

Judicial Council of California

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INVITATION TO COMMENT SPR17-01

Title

Appellate Procedure: Settled Statements in
Unlimited Civil Cases

Action Requested

Review and submit comments by April 28,
2017

Proposed Rules, Forms, Standards, or Statutes

Amend California Rules of Court, rule 8.137;
approve form APP-014; revise form APP-003

Proposed Effective Date

January 1, 2018

Proposed by

Appellate Advisory Committee
Hon. Louis R. Mauro, Chair

Contact

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Executive Summary and Origin

To make the settled statements procedure in unlimited civil cases less burdensome, this proposal would amend the rule regarding settled statements to remove the requirement for obtaining a court order to use this procedure in certain circumstances and would create a new form for appellants to use in preparing proposed statements. This proposal is based on a suggestion from the Clerk/Executive Officer of one of the Courts of Appeal.

Background

Settled statements are one of the methods permitted under the California Rules of Court to prepare a record of the trial court proceedings for an appeal. A settled statement is a summary of the trial court proceedings prepared by the appellant and approved by the trial court. Rule 8.137 addresses the use of settled statements in appeals to the Court of Appeal in unlimited civil cases. This rule currently reflects a basic presumption that court reporters' transcripts will be available in these unlimited civil cases and a preference for use of these transcripts. Under subdivision (a) of this rule, an appellant must file a motion asking to use a settled statement and must support this motion with a showing that a reporter's transcript is unavailable to the appellant.

Because court reporters are no longer present to record the proceedings in many civil cases, more appellants are now trying to use the settled statements procedure. This approach has proved problematic because appellants, particularly those who are self-represented, have difficulty navigating the motion procedure and preparing proposed statements. If the proposed statements are not appropriately prepared, this creates burdens for the trial court judges who must attempt to

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

review and certify proposed statements. These problems also affect the Courts of Appeal by delaying or resulting in defaults in these cases.

Statements on appeal, which are essentially the same as settled statements, are also used in appeals to the superior court appellate division. The rules for these appeals do not require the appellant to file a motion to get permission to use a statement on appeal. Furthermore, there is a form to assist litigants, particularly self-represented litigants, in appeals to the appellate division in preparing proposed statements that contain the necessary information.

The Proposal

Amendments to rule 8.137

The Appellate Advisory Committee is proposing amendments to rule 8.137 that are modeled in large part on the rules for statements on appeal in the superior court appellate division. The main substantive changes include:

- Permitting an appellant to use the settled statement procedure without having to file a motion in two circumstances in which a motion would likely have been granted anyway: (1) if the trial court proceedings were not recorded by a court reporter, or (2) if the appellant has received a fee waiver (proposed subdivision (b)(1)). This change is intended to reduce burdens for both appellants and courts;
- Allowing the respondent to pay for a reporter's transcript in cases in which an appellant moves to use a settled statement even though a court reporter did record the proceedings, (proposed subdivisions (b)(2)(B) and (e)(1)(B)). This provision is not currently in rule 8.837; it is modeled on a provision in rule 8.702(d)(2)(B) relating to expedited California Environmental Quality Act Cases appeals. This provision is designed to give respondents the opportunity to avoid the delay and burdens associated with preparation of a settled statement by providing a reporter's transcript when one is available;
- Requiring self-represented appellants to use a proposed statement-on-appeal form, discussed below, unless the trial court authorizes them not to (proposed subdivision (c)). This provision is modeled on one in rule 8.837 and is intended to help appellants prepare proposed statements and help produce proposed statements that are easier for the trial court judge to review;
- Adding provisions from rule 8.837 regarding the contents of proposed statements (proposed subdivision (d)). This provision should also help appellants prepare proposed statements and make it easier for the trial court judge to review proposed statements;
- Adding provisions from rule 8.837 regarding the trial court's review of proposed statements (proposed subdivision (f)). This provision should clarify and simplify the procedure for the trial court and bring consistency to the procedures for statements in limited and unlimited civil cases; and

- Adding a provision designed to clarify what should happen when the statement is finalized (proposed subdivision (h)(3)). This provision is designed to reduce delays in the transmission of the record to the Court of Appeal.

