Angeles County (no name provided)	N	See comments on specific provisions below.	
10.	Superior Court of Orange County By: Paul Alberga, Administrative Analyst/Officer II	AM	See comments on specific provisions below.	
11.	Superior Court of Riverside County By: Daniel Wolfe, Managing Attorney	A	See comments on specific provisions below.	
12.	Superior Court of Sacramento County By: Elaine Flores	N	See comments on specific provisions below.	
13.	Superior Court of San Diego County By: Michael Roddy, Executive Officer	AM	See comments on specific provisions below.	
14.	TCPJAC/CEAC Joint Rules Working Group	N	See comments on specific provisions below.	

## SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	<p>It will be much more efficient to have both fee waivers and payment plans for those denied a full fee waiver addressed within the Rules of Court and on the same forms. We agree that there should be a method to waive the hearing when a payment plan is agreed to. We also agree that having a separate set of forms set up for payment plans is not efficient, especially when these issues are generally addressed together.</p> <p>We are also in favor of limiting the payment period time to three (3) months or less, absent good cause, and allowing for those litigants who agree to a payment plan to waive the court appearance.</p>	<p>The committee agrees.</p> <p>The committee agrees.</p>
Hon. Janet M. Frangie Superior Court of San Bernardino County	<p>I believe the length of time for installment payments should be for up to six months instead of three months. For the court to find good cause there may be a hearing required in any event if the applicant fails to provide good cause for a longer period. In my experience the applicant may miss that he/she will have to establish "good cause" up front when submitting the fee waiver and unless I missed it I did not see a place for the applicant to list the reasons a longer period is needed. The fees can be in excess of \$400 and a longer period may be needed.</p>	<p>The committee has concluded that three months is appropriate as the default time frame in light of the administrative burden payments over time places on the court. The form has been further modified to include instructions for attaching a separate sheet when a party wants to show good cause for additional time.</p>
<i>[joint comment by three legal aid organizations]</i> -Harriett Buhai Center for Family Law By: Betty Norwind, Executive Director and David S. Ettinger, Member Board of Directors	<p>SPR 14-05's primary focus concerns the trial court's authority to deny a fee waiver application under Government Code section 68632, subdivision (c), and instead require the fee waiver applicant to pay court fees over a period of time. For several reasons, we are opposed to most of the changes in this regard.</p>	

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
<p>-Western Center on Law &amp; Poverty By: Richard A. Rothschild, Director of Litigation -Public Counsel By: Lisa R. Jaskol Directing Attorney - Appellate Law</p>	<p>To begin with, although section 68632, subdivision (c), allows a court to require certain fee waiver applicants to pay fees over time, that is contrary to the Supreme Court’s landmark opinion in <i>Earls v. Superior Court</i> (1971) 6 Cal.3d 109. The trial court there denied a fee waiver application because the court concluded the applicant could set aside a little money over a number of months to pay the fee. The Supreme Court rejected this approach, concluding, “We know of no authority permitting a court to deny an application to proceed in forma pauperis upon the ground that, although the applicant is currently indigent, he may, over a period of months, succeed in accumulating the amount necessary to defray his costs.” (Id. at p. 117.)</p> <p>“The right of an indigent civil litigant to proceed in forma pauperis is grounded in a common law right of access to the courts and constitutional principles of due process.” (<i>Cruz v. Superior Court</i> (2004) 120 Cal.App.4th 175, 185, emphasis added.) Because of this, and because of the holding in <i>Earls</i>, the practice of ordering payment of fees over time, even though permitted by statute, is constitutionally suspect.</p> <p>Additionally, we have always been skeptical that courts can make such a fine distinction as the payment-over-time option requires. At what point is an indigent litigant able to “afford” to pay a court fee over time, but would be sacrificing “the common necessities of life” (§ 68632, subd. (c)) if ordered to pay the entire court fee at once? Although possible in theory, such a determination in</p>	<p>The committee appreciates the thoughtful comments, but disagrees with this analysis. The fee waiver statute, however, which was enacted after the <i>Earl</i> decision, can be read as consistent with that decision, because it expressly authorizes a court to allow payments over time or a partial waiver only when a court has determined that a party is <u>not</u> indigent at the time of the application, and so is not eligible for a full fee waiver under the standards of the statute, and when the court provides a written statement of the reasons why not. See § 68634(c)(5).</p> <p>The committee disagrees that this type of decision making was outside the normal scope of judicial officer’s work.</p>

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>practice is an exercise in false precision.</p> <p>Payment of fees over time is thus at the least an option that should not be encouraged. But encouraging the practice is what SPR 14-05’s proposed changes do. The following proposals are particularly objectionable:</p> <ol style="list-style-type: none"><li>1. The possibility of paying fees over time should not be mentioned at all on the fee waiver request form (FW-001). The fee waiver statutes do not state that payment over time is a type of relief that an applicant may request. (See §§ 68632, subd. (c), 68633, subd. (c).) Rather, it is an option — albeit a questionable one — given to the trial court in ruling on a fee waiver application if an applicant claims that she or he “cannot pay court fees without using moneys that normally would pay for the common necessities of life for the applicant and the applicant’s family.” (§ 68632, subd. (c).) Moreover, there is unlikely to be any person who would apply only to pay court fees over time instead of seeking to have fees waived entirely. Therefore, including a payment-over-time option on a fee waiver request form is confusing for litigants, who are typically unrepresented.</li><li>2. The proposed form FW-001 is contradictory in instructing the applicant that she or he can ask the court to both “waive all court fees and costs” and let her or him pay the “initial Superior Court filing fees over time.” If the applicant wants all fees waived, he or she does not want to pay fees over time.</li></ol>	<ol style="list-style-type: none"><li>1. The committee agrees that permission for payments over time is indeed an alternative to be considered only in the event that a fee waiver has been denied, and has modified the text of the form to more clearly express this. See also § 68640, which authorizes the council to make rules of court to allow parties who are not eligible for a fee waiver to pay court fees in installments.</li><li>2. The form has been modified in light of this comment to reflect that the payments over time would only be considered as an alternative if the fee waiver request is denied</li></ol>

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>3. The proposed form FW-001 should not include an item allowing the applicant to waive a hearing if the court orders payment of fees over time. There should be no prospective waiver of a right to a hearing. Instead, the court order form (FW-003) should be revised to allow the court to deny the fee waiver application and to indicate that it will permit the applicant to pay fees over time without a hearing, and to then give the applicant the option of either appearing at a scheduled hearing or agreeing to pay fees over time without a hearing. The form should also state that foregoing a hearing does not waive the applicant’s right to seek appellate review of the court’s order.</p> <p>4. The proposed form FW-003 should not include an option for the court to state that it “denies your request for payments over time.” As explained, it is confusing to include on the fee waiver application form (FW-001) a place to ask to pay fees over time, so there should be no such requests for the court to rule on.</p> <p>5. The proposed amendments of rules 3.50(a) and 3.51 should not be made. As explained, there should be no applications for leave to pay filing fees over time.</p> <p>6. The proposed changes concerning paying fees over time should not be adopted, but are incomplete in any event. The “partial initial fee waiver” permitted by section 68632, subdivision (c), and section 68643, subdivision (e)(5), includes the possibility of paying “a portion of court fees”</p>	<p>3. The committee concluded that this alternative would be significantly more burdensome for the court, without a significant added benefit to the parties. As now modified, the order form makes it clear that the party can request a hearing after the fee waiver request has been denied should the party wish to do so, and will be provided with a form on which to make such a request.. This applies whether or not payments over time have been authorized.</p> <p>4, The committee has removed the separate item for the denial of a request for payments over time from the form. The committee is not recommending that the forms be used for stand-alone requests for payments over time.</p> <p>The committee agrees that the forms should not be used for specifically applying for installment payments over time, other than in the instance in which a fee waiver application has been denied, and so is no longer recommending amendments to rules 3.50 and 3.51.</p> <p>6. The committee disagrees, having concluded that partial waivers are a more complex alternative and are not appropriately considered or ordered without a hearing.</p>

