# APP-101-INFO Information on Appeal Procedures for Limited Civil Cases

## General Information

This pamphlet provides general information about the procedures for appeals in limited civil cases. A limited civil case is a civil case in which the amount claimed is $25,000 or less (see Code Civ. Proc., §§ 85 and 88). This pamphlet does not provide information about appeals in other types of cases, such as criminal cases or unlimited civil cases (civil cases in which the amount claimed is over $25,000). For information about appeal procedures in criminal cases, please see, *Information on Appeal Procedures for Infractions* (form CR-141-INFO) or, *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO). For information about appeal procedures in unlimited civil cases, please see, *Information on Appeal Procedures for Unlimited Civil Cases* (form APP-001). You can get these forms at any courthouse or county law library or go to *www.courtinfo.ca.gov/forms*.

The information in this pamphlet is not intended to cover everything that you may need to know about appeals in limited civil cases. It is meant only to give an overview to help guide you through the appeal process. You should thoroughly read rules 8.800–8.842 and 8.880–8.891 of the California Rules of Court, which set out the procedures for limited civil appeals. You can get these rules at any courthouse or county law library or go to *www.courtinfo.ca.gov/rules*.

You are allowed to represent yourself in an appeal in a limited civil case. If you have any questions about the appeal procedures, however, you should consult an attorney. You must retain your own attorney if you want one. You can get information about finding an attorney on the California Courts Self-Help Web Site Center at *www.courtinfo.ca.gov/selfhelp/lowcost*. If you are representing yourself, you must inform the court if your address or telephone number changes so that the court can contact you when necessary.

## 1 What Is an Appeal?

An appeal is a request to a court to review a ruling or decision made by another court. The ruling or decision being appealed can be one made either in a jury trial or in a proceeding where there is only a judge. **In a limited civil case, the court hearing the appeal — the appellate court — is the appellate division of the superior court and the trial court is the superior court.**

An appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits. Instead, the role of the appellate division is to review a record of what happened in the trial court and to review the trial court's ruling or decision. The party that appeals may ask the appellate division to determine if the trial court made an error about either the law or court procedures that caused substantial harm to the party that is appealing (this is called "prejudicial error"). When it conducts this review, the appellate division presumes that the trial court's decision is correct; the party that files the appeal must show the appellate division that the trial court made an error and that the error was prejudicial. The party that appeals may also ask the appellate division to determine if it there was substantial evidence supporting the trial court's decision. "Substantial" evidence means some reasonable, believable evidence that supports the decision. In conducting this review, the appellate division generally will not reconsider the trial court's judgment about which side had more or stronger evidence or whether witnesses in the trial court were telling the truth or lying. No matter how much evidence there may have been on the other side, the appellate division generally only looks to see whether there was substantial evidence supporting the trial court's decision. In other words, the appellate division generally will not overturn the trial court's decision unless the record clearly shows that the trial court made a prejudicial error or there was not substantial evidence supporting that decision.

## 2 Who Are the Parties in an Appeal?

The party that files the appeal is called the APPELLANT. The other party is called the RESPONDENT.

## Information for the Appellant

This section is written for the appellant — the party filing an appeal. It explains some of the rules and procedures relating to appealing a ruling or decision in a limited civil case. The information may also be helpful to the respondent. Additional information for respondents can be found starting on page 8 of this form.

### 3 Who Can File an Appeal?

Only a person or entity that was a party in the trial court proceeding can appeal a decision in that proceeding. You may not appeal on behalf of a friend, a spouse, a child, or another relative unless you are a legally appointed guardian for that person.

### 4 What Decisions Can Be Appealed?

Generally, a party may appeal the final judgment in a case. A party may also appeal certain orders of the trial court. Code of Civil Procedure section 904.2 identifies the types of orders in a limited civil case that can be appealed immediately. These include orders that:

- Are made after final judgment in the case;
- Change or refuse to change the place of trial (venue);
- Grant a motion to quash service of summons or grant a motion to stay or dismiss the action on the ground of inconvenient forum;
- Grant a new trial or deny a motion for judgment notwithstanding the verdict;
- Discharge or refuse to discharge an attachment or grant a right to attach;
- Grant or dissolve an injunction or refuse to grant or dissolve an injunction; or
- Appoint a receiver.