Proposed form changes

This proposal also includes proposed revisions to one existing form and proposes a new form.

Appellant's Notice Designating Record on Appeal (Unlimited Civil Case) (form APP-003) would be revised to reflect the elimination of the requirement to file a motion requesting to use a settled statement if either the proceedings were not recorded by a court reporter or the appellant has received a fee waiver.

Proposed new form *Proposed Statement on Appeal (Unlimited Civil Case)* (form APP-014) is modeled on *Proposed Statement on Appeal (Limited Civil Case)* (form APP-104). It is designed to help appellants prepare their initial proposed statement. It includes spaces and prompts to help appellants identify and include necessary information in their statements. By providing a standardized format and prompting the inclusion of required information, the form is also designed to make these proposed statements easier for the trial judge to review.

The committee would particularly appreciate comments about this proposed new form. As noted above, the form is modeled largely on a form used in limited civil cases, which have a narrower range of case types—for example, they do not include family law cases. In addition, the proceedings are typically shorter and simpler than for unlimited civil cases. The committee would appreciate input on whether, given these differences, a form like APP-014 is likely to be helpful in unlimited civil cases, either as proposed or with additional modifications. Please see the Request for Specific Comments box below.

Alternatives Considered

The committee considered recommending only the clarification to the rule about what happens once a statement has been finalized. The committee concluded, however, that additional changes to the procedure would be helpful in reducing barriers for litigants and burdens on the courts. The committee also considered not recommending proposed new form APP-014, but concluded that the better approach would be to seek input from commentators on whether such a form would be helpful.

Implementation Requirements, Costs, and Operational Impacts

The committee's intent in making this proposal is to reduce burdens on litigants and trial courts associated with preparing settled statements in unlimited civil cases. The committee would particularly appreciate comments about whether the proposal is likely to achieve this goal.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- Would *Proposed Statement on Appeal (Unlimited Civil Case)* (form APP-014) be helpful to litigants and/or the trial courts?
- What additional items, if any, need to be included on the form?
- Should the form include additional space for the summary of any of the items?
- Are there items for which the summary is always likely to be too long to fit on the form and, therefore, that the form should require be done by way of attachment?
- Should the form include the final section asking the appellant to summarize the final judgment, or should this section be replaced with a requirement to attach a copy of the judgment? Note that the appellant will be required to attach a copy of the judgment to the Civil Case Information Statement, which must be filed in the Court of Appeal at approximately the same time as a proposed statement must be filed in the trial court.
- Rule 8.137 currently allows an appellant to use a settled statement as the record of the document filed in the trial court by attaching copies of the required documents to the statement. Should this option be eliminated given that appellants can use an appendix under rule 8.124 for this same purpose?

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

- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments and Links

1. Proposed amended rule 8.137, at pages 5–11
2. Proposed forms APP-003 and APP-014, at pages 12–22

Rule 8.137 of the California Rules of Court would be amended, effective January 1, 2018, to read:

1 **Title 8. Appellate Rules**

2
3 **Division 1. Rules Relating to the Supreme Court and Courts of Appeal**

4
5 **Chapter 2. Civil Appeals**

6
7 **Article 2. Record on Appeal**

8
9 **Rule 8.137. Settled statement**

10
11 **(a) Description**

12
13 A settled statement is a summary of the superior court proceedings that is approved by the
14 superior court. An appellant may either elect under (b)(1) or move under (b)(2) to use a
15 settled statement as the record of the oral proceedings in the superior court, instead of a
16 reporter's transcript, and may move to use a settled statement as the record of the written
17 documents from the superior court proceedings, instead of a clerk's transcript or appendix.

18
19 **~~(a)~~(b) Motion to use When a settled statement may be used**

20
21 (1) An appellant may elect in his or her notice designating the record on appeal under
22 rule 8.121 to use a settled statement as the record of the oral proceedings in the
23 superior court without filing a motion under (2) if:

24
25 (A) The designated oral proceedings in the superior court were not reported by a
26 court reporter; or

27
28 (B) The appellant has an order waiving his or her court fees and costs.

