

KIRKLAND & ELLIS LLP

AND AFFILIATED PARTNERSHIPS

Michael Shipley
To Call Writer Directly:
(213) 680-8222
michael.shipley@kirkland.com

333 South Hope Street
Los Angeles, CA 90071

(213) 680-8400

www.kirkland.com

Facsimile:
(213) 680-8500

November 13, 2017

By Federal Express and E-File

Clerk of Court
California Supreme Court
355 McAllister Street
San Francisco, CA 94102-4797

SUPREME COURT
FILED

NOV 14 2017

Jorge Navarrete Clerk

Deputy

Re: Supplemental Briefing in *Jameson v. Desta*, No. 230899

Dear Chief Justice and Justices of the Supreme Court:

On October 11, 2017, the Court requested supplemental letter briefing from the parties (and amici) on the following question:

What effect, if any, does the 2015 amendment to California Rules of Court, rule 3.55(7) and the accompanying Advisory Committee Comment have on the resolution of the issue presented by this case?

In brief, the 2015 Amendment to Rules of Court, rule 3.55(7) (Rule 3.55(7)) and the accompanying Advisory Committee Comment (collectively, the 2015 Amendment) neither forms the basis of any of Mr. Jameson's arguments on the merits nor undermines or contradicts them. The 2015 Amendment thus has no bearing on the resolution of the issue presented in this case because, on its own terms, it does not apply.

I. Mr. Jameson's Arguments on the Merits Do Not Depend on the 2015 Amendment.

Mr. Jameson does not dispute that Rule 3.55(7) currently requires the waiver of an appearance fee only "if the reporter is provided by the court." (See OB at p. 22 [citing the rule for that point].) Nor does Mr. Jameson assert that "[t]he inclusion [in Rule 3.55(7)] of court reporter's fees in the fees waived upon granting an application for an initial fee waiver . . . mandate[s] that a court reporter is to be

November 13, 2017

Page 2

provided for all fee waiver recipients.” (Cf. Rule 3.55, Advisory Committee Comment.) Mr. Jameson did not, however, argue that the trial court’s “no official reporters” policy violates Rule 3.55(7). Nor, for that matter, has Dr. Desta argued that Rule 3.55(7) authorizes the policy.¹

As discussed at length in the briefs on the merits, Mr. Jameson contends that the superior court abused its discretion by enacting an official policy to *never* provide official reporters in its civil courtrooms, even for litigants who are statutorily entitled to waiver of a reporter’s appearance fee. Mr. Jameson’s arguments for reversal have their basis in the various Legislative enactments that codify the right of access, as well as common law and constitutional principles developed by this Court and the Court of Appeal over the past century. (Jameson’s Opening Brief on the Merits (OB) at pp. 12–25.) That Rule 3.55(7) does not specifically afford the relief sought by Mr. Jameson is of no moment.

II. The 2015 Amendment Does Not Undermine or Contradict Any Arguments on the Merits Raised by Jameson.

Nor is there any plausible reading of the 2015 Amendment that otherwise undermines or contradicts the arguments that Mr. Jameson did make. As discussed in detail below, the 2015 Amendment served a limited purpose—to harmonize the Rules of Court on fee waivers with a recent amendment to Government Code section 68086, subdivision (b) (§ 68086(b)). On its own terms, revised Rule 3.55(7) simply does not address when a trial court must provide an official reporter. Indeed, the Advisory Committee Comment expressly disclaims that it does so. Nor does it address when or if the court can waive appearance fees for a reporter *pro tem*. Most importantly, nothing in the 2015 Amendment curtails the right of access to the courts that is at the heart of Mr. Jameson’s argument on the merits.

¹ Mr. Jameson notes that Rule 3.55 is cited only once in each of Mr. Jameson’s opening and reply briefs, for collateral or background points only. (OB at p. 22 [citing Rule 3.55(7) in a background discussion about the overall statutory scheme]; Jameson’s Reply Brief on the Merits at p. 15 [citing Rule 3.55(1) to provide context about a factually similar case].) It is not cited at all in Dr. Desta’s answering brief.

November 13, 2017

Page 3

A. The History of the 2015 Amendment.

The purpose and scope of the 2015 Amendment is clear from the history of its enactment.

In 2013, the Legislature passed A.B. 648, which amended and clarified the law regarding the collection of court reporters' appearance fees. (Stats. 2013, ch. 454 § 1; see also Senate Rules Com., Office of Senate Floor Analyses, 3d reading analysis of Assem. Bill No. 648 (2013–2014 Reg. Sess.) Sept. 15, 2013, pp. 2–3 [outlining changes to then-current law].²) In particular, A.B. 648 amended the Government Code to require a court reporters' appearance fee "shall be waived for a person who has been granted a fee waiver under Section 68631." (See § 68086(b).)

In 2014, the Civil and Small Claims Advisory Committee of the Judicial Council considered amendments to the Rules of Court and related forms on fee waivers. The Judicial Council circulated a proposal to amend the Rules of Court on fee waivers unrelated to harmonizing the rules with § 68086(b). (See Judicial Council of Cal., Invitation to Comment, No. SPR 14-05.³) But several public commenters—including the Superior Courts of Orange and San Diego Counties and a coalition of public interest law groups—noted that the Rules of Court in effect at the time were inconsistent with the recently enacted § 68086(b). (See Report No. 14-05 to the Judicial Council of Cal., Fee Waivers: Change in Federal Poverty Guidelines, Revisions to Application Form, and Specific Fees Included in Waivers, Feb. 19, 2015 at pp. 4–5 (Report)⁴; see also David Ettinger, Horvitz & Levy LLP, letter to Hon. Patricia M. Lucas, Chair, Civil and Small Claims Advisory Committee, May 20, 2014 (Ettinger Letter)⁵ [noting inconsistency and proposing draft rule changes on behalf of The Harriett Buhai Center for Family Law, The Western Center on Law & Poverty, and Public Counsel].)

² Attached as Ex. A. Mr. Jameson respectfully requests the Court take judicial notice of the various legislative and rulemaking history materials cited in this brief and included as exhibits hereto. (Evidence Code, §§ 451, subd. (c); 452, subds. (c), (d); 459; see also *People v. Benhour* (2009) 177 Cal.App.4th 1308, 1319 fn. 16 [taking judicial notice of Judicial Council materials].)

³ Attached as Ex. B.

⁴ Attached as Ex. C.

⁵ Attached as Ex. D.

KIRKLAND & ELLIS LLP

November 13, 2017

Page 4

Specifically, the Rules of Court in effect in early 2015 did not reflect that § 68086(b) afforded a mandatory waiver of all court reporter appearance fees to any party with a fee waiver under Government Code section 68631. (See generally Amendments to the California Rules of Court, adopted by the Judicial Council of Cal. Apr. 24, 2009, eff. Jul. 1, 2009 [showing rules as they appeared prior to the 2015 Amendments]⁶.) Those rules, adopted in 2009, did require waiver of reporters' daily attendance fees, but only for hearings and trials occurring within 60 days of the order granting the waiver. (Rules of Court, former rule 3.55(7), as amended by the 2015 Amendments.) For later hearings or trials, the former rules left the waiver to the trial court's discretion. (Rules of Court, rule 3.56(4), as amended by the 2015 Amendments.)

The Advisory Committee ultimately produced a report that agreed with the public comments, (Report at p. 13) and recommended amendments to Rule 3.55(7) and 3.56(4) that tracked the proposal in the Ettinger Letter. (Compare Report at p. 16 with Ettinger Letter at p. 2.) The Rule proposed by the Advisory Committee, however, differed in two respects. The Advisory Committee proposed adding the conditional "if the reporter is provided by the court," to the end of Rule 3.55(7). (Report at p. 16.) And it proposed adding an Advisory Committee Comment at the end of the rule. (*Ibid.*) The Report reflects that the Committee proposed to "[a]mend California Rules of Court, rules . . . 3.55 [and] 3.56 . . . to: 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." (Report at p. 2.)

The Report explains in further detail that:

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

⁶ Attached as Ex. E.

November 13, 2017

Page 5

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.

(Report at pp. 5–6.)

The extensive comments set out in the report suggest adding neither any conditional language to Rule 3.55(7) nor an Advisory Committee Comment. (See Report at 36–67.) And the Report itself does not offer any further explanation for making these changes to the Advisory Committee’s proposal. Although the proposal was not addressed in the original Invitation for Comment No. SPR 14-05, no further public comment was solicited prior to submitting the proposal to the Judicial Council for approval.

On February 19, 2015, Judicial Council met and considered the Advisory Committee’s proposed “rule amendments to reflect recent changes in law that mandates that any fees charged for the court’s cost for court reporting services . . . be included in a waiver.” (Judicial Council of Cal., Agenda for Feb. 19, 2015, at p. 3.7) The council adopted in full the changes proposed in the Advisory Committee’s Report. (Judicial Council of Cal., Meeting Minutes, Feb. 19, 2015, at p. 7.⁸)

The approved 2015 Amendments made three changes to Rules 3.55 and 3.56. that relate to the Court’s question. (Amendments to the California Rules of Court, adopted by the Judicial Council of Cal. Feb. 19, 2015, eff. Jul. 1, 2015 (Approval Order).⁹)

First, Rule 3.55—which lists fees that “must be waived upon granting an application for an initial fee waiver”—was amended so that an initial fee waiver would apply to *all* attendance fees for court-provided court reporters. (Approval

⁷ Attached as Ex. F.

⁸ Attached as Ex. G.

⁹ Attached as Ex. H.

KIRKLAND & ELLIS LLP

November 13, 2017

Page 6

Order at p. 1 [amending Rule 3.55(7): “Reporter’s ~~daily~~ fees for attendance at hearings and trials, if the reporter is provided by the court held within 60 days of the date of the order granting the application.”].)

Second, Rule 3.56—which addresses fees that may be waived in the court’s discretion—was amended to remove a provision that afforded discretion in waiving appearance fees for trials and hearings occurring more than 60 days after the order granting an initial fee waiver. (Approval Order at p. 2 [amending Rule 3.56(4): “~~(4) Reporter’s fees for attendance at hearings and trials held more than 60 days after 24 the date of the order granting the application;~~”].)

And third, an Advisory Committee Comment was added to Rule 3.55, stating:

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.

(Approval Order at p.1.)

B. The 2015 Amendments Is, and Must Be, Confined to Its Own Terms.

The foregoing makes clear that the sole purpose of the 2015 Amendment was to prevent trial courts from denying reporters’ appearance fee waivers for hearings and trials occurring more than 60 days after an order granting an initial waiver application. The Advisory Committee Comment too must be taken at face value—that in making the changes, the Judicial Council was not weighing into the issue of when a trial court must provide a court reporter to fee waiver recipients.

There is no reason whatsoever to read the 2015 Amendments to have any broader significance or effect. Neither the text or history of the 2015 Amendments suggest, for instance, that the Rules expressly absolve superior courts of any obligation to provide official reporters to fee wavier recipients, or that they otherwise ratify “no official reporter” policies like the superior court policy at issue in this case. To the contrary, there are several good reasons not to construe the 2015 Amendment outside the narrow confines of its purpose.

KIRKLAND & ELLIS LLP

November 13, 2017

Page 7

Section 68086(d) specifically granted the council the authority to make rules on notices and procedures to be employed when an official reporter is unavailable in a superior court department. (§ 68086(d)(1)–(3); accord Rules of Court, rule 2.956.) But as explained in Mr. Jameson’s merits briefing, § 68086 is silent on *when* a superior court can decline to provide an official reporter. Nor does § 68086 convey any authority on the Judicial Council to make rules on that issue. Notably, a prior effort by the council to adopt broader rules under the authority granted in current § 68086(d)¹⁰ resulted in their invalidation. (*California Court Reporters Assn. v. Judicial Council of California* (1995) 39 Cal.App.4th 15, 33 (CCRA) [invalidating rules that permitted electronic recording in lieu of stenographic reporting in certain circumstances].) The Judicial Council and the Advisory Committee thus had very good reasons to be chary of making rules addressed to official court reporters in superior courts beyond the specific fee waiver requirements required by § 68086(b). That reluctance—as expressed in the Advisory Committee Comment’s disclaimer—must not be misconstrued as affirmative rulemaking.

Indeed, to construe the 2015 Amendment more broadly could also result in its invalidation, both as a matter of rulemaking procedure as well as substance. (Cf. *Lammers v. Superior Court* (2000) 83 Cal.App.4th 1309, 1321 [“Court rules are construed to avoid their invalidity.”]; 2 Witkin, *California Procedure* (2017 online ed.) Courts, § 204.)

As discussed above, the 2015 Amendment arose from public comments solicited by the the Advisory Committee in connection with a different proposal unrelated to the implementation of § 68086(b). The initial comments did not suggest or address the conditional in 3.55(7) or Advisory Committee Comment that were recommended by the Advisory Committee and ultimately adopted. (See Report at 36–67). Despite the changes, no further public comment was solicited in connection with the 2015 Amendment.

The Judicial Council’s rulemaking procedures are set out in Rules of Court, rule 10.22. They permit the adoption of court rules without public comment in only limited circumstances. In particular, once changes are made to a proposal, recirculation for further public comment is unnecessary only if “the proposal

¹⁰ The rulemaking authority was previously codified, without substantial change, in § 68086(a)(5). (See *California Court Reporters Assn. v. Judicial Council of California* (1995) 39 Cal.App.4th 15, 28 n.15 [setting forth prior codification of statute].)

KIRKLAND & ELLIS LLP

November 13, 2017

Page 8

presents a nonsubstantive technical change or correction or a minor substantive change that is unlikely to create controversy” (Rules of Court, rule 10.22(d)(2); see *Siry Investments, L.P. v. Saeed Farkhondehpour* (2015) 238 Cal.App.4th 725, 731 [applying Rule 10.22(d)(2) to an amended proposal].)

Read for what it is, the 2015 Amendment is a limited rule change to conform the rules to a statutory amendment, and thus a “minor substantive change that is unlikely to create controversy[.]” (Rules of Court, Rule 10.22(d)(2).) As such, its enactment is valid, even without further public comment. But to more broadly construe the amended Rule 3.55(7) or the Advisory Committee Comment to effectively limit the right of access to indigents would be a significant change, and suffice it to say, extraordinarily contentious. To do so without comment would result in the conclusion that the 2015 Amendments were invalidly adopted. Given that Rules of Court should be interpreted to preserve their validity, and the lack of any intent for a broader application in the regulatory history, a broader interpretation is unwarranted.

A broader interpretation of the 2015 Amendment could also potentially render it invalid as in excess of Judicial Council’s rulemaking authority. The State Constitution permits the Judicial Council to “adopt rules for court administration, practice and procedure, and perform other functions prescribed by statute.” (Cal. Const. Art. VI, § 6, subd. (d).) But these rules “shall not be inconsistent with statute.” (*Ibid.*) Under that standard, “a rule is inconsistent with a statute if it conflicts with either the statute’s express language or its underlying legislative intent.” (*In re Alonzo J.* (2014) 58 Cal.4th 924, 937.) Rules that are not irreconcilably in conflict with a specific provision, but nonetheless conflict with the broader legislative intent behind an overall statutory scheme are not valid. (See, e.g., *In re Abbigail A.* (2016) 1 Cal.5th 83, 92.) Similarly, court rules that conflict with judicial interpretations of existing statutes have been held invalid. (See *CCRA*, *supra*, 39 Cal.App.4th at p. 24 [collecting cases].)