Other interim rulings of the trial court generally cannot be appealed.

### 5 How Do I Start the Appeal Process?

The first step in appealing a decision is filing a notice of appeal. The notice of appeal tells the other party in the case and the trial court that you are appealing the trial court's decision. You may use *Notice of Appeal (Limited Civil Case)* (form APP-102), to prepare and file a notice of appeal in a limited civil case. You can get form APP-102 at any courthouse or county law library or go to *www.courtinfo.ca.gov/forms*.

### 6 When Do I File the Notice of Appeal?

In a limited civil case, except in the very limited circumstances listed in rule 8.823, you must file your notice of appeal within **60 calendar days** after the trial court mails or a party serves either a document called a "Notice of Entry" of the trial court judgment or a file-stamped copy of the judgment. **This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, your appeal will be dismissed.**

### 7 How Do I File the Notice of Appeal?

To file the notice of appeal in a limited civil case, you must bring or mail the original notice of appeal to the clerk of the trial court that issued the judgment or order you are appealing.

### 8 Is There a Fee to File an Appeal?

Yes. Unless the court waives this fee, the notice of appeal must be accompanied by a $100 filing fee (Gov. Code, § 70621). If you think you cannot afford to pay this filing fee because of your financial condition, you can request that the court waive this filing fee. To do this, you must file an application for a waiver of court fees and costs on appeal under rules 3.50 et seq. You must use *Application for Waiver of Court Fees and Costs* (form FW-001), to prepare and file this application. You can get form FW-001 at any courthouse or county law library or go to *www.courtinfo.ca.gov/forms*. You can file this application either before you file your notice of appeal or with your notice of appeal.

## 9 Do I Need to Do Anything Else After I File My Notice of Appeal?

Yes. No later than 10 days after you file your notice of appeal, you must tell the trial court the form in which you want the record of the trial court proceedings to be provided to the appellate division. You can use *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to provide this notice. You can get form APP-103 at any courthouse or county law library, or go to *www.courtinfo.ca.gov/forms*. In most cases, you must also pay for the cost of preparing this record.

Since the appellate division judges were not present for the proceedings in the trial court, an official record of these proceedings must be prepared and sent to the appellate division for its review. There are three parts of this official record: (A) a record of the documents filed in the trial court (other than exhibits); (B) a record of the oral proceedings in the trial court; and (C) the exhibits that were admitted in evidence, refused, or lodged in the trial court.

### A. Record of the documents filed in the trial court

There are several ways in which a record of the documents filed in the trial court can be prepared for the appellate division: (1) the trial court clerk can prepare a record of the documents, called a "clerk's transcript"; (2) if the appellate division permits it, the trial court clerk can send the appellate division the original trial court file; (3) you and the other party or parties can agree on a summary of the trial court proceedings, called an "agreed statement," that includes copies of the documents; or (4) the trial court can approve a summary of the trial court proceedings, called a "statement on appeal," that includes copies of the documents.

#### (1) Clerk's transcript

A clerk's transcript is a record of the documents filed in the trial court prepared by the clerk of the trial court. Rule 8.832(a) of the California Rules of Court requires that certain documents, such as the notice of appeal and the trial court judgment or order being appealed, be included in the clerk's transcript. If you want any documents other than those listed in rule 8.832(a) to be included in the clerk's transcript, you must tell the trial court this in your notice designating the record on appeal. You can use the same form you used to tell the court you wanted to use a clerk's transcript— *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this. You will need to identify each document you want included in the clerk's transcript by its title and filing date or, if you do not know the filing date, the date the document was signed.