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	in addition to the option of paying fees over time. However, the proposed changes to rules 3.50(a) and 3.51 and to forms FW-001 and FW-003 do not mention the partial payment option. If changes are to be made, the partial payment option should be included along with the payment over time option.	
Stacy Larsen Family Law Facilitator Superior Court of Shasta County	<p>I agree that providing an option for litigants to voluntarily waive their right to a hearing in circumstances where their fee waiver is denied but the court is willing to allow them payments over time will likely eliminate unnecessary hearings. However, if the Court approves a payment schedule or amount that is not financially possible for the litigants, and they have already waived their right to a hearing on this issue, will they have the ability to request a hearing on these issues?</p> <p>Limiting payments over time, generally, to three months and payments over time to first-appearance fees creates a general rule that limits access to the courts for our most financially needy, disenfranchised, and challenged litigants. Courts already have discretion to set the monthly payment amount and to limit payments to three months or less if appropriate. My concern is that the possible result in creating this rule is an automatic setting the monthly payment at \$145 per month for a period of three months rather than carefully considering each case on its facts. While those of us with steady incomes may believe that this amount is do-able for all Californians, this is not the case. When marriages or relationships fail, the financially weaker person in the relationship may be forced to remain in the</p>	<p>The committee notes the commentator’s agreement with the proposal in general. As now modified, the order form makes it clear that the party can request a hearing after the fee waiver request has been denied should the party wish to do so, and will be provided with a form on which to make such a request.. This applies whether or not payments over time have been authorized.</p> <p>The committee has concluded that three months is appropriate as the default time frame in light of the administrative burden payments over time places on the court.</p>

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>home with the primary breadwinner whose income makes the household members ineligible for a fee waiver. This individual is often the primary caretaker of the couple’s children, and his/her primary concern is opening a dissolution case to obtain emergency temporary custody/visitation orders due to threats that the children will be taken away. The Court would have discretion to grant a fee waiver under subsection (c) but may choose not to do so given the gross income of the household members, instead ordering payments. This proposed revision allows the Court to make a finding of “good cause” to make payments smaller than the minimum \$145 and the payment schedule to stretch beyond the three months, but the Court already has that discretion. Creating a “rule of thumb” of three months creates a “default” order for litigants allowed to make payments and given the volume of fee waivers requested in each court everyday reduces the likelihood that each litigant’s financial position will be carefully considered on its merits. If the party requesting the fee waiver and/or option to make payments checked the new box to waive hearing if the Court allows him/her to make payments, it is not clear how he/she would obtain a court hearing to request different payment arrangements than the court ordered.</p> <p>CRC 3.50(a): As discussed above, I do not agree that the option of payments over time should be limited to first-appearance fees only. However, if this proposal is adopted, it should be made clear in CRC 3.50(a) that “leave to pay filing fees over time” is only an option when paying the \$435 first-appearance fee and that payments over time are</p>	<p>The application form and information sheet have been further modified to include instructions for attaching a separate sheet when a party wants to show good cause for additional time.</p> <p>The committee disagrees, in light of the complexity and burden that would occur if multiple fees throughout a case could be paid over time. The committee has further modified the rule in light of this comment to clarify the limitation.</p>

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>not an option when paying the subsequent \$85 Request for Orders to Modify Custody/Parenting Time, etc. A possible revision would be as follows: “The rules in this division govern applications in the trial court for an initial waiver of court fees and costs or for leave to pay first-appearance filing fees over time . . .” This is particularly necessary as subdivision (b) defines “initial fee waiver” to mean the first time someone obtains a fee waiver, regardless of whether it’s at the time of first-appearance (\$435) or “at any stage of the proceedings.” For the layperson, it may not be clear that “initial fee waivers” apply to waivers of fee only and not to payments over time.</p> <p>CRC 3.51: As discussed above, I do not agree that the option of payments over time should be limited to first-appearance fees only. However, if this proposal is adopted, it should be made clear in CRC 3.51 that “leave to pay filing fees over time” is only an option when paying the \$435 first-appearance fee and that payments over time are not an option when paying the subsequent \$85 Request for Orders to Modify Custody/Parenting Time, etc. A possible revision would be as follows: “An application for initial fee waiver under rule 3.55 or for leave to pay first-appearance filing fees over time . . .”</p> <p>CRC 3.52(6): If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “Any order allowing “payment of first-appearance fees over time should limit the time for payments . . .”</p>	<p>The originally proposed amendment to this rule is no longer recommended, so no modification is required.</p> <p>The recommended amendment of this rule has been modified in light of this comment.</p>

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>FW-001, first paragraph: If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “. . . waive your court fees or allow payment of your first-appearance fee over time.”</p> <p>FW-001, Item 7: If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. The paragraph reads awkwardly and is a bit confusing. It’s definitely not an easy rule to word clearly and concisely, but here is a possible revision: “You may request that the Court allow you to make payments instead of, or in addition to, requesting that the Court waive your first-appearance fee. If the Court denies your request for a fee waiver, you have the right to a hearing on that issue before the Court decides whether you qualify to make payments over time. You may waive this hearing in advance if you wish the Court to make a ruling on your request to make payments over time without a hearing on the denial of your fee-waiver request. Do you waive your right to come to court for a hearing before the court rules on your application to make payments toward your first-appearance fee over time?” In the alternative, the wording on FW-001-INFO, Item (3), is helpful and could be integrated in modified form here.</p> <p>FW-001-INFO, Item (3): If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “You may ask to pay your first-appearance filing fee . . .”</p>	<p>Because the recommendation no longer includes a specific request to make payments over time, other than as alternative to be considered upon the denial of a fee waiver , this section of the form is not being amended.</p> <p>Item 7 has been modified in light of this and other comments.</p> <p>Paragraph 3 of the information sheet has been modified in light of this and other comments</p>