As Mr. Jameson’s merits briefing explains, the rule for which he advocates—that California’s courts must exercise their informed discretion in favor of ensuring the rights of indigent litigants to access the courts—is deep-seeded in California law and arises from common law, statutory, and constitutional sources. (See OB at p. 12–20.) For instance, in 2009, the California Legislature declared as the policy of this state, “[t]hat our legal system cannot provide ‘equal justice under law’ unless all persons have access to the courts without regard to their economic means.” (Gov. Code, § 68630, subd. (a)). “California law and court procedures should ensure that

November 13, 2017

Page 9

court fees are not a barrier to court access for those with insufficient economic means to pay those fees.” (*Ibid.*) Reading the 2015 Amendments to affirmatively bar remedies that may be necessary to protect the access rights of the indigent likely runs contrary to the Legislative intent in declaring that policy. Thus, a narrow plain meaning construction of the 2015 Amendment is necessary to avoid questions over the validity of the rule.

III. Jameson Does Not Seek Relief Inconsistent with the 2015 Amendment.

Finally, even were the 2015 Amendment somehow construed to somehow mean affirmatively that superior courts can never be required to provide an official reporter for all fee waiver litigants—and it should not be—Jameson’s appeal does not necessarily require that relief.

As noted above, Mr. Jameson asserts that the superior court abused the discretion afforded to it when it enacted a categorical official policy, to *never* provide official reporters in its civil courtrooms, even when parties litigating in those courtrooms would be entitled to a waiver of an official reporter’s fee, had one been provided. The failure of Mr. Jameson’s appeal for an inadequate record was a direct consequence of that policy.

To hold that the superior court abused its discretion does not require this Court to “mandate that a court reporter be provided for all fee waiver recipients.” (Cf. Rule 3.55, Advisory Committee Comment.) Indeed, it requires only that the Court recognize that courts of this state must exercise their discretion to ensure the right of access. Here, the San Diego Superior Court’s categorical policy—a policy that specifically recognizes the burden it places on the indigent, (see OB Ex. A)—is a manifest failure to do so. A reversal of the non-suit and adverse judgment entered against Mr. Jameson requires the Court to go no further in rendering an opinion.

Indeed, as Mr. Jameson’s merits briefing explained, other than a ruling that the trial court’s policy was an abuse of discretion, he does not ask that the Court afford him any particular remedy to ensure his right to access the appellate process. (OB at p. 19.) He argues only that the Court should hold that the trial court had no discretion to “choose no remedy” to protect his right to access, and that it must “take all of the appropriate facts into account and fashion an ‘appropriate remedy to secure access in the exercise of its sound discretion.’” (*Ibid.* [quoting *Apollo v.*

KIRKLAND & ELLIS LLP

November 13, 2017

Page 10

Gyaami (2008) 167 Cal.App.4th 1468, 1484 (*Apollo*) and *Wantuch v. Davis* (1995) 32 Cal.App.4th 786, 793 (*Wantuch*)]).

Requiring the presence of an official reporter for every fee waiver recipient for every hearing is only one among many avenues in which a trial court could exercise its discretion to protect the right of access to the appellate process. For instance, were a trial court to provide fee waiver recipients with official reporters only for trials and other hearings where oral testimony is taken in open court, any remaining burden on the right to access may be incidental enough to withstand scrutiny under the abuse of discretion standard. Indeed, had the trial court applied that policy here, Jameson would have no standing to complain.

Superior courts could also adopt other measures to ensure the creation of an adequate record for appeal. Such measures might include:

- Transferring fee waiver matters to other departments where an official reporter may be present. (See Amicus Curiae Letter Brief of Superior Court of California, County of Orange at p. 3 [explaining that Orange County Superior Court still provides official reporters in one-third of civil unlimited courtrooms, and half of complex ones].¹¹)
- Reforming court scheduling and case-management practices to ensure that existing reporter resources are available to transcribe trials and evidentiary hearings in fee waiver cases.
- Paying all or part of the appearance fees of private reporters, (see Rules of Court, rule 3.56(5) ([permitting waiver of “[o]ther fees or expenses”]), and potentially locating alternative funding sources for this purpose.
- Establishing programs for court reporters to provide services on a *pro bono* basis.

¹¹ On November 1, 2017, the Superior Courts of Orange and Los Angeles County each filed an application for leave to file an *amicus* brief. Notwithstanding that the applications were filed more than a year after the deadline to seek leave, (Rules of Court, rule 8.520(f)(2)), Mr. Jameson does not object to the courts’ appearance as amici in this case.

KIRKLAND & ELLIS LLP

November 13, 2017

Page 11

- Ordering an opposing party to advance a private reporter's fee, to be recovered as a cost by the prevailing party. (See § 68086(c), (d); Rules of Court, rule 2.956(c).)
- Enacting programs or reforms to ensure that unrepresented fee waiver litigants were able to create adequate non-verbatim forms of a trial record, such as agreed or settled statements.
- Providing access to means to electronically record the proceedings, on the grounds that, when one party is indigent and the other does not elect to hire a reporter *pro tem*, "neither the court nor any party requests that a verbatim record be taken by an official shorthand reporter pursuant to the provisions of section 269." (See *Los Angeles Cty. Court Reporters Assn. v. Superior Court* (1995) 31 Cal. App. 4th 403, 415.)
- Finding that the more general bar on electronic recording, (see *CCRA, supra*, 24 Cal.App.4th at p. 39), unduly burdens the right to access when applied to the indigent.

Regardless, in requiring superior courts to exercise their discretion to protect the right of access, the Court has recognized that "[h]ow that is to be achieved is to be determined by the exercise of discretion by the trial court." (*Payne v. Superior Court* (1976) 17 Cal.3d 908, 927; see also *Yarbrough v. Superior Court* (1985) 39 Cal.3d 197, 200 (1985) ["We left to the trial court's discretion how access is to be achieved in particular cases[.]"].) Mr. Jameson asks only that the Court require the superior court appropriately exercise its discretion in this case.

* * *

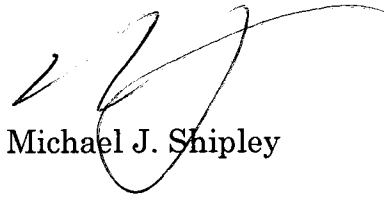
KIRKLAND & ELLIS LLP

November 13, 2017

Page 12

In sum, the 2015 Amendment has no meaningful effect on the merits of Mr. Jameson's case.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'MJS', with a long horizontal flourish extending to the right.

Michael J. Shipley

MJS

Enclosure

SENATE RULES COMMITTEE

AB 648

Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 651-1520 Fax: (916) 327-4478

THIRD READING

Bill No: AB 648
Author: Jones-Sawyer (D)
Amended: 9/6/13 in Senate
Vote: 21

SENATE JUDICIARY COMMITTEE: 5-1, 6/18/13
AYES: Evans, Corbett, Jackson, Leno, Monning
NOES: Walters
NO VOTE RECORDED: Anderson

SENATE APPROPRIATIONS COMMITTEE: Senate Rule 28.8

ASSEMBLY FLOOR: 49-24, 5/13/13 - See last page for vote

SUBJECT: Court reporters

SOURCE: Judicial Council

DIGEST: This bill requires for each proceeding anticipated to last one hour or less, the \$30 fee to be charged only to the party, or parties if filing jointly, that filed the paper that resulted in the proceeding being scheduled. This bill requires the fee to be charged once per case for all proceedings conducted within the same hour if the total time taken by those proceedings is one hour or less. This bill provides for the deposit of the fees collected into the Trial Court Trust Fund (TCTF); provides for the distribution of those fees back to the courts from which the fees were collected, and waives the fees for a person who has been granted a fee waiver.

Senate Floor Amendments of 9/6/13 clarify that if no fee has been charged to the party filing the paper that resulted in the proceeding being scheduled, but a party subsequently requests a reporter, that party will be charged the fee if the court determines that a reporter is to be provided by the court.

CONTINUED

Senate Floor Amendments of 9/4/13 clarify that the \$30 fee is charged only for the reasonable cost of the court reporting services provided at the expense of the court by an official court reporter pursuant to existing law, and specify that if no fee has been charged, and another party subsequently requests a court reporter, that party is charged the fee if the court determines that a reporter is to be provided by the court.

ANALYSIS:

Existing law:

1. Requires, in relevant part, that an official reporter or official reporter pro tempore of the superior court take down in shorthand all testimony, objections made, rulings of the court, exceptions taken, arraignments, pleas, sentences, arguments of the attorneys to the jury, and statements and remarks made and oral instructions given by the judge or other judicial officer, in certain cases, including, among others, in a civil case, on the order of the court or at the request of a party. (Code of Civ. Proc. Sec. 269.)
2. Establishes the TCTF. (Gov. Code Sec. 68085.)
3. Requires that, among other fees, the fees collected by the trial courts for official court reporters be deposited in a bank account established by the Administrative Office of the Courts (AOC). The AOC must distribute those deposits as provided, with the remainder going to the TCTF. (Gov. Code Sec. 68085.1.)
4. Requires that for each civil proceeding lasting more than one hour, a fee equal to one-half day of services be charged to the parties, on a pro rata basis, and that the fees collected be used only to pay the cost for services of an official court reporter, as specified. (Gov. Code Sec. 68086(a)(1)(B).)
5. Requires that for that each civil proceeding lasting less than one hour, a fee of \$30 be charged for the reasonable cost of services of an official court reporter, as specified. (Gov. Code Sec. 68086(a)(1)(A).)
6. Authorizes the granting of a court fee waiver to a litigant who cannot afford to pay the fee, as specified. (Gov. Code Sec. 68631.)

CONTINUED

This bill:

1. Requires that for each proceeding anticipated to last one hour or less, a \$30 fee be charged for the reasonable cost of the services of an official court reporter, at the expense of the court, pursuant to Section 269 of the Code of Civil Procedure, as follows:
 - A. The fee must be charged to the party, or parties if filing jointly, that filed the paper that resulted in the proceeding being scheduled;
 - B. All parties paying the fee must deposit the fee with the court clerk as specified by the court, but not later than the conclusion of each day's court session;
 - C. The fee must be charged once per case for all proceedings conducted within the same hour if the total time taken by those proceedings is one hour or less;
 - D. If the total time taken exceeds one hour, the fee must be charged and collected pursuant to the provision governing fees for court reporters in proceedings anticipated to last more than one hour, as outlined above;
 - E. The fee must be deposited into the TCTF and distributed back to the courts from which the fees were collected on a dollar-for-dollar basis; and
 - F. The fee must be refunded to the remitting party or parties if no court reporting services were provided at the scheduled proceeding.
2. Requires this fee be waived for a person who has been granted a fee waiver pursuant to existing law.
3. Specifies that unless the court reporter is provided pursuant to court order, the party requesting the court reporter must pay the fee.
4. Makes other technical and clarifying amendments.

Background

Existing law requires that an official reporter or official reporter pro tempore of the superior court take down in shorthand all testimony, objections made, rulings of the court, exceptions taken, arraignments, pleas, sentences, arguments of the

CONTINUED

attorneys to the jury, and statements and remarks made and oral instructions given by the judge or other judicial officer, in specified cases. These cases include, among others, civil cases that are ordered by the court or requested by a party.

Separately, existing law, with the enactment of AB 233 (Escutia and Pringle, Chapter 850, Statutes of 1997) consolidated all court funding at the state level, giving the Legislature authority to make appropriations and the Judicial Council responsibility to allocate funds to state courts. In doing so, it required that all court reporters fees collected by the trial courts be deposited into the TCTF, where nearly all court-collected fees are now deposited. The court reporter fees are then returned to the trial courts as part of their annual allocation and are distributed on a pro rata basis, as opposed to on the basis of the dollars collected.

More specifically, the Government Code requires that certain fees be charged and be used to pay for the cost for services of an official court reporter in civil proceedings. In proceedings anticipated to last more than one hour, a fee equal to the actual cost of providing that service must be charged per one-half day of services to the parties, on a pro rata basis, for the court reporter services on the first and each succeeding judicial day those services are provided. All parties must deposit their pro rata shares of these fees with the court clerk as specified by the court, but not later than the conclusion of each day's court session.

Last year, a budget trailer bill added that for each proceeding lasting less than one hour, a fee of \$30 dollars must be charged for the reasonable cost of the services of official court reporters in civil proceedings, pursuant to existing law, SB 1021 (Senate Budget and Fiscal Review Committee, Chapter 41, Statutes of 2012). This bill seeks to provide specificity regarding the payment of that fee.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

- Potential minor increase in fee revenue (Trial Court Trust Fund) due to the clarifying procedures established for court reporter fee assessment and collection.
- Minor, absorbable administrative costs to the trial courts to operationalize the clarified assessment and collection procedures.
- Minor, absorbable administrative costs to the Judicial Council related to the allocation of the fees to the individual courts.

CONTINUED

SUPPORT: (Verified 9/5/13)

Judicial Council (source)
California Court Reporters Association
San Bernardino Public Employees Association
San Luis Obispo County Employees Association

ARGUMENTS IN SUPPORT: According to the author, “The 2012 public safety Budget Trailer Bill SB 1021 (Senate Budget and Fiscal Review Committee, Chapter 41, Statutes of 2012) created a new \$30 fee to be assessed against litigants for court reporter services in civil proceedings lasting less than one hour. The statute did not provide clear guidance, however, on how to implement this fee. The Judicial Council’s Policy Coordination and Liaison Committee and the Joint Legislation Working Group of the Trial Court Presiding Judges and Court Executives Advisory Committees therefore recommend addressing the lack of specificity and resulting confusion to better enable courts to collect revenue from this new source. This proposal will streamline procedures and create sufficient flexibility and guidance for the courts and for litigants on how this new fee will be assessed.”

ASSEMBLY FLOOR: 49-24, 5/13/13

AYES: Alejo, Atkins, Bloom, Blumenfield, Bocanegra, Bonilla, Bonta, Bradford, Brown, Buchanan, Ian Calderon, Campos, Chau, Chesbro, Cooley, Daly, Dickinson, Eggman, Fong, Frazier, Garcia, Gatto, Gomez, Gordon, Gorell, Gray, Hall, Roger Hernández, Jones-Sawyer, Levine, Mitchell, Mullin, Muratsuchi, Nazarian, Pan, Perea, V. Manuel Pérez, Quirk, Quirk-Silva, Rendon, Skinner, Stone, Ting, Torres, Weber, Wieckowski, Williams, Yamada, John A. Pérez

NOES: Achadjian, Bigelow, Chávez, Conway, Dahle, Donnelly, Fox, Beth Gaines, Grove, Hagman, Harkey, Jones, Linder, Logue, Maienschein, Mansoor, Melendez, Morrell, Nestande, Olsen, Patterson, Wagner, Waldron, Wilk

NO VOTE RECORDED: Allen, Ammiano, Holden, Lowenthal, Medina, Salas, Vacancy

AL:ej 9/5/13 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** **END** ****

Judicial Council of California • Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

SPR14-05

Title

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

Action Requested

Review and submit comments by June 18,
2014

Proposed Rules, Forms, Standards, or Statutes

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.