If you—the appellant—request a clerk's transcript, within 10 days after you serve the notice designating the record, the respondent may serve and file a notice designating additional documents to be included in the clerk's transcript.

The appellant is responsible for paying for the cost of preparing a clerk's transcript. The trial court clerk will send you a bill for the cost of preparing an original and one copy of the clerk's transcript. You must pay this bill within 10 days. If you think you cannot afford to pay this cost because of your financial condition, you can request that the court waive this cost (as well as other court fees and costs). To do this, you must file an application for a waiver of court fees and costs on appeal under rules 3.50 et seq. You must use *Application for Waiver of Court Fees and Costs* (form FW-001), to prepare and file this application. You can get form FW-001 at any courthouse or county law library or go to *www.courtinfo.ca.gov/forms*. If you do not pay the bill for the clerk's transcript on time or submit an application for a waiver of this fee or a court order granting such a waiver, the appellate division may dismiss your appeal.

After all the fees have been paid or waived, the trial court clerk will compile the requested documents into a transcript format and forward the original clerk's transcript to the appellate division for filing. The trial court clerk will send you a copy of the transcript. If the respondent has purchased a copy, the clerk will also mail a copy of the transcript to the respondent.

### (2) Trial court file

Under rule 8.833, if the appellate division has a rule permitting it, the clerk can send the appellate division the original trial court file instead of a clerk's transcript.

As with a clerk's transcript, the appellant is responsible for paying the cost of preparing the trial court file. The trial court clerk will send you a bill for this preparation cost. You must pay this bill within 10 days. If you think you cannot afford to pay this cost because of your financial condition, you can request that the court waive this cost (as well as other court fees and costs). To do this, you must file an application for a waiver of court fees and costs on appeal under rules 3.50 et seq. You must use *Application for Waiver of Court Fees and Costs* (form FW-001), to prepare and file this application. You can get form FW-001 at any courthouse or county law library or go to *www.courtinfo.ca.gov/forms*.

After all the fees have been paid or waived, the trial court clerk will send the file and a list of the documents in the file to the appellate division. The trial court clerk will also send a copy of the list of documents to the appellant and respondent so that you can put your own files of documents from the trial court in the correct order.

### (3) Agreed statement

An agreed statement is a summary of the trial court proceedings agreed to by the parties. Rule 8.836 identifies what must be included in an agreed statement. Under this rule, you can use an agreed statement instead of a clerk's transcript if you attach to your agreed statement all of the documents that are required to be included in a clerk's transcript. If you elect to use this alternative, you must file with your notice designating the record on appeal either the agreed statement or a written agreement with the other party (a "stipulation") stating that you are attempting to agree on a statement. Within the next 30 days, you must then file the agreed statement or tell the court that you were unable to agree on a statement and file a new notice designating the record.

### (4) Statement on appeal

A statement on appeal is a summary of the trial court proceedings that is approved by the trial court. Rule 8.837 sets out the procedures for preparing a statement on appeal and what must be included in such a statement; these requirements are also described in more detail below in the section on the record of the oral proceedings. Under rule 8.837, you can use a statement on appeal instead of a clerk's transcript if you attach to your statement all of the documents that are required to be included in a clerk's transcript.

## B. Record of the oral proceedings in the trial court

If you want to raise any issue in your appeal that would require the appellate division to consider what was said during the proceedings in the trial court, the record on appeal must include a record of the oral proceedings in the trial court. You are responsible for deciding how the record of the oral proceedings will be provided and, depending on what option you select and your circumstances, you may also be responsible for paying the cost of preparing this record or for preparing an initial draft of this record. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. **If the appellate division does not receive this record, it will not be able to review any issues that are based on what happened during the oral proceedings, so you are not likely to succeed in your appeal.**

There are several ways in which a record of the oral proceedings in the trial court can be prepared for the appellate division: (1) if you or the other party arranged to have a court reporter present during the trial court proceedings, the reporter can prepare a record, called the "reporter's transcript"; (2) if the proceedings were officially electronically recorded, the trial court can have a transcript prepared from that recording or, if the appellate division permits, you can use the electronic recording instead of a transcript; (3) you can use an agreed statement; or (4) you can use a statement on appeal.