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>FW-003, page 2, Item (d): If the individual waives his right to a denial-of-fee-waiver hearing in advance and the Court sets the payments at an amount or on a payment schedule that is not financially possible, how does the litigant request a hearing on this issue?</p> <p>FW-003, page 2, Item (d): If the request/order to make payments is only applicable to first-appearance fees, this should be made clear in this provision. A possible revision is as follows: “Having waived . . . you may pay your first-appearance fee over time.” It is not clear what the “other” box would be for under this proposal if payments over time would be limited to first-appearance fees.</p>	<p>See item 2(b) on the form. Any applicant whose fee waiver is denied, whether or not authorized to make payments over time, will be provided with a form on which the party can request a hearing after issuance of the order.</p> <p>This item has been modified in light of this and other comments.</p>
<p>Orange County Bar Association By: Thomas Bienert, Jr., President</p>	<p>Comments: The fee waiver statutes and rules are complex and over-lapping with the Legislative findings for implementation set forth at Govt. Code §68630. With these findings in mind, we believe the proposal needs modification in the following areas:</p> <p>(1) a limit on installment payments to 3 months is too restrictive and does not allow for consideration of other factors—the justification for such limit is not sound;</p> <p>(2) Govt. Code §68634(e) requires the court to give a written statement of reasons if an application is denied in whole or part but this proposal does not advise applicants of this right nor provide a statement of reasons at all for a</p>	<p>(1) The committee has concluded that three months is appropriate as the default time frame in light of the administrative burden payments over time places on the court. The court will have the the discretion to increase the time period for good cause.</p> <p>(2) The committee has eliminated from the proposal the possibility of a separate request for installment payments, so the separate item for denial of such a request has been deleted from the proposed form.</p>

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>denial of installment payments under FW-003;</p> <p>(3) FW-001 was inexplicably modified to delete in total a request for partial waiver of some but not all fees which request appears authorized by statute;</p> <p>(4) the proposal and specifically FW-001 asks the applicant to “waive” in advance any and all hearings without any explanation of the entitlements to an “in camera” hearing required by statute prior to any denial under Govt. Code §68633 and §68641;</p> <p>(5) FW-001—INFO adds new instructions at paragraph 3 that the court will allow only up to 3 months for installment payments “unless you can show a really good reason for a longer time”, but that language is not instructive nor helpful to the applicant; . . .</p> <p>If the stated purpose is solely to allow parties to waive rights to a hearing in exchange for installment payments then the proposal is defective as outlined above.</p>	<p>Payments over time will only be considered in the event that the fee waiver request is denied, and the reasons for that denial must be included in form FW-003 at item 4.b(2).</p> <p>(3) The committee concluded that both payments over time and partial waivers are not appropriate as stand-alone requests, but instead are alternatives to be considered by the court only in the event that the court denies a fee waiver. The committee further concluded that partial waivers are a more complex alternative than payments over time and are not appropriately considered or ordered without a hearing. The order form to be used after a hearing, form FW-008, still includes provisions for such an order.</p> <p>(4) The waiver and the information sheet have been revised in light of this and other comments. However no discussion of the hearings being “in camera” has been added as the committee concluded it was unnecessary.</p> <p>(5) Paragraph 3 has been amended in light of this and other comments.</p> <p>For the reasons set forth above, the committee disagrees.</p>

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court of Los Angeles County	Making the proposed changes in the fee waiver forms has the potential to increase the number of requests for an order permitting payment over time. Staff time for processing multiple payments over time is substantial, especially with the antiquated case management systems that many courts currently have. Moreover, collections from fee waiver applicants can be very difficult and time consuming for staff, particularly when multiple payments are involved. Many low-income individuals pay by cash rather than credit card.	While the committee agrees that payments over time are administratively burdensome, the majority concluded that the benefits of this proposal (eliminating some hearings) was a benefit to the courts, especially since the statute already provides that judicial officers should consider the alternative of such payments at any eligibility hearing at which the court denies a fee waiver application. See § 68634(c)(5) , at last paragraph. The proposal does not change or expand the law authorizing payments over time; it just attempts to ease the requirement for hearings before such payments are permitted. The committee also notes that there is no mandate that courts authorize payments over time for all parties who are denied a fee waiver—this option is within a court’s discretion.
Superior Court of Orange County By: Paul Alberga, Administrative Analyst/Officer II	<ul style="list-style-type: none"> <li>There were opposing viewpoints when soliciting comments by the Orange County Superior Court related to the proposed three month time frame for a payment plan. From one end of the spectrum, the opinion was that three months seemed to be too short of a time period for a person to pay in excess of \$100 each month for the filing fee. Judicial Officers in Family Law matters typically order payments of less than \$50 per month. One recommendation was to propose a one year payment plan. Another suggestion was to have a six-month time frame because it would coincide with the time frame for finalization of status in a dissolution, and provides a logical nexus to finalization time frames in family law matters. But at the other end of the</li> </ul>	The committee has concluded that three months is appropriate as the default time frame in light of the administrative burden payments over time places on the court. The court continues to have discretion to extend that time when appropriate.

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>spectrum, the opinion was that three months was a lenient time frame in which to pay fees on a payment plan when the party did not qualify for a fee waiver.</p> <ul style="list-style-type: none"> <li>• For Civil Unlawful Detainer and Small Claims actions that conclude within three months (parties being unwilling to pay remaining fees due), Staff proposes maintaining the three-month timeframe with a discretionary allowance for a judicial officer to assign an altered timeframe.</li> <li>▪ FW-001 and FW-001-INFO are silent as to when fees are due if a payment plan is denied. We suggest adding clarifying language on the forms for when a payment plan is denied.</li> <li>• What is the penalty for non-payment of payment plan fees? Do petitions get voided?</li> <li>•</li> <li>• What if a hearing document is filed after the initial fee waiver is granted?               <ul style="list-style-type: none"> <li>○ Is a new fee waiver required for the additional fees?</li> <li>○ What if a new payment plan is ordered?</li> <li>○ Please clarify how subsequently filed documents that trigger filing fees are included or considered if there is already a payment plan</li> </ul> </li> </ul>	<p>The committee agrees, although does not limit its conclusion to only these types of cases.</p> <p>Form FW-003, the order form, addresses this point, stating that when a fee waiver is denied, payments must be made within 10 days unless a hearing is requested or another date has been set in the item authorizing payments over time.</p> <p>There has been no change recommended to the law on this point. The committee is not aware of any statutory authority which would authorize a court to void a petition on this ground.</p> <p>In light of the many complexities and administrative burden demonstrated by these questions, the committee has modified the proposal to limit payments over time to initial filing fees only, not to fees for later filings in an action.</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>in place.</p> <ul style="list-style-type: none"> <li>• Under section 5c suggest adding wording to clarify that a party may choose both boxes with the payment plan being considered if the waiver is denied: "...waive all court fees and costs OR, if waiver is denied, let me pay my initial Superior Court filing fees over time."</li> <li>• Under Section 7 the wording "in advance" is not clear to a person unfamiliar with the process (in advance of what?)               <ul style="list-style-type: none"> <li>○ Suggest changing text in form to read: "...you may have the right to a hearing on your request in advance which means you will need to come to court..."</li> <li>○ Suggest changing the first check box to read: "Yes, I waive the right to a hearing in advance, and request that the court make its decision based on this written request."</li> </ul> </li> <li>• FW-003: Order on Court Fee Waiver, Page 2, number 4b(3): The denial of the request for time payments seems out of place in the section that addresses the denial of the fee waiver. Item 4b(3) would only be used if the application did not contain a request for a fee waiver.</li> </ul>	<p>This item has been modified in light of this and other comments.</p> <p>This item has been modified in light of this and other comments.</p> <p>Item 4.b(3) was intended to only be used if the application did not contain a request for fee waiver. Because the committee has eliminated such a request from the proposal, the item is no longer on the proposed form.</p>
<p>Superior Court of Riverside County By: Daniel Wolfe, Managing Attorney</p>	<p>This proposal will eliminate unnecessary hearings where the fee waiver applicant is willing to provide installment payments and does not want to attend a hearing in order to</p>	<p>The committee agrees.</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	receive authorization to do so.	
Superior Court of Sacramento County By: Elaine Flores	<p>6466 fee waivers filed 4121 granted w/out hearing 345 denied w/out hearing 51 granted after hearing 56 denied after hearing</p> <p>In a year and 4 months, we've had 107 fee waiver hearings which is an average of just over 1 per week...not the biggest workload. If all of the denials without hearing were allowed to make payments, the court would have to implement account monitoring for 345 people over that same period of time. Questions regarding procedure for failure to make payments timely/failure to pay would need to be answered. Our current case management system is not developed to accommodate collections so this would need to be done outside of the CMS and manually updated until modifications to the system could be made. This expense and workload doesn't seem to outweigh the expense and workload for conducting fee waiver hearings.</p>	Different courts have different experience without the number of fee waivers requested, and the number of hearings required. In all, when a fee waiver is denied following an eligibility hearing, the court is to consider the alternatives of payments over time or a partial waiver. The proposal is not intended to expand the number of instances when payments over time will be permitted, but to make the process easier for the parties and the courts in some of those cases.
Superior Court of San Diego County By: Michael Roddy, Exexutive Officer	FW001, number 7 on the second page [re the waiver of a hearing], does not read well at all. I would suggest using the wording in #3 on FW-001-INFO as a template for number 7 on FW-001.	The item has been modified in light of this and other comments.
TCPJAC/CEAC Joint Rules Working Group	Although the proposal is purportedly intended to save time with respect to fee waiver adjudications, the TCPJAC/CEAC Joint Rules Working Group believes that	While the committee agrees that payments over time are administratively burdensome, the majority concluded that the benefits of this proposal (eliminating some