Proposed Effective Date

February 28, 2015

Contact

Anne M. Ronan, Attorney
415-865-8933

anne.ronan@jud.ca.gov

Proposed by

Civil and Small Claims Advisory Committee
Hon. Patricia M. Lucas, Chair

Heather Anderson, Senior Attorney
415-865-7691

Appellate Advisory Committee
Hon. Raymond J. Ikola, Chair

heather.anderson@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee recommends that certain California Rules of Court be amended and forms be revised to permit parties to waive the right to have a hearing prior to the court's issuing an order denying a fee waiver application, but permitting installment payments. Several courts have requested this amendment so that parties do not have to return to court if they are willing to accept permission to make payments over time, which would relieve parties and the courts from the expense of unnecessary hearings. The committee also recommends that payments over time generally be limited to first appearance fees and limited in time to a period of three months, with the court retaining discretion to order otherwise.

The Appellate Advisory Committee recommends that the rules that list the court fees that must be waived as part of an initial fee waiver be amended to consolidate this list of fees in one rule, and to add the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript.

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.

Background

Payments of Trial Court Fees Over Time

Government Code section 68634¹ provides how an application for a fee waiver in the trial courts is to be handled.² If the court does not grant the fee waiver, it can deny the 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 *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008) an item in which a court may order payments over time of filing fees or other items (to be identified in the order). Several judicial officers³ 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). These 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 make a court appearance for a fee waiver eligibility hearing if they are going to be permitted to make payments over time. The judicial officers note that the requirement of 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 complained 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 payment period 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. The suggestion was therefore made that the time period over which payments could be made should be a fairly short one. 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.

¹ Unless otherwise indicated, all statutory references herein are to the Government Code.

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

³ Express requests have been received from judicial officers in the Superior Courts of Solano, San Diego, and Contra Costa County Counties. In addition, judicial officers from other courts have agreed with the concerns when raised at various meetings on trial court efficiencies.

Fees Waived by Initial Fee Waiver

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 reporters' 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 would be 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 of the California Rules of Court or may be waived under rule 3.56. All four commentators who responded to this request for input 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.

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 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.

The Proposal

In light of the statutory requirement that a party be accorded the opportunity for a hearing prior to a court allowing payments over time instead of a fee waiver, the Civil and Small Claims Advisory Committee could not recommend simply eliminating the requirement for such hearings. Instead, the committee proposes that a procedure for a knowing waiver of such hearing be put in place, to allow parties who are satisfied with being allowed to pay filing fees over time to avoid unnecessary court appearances. The proposal would amend California Rules of Court, rules 3.51 and 3.52 and the fee waiver application form (form FW-001), *Information Sheet on Waiver of Superior Court Fees and Costs* (FW-001-INFO), and superior court fee waiver orders (forms FW-003 and FW-008) to more directly address the payment of filing fees over time—including generally limiting such time to three months—and to provide for an informed waiver of a hearing. While making the changes to the forms needed to avoid unnecessary hearings, the proposal would also amend these fee waiver forms in some other minor ways in response to suggestions received from courts over the five years since the forms were first adopted.

At the same time, the Appellate Advisory Committee proposes a change to the fee waiver rules, specifically to amend rules 3.55 and 8.818 of the California Rules of Court to consolidate in one rule the list of superior court fees that are waived as part of an initial fee waiver and to add to this list the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript on appeal. These rule changes would require parallel amendments of the list of such fees on the fee waiver orders (forms FW-003 and FW-008) and information sheets (forms APP-001, FW-001-INFO, and APP-015/FW-015-INFO).

The proposed rules are attached at pages 15-17. The proposed forms are attached at pages 18-32.

Payments of Trial Court Fees Over Time

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.⁴ This proposal would not, therefore, eliminate the opportunity for a hearing before the grant of payments over time instead of a fee waiver, 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, as a general rule, limit the time period in which the payments can be made to three months and limit the applications of payments over time to the initial filing fees, for a first appearance. A court may, at its discretion, provide for a longer time period and provide that other filing fees may be included. The details of the proposal are described below.

Rules 3.50 and 3.51. These rules, describing the application of the fee waiver rules and providing how a party applies for a fee waiver, would be amended to provide that the rules also apply to a request to make payments over time, and that such a request should be made on the fee waiver application form. While there may be some applicants who only want payments over time, and are not applying for a fee waiver *per se*, such applicant would still need to provide the financial information on the back of the fee waiver application form. Therefore it makes sense that this form be adapted for use even by those applicants not directly seeking a fee waiver, rather than developing yet another set of forms and another set of procedures to parallel the fee waiver procedures.

Rule 3.52. This rule, concerning how a court processes a fee waiver application, would be amended in a few places.

- Rule 3.52(2) would be clarified to provide that an order on a fee waiver application that is issued *without a hearing* should be on form FW-003.⁵

⁴ The Judicial Council is expressly 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.

⁵ This is not a change in the rule, which already distinguishes between orders issued with or without a hearing. (Cf. Cal. Rules of Court, rule 3.52(3) (any order issued determining an application for an initial fee waiver *after* a

- A new subdivision would be added regarding payments over time, providing that such payments should be for a period of three months, unless a court finds good cause for a longer period. (Cal. Rules of Court, rule 3.52(6).)
- The new subdivision would also provide that orders permitting such payments could be made on form FW-003 if the hearing had been waived. (Id.)
- Renumbered subdivision (7), which, when the current fee waiver forms were first adopted in 2009, had allowed courts a grace period in which they could use forms created within their own electronic case management system rather than the Judicial Council so long as the forms met certain requirements, would be revived to provide a one-year period after this latest revision of the order forms in which a court could again electronically create its own order forms if the court elected to do so.

Form FW-001. Additions and changes on the proposed revised *Request to Waive Court Fees* (form FW-001) are described below and are highlighted on the attached copy of the form.

First page of form.

- *Item 5a, for eligibility based on eligibility to receive public benefits (§ 68633(a)).* Some of the longer names of the public benefits programs have been abbreviated to make more space on the form. Some programs are already listed just by initials on the current form, but more have been abbreviated in the proposed version. One, however, would be lengthened. In response to reported confusion by applicants, the name of one program, Supplemental Security Income, referred to on the form as SSI, would have a longer reference in the amended form (Supp. Sec. Inc.) to clarify that the eligible program is not Social Security income. An express reference to the information sheet (form FW-001-INFO) has been added where the full names of all the public benefits programs can be found.
- *Item 5b, for eligibility based on household's income being below 125% of the federal poverty guideline (§ 68633(b)).* The chart showing the maximum amount of income for this type of eligibility would be retained.⁶ The references to the income items on the financial statement on page two of the form have been renumbered to reflect the proposed changes on that page.
- *Item 5c, for eligibility based on income not being sufficient for common necessities of life (§ 68633(c)).*
 - The direction to check one of the options in this item has been changed to “check all boxes that apply” so that parties can apply for both fee waiver and payments

hearing in the trial court must be made on *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008.)

⁶ See discussion and request for specific comments below in Alternatives Considered, at page 12.

over time. (This has been happening anyway, with parties checking multiple boxes in spite of directions on the current form to check only one.)

- 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 closer to the beginning of the item, and the word “must” emphasized in italics and underlining. This change is in response to requests by several court administrators to emphasize this direction.
- The option to elect to “waive some court fees” would be deleted. 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.
- The direction “let me make payments over time” is changed to “let me pay my initial Superior Court⁷ filing fees over time” and adds an instruction to complete item 7 on the back of the form (the new item regarding possible waiver of a hearing) as well as the rest of the financial statement.

Back page of form:

- Item 7. A new item is added at the top of the second page of the form, titled Payments Over Time. The text describes the party’s right to a hearing prior to a denial of a fee waiver, along with the possibility of waiving that right in the event a court allows payments over time. There is also a reference to additional information regarding payments over time on the fee waiver information sheet (form FW-001-INFO). There are two check boxes so that the applicant can indicate whether or not he or she is waiving a hearing.
- All the remaining items on the page are renumbered.
- Item 9, Your Monthly Gross Income. In the current form, this item seeks an applicant’s income. It begins with a space for gross income from the applicant’s employment, followed by spaces to list all the deductions, and calls for a net amount of the applicant’s work income. The following lines are for the applicant’s gross income from other sources, with the next item asking for gross income from other members of the household. Thus, the total income figure at the bottom of the left side of the current form is a mix of net and gross figures. In the proposed form, all items in this column on the left side of the form would be for gross income figures. An item for the applicant’s gross work income is added to new item 9(a). The item for deductions has been moved to the list of expenses in renumbered item 12 (Your Monthly Deductions and Expenses).

⁷ The statute providing for how the Court of Appeal is to process requests for fee waivers does not include references to payments over time and the Courts of Appeal do not allow them.

- Item 11, Your Money and Property. A line has been removed from each of sub-items b (financial accounts), d (real estate), and e (other personal property), to add more space for the payroll deductions in item 12.

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

- Paragraph 1 in the general instructions section. The list of fees that will be waived if a fee waiver is granted has been revised to include two additional fees regarding appellate records. (See discussion in section regarding fees waived by initial fee waiver below.)
- Paragraph 3. This is a new paragraph about requesting permission to pay the filing fee over time. It identifies the item on the application form in which to make such a request, and describes the applicant's right to a hearing and the possibility of waiving 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 three months unless the party provides the court with good cause for a longer time.
- Paragraph regarding public benefits program. A new paragraph has been 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.
- Paragraph regarding court collections. This paragraph has been amended to expand the warning that the court can use collection proceedings and add a fee and costs for collection, so that it includes the court's efforts to collect any unpaid installments of fees for which a party was permitted to pay over time.
- Paragraph regarding prisoner applicants. A citation to the portion of the fee waiver statutes addressing applications by prisoners (§ 68635) has been added. This is an area that causes 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 cross reference to the applicable statute may be helpful.

Form FW-003. The major change to the *Order on Court Fee Waiver (Superior Court)* (form FW-003) is the addition of a new item which allows the court to issue an order denying a fee waiver, when allowing for payments over time, without a hearing. Currently, the form has items which the court may use to deny a fee waiver without a hearing if the application is incomplete (item 4b(1)) or if the information on the application *conclusively* establishes that a party is not eligible for an initial fee waiver (item 4b(2)). With the proposed changes to the order, if a party

has waived a hearing if payments over time are permitted, the court may also use this form to deny the fee waiver by completing item 4b(2) (giving the reasons for denying the waiver), and then completing new item 4d, allowing payments over time, without having to set a hearing first. The court may also use the amended form to grant or deny a standalone request for payments over time, when no fee waiver is requested. The changes are as follows:

- Item 4b(2) is amended to make optional the instruction that—following a denial of a fee waiver application that showed the applicant was not eligible—a party has 10 days to either ask for a hearing or pay the amount due in full. The opportunity to request a hearing is required by statute in situations where a fee waiver has been denied because the information on the application *conclusively* shows a lack of eligibility for a fee waiver and no advance hearing was required. (§ 68634(c)(3).) The committee concluded that this opportunity for a hearing is not necessary in situations where a party has waived the right to a hearing before denial of the application. A check box has been added to the form to make the instructions an optional item that the judicial officer would not need to check if a party has waived the right to a hearing.
- Item 4b(3) is added to provide a place for a court to deny a request for payments over time, when appropriate. This item would only be used if the application did not contain a request for a fee waiver. If there is a fee waiver requested at the same time as the request to pay over time, then there is a right to a hearing in advance of a court’s permitting installment payments, unless the party has waived that right. Because the waiver is, in the proposed form, conditioned on the court allowing a party to pay the filing fees over time, if the court does not allow payments over time, there would be no waiver. If a party requests *only* the right to make payments over time, with no actual fee waiver request, there is no statutory right to a hearing before the order and the court may use this item to deny the order if appropriate.
- New item 4d. This new item regarding payments over time is similar to the item regarding payments over time on the current form for a fee waiver order after hearing (item 5b(2) on form FW-008) with the following changes, which are being proposed for form FW-008 at the same time:
 - 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 showing the denial).
 - There is a reference to proposed rule 3.52(d), which provides a general limit of three months time to such deferrals. The committee intended this rule reference to be a reminder to the judicial officers as well as parties.
 - The type of fees that may be paid over time is now listed as “initial” filing fees, rather than just “filing fees.” Generally, only the payment of the substantial fees connected to a party’s first appearance in an action will be extended over time. This change is intended to clarify that the order allowing payments over time does

not extend to fees for filing motions, unless expressly included in the “other” category.

- 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 direction to “check one” indicating 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 fees occur in the superior court.
 - 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).
 - 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)* (form FW-008) has been revised in parallel with the changes described above in form FW-003.

- Item 5a is changed in all the ways item 4a on form FW-003 has been changed.
- Item 5b(2) regarding payments over time has been amended so that it mirrors new item 4d in amended form FW-003 described above.

Fees Waived by Initial Fee Waiver

Rules 3.55 and 8.818. Rule 3.55 of the California Rules of Court, which lists the superior court fees and costs that must be waived upon granting an application for an initial fee waiver, would be amended 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, this proposal would further amend 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 would amend rule 8.818 to simply cross-reference to rule 3.55 for the list of fees that must be waived.

Forms FW-001-INFO, FW-003, FW-008, APP-015/FW-015-INFO, and APP-001.

As discussed above, form FW-001-INFO is the information sheet regarding waiver of superior court fees and forms FW-003 and FW-008 are the superior court fee waiver order forms. All of these forms currently identify the superior court fees that must be waived upon granting an

application for an initial fee waiver. As already noted above, these forms would be revised in the following places to reflect the proposed amendments to rule 3.55:

- Form FW-001 INFO. Paragraph 1 in the general instructions section.
- FW-003. Item 4a(1).
- FW-008. Item 4a(1).

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 (the proposed changes are highlighted on the attached copies of these forms):

- Form APP-015/FW-015-INFO. Item 2. Cross-references to this discussion would also be added to Item 3.
- Form APP-001. Page 2, Reporter's Transcript section, middle paragraph.

The Appellate Advisory Committee is also proposing 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).

Alternatives Considered

1. 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 will 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 committee concluded that proposing amendments to effect the requested change is appropriate.

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.

2. 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 as they currently exist and so could 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. 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 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.

3. Removing chart showing income eligibility dollar amounts

While considering amendments to the *Request to Waive Court Fees* (form FW-001), at the request of a member of the Judicial Council's Rules and Projects Committee, the Civil and Small Claims Advisory Committee considered the alternative of further revising that form to delete the chart in item 5b that shows the dollar amounts for eligibility for a fee waiver under section 68632(b),⁸ which provides that a fee waiver should be given to any applicant whose monthly income is 125 percent or less of the current poverty guidelines.