29
30 ~~(1)~~(2) An appellant intending to proceed under this rule for reasons other than those listed
31 in (1) must serve and file in superior court with its notice designating the record on
32 appeal under rule 8.121 a motion to use a settled statement instead of a reporter's
33 transcript or both a reporter's and a clerk's transcripts.

34
35 ~~(2)~~(A) The motion must be supported by a showing that:

36
37 ~~(A)~~(i) A substantial cost saving will result and the statement can be settled
38 without significantly burdening opposing parties or the court;

39
40 ~~(B)~~(ii) The designated oral proceedings ~~were not reported or~~ cannot be
41 transcribed; or

1 ~~(C)(iii)~~ Although the appellant does not have a fee waiver, he or she is unable
2 to pay for a reporter's transcript and funds are not available from the
3 Transcript Reimbursement Fund (see rule 8.130(c)). ~~A party proceeding~~
4 ~~in forma pauperis is deemed unable to pay for a transcript.~~

5
6 ~~(3)~~(B) If the court denies the motion, the appellant must file a new notice
7 designating the record on appeal under rule 8.121 within 10 days after the
8 superior court clerk sends, or a party serves, the order of denial.

9
10 (3) An appellant's notice under (1) or motion under (2) must:

11
12 (A) Specify the date of each oral proceeding to be included in the settled statement;

13
14 (B) Describe the proceedings specified under (A);

15
16 (C) Identify whether each proceeding designated under (A) was reported by a court
17 reporter and, if so, for each such proceeding:

18
19 (i) Provide the name of the court reporter, if known; and

20
21 (ii) Identify whether a certified transcript has previously been prepared by
22 checking the appropriate box on *Appellant's Notice Designating Record*
23 *on Appeal (Unlimited Civil Cases)* (form APP-003) or, if that form is not
24 used, placing an asterisk before that proceeding in the notice.

25
26 (4) If the designated oral proceedings in the superior court were reported by a court
27 reporter:

28
29 (A) Within 10 days after the appellant serves either a notice under (1) or a motion
30 under (2), the respondent may serve and file a notice indicating that he or she
31 is electing to provide a reporter's transcript in lieu of proceeding with a settled
32 statement. The respondent must also either:

33
34 (i) Deposit a certified transcript of all of the proceedings designated by the
35 appellant under (3) and any additional proceedings designated by the
36 respondent under rule 8.130(b)(3)(C); or

37
38 (ii) Serve and file a notice that the respondent is requesting preparation, at
39 the respondent's expense, of a reporter's transcript of all proceedings
40 designated by the appellant under (3) and any additional proceedings
41 designated by the respondent. This notice must be accompanied by either
42 the required deposit for the reporter's transcript under rule 8.130(b)(1) or

1 the reporter's written waiver of the deposit in lieu of all or a portion of
2 the deposit under rule 8.130(b)(3)(A).

3
4 (B) If the respondent timely deposits the certified transcript as required under (i),
5 the appellant's motion to use a settled statement will be dismissed. If the
6 respondent timely files the notice and makes the deposit or files the waiver as
7 provided under (ii), the appellant's motion to use a settled statement will be
8 dismissed and the clerk must promptly send the reporter notice of the
9 designation and of the deposit, waiver, or both and notice to prepare the
10 transcript, as provided under rule 8.130(d).

11
12 ~~(b)(c)~~ **Time to file; contents of proposed statement**

- 13
14 (1) ~~Within 30 days after the superior court clerk sends, or a party serves, an order~~
15 ~~granting a motion to use~~ If the respondent does not file a notice under (b)(4)(A)
16 electing to provide a reporter's transcript in lieu of proceeding with a settled
17 statement, the appellant must serve and file a proposed statement in superior court
18 within 30 days after filing its notice under (b)(1) or within 30 days after the superior
19 court clerk sends, or a party serves, an order granting a motion under (b)(2) a
20 condensed narrative of the oral proceedings that the appellant believes necessary for
21 the appeal. Subject to the court's approval in settling the statement, the appellant
22 may present some or all of the evidence by question and answer.
23
24 (2) Appellants who are not represented by an attorney must file their proposed statement
25 on *Proposed Statement on Appeal (Unlimited Civil Case)* (form APP-014). For good
26 cause, the court may permit the filing of a statement that is not on form APP-014.