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<b>Payments of Trial Court Fees Over Time – Rules 3.50, 3.51 and 3.52 and forms FW-001, FW-001-INFO, FW-003, and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>in operation, the proposal would significantly increase burdens on staff.</p> <p>General comments</p> <p>While the proposed changes may eliminate the need for some fee waiver hearings, these changes are likely to increase the number of partial payment requests and the number of partial payments that court staff must process. More applicants may be attracted to requesting installment payment plans if a hearing before a bench officer is not required, and if the forms are changed as proposed.</p> <p>Staff time for processing multiple payments over time is substantial, especially with the antiquated case management systems that many courts currently have. Moreover, collections from fee waiver applicants can be very difficult and time consuming for staff, particularly when multiple payments are involved. Many low- income individuals pay by cash rather than credit card, and therefore court staff must monitor compliance with progress payments. In addition, there is concern that litigants with credit cards may elect installment payments over time in lieu of single credit card payment transaction. This would result in further unnecessary court expenditure of resources used to establish, process, and follow up on payment arrangements. Unlike in criminal and minor offense cases, courts have little leverage to enforce collection efforts.</p>	<p>hearings) was a benefit to the courts, especially since the statute already provides that judicial officers should consider the alternative of such payments at any eligibility hearing at which the court denies a fee waiver application. See § 68634(c)(5) , at last paragraph. The proposal does not change or expand the law authorizing payments over time; it just attempts to ease the requirement for hearings before such payments are permitted. The committee also notes that there is no mandate that courts authorize payments over time for all parties who are denied a fee waiver—this option is within a court’s discretion.</p>

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<b>Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	<p>2. Should the chart of income amounts for eligibility under Government Code section 68632(b) be removed from the application (form FW-001) and placed on the judicial branch's website, so that yearly changes to those amounts would not require changes to the form? Would the resulting savings to the courts offset the added burden to the parties and judicial officers in finding that information? CAJ supports the inclusion of the chart on the application at this time. While there is a concern regarding the costs to update these forms each year, CAJ supports having the chart readily accessible on the applications for the benefit of the applicants and the Court. CAJ questions whether the costs to revise these forms each year would be drastically different than the costs to update the website to show the updated income amounts each year and the costs to have a conspicuously posted form at the clerk locations available for those applicants without internet access. In fact, the ability and/or costs to monitor the availability of this chart in each of the clerk's offices may not be efficient. Accordingly, the savings of the form costs incurred would not appear to offset the added burden to the parties and judicial officers in finding the income amount information.</p> <p>3. In light of the fact that one item on form FW-001 (the figures in the eligibility chart in item 5b) is likely to have to be revised in late February 2015, would it be helpful to make the effective date of the proposed amendments to all the rules and forms March 1, to coincide with changes to the amounts in the eligibility chart? CAJ recommends that in an effort to be as cost effective as possible, the proposed amendments to all the rules and forms should coincide with the late February 2015 date. Inasmuch as there will be necessary costs to update and</p>	<p>2. Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p> <p>3. The committees agree and are recommending a March 1 effective date.</p>

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Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	change the forms regardless, CAJ believes it makes economic sense to make all changes at the same time to avoid duplicative costs.	
Stacy Larsen Family Law Facilitator Shasta County Superior Court	<p>I agree that maintaining the chart showing the cut-offs for incomes above 125 percent of the current poverty guidelines on the FW-001 is a good idea. In its current location, litigants can more easily determine whether they are eligible, and the majority of self-represented litigants would find it overly burdensome, confusing, and overwhelming to access the chart online. My understanding is that fee waivers are designed to ensure equal access to the courts for our indigent litigants, many of whom have limited education, literacy skills, and resources. Litigants frequently do not file responses, erroneously allowing default to be entered against them, because they do not understand the availability of or eligibility criteria for fee waivers. Removing the chart places one more obstacle in their path to obtaining access to the courts.</p> <p>I support the alternative to make the changes to the fee-waiver forms/rules go into effect on March 1, 2015, rather than January 1, 2015. Two changes so close together leads to confusion and waste of paper. The court already has discretion to limit payments over time, etc., and the disadvantages of this brief delay are outweighed (at least in my opinion) by the benefits.</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p> <p>The committees agree and are recommending a March 1 effective date.</p>
Orange County Bar Association By: Thomas Bienert, Jr., President	The chart of income amounts for eligibility should not be removed from Form FW-001 and placed on a website since applicants, court personnel, and others need that information readily available. Whether the proposed amendments are	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p> <p>The committees believe a March 1 effective date will</p>