Currently, this form is revised almost every February to reflect a change in the federal poverty guidelines that occurs at the end of January in most years. Each year in which the figures are revised, courts have to change the forms, either creating or purchasing new ones, because courts are required by statute to provide these forms at no cost to the parties. By removing this chart from the form and instead including a reference to a copy of the chart made available (and updated each year) on the California Courts Online Self-Help Center, courts would be relieved from the cost of having to deal with a form being revised each February, on a short time frame.

Before the current application form was adopted by the council, the chart was on the fee waiver information sheet. The Judicial Council working group that proposed the fee waiver statute in 2007 urged that, when new forms were developed to implement the fee waiver statute, the chart of the maximum income eligibility figures be included on the application form. The Civil and Small Claims and Family Law Advisory Committees, which together developed the new and revised forms to implement that statute, agreed with that recommendation. In the report those committees made to the council regarding form FW-001, the committees recommended that the chart be on the application form in order to make clearer to both the applicant and the court the factual basis for the applicant's assertion that he or she is eligible for a fee waiver under section 68632(b).

The current advisory committee agrees with its predecessor and concluded that the chart should stay on the form, in order to assist both the applicants and the courts in determining eligibility. The committee particularly considered the fact that most applicants for fee waivers are indigent self-represented litigants, without easy access to the Internet, and that they are asserting their eligibility under penalty of perjury. The committee also noted that, since the amendments to reflect the change in eligibility amounts are regularly issued in February of each year, courts can plan for the changes in stocking the fee waiver forms.

In light of concerns regarding the burden of producing or procuring new forms, the committee asks for comments on the question of whether the chart should remain on the form, or be removed and made available instead online.

⁸ That statute provides that a fee waiver should be given to any applicant who is "a person 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."

4. Effective date of proposed changes

In light of the fact that the dollar amounts in the eligibility chart on form FW-001 are likely to be changed early next year, with a form containing the revised figures likely to be approved by the council in late February, the committee considered the alternative of recommending that the proposal described here go into effect on March 1, 2015, rather than January 1. The committee asks for comment on this alternative, addressing whether it would be preferable to have the revised forms and amended rules reflecting the new procedures for payments over time and the amendments to the list of waived fees for appellate matters go into effect January 1, with the knowledge that the application form (form FW-001) is likely to be further revised effective March 1, or to defer the effective date of the entire proposal so that form FW-001 will only have to be changed one time? Note that it is not possible to have *only* the revisions to form FW-001 deferred, because the other changes cannot be implemented without the changes to the application form.

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 for such payments. 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 in late February 2015 so that any changes to the form 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 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 court costs, as the court will not have to consider separate requests to waive this fee.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?
- 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? (See discussion under Alternatives Considered, at page 12.)
- 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.)

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

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments

1. Proposed amendments to California Rules of Court, rules 3.50, 3.51, 3.52, 3.55, and 8.818
2. Proposed revised forms FW-001, FW-001-INFO, FW-003, FW-008, APP-001, and APP-015/FW-015-INFO

Rules 3.50, 3.51, 3.52, 3.55, and 8.818 of the California Rules of Court would be amended, effective January 1, 2015, to read:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

Title 3. Civil Rules

Division 2. Waiver of Fees and Costs

Rule 3.50. Application of rules

(a) Application

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 filing fees over time because of the applicant's financial condition. As provided in Government Code sections 68631 and following, any waiver may later be ended, modified, or retroactively withdrawn if the court determines that the applicant is not eligible for the waiver. As provided in Government Code sections 68636 and 68637, the court may, at a later time, determine that the previously waived fees and costs be paid.

(b) Definitions

For purpose of the rules in this division, "initial fee waiver" means the initial waiver of court fees and costs that may be granted at any stage of the proceedings and includes both the fees and costs specified in rule 3.55 and any additional fees and costs specified in rule 3.56.

Rule 3.51. Method of application

An application for initial fee waiver under rule 3.55 or for leave to pay filing fees over time must be made on *Request to Waive Court Fees* (form FW-001). An application for initial fee waiver under rule 3.56 must be made on *Request to Waive Additional Court Fees (Superior Court)* (form FW-002). The clerk must provide the forms and the *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO) without charge to any person who requests any fee waiver application or indicates that he or she is unable to pay any court fee or cost.

Rule 3.52. Procedure for determining application

The procedure for determining an application is as follows:

- (1) The trial court must consider and determine the application as required by Government Code sections 68634 and 68635.
- (2) An order determining an application for an initial fee waiver without a hearing must be made on *Order on Court Fee Waiver (Superior Court)* (form FW-003), except as provided in ~~(6)~~ (7) below.

- 1 (3) An order determining an application for an initial fee waiver after a hearing in the trial
2 court must be made on *Order on Court Fee Waiver After Hearing (Superior Court)* (form
3 FW-008).
4
- 5 (4) Any order granting a fee waiver must be accompanied by a blank *Notice of Improved*
6 *Financial Situation or Settlement* (form FW-010).
7
- 8 (5) Any order denying an application without a hearing on the ground that the information on
9 the application conclusively establishes that the applicant is not eligible for a waiver must
10 be accompanied by a blank *Request for Hearing About Fee Waiver Order (Superior Court)*
11 (form FW-006).
12
- 13 (6) Any order allowing payment of fees over time should limit the time for payments to three
14 months unless there is good cause for a longer time. The order may be issued on form FW-
15 003 if the party has waived a hearing.
16
- 17 (7) Until January 1, ~~2013~~ 2016, a court with a computerized case management system may
18 produce electronically generated court fee waiver orders as long as:
19 (A) The document is substantively identical to the mandatory Judicial Council form it is
20 replacing;
21 (B) Any electronically generated form is identical in both language and legally
22 mandated elements, including all notices and advisements, to the mandatory
23 Judicial Council form it is replacing; and
24 (C) The order is an otherwise legally sufficient court order, as provided in rule 1.31(g),
25 concerning orders not on Judicial Council mandatory forms.
26

27 **Rule 3.55. Court fees and costs included in all initial fee waivers**
28

29 Court fees and costs that must be waived upon granting an application for an initial fee waiver
30 include:
31

- 32 (1) Clerk's fees for filing papers;
33
34 (2) Clerk's fees for reasonably necessary certification and copying;
35
36 (3) Clerk's fees for issuance of process and certificates;
37
38 (4) Clerk's fees for transmittal of papers;
39
40 (5) Court-appointed interpreter's fees for parties in small claims actions;
41
42 (6) Sheriff's and marshal's fees under article 7 of chapter 2 of part 3 of division 2 of title 3 of
43 the Government Code (commencing with section 26720);
44

- 1 (7) Reporter's daily fees for attendance at hearings and trials held within 60 days of the date of
2 the order granting the application;
3
4 (8) The court fee for a telephone appearance under Code of Civil Procedure section 367.5; ~~and~~
5
6 (9) Clerk's fees for preparing, copying, certifying, and transmitting the clerk's transcript on
7 appeal to the reviewing court and the party. A party proceeding under an initial fee waiver
8 must specify with particularity the documents to be included in the clerk's transcript on
9 appeal;
10
11 (10) The fee under rule 8.130(b) or rule 8.834(b) for the court to hold in trust the deposit for a
12 reporter's transcript on appeal; and
13
14 (11) The clerk's fee for preparing a transcript of an official electronic recording under rule
15 8.835 or a copy of such an electronic recording.
16

17 Title 8. Appellate Rules

18 Division 2. Rules Relating to the Superior Court Appellate Division

19 Chapter 1. General Rules Applicable to Appellate Division Proceedings

20 Rule 8.818. Waiver of fees and costs

21 (a)-(c) * * *

22 (d) Court fees and costs waived

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

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

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

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

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

33 (e)-(f) * * *

Clerk stamps date here when form is filed.

DRAFT
03/24/14
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:

If you are getting public benefits, are a low-income person, or do not have enough income to pay for household's basic needs and your court fees, you may use this form to ask the court to waive your court fees or allow payment over time. The court may order you to answer questions about your finances. If the court waives the fees, you may still have to pay later if:

- 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. The trial court that waives your fees will have a lien on any such settlement in the amount of the waived fees and costs. The court may also charge you any collection costs.

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. Rows show income thresholds for family sizes 1-6.

- 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, let me pay my initial Superior Court filing fees over time (complete item 7 on page 2, along with all other items on that page)

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 Payments Over Time
 If you asked to make payments over time in addition to requesting a fee waiver, you may have the right to a hearing in advance—which means you will need to come to court—if the court denies the fee waiver. If the court grants the payments over time, do you waive your right to come to court for a hearing before the court rules on your application? (Check one; and see form FW-001-INFO for more information on payments over time.)

- Yes, I waive the right to a hearing in advance.
- No, I do not waive the right to a hearing in advance even if the court permits me to make payments over time.

8 Check here if your income changes a lot from month to month. Fill out below based on your average income for the past 12 months.

9 Your Gross Monthly Income

- a. List the source and amount of any other 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 all other persons living in your home and their income; include only your spouse and all individuals 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, etc., 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):
- | Paid to: | 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 fees for telephone hearings
 - Reporter's daily fee (*for up to 60 days after the grant of the fee waiver, at the court-approved daily rate*)
 - Preparing, certifying, copying, and sending the clerk's transcript on appeal.
 - Holding in trust the deposit for reporter's transcript on appeal under California Rules of Court, rules 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
 - Reporter's daily fees (*beyond the 60-day period after the grant of the fee waiver, at the court-approved daily rate*)
 - Fees for a peace officer to testify in court
 - Court-appointed interpreter fees for a witness
 - Other necessary court fees
3. You may ask to pay your filing fee in Superior Court in payments over time. To do that, complete the *Request to Waive Court Fees* and check the box in item 5c for payments over time. State law allows a court to grant this request even if a fee waiver is denied, but requires that the court give you opportunity for a hearing about the denial first. If you are willing to waive that hearing so that you do not have to go to court before the court allows payments over time, you should check "yes" on item 7 on the back of the request form, as well as filling out the rest of that form. A court may allow up to three months for payment of the filing fee, unless you can show a really good reason for a longer time. See Cal. Rules of Court, rule 3.52(6).
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. Please 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 Immigrant

- **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.**

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

Clerk stamps date here when form is filed.

**DRAFT
04/14/2014
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
- Reporter's daily fee (*for up to 60 days following the fee waiver order at the court-approved daily rate*)
- Preparing and certifying 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
- Giving notice and certificates
- Sending papers to another court department
- Court-appointed interpreter in small claims court
- Court fees for phone hearings

(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
- Reporter's daily fees (*beyond the 60-day period following the fee waiver order*)
- Other (*specify*): _____
- Fees for a peace officer to testify in court
- Court-appointed interpreter fees for a witness

Your name: _____

Case Number: _____

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 below) 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 below) to:

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

(3) **The court denies your request for payments over time.**

c. 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 c 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.

d. Having waived the right to a hearing, and the fee waiver having been denied (see (b)(2) above), you may pay some court fees and costs over time. (See *Cal. Rules of Court, rule 3.52(6)*.) You may make monthly payments of \$ _____ beginning (*date*): _____ and then payable on the 1st of each month after that, until the fees and costs checked below are paid in full:

(1) **Initial filing fees.** (2) **Other** (*describe*): _____

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

Date: _____

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

This is a Court Order.

Your name: _____

Case Number: _____



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.

Order on Court Fee Waiver After Hearing (Superior Court)

Clerk stamps date here when form is filed.

DRAFT

03/24/14

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):

Fill in court name and street address:

Superior Court of California, County of

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 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 daily fee (*for up to 60 days after the grant of the fee waiver, at the court-approved daily rate*)
- Preparing and certifying 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 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
- Reporter's daily fees (*beyond the 60-day period after grant of the fee waiver, at court-approved daily rate*)
- Other: (*specify*): _____
- Fees for a peace officer to testify in court
- Court-appointed interpreter fees for a witness



Case Name:

Case Number:

- 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 some court fees and costs over time. (See *Cal. Rules of Court, rule 3.52(6)*.) You may make monthly payments of \$ _____ beginning (*date*): _____ and then payable on the 1st of each month after that, until the fees checked below are paid in full:

(a) Initial filing fees.

(b) Other (*describe*): _____

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.

Filing papers at superior court

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 daily fee up to 60 days after order

Reporter's daily fees beyond the 60 days after initial order

Jury fees and expenses

Court-appointed experts' fees

Fees for a peace officer to testify in court

Making certified copies

Court fees for telephone hearings

Other (*specify*): _____

- (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

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 rule 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. 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 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

See rule 8.212 of the California Rules of Court.

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.

An original and four copies of each brief, along with proof of service, must be filed with the Court of Appeal. 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. If a brief is not filed electronically under rules 8.70-8.79, one electronic copy must also 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.

In some instances a copy of each brief must 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* (Judicial Council 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
Submit 1 electronic copy to the Court of Appeal (or, if this is hardship, serve 4 paper copies on 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 the 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) 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.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: February 19, 2015

Title

Fee Waivers: Change in Federal Poverty Guidelines, Revisions to Application Form, and Specific Fees Included in Waivers

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rules 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

Recommended by

Civil and Small Claims Advisory Committee
Hon. Patricia M. Lucas, Chair

Appellate Advisory Committee
Hon. Raymond Ikola, Chair

Agenda Item Type

Action Required

Effective Date

March 1, 2015 and July 1, 2015

Date of Report

February 3, 2015

Contact

Anne M. Ronan, Senior Attorney,
415-865-8933, anne.ronan@jud.ca.gov
Heather Anderson, Senior Attorney,
415-865-7691,
heather.anderson@jud.ca.gov
Legal Services, Judicial Council

Executive Summary

The Civil and Small Claims Advisory Committee recommends modifying the *Request to Waive Court Fees* (form FW-001) effective March 1, 2015 to reflect the 2015 increase to the federal poverty guidelines and at the same time make other clarifying changes to the form.

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 recent changes in law that mandates that any fees charged for the court's cost for court reporting services and assessments for court investigation under certain provisions of the Probate Code 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 *Request to Waive Court Fees* (form FW-001), to reflect 2015 increases in the federal poverty guidelines. Other non-substantive, clarifying changes would be made to the form at the same time.
2. The Civil and Small Claims Advisory Committee and Appellate Advisory Committee recommend that the Judicial Council, effective July 1, 2015:
 - Amend California Rules of Court, rules 3.52, 3.55, 3.56, and 8.818 to:
 - 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;
 - add to rule 3.55 the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript on appeal; and
 - 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 and the recently enacted amendments to Government Code section 68631.
3. The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective July 1, 2015 amend rule 3.52 to provide a grace period for courts in which they may use order forms created within their own electronic case management system rather than the newly amended Judicial Council forms.
4. The Appellate Advisory Committee recommends that the Judicial Council, effective July 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 15-35.

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

Request to Waive Court Fees (form FW-001)

Federal poverty guidelines

The eligibility of indigent litigants to proceed without paying filing fees or other court costs is determined by California Government Code section 68632. Among other things, section 68632(b) provides that a fee waiver shall be granted to litigants whose household monthly income is 125 percent or less of the current poverty guidelines established by the United States Department of Health and Human Services (HHS).