27
28 **(d) Contents of proposed statement**

29
30 The proposed statement must contain:

- 31
32 ~~(2)~~(1) A statement of the points the appellant is raising on appeal. If the condensed
33 narrative under (3) covers only a portion of the oral proceedings, describes less than
34 all the testimony, the appellant must state the points to be raised on appeal; the
35 appeal is then limited to those the points identified in the statement unless the
36 reviewing court determines that the record permits the full consideration of another
37 point or, on motion, the reviewing court permits otherwise.
38
39 (2) A summary of the trial court's rulings and judgment.
40
41 (3) A condensed narrative of the oral proceedings that the appellant specified under
42 (b)(3).
43

1 (A) The condensed narrative must include a concise factual summary of the
2 evidence and the testimony of each witness relevant to the points that the
3 appellant states under (1) are being raised on appeal. Subject to the court's
4 approval in settling the statement, the appellant may present some or all of the
5 evidence by question and answer. Any evidence or portion of a proceeding not
6 included will be presumed to support the judgment or order appealed from.

7
8 (B) If one of the points that the appellant states will be raised on appeal is a
9 challenge to the giving, refusal, or modification of a jury instruction, the
10 condensed narrative must include any instructions submitted orally and not in
11 writing and must identify the party that requested the instruction and any
12 modification.

13
14 ~~(3)~~(4) An appellant intending to use a settled statement instead of both a reporter's and a
15 clerk's transcripts must accompany the condensed narrative with copies of all items
16 required by rule 8.122(b)(1), showing the dates required by rule 8.122(b)(2), and
17 may accompany the condensed narrative with copies of any document includable in
18 the clerk's transcript under rule 8.122(b)(3) and (4).

19
20 **(e) Respondent's response to proposed statement**

21
22 ~~(4)~~(1) Within 20 days after the appellant serves the condensed narrative, the respondent
23 may serve and file either:

24
25 (A) Proposed amendments to the condensed narrative; or

26
27 (B) A notice indicating that he or she is electing to provide a reporter's transcript
28 in lieu of proceeding with a settled statement. The respondent must also either:

29
30 (i) Deposit a certified transcript of all the proceedings specified by the
31 appellant under (b)(3) and any additional proceedings designated by the
32 respondent under rule 8.130(b)(3)(C); or

33
34 (ii) Serve and file a notice that the respondent is requesting preparation, at
35 the respondent's expense, of a reporter's transcript of all proceedings
36 specified by the appellant under (b)(3) and any additional proceedings
37 designated by the respondent. This notice must be accompanied by either
38 the required deposit for the reporter's transcript under rule 8.130(b)(1) or
39 the reporter's written waiver of the deposit in lieu of all or a portion of
40 the deposit under rule 8.130(b)(3)(A).

1 ~~(5)~~(2) If the respondent serves and files ~~The proposed statement and proposed amendments~~
2 under (1)(A), they may be accompanied by copies of any document includable in the
3 clerk’s transcript under rule 8.122(b)(3) and (4).
4

5 **(e)(f) Settlement, preparation, and certification Review of appellant’s proposed statement**
6

7 (1) ~~The clerk must set a date for a settlement hearing by the trial judge that is~~ No later
8 than 10 days after the respondent files proposed amendments or the time to do so
9 expires, whichever is earlier, and must give the parties at least five days’ notice of
10 the hearing date a party may request a hearing to review and correct the proposed
11 statement. No hearing will be held unless ordered by the trial court judge, and the
12 judge will not ordinarily order a hearing unless there is a factual dispute about a
13 material aspect of the trial court proceedings.
14