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<b>Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	effective January 1 or March 1 depends on the amount of associated costs savings (if any).	achieve cost savings in eliminating a second amendment to the same form within a two month period..
Superior Court, County of Los Angeles (no name provided)	If, however, this proposal is adopted, every effort should be taken to (1) make the forms as short as possible, and (2) to draft the forms in such a way that they do not need regular revision. For this reason the chart in 5b of FW-001 should be eliminated. In addition to directing applicants to the website, as suggested, there should be an optional form that explains both the public benefits abbreviations (which should be removed from the information sheet) and the 5b family size/income charts. Courts can decide to hand the optional form to all applicants, to post the optional form as information in the clerk's office or self-help center, or to use the form in some other way that would supplement information available on the website.	The committees agree with generally trying to keep the forms as short as possible, but not at the cost of leaving off information useful to the parties or the court. The committees do not agree that the income eligibility chart should be removed from the fee waiver request form. The chart should stay on the form in order to assist both the applicants and the courts in determining eligibility. The committees particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, without easy ongoing access to the internet, and that they are asserting their eligibility based on the federal poverty guidelines under penalty of perjury.
Superior Court, County of Orange By: Paul Alberga, Administrative Analyst/Officer II	<p>2. Should the chart of income amounts for eligibility under Government Code section 68632(b) be removed from the application (form FW-001) and placed on the judicial branch's website, so that yearly changes to those amounts would not require changes to the form?</p> <ul style="list-style-type: none"> <li>We would not recommend removing the chart that shows the Family Size to Family Income from page 1 of the FW-001. This chart has proved to be valuable for the clerk as well as the applicant when explaining, completing and evaluating if the fee waiver can be granted under this provision.</li> </ul> <p>3. Would the resulting savings to the courts [by removing income form from chart] offset the added burden to the parties and judicial officers in finding that information? (See discussion under Alternatives Considered, at page 12)</p>	Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.

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Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<ul style="list-style-type: none"> <li>See number 5 below; no cost savings identified</li> </ul> <p>4. In light of the fact that one item on form FW-001 (the figures in the eligibility chart in item 5b) is likely to have to be revised in late February 2015, would it be helpful to make the effective date of the proposed amendments to all the rules and forms March 1, to coincide with changes to the amounts in the eligibility chart? (See discussion under Alternatives Considered, at page 13)</p> <ul style="list-style-type: none"> <li>Yes, the March 1st date would be an effective timeframe.</li> </ul>	<p>The committees appreciate the response.</p> <p>The committee agrees.</p>
Superior Court of Riverside By: Daniel Wolfe, Managing Attorney	The chart of income amounts for eligibility should not be removed from the application (FW-001). If it was removed it would make it more difficult for judicial officers and clerks to process the fee waivers effectively if the chart was removed.	Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.
TCPJAC/CEOC Joint Rules Working Group	If, however, this proposal is adopted, every effort should be taken to (1) make the forms as short as possible, and (2) to draft the forms in such a way that they do not need regular and costly revision. For this reason the chart in 5b of FW-0010 should be eliminated. In addition to directing applicants to the website, as suggested, there should be an optional form that explains both the public benefits abbreviations (which should be removed from the information sheet) and the 5b family size/income charts. Courts can decide to hand the optional form to all applicants, to post the optional form as information in the clerk's office or self-help center, or to use the form in some other way that would supplement information available on the website.	The committees agree with generally trying to keep the forms as short as possible, but not at the cost of leaving off information useful to the parties or the court. The committees do not agree that the income eligibility chart should be removed from the fee waiver request form. The chart should stay on the form in order to assist both the applicants and the courts in determining eligibility. The committees particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, without easy ongoing access to the internet, and that they are asserting their eligibility based on the federal poverty guidelines under penalty of perjury.

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Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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<b>Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.	The Appellate Courts Section of the Los Angeles County Bar Association has reviewed SPR14-05 insofar as it affects appellate courts and practitioners, and supports the proposal with one suggested modification to account more clearly for a recent rule change regarding payment for appellate transcripts.	The committees note the commentator's support for the proposal.
Committee on Appellate Courts State Bar of California By: Saul Bercovitch, Staff Attorney	The Committee on Appellate Courts limited its review to issues relating to the recommendations of the Appellate Advisory Committee, and agrees with those recommendations.	The committees note the commentator's support for the proposal.
Stacy Larsen Family Law Facilitator Shasta County Superior Court	CRC 3.55(3): A recent question has arisen regarding whether waiver of "clerks fees for reasonably necessary certification and copying" includes post-judgment copies. Since post-judgment copies are often necessary to prepare pleadings to modify or enforce judgments, it would seem these fees are covered in this provision. A secondary issue that has arisen is whether this provision waives fees for copying paperwork originally submitted by the litigant who is now requesting copies. Specifically, family-law cases continue long past judgment due to ongoing child support, custody, visitation, and spousal support issues. The family-law litigants are frequently the most financially challenged litigants in our courthouses, and their issues are often urgent. This population is the most impacted when there is significant "wobble room" in fee waiver statutes. These sorts of issues will continue to arise as our budgetary constraints increase, and it would be helpful if some uniformity was obtained through guidance from the Committee. Interpretation of "reasonably necessary copying" easily varies	The committee notes that the cost of post-judgment copies would be covered for parties with a fee waiver in place. As to the issue of amending item 3.55(3) regarding making reasonably necessary copies in order to assure consistent application throughout the state, that issue is beyond the scope of the current proposal. The committee will consider it in the future as time and resources permit.

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<b>Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>between individuals and courts, and it is not fair for one court to implement a blanket prohibition of waiving post-judgment copy fees or fees to copy pleadings prepared/filed by the litigants when the same fees are waived in another court. Guidance is appreciated given our ongoing struggle to balance fiscal demands of maintaining a court with ensuring indigent litigants meaningful access to justice.</p> <p>FW-001-INFO, Item 1, “making and certifying copies”: please see comment above requesting clarity for uniformity’s sake on this issue.</p> <p>FW-003 Item (4) “making and certifying copies”: please see comment above requesting clarity for uniformity’s sake on this issue.</p> <p>FW-008, Item (5) “making and certifying copies”: please see comment above requesting clarity for uniformity’s sake on this issue.</p>	
Superior Court, County of Los Angeles (no name provided)	With respect to fees related to appeal to the appellate division of the Superior Court, these fees should not be referenced on the initial fee waiver forms but rather should be explained in the context of other information with respect to appeal on the “Information Sheet on Waiver of Appellate Court Fees.” It is simply confusing to applicants to be presented to information with respect to appeal when they are applying for a fee waiver at the outset of litigation.	Removing this information from the fee waiver forms would be an important substantive change and thus is not the type of change that can be considered for implementation without public comment having been sought. When the current fee waiver forms were adopted in 2009 to implement changes in the fee waiver statutes, the committees specifically considered and sought public comment on whether to have a single fee waiver application or separate applications for the trial and appellate courts. Based on the public comments, the