The Judicial Council has adopted rules of court and forms for litigants to obtain fee waivers. The application form, *Request to Waive Court Fees* (form FW-001), contains a table in item 5b that provides monthly income figures on which a court may base a decision to grant a fee waiver in accordance with Government Code section 68632. These income figures are based on the Federal poverty guidelines

The monthly income figures currently on the form reflects 125 percent of the 2014 poverty guidelines established by the HHS. The HHS released revised federal poverty guidelines on January 22, 2015.¹ As a result, the figures on the form must be revised to reflect the 2015 federal poverty guideline revisions.

To determine the new monthly income figures for the forms, the federal poverty guidelines must be multiplied by 125 percent and divided by 12.² The new figures are reflected in item 5b of the revised fee waiver application form (at page 18 of this report).

Other changes to form FW-001

The advisory committees recommend the following additional, non-substantive changes to the fee waiver application form:

- *Item 5a, for eligibility based on eligibility to receive public benefits.* This item would be amended to further abbreviate some of the longer names of the public benefits programs,

¹ See Annual Update of the HHS Poverty Guidelines, 80 *Fed. Reg.* 3236 (January 22, 2015), attached at pages 68-69.

² The Computation Sheet is attached at page 70.

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 5c, for eligibility based on income not being sufficient for common necessities of life (§ 68633(c)).* 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 item would otherwise retain the same content as currently on the form.
- *Items 8, 9, and 11, seeking financial information.* These items would be amended, so that all items in the left column of the form are for gross income figures—rather than some seeking net income and others gross—and the item for payroll deductions is 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.

Recommended effective date for form FW-001

The committee recommends making all the amendments to form FW-001 effective March 1, 2015, to ensure that litigants are provided with accurate monthly income guidelines on which a court may base a decision regarding fee waivers or financial liability. This rapid change to the form is necessary because the revised poverty guidelines take effect immediately upon release. Once adopted by the Judicial Council, the revised form will be distributed to the courts and forms publishers and posted to the California Courts website. The March effective date will result in this form only being amended once in 2015.

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 3.55³ 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.

³ All references to rules in this report are to the California Rules of Court.

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 fees for 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.

The statutory fee waiver provisions in section 68631 have also been recently amended, effective January 1, 2105, to expressly provide that assessments for court investigations under Probate Codes sections 1513, 1826, or 1851 are included in all initial fee waivers granted by a court.⁴

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

⁴ See Assembly Bill 2747 (Wieckowski) (Stats. 2014; ch. 913). Recommendations regarding rules and forms implementing other provisions in that legislation concerning fee waivers in probate matters will be addressed by the Probate and Mental Health Advisory Committee.

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 recommended amendments to rules 3.55 and 3.56, and the recently enacted amendments to Government Code section 68631. Some additional clarifying amendments are recommended at the same time.

- *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 fees for court investigations under certain Probate Code provisions and two fees regarding appellate records, and to revise the item for court reporter's fees to include all such fees.
 - 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.
 - A new paragraph on public benefits programs would be added, to list the full names of all the public programs listed in item 5a 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 cross-reference to the applicable statute may be helpful.
- *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-003, Order on Court Fee Waiver (Superior Court)*. The first section of item 4, on the first page of the form, would be revised 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.
 - A new item has been added for fees for court investigations under Probate Code sections 1513, 1826, or 1587, as provided in recently amended section 68631.
 - 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-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 new appellate fees and probate fees have been added.
- *Form FW-008, Order on Court Fee Waiver After Hearing (Superior Court)*. This form 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.
- *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.⁵

Appellate Court Forms. Two appellate court forms, *APP-015/FW-015-INFO*, and *APP-001*, would also be revised.

⁵ 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 statutes to waive all fees for court reporting services and for investigations under the Probate Code may themselves have been likely to create a controversy, the changes to the rule and forms now that the laws are in effect are not, in that they are essentially mandated by the change in statute. Making the changes 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 January.

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. Like *Request to Waive Court Fees* (form FW-001), this form contains a table that provides monthly income figures on which a court may base a decision to grant a fee waiver in accordance with Government Code section 68632. These income figures are based on the Federal poverty guidelines and must be updated to reflect the revised 2015 poverty figures.

The *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 APP-001 and APP-015/FW-015-INFO 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:

- APP-001 –page 2, item 5, Reporter’s Transcripts section, middle paragraph; and
- APP-015/FW-015-INFO – page 1, item 2, paragraph 1.

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).

Rule 3.52. Subdivision (6) of this rule, concerning how a superior court processes a fee waiver application, would be amended 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.

Recommended effective date for rules and forms other than form FW-001

The committees recommends making all the proposed amendments other than those to form FW-001 effective July 1, 2015, to ensure that courts have time to implement the changes in the rules and forms.⁶

Comments, Alternatives Considered, and Policy Implications

The proposal was circulated with an invitation to comment in spring 2014. As circulated, the proposal also included amendments and revisions to certain fee waiver rules and forms that relate to a court's permitting payments over time in the event a fee waiver application is denied. Those modifications would have (1) permitted 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) limited payments over time to first appearance fees and a payment period of three months. The committee has removed this part of the proposal from its final recommendations, in light of opposition to any change in the forms or rules relating to payments over time, as described below.

Summary of comments received

Fourteen comments were received, some extensive, from 16 different commentators (three public interest law organizations from Los Angeles submitted a joint comment). Comments were received from five courts (Los Angeles, Orange, Riverside, Sacramento, and San Diego), a judicial officer (from San Bernardino), a family law facilitator, two State Bar committees, two 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).

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.⁷

⁶ Note that making the revisions to APP-015/FW-015-INFO effective July 1, 2015 means that the income eligibility chart on this form will be not be updated until that time. Thus, for the four month period from March 1 until July 1, the charts on FW-001 and APP-015/FW-015-INFO will be different and courts will need to explain that the chart on FW-001 is the applicable one. The alternative would be to revise APP-015/FW-015-INFO twice in this four month period – once effective March 1 to update the chart and once effective July 1 to reflect the amendments to rule 3.55 that are recommended to take effect on that date.

⁷ 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. Some members of the Family and Juvenile Law Advisory Committee were opposed to the proposal, however, 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.

- 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 payments over time: 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 36-67. 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 strongly oppose the portion of the proposal relating to payments over time. All six note that this portion of 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. 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 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 had originally concluded that the proposed amendment, particularly eliminating some hearings, would benefit the courts. The committee's view was that 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) and that the proposal was not intended to change or expand the law authorizing payments over time. However, in further conversations with members of the advisory committee, representatives of the TCPJAC/CEAC Joint Rules Working Group voiced strong objections that whether intended to or not, the proposed modifications regarding payments over

time were perceived as adding additional burdens to the courts at a time when they could ill afford them. The representatives also reported that this concern was widespread among the members of their respective committees. In light of this strong opposition, the committee decided to withdraw all of its proposed changes relating to payments over time. The forms as recommended contain no changes relating to payments over time. All items regarding such payments have been left as in the current forms.

The three public interest law groups oppose the proposal as it relates to payments over time 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. While the majority of the advisory committee members disagreed with their general objections, as set forth in the comment chart, there is no need to summarize the comments here in light of the decision to withdraw all aspects of the proposal relating to payments over time. Those comments will be reconsidered when the committee works on this issue in the future.

There were several requests for modifications to the forms, some to sections not related to the payment of fees over time. 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. They are not summarized here in light of the committee’s withdrawal of that part of its proposal.

Comments on chart 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.⁸ 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. 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.

⁸ 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.” The proposal circulated for comment did not include the specific numbers for 2015 forms, which were just released last week. The circulated proposal did, however, note that the change to the chart was an almost annual event, and figures likely to be issued in February would require revisions to the chart.

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.

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, 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 requests 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 and is recommending that modifications to rules 3.55 and 3.56, and to the forms that include the lists of items in those rules, to conform the rules and forms to statute.

Other alternatives considered

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

No changes. The Appellate Advisory Committee considered the alternative of 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 developing 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 on this issue and so might result in a lesser training burden on the courts. The committee decided not to recommend this approach at this time, but may revisit this concept in light of the opposition to the proposed changes to the current fee waiver forms that were circulated on this topic.

Implementation Requirements, Costs, and Operational Impacts

The proposal will impose a need for training of court clerks and judicial officers on the new items that should be included in fee waivers. It will also impose a cost in producing or procuring new forms. Some of that cost, at least as to the application, form FW-001, would be required in any event because of the change in the federal poverty guidelines.

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 off-setting 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 15-17.
2. Forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-008, FW-012, APP-001, and APP-015-INFO, at pages 18-35.
3. Chart of comments, at pages 36-67.
4. Excerpt from Federal Register, at pages 68-69.
5. Computation Sheet, at page 70.

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) below.
15
16 (3)-(5) ***
17
18 (6) Until January 1, ~~2013~~ 2016, a court with a computerized case management system may
19 produce electronically generated court fee waiver orders as long as:
20 (A) The document is substantively identical to the mandatory Judicial Council form it is
21 replacing;
22 (B) Any electronically generated form is identical in both language and legally
23 mandated elements, including all notices and advisements, to the mandatory
24 Judicial Council form it is replacing; and
25 (C) The order is an otherwise legally sufficient court order, as provided in rule 1.31(g),
26 concerning orders not on Judicial Council mandatory forms.
27

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

29
30 Court fees and costs that must be waived upon granting an application for an initial fee waiver
31 include:

- 32
33 (1) Clerk's fees for filing papers;
34
35 (2) Clerk's fees for reasonably necessary certification and copying;
36
37 (3) Clerk's fees for issuance of process and certificates;
38
39 (4) Clerk's fees for transmittal of papers;
40
41 (5) Court-appointed interpreter's fees for parties in small claims actions;

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

21 **Advisory Committee Comment**

22 The inclusion of court reporter's fees in the fees waived upon granting an application for an
23 initial fee waiver is not intended to mandate that a court reporter be provided for all fee waiver
24 recipients. Rather, it is intended to include within a waiver all fees mandated under the
25 Government Code for the cost of court reporting services provided by a court.
26
27

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

29
30 Necessary court fees and costs that may be waived upon granting an application for an initial fee
31 waiver, either at the outset or upon later application, include:

- 32
33 (1) Jury fees and expenses;
34
35 (2) Court-appointed interpreter's fees for witnesses;
36
37 (3) Witness fees of peace officers whose attendance is reasonably necessary for prosecution or
38 defense of the case;
39
40 ~~(4) Reporter's fees for attendance at hearings and trials held more than 60 days after the date~~
41 ~~of the order granting the application;~~
42
43 ~~(5)~~ (4) Witness fees of court-appointed experts; and
44

1 (65) Other fees or expenses as itemized in the application.
2
3

4 **Title 8. Appellate Rules**
5

6 **Division 2. Rules Relating to the Superior Court Appellate Division**
7

8 **Chapter 1. General Rules Applicable to Appellate Division Proceedings**
9

10 **Rule 8.818. Waiver of fees and costs**
11

12 ~~(a)-(c) * * *~~
13

14 **(d) Court fees and costs waived**
15

16 Court fees and costs that must be waived upon granting an application for initial waiver of
17 court fees and costs ~~include: are listed in rule 3.55. The court may waive other necessary~~
18 court fees and costs itemized in the application upon granting the application, either at the
19 outset or upon later application.
20

21 ~~(1) The fee for filing the notice of appeal;~~
22

23 ~~(2) The clerk's fees for preparing and certifying the clerk's transcript on appeal and for~~
24 ~~copying and transmitting a copy of this transcript to the applicant;~~
25

26 ~~(3) The fee for preparing a transcript of an official electronic recording under rule 8.835~~
27 ~~or a copy of such an electronic recording; and~~
28

29 ~~(4) Any court fee for telephonic oral argument.~~
30

31 ~~(e)-(f) * * *~~

Clerk stamps date here when form is filed.

**DRAFT
01/30/14
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:

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. The court may order you to answer questions about your finances. If the court waives the fees, you may still have to pay later if:

- 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. The trial court that waives your fees will have a lien on any such settlement in the amount of the waived fees and costs. The court may also charge you any collection costs.

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?

- a. 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
- b. 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.)

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income	If more than 6 people at home, add \$433.34 for each extra person.
1	\$1,226.05	3	\$2,092.71	5	\$2,959.38	
2	\$1,659.38	4	\$2,526.05	6	\$3,392.71	

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 one and you **must** fill out page 2):

- waive all court fees and costs
- waive some of the court fees
- let me make payments over time

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



Case Number: _____

Your name: _____

If you checked 5a on page 1, do not fill out below. If you checked 5b, fill out questions 7, 8, and 9 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 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.

8 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: \$ _____

9 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.

Table with columns: Name, Age, Relationship, Gross Monthly Income. Rows 1-4.

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

Total monthly income and household income (8b plus 9b): \$ _____

10 Your Money and Property

a. Cash \$ _____

b. All financial accounts (List bank name and amount):

- (1) _____ \$ _____
(2) _____ \$ _____
(3) _____ \$ _____

c. Cars, boats, and other vehicles

Table with columns: Make / Year, Fair Market Value, How Much You Still Owe. Rows 1-3.

d. Real estate

Table with columns: Address, Fair Market Value, How Much You Still Owe. Rows 1-2.

e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):

Table with columns: Describe, Fair Market Value, How Much You Still Owe. Rows 1-2.

11 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). \$ _____

Paid to:

- (1) _____ \$ _____
(2) _____ \$ _____
(3) _____ \$ _____

Total monthly expenses (add 11a - 11n above): \$ _____

To list any other facts you want the court to know, such as unusual medical expenses, etc., 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.

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.

- 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.
 - Assessment for court investigations under Probate Code section 1513, 1826, or 1851.
 - 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
- 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
- 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.

Request to Waive Additional Court Fees (Superior Court)

CONFIDENTIAL

Clerk stamps date here when form is filed.

**DRAFT
02.02.15**

**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
02.02.2015
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
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- 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 court-appointed experts
- Other (specify): _____
- Fees for a peace officer to testify in court
- Court-appointed interpreter fees for a witness

Your name: _____

Case Number: _____

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 below) 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. 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 c 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



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 02.02.15
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
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- 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.

Replacement pages
26-27, 2015-02-18

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
 - Assessment for court investigations under Probate Code section 1513, 1826, or 1851
 - 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



Case Name: _____

Case Number: _____

- 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 some court fees and costs over time. You must make monthly payments of \$ _____ beginning (*date*): _____ and then payable on the 1st of each month after that, until the fees checked below are paid in full.
- Filing fees
- Other (*specify*): _____

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 for attendance at trial or hearing if reporter provided by the court. | |
| <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
02.02.14
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*).

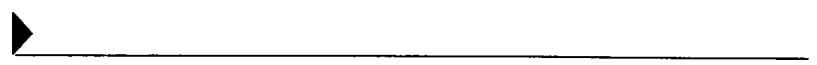
You must pay for all court fees that are not checked below:

- 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.

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	\$1,226.05	3	\$2,092.71	5	\$2,959.38
2	\$1,659.38	4	\$2,526.05	6	\$3,392.71

If more than 6 people at home, add \$433.34 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 (*).