15 (2) ~~At the hearing, the judge must settle the statement and fix the times within which the~~
16 appellant must prepare, serve, and file it.
17

18 (2) The trial court judge may order that a transcript be prepared as the record of the oral
19 proceedings instead of correcting a proposed statement on appeal if the trial court
20 proceedings were reported by a court reporter, the trial court judge determines that
21 doing so would save court time and resources, and the court has a local rule
22 permitting such an order. The court will pay for any transcript ordered under this
23 subdivision.
24

25 (3) Except as provided in (2), if no hearing is ordered, no later than 10 days after the
26 time for requesting a hearing expires, the trial court judge must review the proposed
27 statement and any proposed amendments filed by the respondent and take one of the
28 following actions:
29

30 (A) If the proposed statement does not contain material required under (d), the trial
31 judge may order the appellant to prepare a new proposed statement. The order
32 must identify the additional material that must be included in the statement to
33 comply with (d) and the date by which the new proposed statement must be
34 served and filed. If the appellant does not serve and file a new proposed
35 statement as directed, rule 8.140 applies.
36

37 (B) If the trial judge does not issue an order under (A), the trial judge must either:
38

39 (i) Make any corrections or modifications to the statement necessary to
40 ensure that it is an accurate summary of the evidence and the testimony
41 of each witness relevant to the points that the appellant states under
42 (d)(1) are being raised on appeal; or
43

1 (ii) Identify the necessary corrections and modifications, and order the
2 appellant to prepare a statement incorporating these corrections and
3 modifications.
4

5 (4) If a hearing is ordered, the court must promptly set the hearing date and provide the
6 parties with at least 5 days' written notice of the hearing date. No later than 10 days
7 after the hearing, the trial court judge must either:
8

9 (A) Make any corrections or modifications to the statement necessary to ensure
10 that it is an accurate summary of the evidence and the testimony of each
11 witness relevant to the points that the appellant states under (d)(1) are being
12 raised on appeal; or
13

14 (B) Identify the necessary corrections and modifications and order the appellant to
15 prepare a statement incorporating these corrections and modifications.
16

17 (5) The trial court judge must not eliminate the appellant's specification of grounds of
18 appeal from the proposed statement.
19

20 **(g) Review of the corrected statement**
21

22 (1) If the trial court judge makes any corrections or modifications to the proposed
23 statement under (f), the clerk must serve copies of the corrected or modified
24 statement on the parties. If under (f) the trial court judge orders the appellant to
25 prepare a statement incorporating corrections and modifications, the appellant must
26 serve and file the corrected or modified statement within the time ordered by the
27 court. If the appellant does not serve and file a corrected or modified statement as
28 directed, rule 8.140 applies.
29

30 (2) Within 10 days after the corrected or modified statement is served on the parties, any
31 party may serve and file proposed modifications or objections to the statement.
32

33 (3) ~~If the respondent does not object to the prepared statement within five days after it is~~
34 ~~filed, it will be deemed properly prepared and the clerk must present it to the judge~~
35 ~~for certification.~~ Within 10 days after the time for filing proposed modifications or
36 objections under (2) has expired, the judge must review the corrected or modified
37 statement and any proposed modifications or objections to the statement filed by the
38 parties. The procedures in (2) or in (f)(3) apply if the judge determines that further
39 corrections or modifications are necessary to ensure that the statement is an accurate
40 summary of the evidence and the testimony of each witness relevant to the points
41 that the appellant states under (d)(1) are being raised on appeal.
42

1 **(h) Certification of the statement on appeal**

2
3 (1) If the trial court judge does not order the preparation of a transcript under (f)(2) in
4 lieu of correcting the proposed statement or order any corrections or modifications to
5 the proposed statement under (f)(3), (f)(4), or (g)(3), the judge must promptly certify
6 the statement.

7
8 ~~(4)~~(2) The parties² may serve and file a stipulation that the statement as originally served
9 under (c) or as ~~prepared~~ corrected or modified under (f)(3), (f)(4), or (g)(3) is correct.
10 Such a stipulation is equivalent to the judge's certification of the statement.