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<b>Fees Included in All Initial Fee Waiver - Rules 3.55, and 8.818 and forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
		committees specifically recommended the adoption of a single fee waiver application form in 2009. The committees will add this suggestion to reconsider that earlier policy decision to the list of suggestions for future consideration by the committees.
Superior Court of Orange County By: Paul Alberga, Administrative Analyst/Officer II	Rule 3.55(7) speaks to reporter's daily fees for attendance at hearings and trials held within 60 days of the date of the order granting the applications. However, there is no reference to the reporter fee (currently \$30.00, Gov. Code 68086(a)(1)(A)) for hearings lasting less than 1 hour. <ul style="list-style-type: none"><li>• Suggest revising rule by striking the word "daily," and recommend removing the 60 day reference.</li><li>• Suggest referencing the same period of time for all fee waivers related to court reporter fees.</li></ul>	The committees agree with this comment, and are recommending amendment of rule 3.55 and 3.56 to reflect the change in law, along with recommending amendments to the items in forms FW-001-NFO, FW-002, FW-003, FW-005, FW-008, and FW-012 which set out the items included in those rules.-
Superior Court of San Diego County By: Michael Roddy, Executive Officer	Additional suggested question/revisions are as follows: <ol style="list-style-type: none"><li>1. Should we add the new Government Code sect. 68086 Court Reporter Fee of \$30 to FW-001?</li></ol>	The committees agrees with this suggestion, and are recommending amendment of rule 3.55 and 3.56 to reflect the change in law, along with recommending amendments to the items in forms FW-001-NFO, FW-002, FW-003, FW-005, FW-008, and FW-012 which set out the items included in those rules.-
TCPJAC/CEAC Joint Rules Working Group	With respect to fees related to appeal to the appellate division of the Superior Court, these fees should not be referenced on the initial fee waiver forms but rather should be explained in the context of other information with respect to appeal on the "Information Sheet on Waiver of Appellate Court Fees." It is simply confusing to applicants to be presented to information with respect to appeal when they are applying for a fee waiver at the outset of litigation.	Removing this information from the fee waiver forms would be an important substantive change and thus is not the type of change that can be considered for implementation without public comment having been sought. When the current fee waiver forms were adopted in 2009 to implement changes in the fee waiver statutes, the committees specifically considered and sought public comment on whether to have a single fee waiver

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<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
		application or separate applications for the trial and appellate courts. Based on the public comments, the committees specifically recommended the adoption of a single fee waiver application form in 2009. The committees will add this suggestion to reconsider that earlier policy decision to the list of suggestions for future consideration by the committees.

<b>Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Stacy Larsen Family Law Facilitator Shasta County Superior Court	<p>FW-001, first paragraph, second line: There seems to be a word (“your”) missing before “household’s basic needs” in both this and the current version.</p> <p>FW-001, subsection (5)(c): It seems redundant to direct the litigant that he/she “must fill out page 2” in the first checkbox item and then tell him/her to “complete item 7 on page 2, along with all other items on that page” in the second checkbox item. Perhaps the first checkbox item on (c) should state that they must “fill out page 2 with the exception of item 7” and the second should remain as is (?).</p> <p>FW-001, page 2, Directions: If the litigant checked 5c, he/she needs to complete only all of page 2 except Item 7. If he/she is requesting payments, he/she must complete Item 7. Can this be clarified?</p> <p>FW-001, page 2, Item (8): The wording “fill out below” is a bit awkward. A possible revision is as follows: “Fill out the remainder of this page based on your . . .”</p>	<p>The committee has modified the form in light of this comment.</p> <p>The committee has modified the form in light of this comment.</p> <p>The committee has modified the form in light of this comment.</p> <p>The committee has modified the form in light of this comment.</p>

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<b>Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	<p>FW-001, page 2, Item (9): It’s a great idea to group all income in one category and one side of the page, and then all deductions/expenses in another category on the other side of the page. This will help litigants to fill out the page more correctly.</p> <p>FW-002, page 2, box at bottom of page: It reads awkwardly to start the second sentence with the conjunction “Or.” It could be combined with the first sentence (with a comma before the “or”), or it could be made into two sentences separated by a period or semicolon, starting the second sentence with “In the alternative, attach a sheet of paper . . .”</p> <p>FW-003, Item (1): In this, and the current, version of this form, the litigant must provide his/her name and address but is not required to provide his/her telephone number. Is this an omission?</p> <p>FW-008, Item (1): In this, and the current, version of this form, the litigant must provide his/her name and address but is not required to provide his/her telephone number. Is this an omission?</p>	<p>The committee agrees.</p> <p>The committee has modified the form in light of this comment.</p> <p>This form is an order, and the information regarding party’s name and address is to identify who the order applies to, not to provided contact information.</p> <p>See above.</p>
Orange County Bar Association By: Thomas Bienert, Jr., President	. (6) FW-003 at paragraph 4.a(3) and generally at App-001 have deleted all references to the waiver of appellate fees without explanation and contrary to Govt. Code §68634.5.	As explained in the Invitation to Comments, current item 4a(3), Fee Waiver for Appeal, has been deleted, because the items listed were duplicative of those already listed in item 4a(1).
Superior Court, County of Orange By: Paul Alberga, Administrative Analyst/Officer II	<p>Form FW-001: Request to Waive Court Fees</p> <ul style="list-style-type: none"> <li>Under Section 9, the first sentence is confusing: “List the source and amount of any other income you get each</li> </ul>	The committee has modified the form in light of this comment.



## SPR14-05

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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

<b>Other Comments/Suggestions – Form APP-001</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.	<p>SPR14-05 includes certain proposed revisions to Judicial Council appellate form APP-001, which provides general information regarding appellate procedures in unlimited civil cases. Page 2 of that form contains information about the designation of the reporter’s transcript, stating that “the appellant must deposit the approximate cost of transcribing the proceedings designated,” which may be “calculated at \$650 per day (more than three hours of court time) or \$325 per fraction of a day (less than three hours of court time).” SPR14-05 would add “for proceedings that were not previously transcribed” to this description of the statutory deposit amounts.</p> <p>This new language hints at a recent addition to rule 8.130 of the California Rules of Court that provides for a lesser deposit “[f]or proceedings that have previously been transcribed: \$80 per fraction of the day’s proceedings that did not exceed three hours, or \$160 per day or fraction that exceeded three hours.” (Cal. Rules of Court, rule 8.130(b)(1)(B)(ii).) However, the new language proposed by SPR14-05 does not go far enough, because it obscures the fact that a lesser deposit is required for proceedings that were previously transcribed, and it does not state what those lesser amounts are. A practitioner not already familiar with rule 8.130 would not be alerted to the availability of a lesser deposit amount from the new language that is proposed by SPR14-05.</p> <p>To make APP-001 more helpful to practitioners, the Appellate Courts Section suggests that after the new proposed language “for proceedings that were not previously transcribed,” the following sentence be inserted: “For previously transcribed</p>	The committee has revised its proposal to include the sentence suggested by the commentator in the proposed revisions to form APP-001.

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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

<b>Other Comments/Suggestions – Form APP-001</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
	proceedings, the cost is calculated at \$160 per day (more than three hours of court time) or \$80 per fraction of a day (less than three hours of court time).”	

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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

<b>Other Comments/Suggestions – General</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney	Our comments in response to specific questions that are asked are as follows:  1. Does the proposal appropriately address the stated purpose? Yes, the proposal is an appropriate response to address the stated purpose. The forms will adequately address the concerns and with the amendments will efficiently allow a waived hearing for payment plans and will also effectively include the new \$50 court reporter fee deposit.	The committee agrees.
Magda Conant Oceanside, California	Why not also allow the Judge discretion to decide whether a “reduced” fee be allowed in lieu of waiving the entire amount, based upon review of the income of the applicant?  Perhaps a matriculation of reduced fees would be available to the court/applicant for a clear determination of the reduced amount they qualify to pay based on the amount of applicant's income.  This coincides with the suggested “payment plan” which affords the courts some income as opposed to waiving the fee entirely.	That discretion to grant a partial fee waiver is already provided for in Government Code section 68634(c)(5), which allows a court to grant a partial waiver if a full waiver has been denied. See also form FW-008, order after hearing on fee waiver application.
Stacy Larsen Family Law Facilitator Shasta County Superior Court	Although beyond the scope of this “Invitation to Comment” cycle, it would be helpful to provide guidance on these forms regarding how litigants can prepare/submit an amended fee-waiver request for use when they are granted payments over time but then their financial situation dramatically changes such that they wish to request that the remaining unpaid fees be waived.	If a party’s financial circumstances change after a fee waiver has been denied, he or she may apply again for a waiver. The only additional requirement is to inform the court if a prior request had been made within 6 months and to attach the previous request. See form FW-001, item 6.