In a limited civil case, you can use *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) to tell the court whether you want a record of the oral proceedings and, if so, the form of the record that you want to use. You can get form APP-103 at any courthouse or county law library or go to *www.courtinfo.ca .gov/forms*.

### (1) Reporter's transcript

If a court reporter was present during the trial court proceedings and made a record of the oral proceedings, you can elect to have the court reporter prepare a transcript of those oral proceedings, called a reporter's transcript, for the appellate division. In limited civil cases, a court reporter generally will not have been present during the trial court proceedings unless you or another party in your case made specific arrangements to have a court reporter present.

A reporter's transcript is a written record (often called the "verbatim" record) of the oral proceedings in the trial court. Rule 8.834 establishes the requirements relating to reporter's transcripts. If you elect in your notice designating the record to use a reporter's transcript, you must also identify by date (designate) what proceedings you want to be included in the reporter's transcript. You can use the same form you used to tell the court you wanted to use a reporter's transcript—*Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103)—to do this.

If you elect to use a reporter's transcript, within 10 days after you file your notice designating the record, the respondent may serve and file a notice designating additional proceedings to be included in the reporter's transcript. If you elect to proceed without a reporter's transcript, however, the respondent may not designate a reporter's transcript without first obtaining an order from the appellate division.

The appellant is responsible for paying for the cost of preparing a reporter's transcript. The trial court clerk or the court reporter will notify you of the cost of preparing an original and one copy of the reporter's transcript. You must deposit this cost with the trial court clerk within 10 days. After all the fees have been deposited, the court reporter will prepare the transcript and submit it to the trial court clerk. The trial court clerk will submit the original transcript to the appellate division and send you a copy of the transcript. If the respondent has purchased it, a copy of the reporter's transcript will also be mailed to the respondent.

Unlike the fee for filing the notice of appeal and the costs for preparing a clerk's transcript, the fee for preparing a reporter's transcript is not a court cost or fee and therefore it cannot be waived by the court. If you are represented by an attorney in your appeal, some financial assistance for paying for reporter's transcripts is available through the Transcript Reimbursement Fund established by Business and Professions Code sections 8030.2–8030.8. However, no financial assistance is currently available for parties who are not represented by attorneys. If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings in the trial court can be prepared for the appellate division in other ways, by using an electronic recording, agreed statement, or statement on appeal, all of which are described below.

### (2) Official electronic recording or transcript

In some limited civil cases, the trial court proceedings were officially recorded on approved electronic recording equipment. In these cases, you can elect to have a transcript prepared for the appellate division from the official electronic recording of these proceedings. Alternatively, if the appellate division has a local rule permitting this and all the parties and the appellate division agree (stipulate), a copy of the official electronic recording itself can be used as the record of such oral proceedings. You must attach a copy of this stipulation to your record preparation election.

The appellant is responsible for paying for the cost of preparing this transcript or making a copy of the official electronic recording. If you think you cannot afford to pay this cost because of your financial condition, you can request that the court waive this cost (as well as other court fees and costs). To do this, you must file an application for a waiver of court fees and costs on appeal under rules 3.50 et seq. You must use A*pplication for Waiver of Court Fees and Costs* (form FW-001), to prepare and file this application. You can get form FW-001 at any courthouse or county law library or go to *www.courtinfo.ca.gov/forms*.

Once you either deposit the estimated cost of the transcript or official electronic recording with the clerk or this cost has been waived, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared, the clerk will send the transcript to the appellate division.

### (3) Agreed statement

If the trial court proceedings were not recorded either by a court reporter or by official electronic recording equipment or if you do not want to use either of these forms of the record, you can elect to use an agreed statement or a statement on appeal as the record of the oral proceedings in the trial court (please note that it may take more of your time to prepare an agreed statement or a statement on appeal than to use either a reporter's transcript or official electronic recording, if they are available).