11
12 (3) Upon certification of the statement under (1) or receipt of a stipulation under (2), the
13 certified statement must immediately be transmitted to the clerk for filing of the
14 record under rule 8.150.
15

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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2. b. WITH the following record of the oral proceedings in the superior court:
- (1) A reporter's transcript under rule 8.130. *(You must fill out the reporter's transcript section on page 3 of this form.)* I have *(check all that apply)*:
 - (a) Deposited the approximate cost of transcribing the designated proceedings with this notice as provided in rule 8.130(b)(1).
 - (b) Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).
 - (c) Attached the reporter's written waiver of a deposit for *(check either (i) or (ii))*:
 - (i) all of the designated proceedings.
 - (ii) part of the designated proceedings.
 - (d) Attached a certified transcript under rule 8.130(b)(3)(C).
 - (2) An agreed statement. *(Check and complete either (a) or (b) below.)*
 - (a) I have attached an agreed statement to this notice.
 - (b) All the parties have agreed in writing (stipulated) to try to agree on a statement. *(You must attach a copy of this stipulation to this notice.)* I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.
 - (3) A settled statement under rule 8.137. *(You must check (a), (b), or (c) below.)*
 - (a) The oral proceedings in the superior court were not reported by a court reporter.
 - (b) The oral proceedings in the superior court were reported by a court reporter, but the appellant has an order waiving his or her court fees and is unable to pay for a reporter's transcript.
 - (c) I am requesting to use a settled statement for reasons other than those listed in (a) or (b). *(You must attach the motion required under rule 8.137(a) to this form.)*

3. RECORD OF AN ADMINISTRATIVE PROCEEDING TO BE TRANSMITTED TO THE REVIEWING COURT

I request that the clerk transmit to the reviewing court under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the superior court *(give the title and date or dates of the administrative proceeding)*:

Title of Administrative Proceeding	Date or Dates
---	----------------------

4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

(You must complete this section if you checked item 1a. above indicating that you elect to use a clerk's transcript as the record of the documents filed in the superior court.)

a. **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed or, if that is not available, the date the document was signed.

Document Title and Description	Date of Filing
---------------------------------------	-----------------------

- (1) Notice of appeal
- (2) Notice designating record on appeal *(this document)*
- (3) Judgment or order appealed from
- (4) Notice of entry of judgment *(if any)*
- (5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order *(if any)*
- (6) Ruling on one or more of the items listed in (5)
- (7) Register of actions or docket *(if any)*

CASE NAME:	SUPERIOR COURT CASE NUMBER:
------------	-----------------------------

4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

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

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

Document Title and Description	Date of Filing
(8)	
(9)	
(10)	
(11)	
(12)	

See additional pages.

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

I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court *(for each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence):*

Exhibit Number	Description	Admitted (Yes/No)
(1)		
(2)		
(3)		
(4)		
(5)		

See additional pages.

5. NOTICE DESIGNATING REPORTER'S TRANSCRIPT

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

a. I request that the reporters provide *(check one)*:

- (1) My copy of the reporter's transcript in paper format.
- (2) My copy of the reporter's transcript in computer-readable format.
- (3) My copy of the reporter's transcript in paper format and a second copy in computer-readable format.

(Code Civ. Proc., § 271; Cal. Rules of Court, rule 8.130(f)(4).)

CASE NAME:	SUPERIOR COURT CASE NUMBER:
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5. b. Proceedings

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

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

c. The proceedings designated in 5b include do not include all of the testimony in the superior court.

If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal *(rule 8.130(a)(2) provides that your appeal will be limited to these points unless, on motion, the reviewing court permits otherwise).*

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF APPELLANT OR ATTORNEY)

Clerk stamps date here when form is filed.