List of All Commentators, Overall Positions on the Proposal, and General Comments			
Commentator	Position	Comment	Committee Response
1. Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.	AM	See comments on specific provisions below.	See committee responses to 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.	See committee responses to 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.	See committee responses to comments on specific provisions below.
4. Magda Conant Oceanside, California	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
5. Hon. Janet M. Frangie Superior Court of San Bernardino County	AM	See comments on specific provisions below.	See committee responses to 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	See committee responses to 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

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

List of All Commentators, Overall Positions on the Proposal, and General Comments			
Commentator	Position	Comment	Committee Response
-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.	See committee responses to comments on specific provisions below.
8. Orange County Bar Association By: Thomas Bienert, Jr., President	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
9. Superior Court of Los Angeles County (no name provided)	N	See comments on specific provisions below.	See committee responses to 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.	See committee responses to comments on specific provisions below.
11. Superior Court of Riverside County By: Daniel Wolfe, Managing Attorney	A	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
12. Superior Court of Sacramento County By: Elaine Flores	N	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
13. Superior Court of San Diego County By: Michael Roddy, Executive Officer	AM	See comments on specific provisions below.	See committee responses to comments on specific provisions below.
14. TCPJAC/CEAC Joint Rules Working Group	N	See comments on specific provisions below.	See committee responses to 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

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

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	
Commentator	Comment
<p>Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney</p>	<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>Hon. Janet M. Frangie Superior Court of San Bernardino County</p>	<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><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>	<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>
	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.</p>
	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit.</p>
	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit.</p>

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 (*).

Commentator	Comment	Committee Response
<p>-Western Center on Law & 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, 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). As noted above, however, the proposal will not be moving forward at this time. The committee will reconsider this comment in any future work on this issue.</p>

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 (*).

Commentator	Comment	Committee Response
	<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"> 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. 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. 	<ol style="list-style-type: none"> 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. The committee will consider this comment in any future work on this issue. 2. The committee will consider this comment in any future work on this issue.

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 (*).

Commentator	Comment	Committee Response
	<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 will consider this comment in any future work on this issue.</p> <p>4. This will no longer be on form FW-003. Because the committee is not recommending any amendments relating to payments over time, the item on FW-001 will remain as it currently stands for the time being.</p> <p>5. In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time.</p> <p>6. Because the committee is not recommending any amendments relating to payments over time, the item on FW-001 will remain as it currently stands for the time being.</p>

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 (*).

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		Committee Response
Commentator	Comment	
<p>Stacy Larsen Family Law Facilitator Superior Court of Shasta County</p>	<p>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.</p> <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>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.</p>

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 (*).

Commentator	Comment	Committee Response
	<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>	

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 (*).

Commentator	Comment	Committee Response
	<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>	

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 (*).

Commentator	Comment	Committee Response
	<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>	

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 (*).

Commentator	Comment	Committee Response
<p>Orange County Bar Association By: Thomas Bienert, Jr., President</p>	<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>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 denial of installment payments under FW-003;</p>	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.</p>

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 (*).

Commentator	Comment	Committee Response
	<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>	
Superior Court of Los Angeles County	<p>Making the proposed changes in the fee waiver forms has the potential to increase the number of requests for an order permitting payments 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.</p>	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.</p>

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 (*).

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	
Commentator	Comment
<p>Superior Court of Orange County By: Paul Alberga, Administrative Analyst/Officer II</p>	<p>In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.</p> <ul style="list-style-type: none"> • 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 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. • 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. ▪ 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. • What is the penalty for non-payment of payment plan

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 (*).

Commentator	Comment	Committee Response
	<p>fees? Do petitions get voided?</p> <ul style="list-style-type: none"> • What if a hearing document is filed after the initial fee waiver is granted? <ul style="list-style-type: none"> ○ Is a new fee waiver required for the additional fees? ○ What if a new payment plan is ordered? ○ Please clarify how subsequently filed documents that trigger filing fees are included or considered if there is already a payment plan in place. • 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." • 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"> ○ 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..." ○ 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." • FW-003: Order on Court Fee Waiver, Page 2, number 	

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 (*).

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		Committee Response
Commentator	Comment	
	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.	
Superior Court of Riverside County By: Daniel Wolfe, Managing Attorney	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 receive authorization to do so.	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.
Superior Court of Sacramento County By: Elaine Flores	6466 fee waivers filed 4121 granted w/out hearing 345 denied w/out hearing 51 granted after hearing 56 denied after hearing 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	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue..

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 (*).

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	
Commentator	Committee Response
Superior Court of San Diego County By: Michael Roddy, Exeutive Officer	and workload doesn't seem to outweigh the expense and workload for conducting fee waiver hearings. 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.
TCPJAC/CEAC Joint Rules Working Group	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.
	In light of objections received to this aspect of the proposal, the committee has decided to withdraw the proposed amendments to the rules and forms relating to payments over time. It will reconsider the issue in the future as time and resources permit, and will consider this comment in any future work on this issue.
	Although the proposal is purportedly intended to save time with respect to fee waiver adjudications, the TCPJAC/CEAC Joint Rules Working Group believes that in operation, the proposal would significantly increase burdens on staff. General comments 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. 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

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 (*).

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	
Commentator	Comment
	<p>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>
	Committee Response

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 (*).

Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date		
Commentator	Comment	Committee Response
<p>Committee on Administration of Justice State Bar of California By: Saul Bercovitch, Staff Attorney</p>	<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 for form FW-001 in order to avoid having to amend the form twice in one year. The other changes to the rules and forms will be effective July 1, 2105 to provide courts with time to implement the changes.</p>

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 (*).

Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date		
Commentator	Comment	Committee Response
<p>Stacy Larsen Family Law Facilitator Shasta County Superior Court</p>	<p>change the forms regardless, CAJ believes it makes economic sense to make all changes at the same time to avoid duplicative costs.</p> <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 for form FW-001 in order to avoid having to amend the form twice in one year. The other changes to the rules and forms will be effective July 1, 2105 to provide courts with time to implement the changes.</p>
<p>Orange County Bar Association By: Thomas Bienert, Jr., President</p>	<p>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 effective January 1 or March 1 depends on the amount of</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001. The committees believe a March 1 effective date will achieve cost savings in eliminating a second amendment</p>

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 (*).

Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date		
Commentator	Comment	Committee Response
Superior Court, County of Los Angeles (no name provided)	<p>associated costs savings (if any).</p> <p>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.</p>	<p>to the same form within a two month period..</p> <p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001. 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.</p>
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"> 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. <p>3. Would the resulting savings to the courts [by removing income form from chart] offset the added burden to the parties</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p>

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 (*).

Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date		
Commentator	Comment	Committee Response
	<p>and judicial officers in finding that information? (See discussion under Alternatives Considered, at page 12)</p> <ul style="list-style-type: none"> • See number 5 below; no cost savings identified <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"> • Yes, the March 1st date would be an effective timeframe. 	<p>The committees appreciate the response.</p> <p>The committees agree and are recommending a March 1 effective date for form FW-001 in order to avoid having to amend the form twice in one year. The other changes to the rules and forms will be effective July 1, 2105 to provide courts with time to implement the changes.</p>
<p>Superior Court of Riverside By: Daniel Wolfe, Managing Attorney</p>	<p>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.</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001.</p>
<p>TCPJAC/CEOC Joint Rules Working Group</p>	<p>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</p>	<p>Based on the public comments received, the committees recommend retaining the income eligibility chart on FW-001. 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</p>

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 (*).

Chart on Form FW-001 Showing Income Eligibility Dollar Amounts and Effective Date	
Commentator	Committee Response
	to the internet, and that they are asserting their eligibility based on the federal poverty guidelines under penalty of perjury.
website.	

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	
Commentator	Committee Response
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.
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.
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
	The committees note the commentator's support for the proposal.
	The committees note the commentator's support for the proposal.
	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.

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 (*).

Commentator	Comment	Committee Response
Superior Court, County of Los Angeles	<p>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 “wiggle 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 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>	
	With respect to fees related to appeal to the appellate division of the Superior Court, these fees should not be referenced on	Removing this information from the fee waiver forms would be an important substantive change and thus is

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 (*).

Commentator	Comment	Committee Response
(no name provided)	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.	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. 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"> • Suggest revising rule by striking the word "daily," and recommend removing the 60 day reference. • Suggest referencing the same period of time for all fee waivers related to court reporter fees. 	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: 1. Should we add the new Government Code sect. 68086 Court Reporter Fee of \$30 to FW-001?	The committees agree 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.-

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 (*).

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	
Commentator	Committee Response
<p>TCPIAC/CEAC Joint Rules Working Group</p>	<p>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. The committees will add this suggestion to reconsider that earlier policy decision to the list of suggestions for future consideration by the committees.</p>
<p>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.</p>	

Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008	
Commentator	Committee Response
<p>Stacy Larsen Family Law Facilitator Shasta County Superior Court</p>	<p>The committee has modified the form in light of this comment.</p> <p>This instruction has been modified in light of the removal of the circulated item 7.</p>
<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</p>	

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 (*).

Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008	
Commentator	Committee Response
<p>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>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,</p>	<p>This instruction has been modified in light of the removal of the circulated item 7.</p> <p>The committee has modified the form in light of this comment.</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>

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 (*).

Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008		
Commentator	Comment	Committee Response
Orange County Bar Association By: Thomas Bienert, Jr., President	<p>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>(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.</p>	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"> Under Section 9, the first sentence is confusing: “List the source and amount of any other income you get each month;” Other than what income? At this point the party has not listed any income. Suggest rewording as follows: “List the source and amount of all income you get each month. Under Section 10 the first sentence is confusing: “List all other persons living in your home and their income; include only your spouse and all individuals who depend...” The party is first asked to list ALL other persons and then to include ONLY a select group of persons. The sentence seems to be contradictory. Suggest changing text to read as follows: “List your spouse and all individuals who live in your home and depend in whole or in part on you for support...” <p>FW-001-INFO: Information Sheet on Waiver of Superior Court Fees and Costs</p> <ul style="list-style-type: none"> Recommend aligning all bullet points with the left margin throughout the form. 	<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>

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 (*).

Other Comments/Suggestions – Forms FW-001, FW-001-INFO, FW-003 and FW-008		
Commentator	Comment	Committee Response
	<ul style="list-style-type: none"> Under the first bullet under “IMPORTANT INFORMATION”: Suggest the word “Please” be removed. To answer “truthfully, accurately, and completely” should not be a request. <p>FW-003: Order on Court Fee Waiver</p> <ul style="list-style-type: none"> Page 3, Clerk’s Certificate of Service should include language to allow for electronic service. 	<p>The fee waiver application, generally filed by self-represented parties, does not have a space for a party to include information regarding electronic addresses or to agree to electronic service. Amending the forms to allow for such information and such service will be considered in the future.</p>

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 (*).

Other Comments/Suggestions – Form APP-001		Committee Response
Commentator	Comment	
<p>Appellate Courts Section Los Angeles County Bar Association By: John A. Taylor, Jr.</p>	<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>	<p>The committee has revised its proposal to include the sentence suggested by the commentator in the proposed revisions to form APP-001.</p>

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 (*).

Other Comments/Suggestions – Form APP-001		
Commentator	Comment	Committee Response
	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 (*).

Other Comments/Suggestions – General		Committee Response
Commentator	Comment	
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 (*).

Other Comments/Suggestions – General		
Commentator	Comment	Committee Response
Superior Court, County of Orange By: Paul Alberga, Administrative Analyst/Officer II	<p>SPR 14-05: Request for Specific Comments</p> <p>1. Does the proposal appropriately address the stated purpose?</p> <ul style="list-style-type: none"> • Yes [11] <p>5. Would the proposal provide cost savings? If so, please quantify.</p> <ul style="list-style-type: none"> • No <p>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.</p> <ul style="list-style-type: none"> • Brief staff training sessions and procedural updates; no case management system updates. <p>7. Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</p> <ul style="list-style-type: none"> • Yes 	The committee appreciates the responses to the specific questions asked.

Computation Sheet

Number in Family	2015 Federal Poverty Guidelines (A)	125% of Poverty Guidelines (B) (B = A x 125%)	2015 California Monthly Income (C) (C = B / 12)*
1	\$11,770.00	\$14,712.50	\$1,226.05
2	15,930.00	19,912.50	1,659.38
3	20,090.00	25,112.50	2,092.71
4	24,250.00	30,312.50	2,526.05
5	28,410.00	35,512.50	2,959.38
6	32,570.00	40,712.50	3,392.71
Each additional person	4,160.00	5,200.00	433.34

*Figures are rounded up to the nearest cent.

By Order of the Federal Maritime Commission.

Dated: January 16, 2015.

Rachel E. Dickon,
Assistant Secretary.

[FR Doc. 2015-01033 Filed 1-21-15; 8:45 am]

BILLING CODE 6730-01-P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of December 16-17, 2014

In accordance with Section 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on December 16-17, 2014.¹

Consistent with its statutory mandate, the Federal Open Market Committee seeks monetary and financial conditions that will foster maximum employment and price stability. In particular, the Committee seeks conditions in reserve markets consistent with federal funds trading in a range from 0 to 1/4 percent. The Committee directs the Desk to undertake open market operations as necessary to maintain such conditions. The Committee directs the Desk to maintain its policy of rolling over maturing Treasury securities into new issues and its policy of reinvesting principal payments on all agency debt and agency mortgage-backed securities in agency mortgage-backed securities. The Committee also directs the Desk to engage in dollar roll and coupon swap transactions as necessary to facilitate settlement of the Federal Reserve's agency mortgage-backed securities transactions. The System Open Market Account manager and the secretary will keep the Committee informed of ongoing developments regarding the System's balance sheet that could affect the attainment over time of the Committee's objectives of maximum employment and price stability.

By order of the Federal Open Market Committee, January 9, 2015.

William B. English,
Secretary, Federal Open Market Committee.

[FR Doc. 2015-01008 Filed 1-21-15; 8:45 am]

BILLING CODE 6210-01-P

¹ Copies of the Minutes of the Federal Open Market Committee at its meeting held on December 16-17, 2014, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's Annual Report.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Decision To Evaluate a Petition To Designate a Class of Employees From the Westinghouse Electric Corp. in Bloomfield, New Jersey, To Be Included in the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention, HHS.

ACTION: Notice.

SUMMARY: NIOSH gives notice as required by 42 CFR 83.12(e) of a decision to evaluate a petition to designate a class of employees from the Westinghouse Electric Corp. in Bloomfield, New Jersey, to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

Facility: Westinghouse Electric Corp.

Location: Bloomfield, New Jersey.

Job Titles and/or Job Duties: All employees who worked in any plant production area.

Period of Employment: January 1, 1950 through March 1, 2011.

FOR FURTHER INFORMATION CONTACT: Stuart L. Hinnefeld, Director, Division of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C-46, Cincinnati, OH 45226-1938, Telephone 877-222-7570. Information requests can also be submitted by email to DCAS@CDC.GOV.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 2015-01056 Filed 1-21-15; 8:45 am]

BILLING CODE 4163-19-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the Department of Health and Human Services (HHS) poverty guidelines to account for last calendar year's increase in prices as measured by the Consumer Price Index.

DATES: *Effective Date:* January 22, 2015, unless an office administering a program using the guidelines specifies a different effective date for that particular program.