**SPR14-05**

Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver

Amend Cal. Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818; and revise forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

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

<b>Other Comments/Suggestions – General</b>		
<b>Commentator</b>	<b>Comment</b>	<b>Committee Response</b>
Superior Court, County of Orange By: Paul Alberga, Administrative Analyst/Officer II	SPR 14-05: Request for Specific Comments 1.Does the proposal appropriately address the stated purpose? <ul style="list-style-type: none"><li>• Yes</li></ul> [[[  5. Would the proposal provide cost savings? If so, please quantify. <ul style="list-style-type: none"><li>• No</li></ul> 6. 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. <ul style="list-style-type: none"><li>• Brief staff training sessions and procedural updates; no case management system updates.</li></ul> 7. Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? <ul style="list-style-type: none"><li>• Yes</li></ul>	The committee appreciates the responses to the specific questions asked.



# JUDICIAL COUNCIL OF CALIFORNIA

RULES AND PROJECTS  
COMMITTEE

[www.courts.ca.gov/rupromeetings.htm](http://www.courts.ca.gov/rupromeetings.htm)  
[rupromeetings@jud.ca.gov](mailto:rupromeetings@jud.ca.gov)

## RULES AND PROJECTS COMMITTEE

### MINUTES OF OPEN MEETING

September 8, 2014

12:00 p.m.

Teleconference

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**Advisory Body Members Present:** Hon. Harry E. Hull (chair), Ms. Angela J. Davis and Hon. Emilie H. Elias, and Ms. Mary Beth Todd

**Advisory Body Members Absent:** Hon. Judith Ashmann-Gerst (vice-chair), Hon. Morris D. Jacobson, Hon. Brian L. McCabe, Hon. Dean T. Stout, and Hon. Charles D. Wachob

**Others Present:** Ms. Heather Anderson, Hon. Jerilyn Borack, Mr. Arturo Castro, Ms. Kimberly J. DaSilva, Ms. Audrey Fancy, Ms. Eve Hershcopf, Ms. Bonnie Hough, Hon. Raymond Ikola, Ms. Camilla Kieliger, Ms. Susan McMullan, Hon. Kimberly L. Nystrom-Geist, Mr. Douglas C. Miller, Mr. Patrick O'Donnell, Ms. Anne Ronan, Ms. Gabrielle Selden, Mr. Corby Sturges, and Ms. Julia Weber

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#### OPEN MEETING

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##### Call to Order and Roll Call

The chair called the meeting to order at 12:00 p.m., and took roll call.

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#### DISCUSSION AND ACTION ITEMS

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**Item 1: Family Law: Petition and Response for Dissolution, Legal Separation, and Nullity of Marriage and Domestic Partnership** (amend rule 5.76; revise forms FL-100, FL-107-INFO, FL-110, FL-115, FL-117, and FL-120; revoke forms FL-103 and FL-123)

In light of the changes to federal and state laws legalizing marriages between persons of the same sex, the Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve the use of one petition (*Petition—Marriage/Domestic Partnership (Family Law)* (form FL-100)) and one response (*Response—Marriage/Domestic Partnership (Family Law)* (form FL-120)) in actions for dissolution, legal separation, or nullity of a marriage or domestic partnership. The committee also recommends that the council revoke forms *Petition—Domestic Partnership/Marriage* (form FL-103) and *Response—Domestic Partnership/Marriage* (form FL-123), which were previously adopted for use by persons in a same-sex marriage or domestic partnership (or both), amend rule 5.76. (Domestic Partnership), and revise other forms so they conform to these changes.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council’s October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 2: Family Law: Uniform Standards of Practice for Providers of Supervised Visitation** (amend Cal. Stds. Jud. Admin., std. 5.20; revise form FL-341(A))

The Family and Juvenile Law Advisory Committee recommends amending standard 5.20 of the California Standards of Judicial Administration, governing providers of supervised visitation, to conform to the requirements of recently enacted Family Code section 3200.5. The committee also recommends making additional changes to standard 5.20 to enhance its internal consistency. In addition, the committee recommends revising the *Supervised Visitation Order* (form FL-341(A)) to eliminate references to “therapeutic visitation” to maintain consistency with the provisions of section 3200.5 and to make technical changes to make the form consistent with other Judicial Council forms that relate to child custody matters.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council’s October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 3: Child Support: Revise Income Withholding for Support and Related Instructions** (revise forms FL-195 and FL-196)

The Family and Juvenile Law Advisory Committee recommends revising *Income Withholding for Support* (form FL-195/OMB No. 0970-0154) and *Income Withholding for Support—Instructions* (form FL-196/OMB No. 0970-0154) to comply with Family Code section 5208 and federal law.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council’s October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 4: Juvenile Dependency: Information Form for Parents** (revoke forms JV-050 and JV-055; approve new optional form JV-050-INFO)

The Family and Juvenile Law Advisory Committee recommends revoking two existing dependency court information forms and approving a new information form that complies with the statutory requirements of Welfare and Institutions Code section 307.4, which requires the Judicial Council, in consultation with the County Welfare Directors Association of California (CWDA), to adopt a form to provide to parents or guardians whose children are being removed that explains their procedural rights and the preliminary stages of the dependency process.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council’s October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 5: Juvenile Dependency: Attorney Training** (amend Cal. Rules of Court, rule 5.660)

The Family and Juvenile Law Advisory Committee recommends amending rule 5.660 to conform to a recent statutory change to the education and training requirements for attorneys appointed to represent children in juvenile dependency proceedings. Assembly Bill 868 amended section 317(c) of the Welfare and Institutions Code, effective January 1, 2014, to require that this

training include instruction on sensitivity to the needs of lesbian, gay, bisexual, and transgender youth. The proposed amendment would add this topic to those required by the rule and make other minor, nonsubstantive modifications to clarify the text.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 6: Family and Juvenile Law: Parentage** (amend Cal. Rules of Court, rules 5.510, 5.635, 5.650, 5.668, 5.695, 5.708, 5.710, 5.720, 5.725, 5.740, and 5.790; revise forms FL-210, and FL-240)

The Family and Juvenile Advisory Committee recommends amending eleven rules of court and revising two mandatory Judicial Council forms to conform to recent legislation. Assembly Bill 1403 updated California's version of the Uniform Parentage Act to clarify that a *natural parent* need not be biologically related to his or her child and to replace the terms *father* and *paternity* with the gender-neutral terms *parent* and *parentage* where appropriate. The amendments and revisions ensure that the rules and forms are consistent with statute and case law. They also make technical corrections and clarifications.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 7: Accounting Schedules for Gains and Losses on Sales of Assets in Guardianships and Conservatorships** (revise forms GC-400(B)/GC-405(B) and GC-400(D)/GC-405(D))