As indicated above, an agreed statement is a summary of the trial court proceedings agreed to by the parties. Rule 8.836 identifies what must be included in an agreed statement. If you elect to use this alternative, you must file with your notice designating the record on appeal either the agreed statement or a written agreement with the other party (stipulation) stating that you are attempting to agree on a statement. Within the next 30 days, you must then file the agreed statement or tell the court that you were unable to agree on a statement and file a new notice designating the record.

### (4) Statement on appeal

As indicated above, a statement on appeal is a summary of the trial court proceedings that is approved by the trial court judge who conducted the trial court proceedings (note that the term "judge" includes commissioners and temporary judges). Rule 8.837 sets out the procedures for preparing a statement on appeal and what must be included in such a statement.

If you elect to use a statement on appeal, you must prepare a proposed statement and file that statement with the trial court within 30 days after you file your notice designating the record. If you are not represented by an attorney, you must file your proposed statement on appeal on *Statement on Appeal (Limited Civil Case)* (form APP-104). You can get form APP-104 at any courthouse or county law library or go to *www.courtinfo.ca.gov/forms*. You must also serve a copy of the statement on the other party in the case. "Serve" means that the other side must receive a copy of the paper you file with the court. You can get information about how to serve court papers on the California Courts Self-Help Web Site Center at *www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving*.

The respondent has 20 days from the date you serve and file your proposed statement to file proposed amendments to this statement. The trial court judge then reviews the proposed statement and any proposed amendments and makes any corrections or modifications that are needed to ensure that the statement provides a complete and accurate summary of the trial court proceedings. If the judge makes any corrections or modifications, the corrected or modified statement will be sent to you and the respondent for your review. You will have 10 days from the date the statement is sent to you to file objections to this statement. The judge then reviews the any objections, makes any additional corrections to the statement, and then certifies the statement as a complete and accurate summary of the trial court proceedings.

Once the trial court judge certifies the statement on appeal, the trial court clerk will send the statement and any objections to the appellate division along with any separate record of the documents filed in the trial court.

### C. Exhibits

Exhibits, such as photographs or documents, that were admitted in evidence, refused, or lodged in the trial court are considered part of the record on appeal. However, the clerk's transcript will not include any exhibits unless you ask that they be included (designate them) in your notice designating the record on appeal. The *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103), includes a space for you to make such a request. You can get APP-103 at any courthouse or county law library or go to *www.courtinfo.ca.gov/forms*.

You can also attach up to 10 pages of exhibits from the trial court to the brief that you file in the appellate division (see rule 8.883(d)).

## 10 What Happens After I File My Notice of Appeal and Take Care of My Responsibilities Relating to Providing the Record to the Appellate Division?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

A "brief" is a party's written description of the facts in the case, the law that applies, and the party's argument. If you are represented by an attorney in your appeal, your attorney will prepare your brief. If you are not represented by an attorney, you will have to prepare your brief yourself. You should read rule 8.883 of the California Rules of Court, which sets out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get this rule at any courthouse or, county law library or go to *www.courtinfo.ca.gov/rules*.

If you are the appellant, your brief, called an appellant's opening brief, must clearly explain, using references to the clerk's transcript and the reporter's transcript (or the alternative forms of the record that you are using), what you claim are the legal or procedural errors made by the trial court. Remember that an appeal is not a new trial; the appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so you should not try to include any new evidence in your brief.

You must serve and file your brief by the deadline the court set in the notice it sent you. "Serve" means that the other side must receive a copy of the brief you file with the court. You can get information about how to serve court papers at *www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving*. If you do not file your brief by the deadline set by the court, the court may dismiss your appeal.