Instructions

- This form is only for preparing a proposed statement on appeal in an **unlimited civil case**.
- This form can be attached to your *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* (form APP-003). If it is not attached to that notice, this form must be filed **no later than 30 days after you file that notice. Or, if you had to file a motion requesting to use a settled statement, within 30 days after you are served with an order granting that motion. If you have chosen to prepare a statement on appeal and do not file this form on time, the court may dismiss your appeal.**
- Fill out this form and make a copy of the completed form for your records and for each of the other parties.
- Serve a copy of the completed form on each of the other parties and keep proof of this service. You can get information about how to serve court papers and proof of service from *Information Sheet for Proof of Service* (form APP-009-INFO) and on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-serving.htm.
- Take or mail the original completed form and proof of service on the other parties to the clerk's office for the same court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:**Trial Court Case Name:**

You fill in the Court of Appeal case number (if you know it):

Court of Appeal Case Number:**1 Your Information**

- a. Name of Appellant (
- the party who is filing this appeal*
-):

Name: _____

- b. Appellant's contact information (
- skip this if the appellant has a lawyer for this appeal*
-):

Street address: _____
Street City State ZipMailing address (*if different*): _____
Street City State Zip

Phone: _____ E-mail: _____

- c. Appellant's lawyer (
- skip this if the appellant does not have a lawyer for this appeal*
-):

Name: _____ State Bar number: _____

Street address: _____
Street City State ZipMailing address (*if different*): _____
Street City State Zip

Phone: _____ E-mail: _____

Fax: _____



Trial Court Case Name: _____

Information About Your Appeal

- 2 On (fill in the date): _____, I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.
- 3 On (fill in the date): _____
 - I filed a notice designating the record on appeal, electing to use a statement on appeal.
 - The Court sent or the other party served me with an order granting my motion to use a settled statement.

Proposed Statement

4 Reasons for Your Appeal

Please note, in an appeal, the Court of Appeal can only review a case for whether certain kinds of legal errors were made:

- *There was not “substantial evidence” supporting the judgment, order, or other decision you are appealing.*
- *A “prejudicial error” was made during the trial court proceedings.*

The Court of Appeal:

- *Cannot retry your case or take new evidence.*
- *Cannot consider whether witnesses were telling the truth or lying.*
- *Cannot consider whether there was more or stronger evidence supporting your position than there was supporting the trial court’s decision.*

(Check all that apply and describe the legal error or errors you believe were made that are the reason for this appeal.)

- a. There was not substantial evidence that supported the judgment, order, or other decision that I indicated in the notice of appeal is being appealed in this case. *(Explain why you think the judgment, order, or other decision was not supported by substantial evidence):* _____

- b. The following error or errors about either the law or court procedure was/were made that caused substantial harm to me. *(Describe each error and how you were harmed by that error.)*

(1) *Describe the error:* _____

Describe how you were harmed by the error: _____

(2) Describe the error: _____

Describe how you were harmed by the error: _____

(3) Describe the error: _____

Describe how you were/your client was harmed by the error: _____

Check here if you need more space to describe these or other errors and attach a separate page or pages describing the errors. At the top of each page, write "APP-014, item 4."

5 The Dispute

a. In the trial court, I was the (check one):

- Plaintiff (the party who filed the complaint in the case).
- Defendant (the party against whom the complaint was filed).

b. The plaintiff's complaint in this case was about (briefly describe what was claimed in the complaint filed with the trial court): _____

c. The defendant's response to this complaint was (briefly describe how the defendant responded to the complaint filed with the trial court): _____

Check here if you need more space to describe the dispute and attach a separate page or pages describing it. At the top of each page, write "APP-014, Item 5."

6 Summary of Any Motions and the Court's Order on the Motion

a. Were any motions (requests for the trial court to issue an order) made in this case that are relevant to the reasons you gave in (4) for this appeal?

Yes (fill out b) No (skip to (7))

b. In the spaces below, describe any motions (requests for orders) that were made in the trial court that are relevant to the reasons you gave in (4) for this appeal. Write a complete and accurate summary of what was said at any hearings on these motions and indicate how the trial court ruled on these motions.

(1) Describe the first motion: _____

The motion was filed by the plaintiff. defendant.

There was was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: _____

The trial court granted this motion. did not grant this motion.

Other (describe any other action the trial court took concerning this motion): _____

Check here if you need more space to describe this motion and attach a separate page or pages describing this motion. At the top of each page, write "APP-014, Item 6b(1)."