The Probate and Mental Health Advisory Committee recommends that the Judicial Council revise the accounting schedules that may be, or in some cases must be, used by conservators and guardians of estates to show the gains and losses on the sale of estate assets. The revision would request the total of the carry values of the property sold and the total of the sale prices, in addition to the total of the gains or losses on the sales. This change is recommended to facilitate reconciliation of the accountings by judicial officers and court staff in their review and analysis of the accounts filed by these fiduciaries.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 8: Waiver of Bond by Heirs or Beneficiaries of Decedents' Estates** (adopt form DE-142/DE-111(A-3d))

In response to concerns expressed by judicial officers in the probate departments of several superior courts, the Probate and Mental Health Advisory Committee recommends the adoption of a mandatory form that beneficiaries of decedents' estates would be required to sign to waive surety bonds that otherwise would be required of the proposed personal representatives of these estates.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 9: Fee Waivers: Payments Over Time and Fees Included in Initial Fee Waiver** (amend rules 3.50, 3.51, 3.52, 3.55 and 8.818 and revise forms FW-0001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO)

The Civil and Small Claims Advisory Committee recommends modifying the fee waiver rules and forms to (1) permit parties to waive the right to a hearing prior to the court's issuing an order denying a fee waiver application if the court has authorized payments over time following the denial and the parties are satisfied with making payments over time; (2) limit payments over time to first appearance fees and a payment period of three months; and (3) make other clarifying changes to the *Request to Waive Court Fees* (form FW-001). These changes should eliminate the costs to parties and the court for unnecessary hearings and limit the administrative burden of payments over time. In addition, the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee jointly recommend amendments to the rules that list the court fees that must be waived as part of an initial fee waiver and those that may be waived at the court's discretion. The Appellate Advisory Committee recommends amending these rules to consolidate the list of mandatorily waived fees in one rule and to also list the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript. The Civil and Small Claims Advisory Committee recommends further rule amendments to reflect a recent change in law that mandates that any fees charged for the court's cost for court reporting services be included in a waiver. Several fee waiver forms and information sheets would be revised to reflect these changes.

**Action:** The Rules and Projects Committee continued this matter to a future meeting.

**Item 10: Appellate Procedure: Confidential Records** (amend the advisory committee comments to Cal. Rules of Court, rules 8.45, 8.47, 8.320, 8.336, 8.380, 8.384, 8.385, and 8.610)

The Appellate Advisory Committee recommends amending the advisory committee comments accompanying the rules regarding confidential records to: (1) highlight that many laws establish specific requirements regarding the confidentiality of particular records, and those laws supersede the rules of court; (2) note that, under case law, much of the contents of probation reports is not confidential; and (3) remove probation reports as one of the examples of confidential records cited in these advisory committee comments. This change is intended to address concerns raised about the application of the general rule regarding references to confidential records in appellate filings to information contained in probation reports.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 11: Appellate Procedure: Extensions of Time to File Briefs** (amend Cal. Rules of Court, rule 8.212; revise form APP-006; and approve new optional forms CR-126, JV-816, JV-817, APP-012, and APP-031)

The Appellate Advisory Committee recommends (1) amending the rule governing stipulations for extensions of time to file a brief in a civil appeal to clarify that such stipulations are not available if the time to file the brief has already been extended by the court on application of the party and to reflect the recent amendments to the rules on sealed records; (2) revising the existing form for applying to the Court of Appeal for extensions of time to file briefs in civil appeals to, among other things, give form users the option of specifying the reasons for an extension on the form or on an attached declaration; (3) adopting new optional forms for applying to the Court of

Appeal for extensions of time to file briefs in criminal and juvenile cases; and (4) adopting a new optional form for stipulations to extend briefing time in civil appeals. These changes are intended to reduce courts' costs associated with the preparation of individualized applications for extensions of time by appointed counsel and the review of applications and stipulations for extensions of time that are in a wide variety of formats.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 12: Appellate Procedure: Judicial Notice Requests** (amend Cal. Rules of Court, rule 8.252 and 8.809)

The Appellate Advisory Committee recommends amending the rules relating to motions for judicial notice to require that the pages of documents submitted with the motion be consecutively paginated. This change will facilitate more accurate citation by parties and make it easier for the court to locate cited material.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 13: Appellate Procedure: Record in Juvenile Appeals** (amend Cal. Rules of Court, rules 5.661, 8.409, 8.410, and 8.416)

The Appellate Advisory Committee recommends that the rules relating to the record on appeal in juvenile dependency cases be amended to (1) provide that a copy of the record will only be provided to a child who is not the appellant if either the child is represented by counsel or a recommendation for appointment of counsel for the child is pending; (2) require that a copy of the record be provided to an Indian tribe that has intervened in either a case concerning termination of parental rights or other dependency proceedings in certain counties; and (3) make other nonsubstantive changes. These changes are primarily intended to reduce costs by eliminating the preparation of unnecessary copies of the record in juvenile cases.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 14: Criminal Justice Realignment: Petitions for Revocation of Supervision** (revise form CR-300)

The Criminal Law Advisory Committee recommends revising the *Petition for Revocation* (form CR-300) to apply the form to proceedings to revoke probation or mandatory supervision under Penal Code section 1170(h)(5)(B) in response to recent legislation that applied long-standing probation revocation procedures to all categories of supervision engendered by criminal justice realignment. This proposal was developed at the request of courts to promote uniform revocation procedures.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 15: Criminal Justice Realignment: Petition and Order for Dismissal** (revise forms CR-180 and CR-181)

In response to criminal justice realignment legislation that provides a new statutory basis for dismissals, the Criminal Law Advisory Committee recommends revising the *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) to add data fields to facilitate dismissals under Penal Code section 1203.41 for cases in which the petitioner received a felony county jail sentence under Penal Code section 1170(h)(5). The committee recommends revising forms CR-180 and CR-181 to assist courts in specifying the granting or denial of a dismissal request under Penal Code sections 1203.4, 1203.4a, or 1203.41 for each conviction in a case, and to confirm which convictions, if any, are reduced from felonies to misdemeanors under Penal Code section 17(b). The committee also recommends related revisions to the format, advisements, and instructions on both forms.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015.

**Item 16: Rules and forms: Miscellaneous technical amendments**

Various Judicial Council advisory committee members, court personnel, members of the public, and Judicial Council staff have identified errors in rules and forms resulting from inadvertent omissions, typographical errors, and changes resulting from legislation. The staff to the Judicial Council recommends making the necessary corrections to avoid confusing court users, clerks, and judicial officers.

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2014, consent agenda, for an effective date of January 1, 2015, with the following modifications:

POS-040, page 3: Under "General Instructions:", add "by mail" after "A party to the action cannot serve the documents."

In item 1, delete "and that you are not a party to this action."

**Item 17: RUPRO minutes** (April 16, April 30, July 17, and August 15, 2014)

**Action:** The Rules and Projects Committee approved the minutes.

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**A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 12:49 p.m.

Approved by the advisory body on enter date.