When you file your brief, the respondent then has an opportunity, but is not required, to respond by filing a respondent's brief. The appellant does not automatically win the appeal if the respondent does not file a brief, but if the respondent chooses not to file a brief, the court can decide the appeal on the record, the appellant's brief, and any oral argument by the appellant.

If the respondent files a brief, you can also file another brief replying to the respondent's brief if you wish. This is called a "reply" brief.

Once all the briefs have been filed or the time to file them has passed, the court will notify you of the date it has set your case for oral argument. "Oral argument" is the parties' chance to explain to the judges of the appellate division in person the arguments that were made in the briefs. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to "waive" oral argument. If you waive oral argument, the judges will consider your appeal based on the briefs and the record that were submitted. If you do choose to participate in oral argument, unless the court orders otherwise, you will have up to 15 minutes to present your argument. Remember that the judges will have already read the briefs, so it is not necessary to read your brief to the judges. It is more helpful to the judges to simply highlight what you think is important or ask the judges if they have any questions you could answer.

After oral argument is held or the time at which it would have been held passes, the judges of the appellate division will make a decision about your appeal. The clerk of the court will mail you a notice of that decision.

### (11) What If I Decide I No Longer Want to Appeal?

If you decide you do not want to proceed with the appeal, you must file a written document with the court notifying it that you are abandoning your appeal. You can use *Abandonment of Appeal (Limited Civil Case)* (form APP-105) to file this notice in a limited civil case. You can get form APP-105 at any courthouse or, county law library or go to *www.courtinfo.ca.gov/forms*.

## Information for the Respondent

This section is written for the respondent—the party responding to an appeal filed by another party. It explains some of the rules and procedures relating to responding to an appeal in a limited civil case. The information may also be helpful to the appellant.

### (12) I Have Received a Notice of Appeal From the Other Party. Do I Need to Do Anything?

You do not have to submit a response to a notice of appeal. The notice of appeal simply tells you that another party is appealing the trial court's decision. However, this would be an appropriate time to seek legal advice, if you want it. You are allowed to represent yourself in an appeal in a limited civil case. If you have any questions about the appeal procedures, however, you should consult an attorney. You must retain your own attorney if you want one. You can get information about finding an attorney on the California Courts Self-Help Center Web site at *www.courtinfo.ca. gov/selfhelp/lowcost/*.

### (13) If the Other Party Has Already Filed a Notice of Appeal, Can I Still Appeal?

If a notice of appeal has already 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 described in the answer to question (6) above or within 20 days after the clerk of the trial court mails notice of the first appeal, whichever is later. You can use *Notice of Appeal (Limited Civil Case)* (form APP-102), to file this notice in a limited civil case. Please read the information for appellants, starting on page 2 of this form, if you are considering filing a cross-appeal.

## (14) I Have Received a *Notice Designating Record on Appeal (Limited Civil Case)* (Form APP-103) From the Other Party. Do I Need to Do Anything?

You are not required to submit any response to a notice designating the record on appeal, but, depending on the form of the record chosen by the appellant, you may have the option of expanding what is included in the record or otherwise participating in preparing the record of the trial court proceedings.

Since the appellate division judges were not present for the proceedings in the trial court, an official record of these proceedings must be prepared and sent to the appellate division for its review. There are several forms in which this record can be provided to the appellate division. The appellant is responsible for telling the trial court which form of the record will be used. The *Notice Designating Record on Appeal (Limited Civil Case)* (form APP-103) can be used by the appellant to provide this notice. Your role in this record preparation process will vary depending on the form of the record the appellant elects to use (clerk's transcript, reporter's transcript, official electronic recording, agreed statement, or statement on appeal). You should read the response to question (9) above for general information about the record preparation process.