(2) Describe the second motion: _____

The motion was filed by the plaintiff. defendant.

There was was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: _____

The trial court granted this motion. did not grant this motion.

Trial Court Case Name: _____

- ⑥
- b. Other (describe any other action the trial court took concerning this motion): _____

- Check here if you need more space to describe this motion and attach a separate page or pages describing this motion. At the top of each page, write “APP-014, item 6b(2).”
- (3) Check here if any other motions were filed that are relevant to the reasons you gave in ④ for this appeal and attach a separate page describing each motion, identifying who made the motion and whether there was a hearing on the motion, summarizing what was said at the hearing on the motion, and indicating whether the trial court granted or denied the motion. At the top of each page, write “APP-014, item 6b(3).”

⑦ **Summary of Testimony and Other Evidence**

- a. Was there a trial in your case?
- No (skip to item ⑧)
- Yes (check (1) or (2) and complete items b, c, d, and e)
- (1) Jury trial
- (2) Trial by judge only
- b. Did you testify at the trial?
- No
- Yes (Write a complete and accurate summary of the testimony you gave that is relevant to the reasons you gave in ④ for this appeal. Include only what you actually said; do not comment or give your opinion about what was said. Please indicate whether any objections were made concerning your testimony or any exhibits you asked to present and whether these objections were sustained.):
- _____

- Check here if you need more space to summarize your testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write “APP-014, Item 7b.”
- c. Were there any other witnesses at the trial whose testimony is relevant to the reasons you gave in ④ for this appeal?
- No
- Yes (complete items (1), (2), and (3)):
- (1) The witness’s name is (fill in the witness’s name): _____
- (2) The witness testified on behalf of the (check one): plaintiff. defendant.

7 c. (3) This witness testified that *(Write a complete and accurate summary of the witness’s testimony that is relevant to the reasons you gave in 4 for this appeal. Include only what the witness actually said; do not comment on or give your opinion about what the witness said. Please indicate whether any objections were made concerning this witness’s testimony or any exhibits this witness asked to present and whether these objections were sustained.)*: _____

Check here if you need more space to summarize this witness’s testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write “APP-014, Item 7c.”

d. Check here if any other witnesses gave testimony at the trial that is relevant to the reasons you gave in 4 for this appeal. Attach a separate page or pages identifying each witness and who the witness testified for, summarizing what that witness said in his or her testimony that is relevant to the reasons you gave in 4 for this appeal, and indicating whether any objections were made concerning this witness’s testimony or any exhibits the witness asked to present and whether these objections were sustained. At the top of each page, write “APP-014, Item 7d.”

e. Summarize the evidence, other than testimony, that was given during the trial that is relevant to the reasons you gave in 4 for this appeal. *(Write a complete and accurate summary of the evidence given by both you and the respondent. Include only the evidence given; do not comment on or give your opinion about this evidence.)*:

Check here if you need more space to describe the evidence and attach a separate page or pages describing the evidence. At the top of each page, write “APP-014, Item 7e.”

8 **The Trial Court's Findings**

Did the trial court make findings in the case?

No
 Yes *(describe the findings made by the trial court)*: _____

Check here if you need more space to describe the trial court’s findings and attach a separate page or pages describing these findings. At the top of each page, write “APP-014, Item 8.”

Trial Court Case Name: _____

9 The Trial Court's Final Judgment

The trial court issued the following final judgment in this case (*check all that apply and fill in any required information*):

a. I was required to:

Pay the other party damages of (*fill in the amount of the damages*): \$ _____

Do the following (*describe what you were ordered to do*): _____

b. The other party was required to:

Pay me/my client damages of (*fill in the amount of the damages*): \$ _____

Do the following (*describe what the other party was ordered to do*): _____

c. Other(*describe*): _____

Check here if you need more space to describe the trial court's judgment or order and attach a separate page or pages describing this judgment or order. At the top of each page, write "APP-014, Item 9."

Date: _____

Type or print your name



Signature of appellant or attorney