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: For information about how the guidelines are used or how income is defined in a particular program, contact the Federal, state, or local office that is responsible for that program. For information about poverty figures for immigration forms, the Hill-Burton Uncompensated Services Program, and the number of people in poverty, use the specific telephone numbers and addresses given below.

For general questions about the poverty guidelines themselves, contact Kendall Swenson, Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201, telephone: (202) 690-7507, or visit <http://aspe.hhs.gov/poverty/>.

For information about the percentage multiple of the poverty guidelines to be used on immigration forms such as USCIS Form I-864, Affidavit of Support, contact U.S. Citizenship and Immigration Services at 1-800-375-5283.

For information about the Hill-Burton Uncompensated Services Program (free or reduced-fee health care services at certain hospitals and other facilities for persons meeting eligibility criteria involving the poverty guidelines), contact the Health Resources and Services Administration Information Center at 1-800-275-4772. To receive a Hill-Burton information package, call 1-800-638-0742 (for callers outside Maryland) or 1-800-492-0359 (for callers in Maryland). You also may visit <http://www.hrsa.gov/gethealthcare/affordable/hillburton/>.

For information about the number of people in poverty, visit the Poverty section of the Census Bureau's Web site at <http://www.census.gov/hhes/www/poverty/poverty.html> or contact the Census Bureau's Customer Service Center at 1-800-923-8282 (toll-free) or visit <https://ask.census.gov> for further information.

SUPPLEMENTARY INFORMATION:

Background

Section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C. 9902(2)) requires the Secretary of

the Department of Health and Human Services to update the poverty guidelines at least annually, adjusting them on the basis of the Consumer Price Index for All Urban Consumers (CPI-U). The poverty guidelines are used as an eligibility criterion by the Community Services Block Grant program and a number of other Federal programs. The *poverty guidelines* issued here are a simplified version of the *poverty thresholds* that the Census Bureau uses to prepare its estimates of the number of individuals and families in poverty.

As required by law, this update is accomplished by increasing the latest published Census Bureau poverty thresholds by the relevant percentage change in the Consumer Price Index for All Urban Consumers (CPI-U). The guidelines in this 2015 notice reflect the 1.6 percent price increase between calendar years 2013 and 2014. After this inflation adjustment, the guidelines are rounded and adjusted to standardize the differences between family sizes. The same calculation procedure was used this year as in previous years. (Note that these 2015 guidelines are roughly equal to the poverty thresholds for calendar year 2014 which the Census Bureau expects to publish in final form in September 2015.)

The poverty guidelines continue to be derived from the Census Bureau's current official poverty thresholds; they are not derived from the Census Bureau's new Supplemental Poverty Measure (SPM).

The following guideline figures represent annual income.

2015 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Persons in family/household	Poverty guideline
1	\$11,770
2	15,930
3	20,090
4	24,250
5	28,410
6	32,570
7	36,730
8	40,890

For families/households with more than 8 persons, add \$4,160 for each additional person.

2015 POVERTY GUIDELINES FOR ALASKA

Persons in family/household	Poverty guideline
1	\$14,720
2	19,920
3	25,120

2015 POVERTY GUIDELINES FOR ALASKA—Continued

Persons in family/household	Poverty guideline
4	30,320
5	35,520
6	40,720
7	45,920
8	51,120

For families/households with more than 8 persons, add \$5,200 for each additional person.

2015 POVERTY GUIDELINES FOR HAWAII

Persons in family/household	Poverty guideline
1	\$13,550
2	18,330
3	23,110
4	27,890
5	32,670
6	37,450
7	42,230
8	47,010

For families/households with more than 8 persons, add \$4,780 for each additional person.

Separate poverty guideline figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. (Note that the Census Bureau poverty thresholds—the version of the poverty measure used for statistical purposes—have never had separate figures for Alaska and Hawaii.) The poverty guidelines are not defined for Puerto Rico or other outlying jurisdictions. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office that administers the program is generally responsible for deciding whether to use the contiguous-states-and-DC guidelines for those jurisdictions or to follow some other procedure.

Due to confusing legislative language dating back to 1972, the poverty guidelines sometimes have been mistakenly referred to as the “OMB” (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services. The poverty guidelines may be formally referenced as “the poverty guidelines updated periodically in the **Federal Register** by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).”

Some federal programs use a percentage multiple of the guidelines

(for example, 125 percent or 185 percent of the guidelines), as noted in relevant authorizing legislation or program regulations. Non-Federal organizations that use the poverty guidelines under their own authority in non-Federally-funded activities also may choose to use a percentage multiple of the guidelines.

The poverty guidelines do not make a distinction between farm and non-farm families, or between aged and non-aged units. (Only the Census Bureau poverty thresholds have separate figures for aged and non-aged one-person and two-person units.)

Note that this notice does not provide definitions of such terms as “income” or “family,” because there is considerable variation in defining these terms among the different programs that use the guidelines. These variations are traceable to the different laws and regulations that govern the various programs. This means that questions such as “Is income counted before or after taxes?”, “Should a particular type of income be counted?”, and “Should a particular person be counted as a member of the family/household?” are actually questions about how a specific program applies the poverty guidelines. All such questions about how a specific program applies the guidelines should be directed to the entity that administers or funds the program, since that entity has the responsibility for defining such terms as “income” or “family,” to the extent that these terms are not already defined for the program in legislation or regulations.

Dated: January 16, 2015.

Sylvia M. Burwell,
Secretary of Health and Human Services.
 [FR Doc. 2015–01120 Filed 1–21–15; 8:45 am]
BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–15KX]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction

HORVITZ
& LEVY

May 20, 2014

VIA FEDEX

Hon. Patricia M. Lucas, Chair
Civil and Small Claims Advisory Committee
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102

HORVITZ & LEVY LLP
15780 VENTURA BOULEVARD
18TH FLOOR
ENCINO, CALIFORNIA 91436-3000
T 818 995 0800
F 818 995 3157
WWW.HORVITZLEVY.COM

Re: *Proposal to amend rules 3.55 and 3.56, and related forms*

Dear Judge Lucas:

On behalf of the Harriett Buhai Center for Family Law, Western Center on Law & Poverty, and Public Counsel, we write to recommend amendments to two rules of court and related Judicial Council forms concerning waivers of court fees and costs for indigent litigants. The changes are necessary to conform the rules and forms to a statutory amendment that recently took effect.

Rule 3.55 lists fees and costs “that must be waived upon granting an application for an initial fee waiver” under Government Code section 68631. Rule 3.56 lists fees and costs “that may be waived” for those granted a fee waiver.

Fees that must be waived include “[r]eporter’s daily fees for attendance at hearings and trials held *within 60 days* of the date of the order granting the [fee waiver] application.” (Rule 3.55(7), emphasis added.) Similarly, “[r]eporter’s fees for attendance at hearings and trials held *more than 60 days* after the date of the order granting the application” are among the fees that may be waived. (Rule 3.56(4), emphasis added.)

The time limitation in rules 3.55(7) and 3.56(4) requires an indigent litigant to repeatedly apply for additional fee waivers whenever a hearing or trial in his or her case occurs more than 60 days after he or she has already been granted a fee waiver. These further applications are burdensome both for the litigants — who are frequently unrepresented — and for the court. But, because of a statutory change effective January 1, 2014, repeated applications for waivers of reporter’s fees are unnecessary. Indeed, requiring those additional applications is contrary to the new law.

Hon. Patricia M. Lucas, Chair
Re: *Proposal to amend rules 3.55 and 3.56, and related forms*
May 20, 2014
Page 2

Government Code section 68086, subdivision (a), specifies both the fees to be charged to litigants for court reporting services and the procedures for collecting those fees. In amending section 68086, the Legislature, among other things, added a new provision stating that “[t]he [court reporting] fee shall be waived for a person who has been granted a fee waiver under Section 68631.” (§ 68086, subd. (b).)

Significantly, the section 68086, subdivision (b), court reporter fee waiver provision is unconditional. It is not limited to court reporter fees for hearings or trials held within 60 days of the granting of a fee waiver. By the statute’s plain terms, a fee waiver applies to all court reporter fees whenever a hearing or trial is held. Thus, as of several months ago, the 60-day limitation in rules 3.55(7) and 3.56(4) conflicts with the statutory law.

We therefore propose the following changes:

1. Amend rule 3.55 to read:

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

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

- (1) Clerk’s fees for filing papers;
- (2) Clerk’s fees for reasonably necessary certification and copying;
- (3) Clerk’s fees for issuance of process and certificates;
- (4) Clerk’s fees for transmittal of papers;
- (5) Court-appointed interpreter’s fees for parties in small claims actions;
- (6) Sheriff’s and marshal’s fees under article 7 of chapter 2 of part 3 of division 2 of title 3 of the Government Code (commencing with section 26720);
- (7) Reporter’s daily fees for attendance at hearings and trials ~~held within 60 days of the date of the order granting the application;~~
- (8) The court fee for a telephone appearance under Code of Civil Procedure section 367.5; and

(9) Clerk's fees for preparing, copying, certifying, and transmitting the clerk's transcript on appeal to the reviewing court and the party. A party proceeding under an initial fee waiver must specify with particularity the documents to be included in the clerk's transcript on appeal.

2. Amend rule 3.56 to read:

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:

- (1) Jury fees and expenses;
- (2) Court-appointed interpreter's fees for witnesses;
- (3) Witness fees of peace officers whose attendance is reasonably necessary for prosecution or defense of the case;
- ~~(4) Reporter's fees for attendance at hearings and trials held more than 60 days after the date of the order granting the application;~~
- (5 4) Witness fees of court-appointed experts; and
- (6 5) Other fees or expenses as itemized in the application.

3. Revise Judicial Council forms

The amendments to rules 3.55 and 3.56 proposed above would require changes to some of the Judicial Council's forms.

a. Form FW-001-INFO and FW-001-INFO S

Under 1 — listing the fees that will be waived — make the following change after "Reporter's daily fee": "~~(for up to 60 days after the grant of the fee waiver, at the court-approved daily rate).~~"

Under 2 — listing additional fees that may be waived — delete "Reporter's daily fees ~~(beyond the 60-day period after the grant of the fee waiver, at the court-approved daily rate).~~"

Hon. Patricia M. Lucas, Chair

Re: *Proposal to amend rules 3.55 and 3.56, and related forms*

May 20, 2014

Page 4

Equivalent changes should be made to the Spanish language information sheet.

b. Form FW-002 and FW-002 S

Under 5, delete “~~Reporter’s daily fees (beyond 60 days after grant of a fee waiver, at court approved rate).~~”

An equivalent change should be made to the Spanish language additional fee waiver form.

c. Form FW-003 and FW-003 S

Under 4.a.(1), make the following change after “Reporter’s daily fee”: “~~(for up to 60 days following the fee waiver order at the court-approved daily rate).~~”

Under 4.a.(2), delete “~~Reporter’s daily fees (beyond the 60 day period following the fee waiver order).~~”

Equivalent changes should be made to the Spanish language fee waiver order form.

d. Form FW-005 and FW-005 S

Under 4, make the following change after “Reporter’s daily fee”: “~~(for up to 60 days after the date of this notice, at the court-approved daily rate).~~”

An equivalent change should be made to the Spanish language fee waiver notice form.

e. Form FW-008 and FW-008 S

Under 5.a.(1), make the following change after “Reporter’s daily fee”: “~~(for up to 60 days after the grant of the fee waiver, at the court-approved daily rate).~~”

Under 5.a.(2), delete “~~Reporter’s daily fees (beyond the 60 day period after grant of the fee waiver, at court approved daily rate).~~”

Equivalent changes should be made to the Spanish language fee waiver order form.

Hon. Patricia M. Lucas, Chair
Re: *Proposal to amend rules 3.55 and 3.56, and related forms*
May 20, 2014
Page 5

f. Form FW-012 and FW-012 S

Under 6.d.(2), delete after "Reporter's daily fee": "~~(up to 60 days after date of fee waiver).~~"

Also under 6.d.(2), delete "~~Reporter's daily fees (beyond 60 days after the fee waiver).~~"

Equivalent changes should be made to the Spanish language fee waiver order form.

Sincerely,

**HARRIETT BUHAI CENTER
FOR FAMILY LAW**

BETTY L. NORDWIND
Executive Director

DAVID S. ETTINGER
Member, Board of Directors

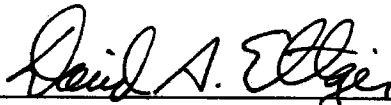
**WESTERN CENTER ON LAW &
POVERTY**

RICHARD A. ROTHSCHILD
Director of Litigation

PUBLIC COUNSEL

LISA R. JASKOL
Directing Attorney - Appellate Law

By



David S. Ettinger

DSE

cc (by email): Heather Anderson, Senior Attorney (heather.anderson@jud.ca.gov)

AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council on April 24, 2009,
effective on July 1, 2009, and January 1, 2010.

Rules effective July 1, 2009:

Rule 1.31. Mandatory forms	3
Rule 2.260. Electronic service	3
Rule 3.50. Application <u>of rules</u>	4
Rule 3.51. Method of application and filing of papers	4
Rule 3.52. Eligibility	5
Rule 3.53. Verification of financial condition	5
Rule 3.54. Determination without regard to pleading or paper submitted —for filing	6
Rule 3.55. Effect of denial of application; time for payment of fees	6
Rule 3.52 3.56 . Procedure for determining application	7
Rule 3.53 3.57 . Application granted unless acted on by the court	8
Rule 3.58. Hearing on application	8
Rule 3.59. Changed circumstances	9
Rule 3.54 3.60 . Confidentiality	10
Rule 3.55 3.61 . Court fees and costs <u>included in all initial fee waivers</u> <u>waived by initial application</u>	11
Rule 3.56 3.62 . Additional court fees and costs <u>that may be included</u> <u>in initial fee waiver waived</u>	11
Rule 3.57. Amount of lien for waived fees and costs	12
Rule 3.58 3.63 . Posting notice	12
Rule 5.175. Bifurcation of issues	13
<u>Rule 8.26. Waiver of fees and costs</u>	13
Rule 8.100. Filing the appeal	15
Rule 8.122. Clerk’s transcript	18
Rule 8.128. Superior court file instead of clerk’s transcript	18
Rule 8.486. Petitions	19
<u>Rule 8.818. Waiver of fees and costs</u>	20
Rule 8.821. Notice of appeal	22
Rule 8.832. Clerk’s transcript	24
Rule 8.833. Trial court file instead of clerk’s transcript	24
Rule 8.860. Normal record on appeal	25
Rule 8.862. Preparation of clerk’s transcript	25
Rule 8.863. Trial court file instead of clerk’s transcript	26
Rule 8.869. Statement on appeal	26
Rule 8.916. Statement on appeal	27
Rule 8.1010. Record on transfer	27
Rule 8.1105. Publication of appellate opinions	28

Rules effective January 1, 2010:

Rule 3.865. Application and purpose	29
---	----

Rule 3.866. Definitions 30
Rule 3.867. Complaint coordinator..... 31
Rule 3.868. Complaint procedure required..... 32
Rule 3.869. General requirements for complaint procedures and complaint
proceedings 32
Rule 3.870. Permissible court actions on complaints 35
Rule 3.871. Confidentiality of complaint proceedings, information,
and records 35
Rule 3.872. Disqualification from subsequently serving as an adjudicator 38

1 **Rule 1.31. Mandatory forms**

2
3 **(a)–(d) ******

4
5 **(e) No alteration of forms**

6
7 Except as provided in rule 3.52(6), concerning court fee waiver orders, rule
8 5.504, concerning court orders in juvenile court proceedings, and rule
9 7.101.5, concerning court orders in proceedings under the Probate Code,
10 courts may not require the use of an altered mandatory Judicial Council form
11 in place of the Judicial Council form. However, a judicial officer may
12 modify a Judicial Council form order as necessary or appropriate to
13 adjudicate a particular case.