### A. Clerk's transcript

If the appellant elects to use a clerk's transcript, within 10 days after the appellant serves the notice designating the record you may serve and file a notice designating additional documents to be included in the clerk's transcript. After you have filed such a notice or the time for filing it has passed, the trial court clerk will send you a notice indicating the cost of preparing a copy of the clerk's transcript. If you want a copy, you must deposit this amount with the court within 10 days after the clerk's notice was sent. If you think you cannot afford to pay this cost because of your financial condition, you can request that the court waive this cost (as well as other court fees and costs). To do this, you must file an application for a waiver of court fees and costs on appeal under rules 3.50 et seq. You must use *Application for Waiver of Court Fees and Costs* (FW-001), to prepare and file this application. You can get form FW-001 at any courthouse or, county law library or go to *www.courtinfo.ca.gov/forms*. The clerk will not prepare a copy of the clerk's transcript for you unless you deposit the cost or obtain a waiver of this cost.

### B. Reporter's transcript

If the appellant elects to use a reporter's transcript, within 10 days after the appellant files the notice designating the record you may serve and file a notice designating additional proceedings to be included in the reporter's transcript. After you have filed such a notice or the time for filing it has passed, the trial court clerk or reporter will send you a notice indicating the cost of preparing a copy of the reporter's transcript. If you want a copy of the reporter's transcript, you must deposit this amount with the court within 10 days after the clerk's notice was sent. The reporter will not prepare a copy of the clerk's transcript for you unless you deposit the cost or obtain a waiver of this cost.

If the appellant elects to proceed without a reporter's transcript, you may not designate a reporter's transcript without first obtaining an order from the appellate division.

### C. Agreed statement

If you and the appellant agree to prepare an agreed statement (a summary of the trial court proceedings that is agreed to by the parties), you and the appellant will need to reach an agreement on that statement within 30 days after the appellant files the notice designating the record.

### D. Statement on appeal

If the appellant elects to use a statement on appeal (a summary of the trial court proceedings that is approved by the trial court), the appellant will send you a draft of this statement to review. You will have a chance to suggest changes in this draft statement that you think are needed to ensure that the statement provides a complete and accurate summary of the trial court proceedings.

## 15 What Happens After the Record Has Been Sent to the Appellate Division?

As soon as the record on appeal is complete, the clerk of the trial court will send it to the appellate division. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

A "brief" is a party's written description of the facts in the case, the law that applies, and the party's argument. If you are represented by an attorney, your attorney will prepare your brief. If you are not represented by an attorney in your appeal, you will have to prepare your brief yourself. You should read rules 8.910–8.914 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in limited civil appeals, including requirements for the format and length of these briefs. You can get this rule at any courthouse or, county law library or go to *www.courtinfo.ca.gov/rules*. "Serve" means that the other side must receive a copy of the brief you file with the court. You can get information about how to serve court papers on the California Courts Self-Help Web site at *www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving*.

The appellant files the first brief, called an appellant's opening brief. The respondent then has an opportunity to respond by filing a respondent's brief. You are not required to file a brief, and the appellant does not automatically win the appeal if you choose not file a brief. If you do not file a brief, however, the court can decide the appeal on the record, the appellant's brief, and any oral argument by the appellant. Remember that an appeal is not a new trial; the appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so you should not try to include any new evidence in your brief.

If you file a respondent's brief, the appellant then has an opportunity to file another brief replying to your brief.

Once all the briefs have been filed or the time to file them has passed, the court will notify you of the date it has set your case for oral argument. "Oral argument" is the parties' chance to explain to the judges of the appellate division in person the arguments that were made in the briefs. You do not have to participate in oral argument if you do not want to; you can notify the appellate division that you want to "waive" oral argument. The judges will then consider the appeal based on the briefs and the record that were submitted. If you do choose to participate in oral argument, unless the court orders otherwise, you will have up to 15 minutes to present your argument. Remember that the judges will have already read the briefs, so it is not necessary to read your brief to the judges. It is more helpful to the judges to simply highlight what you think is important or ask the judges if they have any questions you could answer.

After oral argument is held or the time at which it would have been held passes, the judges of the appellate division will make a decision about the appeal. The clerk of the court will mail you a notice of that decision.