14
15 *(Subd (e) amended effective July 1, 2009; previously amended effective January 1, 2007,*
16 *and January 1, 2009.)*

17
18 **(f)–(g) ******

19
20 *Rule 1.31 amended effective July 1, 2009; adopted effective January 1, 2007; previously amended*
21 *effective January 1, 2007, and January 1, 2009.*

22
23
24 **Rule 2.260. Electronic service**

25
26 **(a)–(e) * * ***

27
28 **(f) Proof of service**

29
30 (1) Proof of electronic service may be by any of the methods provided in
31 Code of Civil Procedure section 1013(a), except that the proof of
32 service must state:

33
34 (A)–(B) * * *

35
36 (2)–(4) * * *

37
38 *(Subd (f) amended effective July 1, 2009; adopted as subd (c) effective January 1, 2003;*
39 *previously amended effective January 1, 2007, and January 1, 2009; previously relettered*
40 *effective January 1, 2008.)*

41
42 **(g) * * ***

1 *Rule 2.260 amended effective July 1, 2009; adopted as rule 2060 effective January 1, 2003;*
2 *previously amended and renumbered effective January 1, 2007, and January 1, 2009; previously*
3 *amended effective January 1, 2008.*

4
5
6 **Rule 3.50. Application of rules**

7
8 **(a) Application**

9
10 The rules in this division govern applications in the trial court for an order to
11 proceed in forma pauperis—that is, without paying initial waiver of court
12 fees and costs because of the applicant’s financial condition. As provided in
13 Government Code sections 68631 and following, any waiver may later be
14 ended, modified, or retroactively withdrawn if the court determines that the
15 applicant is not eligible for the waiver. As provided in Government Code
16 sections 68636 and 68637, the court may, at a later time, determine that the
17 previously waived fees and costs be paid.

18
19 *(Subd (a) amended and lettered effective July 1, 2009; adopted as unlettered subd effective*
20 *January 1, 2007.)*

21
22 **(b) Definitions**

23
24 For purpose of the rules in this division, “initial fee waiver” means the initial
25 waiver of court fees and costs that may be granted at any stage of the
26 proceedings and includes both the fees and costs specified in rule 3.55 and
27 any additional fees and costs specified in rule 3.56.

28
29 *(Subd (b) adopted effective July 1, 2009.)*

30
31 *Rule 3.50 amended effective July 1, 2009; adopted effective January 1, 2007.*

32
33
34 **Rule 3.51. Method of application and filing of papers**

35
36 **(a) Mandatory application forms**

37
38 An application to ~~proceed in forma pauperis~~ for initial fee waiver under rule
39 3.55 must be made on *Application for Waiver of Court Fees and Costs*
40 *Request to Waive Court Fees* (form FW-001). An application for initial fee
41 waiver under rule ~~3.62~~ 3.56 must be made on *Application for Waiver of*
42 *Additional Court Fees and Costs Request to Waive Additional Court Fees*
43 *(Superior Court)* (form FW-002). The clerk must provide ~~either~~ the forms
44 and the *Information Sheet on Waiver of Superior Court Fees and Costs* (form

1 FW-001-INFO) without charge to any person who requests it any fee waiver
2 application or indicates that he or she is unable to pay any court fee or cost.

3
4 **(b) Other forms**

5
6 ~~No applicant may be required to complete any form as part of his or her~~
7 ~~application under this rule other than forms adopted by the Judicial Council,~~
8 ~~except as authorized by Government Code section 68511.3(e)(1). Upon~~
9 ~~receipt of an application, the clerk must immediately file the application and~~
10 ~~any pleading or other paper presented by the applicant.~~

11
12 *Rule 3.51 amended effective July 1, 2009; adopted effective January 1, 2007; previously amended*
13 *effective January 1, 2007.*

14
15
16 **Rule 3.52. Eligibility**

17
18 **(a) Mandatory**

19
20 ~~The court must grant an application to proceed in forma pauperis and must~~
21 ~~waive payment of court fees and costs listed in rule 3.61, and must waive~~
22 ~~payment of those additional court fees and costs listed in rule 3.62 that the~~
23 ~~court finds necessary, if the applicant meets the standards of eligibility~~
24 ~~established by Government Code section 68511.3(a)(6)(A) or (a)(6)(B).~~

25
26 **(b) Discretionary**

27
28 ~~Except for an order required under (a), the court may make an order granting~~
29 ~~an application to proceed in forma pauperis under Government Code section~~
30 ~~68511.3 or otherwise. The order may waive payment of part or all of the fees~~
31 ~~and costs and may provide that a lien exists on any money recovered by the~~
32 ~~applicant for any waived fees and costs, which shall be deemed to be taxable~~
33 ~~costs.~~

34
35 *Rule 3.52 repealed effective July 1, 2009; adopted effective January 1, 2007.*

36
37 **Rule 3.53 Verification of financial condition**

38
39 **(a) Reasonable efforts to verify financial condition**

40
41 ~~The court may, authorize the clerk of the court, or a court financial officer, or~~
42 ~~other appropriate county officer to make reasonable efforts to verify an~~
43 ~~applicant's financial condition. The reasonable efforts to verify must not~~

1 include requiring all applicants to submit documentation to support the
2 information contained in their applications except as authorized by
3 Government Code section 68511.3(b)(1) and (e)(1).
4

5 **(b) Additional documentation**
6

7 Additional documentation of an applicant's financial condition may be
8 required only if the applicant failed to provide the information required by
9 the application form or if the court has good reason to doubt the truthfulness
10 of the factual allegations in the application. If the applicant is required to
11 submit additional documentation of his or her financial condition, the court
12 or person authorized under (a) must:
13

- 14 (1) Inform the applicant of the information in the application that is
15 insufficient or that the court believes may not be truthful;
- 16 (2) Inform the applicant of the specific type or types of documentation the
17 applicant must submit;
- 18 (3) Require the applicant to submit only documentation that the applicant
19 has in his or her possession or can obtain with reasonable efforts; and
20 (4) Require the applicant to submit only enough documentation as is
21 necessary to clarify or prove the truthfulness of the factual allegations
22 in the application.
23
24
25

26
27 *Rule 3.53 repealed effective July 1, 2009; adopted effective January 1, 2007.*
28
29

30 **Rule 3.54. Determination without regard to pleading or paper submitted for**
31 **filing**
32

33 The court must determine an application to proceed in forma pauperis without
34 regard to the applicant's pleading or other paper filed, if any.
35

36 *Rule 3.54 repealed effective July 1, 2009; adopted effective January 1, 2007.*
37

38 **Rule 3.55. Effect of denial of application; time for payment of fees**
39

40 If an application is denied, any paper filed without payment of fees is ineffective
41 unless the fees are paid within 10 days after notice is given by the clerk under rule
42 3.56. If the fees are paid more than 10 days after that notice was given, the date the
43 applicant's pleading or other paper was originally presented to the clerk is the date

1 ~~for determining whether the action or proceeding was commenced within the~~
2 ~~period provided by law.~~

3
4 *Rule 3.55 repealed effective July 1, 2009; adopted effective January 1, 2007.*
5
6

7 **Rule 3.52 ~~3.56~~. Procedure for determining application**
8

9 The procedure for determining an application is as follows:
10

- 11 (1) The trial court must consider and determine the application as required by
12 Government Code sections ~~68511.36~~8634 and 68635.
13
- 14 (2) An order determining an application to proceed in forma pauperis for an
15 initial fee waiver must be made on *Order on Court Fee Waiver (Superior*
16 *Court) Application for Waiver of Court Fees and Costs* (form FW-003),
17 except as provided in (6) below.
18
- 19 (3) An order determining an application for an initial fee waiver after a hearing
20 in the trial court must be made on *Order on Court Fee Waiver After Hearing*
21 *(Superior Court)* (form FW-008).
22
- 23 (4) Any order granting a fee waiver must be accompanied by a blank *Notice of*
24 *Improved Financial Situation or Settlement* (form FW-010).
25
- 26 (5) Any order denying an application without a hearing on the ground that the
27 information on the application conclusively establishes that the applicant is
28 not eligible for a waiver must be accompanied by a blank *Request for*
29 *Hearing About Fee Waiver Order (Superior Court)* (form FW-006).
30
- 31 (6) Until January 1, 2013, a court with a computerized case management system
32 may produce electronically generated court fee waiver orders as long as:
33
- 34 (A) The document is substantively identical to the mandatory Judicial
35 Council form it is replacing;
36
- 37 (B) Any electronically generated form is identical in both language and
38 legally mandated elements, including all notices and advisements, to
39 the mandatory Judicial Council form it is replacing; and
40
- 41 (C) The order is an otherwise legally sufficient court order, as provided in
42 rule 1.31(g), concerning orders not on Judicial Council mandatory
43 forms.

1
2 (3) ~~An order denying an application to proceed in forma pauperis, in whole or in~~
3 ~~part, must include a statement of the reasons for the denial as required by~~
4 ~~Government Code section 68511.3.~~

5
6 (4) ~~The clerk must immediately mail or deliver a copy of the order to the~~
7 ~~attorney for the applicant or, if no attorney, to the applicant if the application~~
8 ~~is not granted in full and, if the application is denied, to each other party who~~
9 ~~has appeared in the action or proceeding.~~

10
11 (5) ~~The court may delegate to the clerk in writing the authority to grant~~
12 ~~applications to proceed in forma pauperis that meet the standards of~~
13 ~~eligibility in Government Code section 68511.3(a)(6)(A) or (a)(6)(B). The~~
14 ~~court may not delegate authority to deny an application.~~

15
16 *Rule 3.52 amended and renumbered effective July 1, 2009; adopted as rule 3.56 effective January*
17 *1, 2007; previously amended effective January 1, 2007.*

18
19
20 **Rule 3.53 3.57. Application granted unless acted on by the court**

21
22 The application to ~~proceed in forma pauperis~~ for initial fee waiver is deemed
23 granted unless acted on by the court gives notice of action on the application
24 within five court days after it is filed. If the application is deemed granted under
25 this provision, the clerk must ~~execute~~ prepare and serve a *Notice of Waiver of*
26 *Court Fees and Costs Notice: Waiver of Court Fees (Superior Court)* (form FW-
27 005) five court days after the application is filed.

28
29 *Rule 3.53 amended and renumbered effective July 1, 2009; adopted as rule 3.57 effective January*
30 *1, 2007; previously amended effective January 1, 2007.*

31
32
33 **Rule 3.58. ~~Hearing on application~~**

34
35 **(a) ~~Notice of hearing~~**

36
37 ~~If the court determines that there is substantial evidentiary conflict~~
38 ~~concerning the applicant's eligibility to proceed in forma pauperis, the clerk~~
39 ~~must immediately give the applicant at least 10 days' written notice of a~~
40 ~~hearing.~~

41
42 **(b) ~~Confidentiality of hearing~~**

1 ~~To ensure confidentiality of the applicant's financial information, the hearing~~
2 ~~must be held in private and the court must exclude all persons except court~~
3 ~~attachés, the applicant, those present with the applicant's consent, and any~~
4 ~~witness being examined.~~

5
6 *Rule 3.58 repealed effective July 1, 2009; adopted effective January 1, 2007; previously amended*
7 *effective January 1, 2008.*

8
9
10 **Rule 3.59. ~~Changed circumstances~~**

11
12 **~~(a) Duty to notify court of changed circumstances~~**

13
14 ~~A person whose application to proceed in forma pauperis for an initial fee~~
15 ~~waiver has been granted must promptly notify the court of any changed~~
16 ~~financial circumstances affecting his or her ability to pay court fees and~~
17 ~~costs.~~

18
19 **~~(b) Reconsideration by court~~**

20
21 ~~The court may not reconsider a successful applicant's eligibility to proceed~~
22 ~~in forma pauperis before the final determination of the case except in~~
23 ~~connection with an application for waiver of additional court fees and costs~~
24 ~~under rule 3.62 or in accordance with Government Code section 68511.3(d).~~

25
26 **~~(c) Authorization to determine if condition has changed~~**

27
28 ~~The court may authorize the clerk of the court, the county financial officer,~~
29 ~~or another appropriate county officer to determine whether a successful~~
30 ~~applicant's financial condition has changed, enabling the applicant to pay all~~
31 ~~or a portion of the fees and costs that were waived, in the following manner:~~

- 32
33 ~~(1) The authorized officer must notify the applicant personally or in~~
34 ~~writing that the applicant must complete and file a new application to~~
35 ~~proceed in forma pauperis.~~
36
37 ~~(2) The notice under (1) must be accompanied by a blank application form.~~
38
39 ~~(3) No applicant may be required to submit a new completed application~~
40 ~~more frequently than once every four months.~~
41
42 ~~(4) The authorized clerk or county officer must review the new application.~~
43 ~~If the clerk or officer determines that the applicant's financial condition~~

1 ~~has changed, the court may order the applicant to pay a sum in a~~
2 ~~manner that the court believes is compatible with the applicant's~~
3 ~~financial ability.~~

4
5 *Rule 3.59 repealed effective July 1, 2009; adopted effective January 1, 2007.*

6
7
8 **Rule 3.54 ~~3.60~~. Confidentiality**

9
10 **(a) Confidential records**

11
12 No person may have access to an application to ~~proceed in forma pauperis~~
13 for an initial fee waiver except the court and authorized court personnel,
14 ~~persons authorized to verify the information under rules 3.53 and 3.59(e) and~~
15 ~~under Government Code section 68511.3, and any persons~~ authorized by the
16 applicant, and any persons authorized by order of the court. No person may
17 reveal any information contained in the application except as authorized by
18 law or order of the court.

19
20 *(Subd (a) amended and lettered effective July 1, 2009; adopted as unlettered subd effective*
21 *January 1, 2007.)*

22
23 **(b) Request for access to confidential records**

24
25 Any person seeking access to an application or financial information
26 provided to the court by an applicant must make the request by noticed
27 motion, supported by a declaration showing good cause regarding why the
28 confidential information should be released.

29
30 *(Subd (b) adopted July 1, 2009.)*

31
32 **(c) Order**

33
34 An order granting access to an application or financial information may
35 include limitations on who may access the information and on the use of the
36 information after it has been released.

37
38 *(Subd (c) adopted July 1, 2009.)*

39
40 *Rule 3.54 amended and renumbered effective July 1, 2009; adopted as rule 3.60 effective January*
41 *1, 2007; previously amended effective January 1, 2008.*

1 **Rule ~~3.55~~ 3.61. Court fees and costs included in all initial fee waivers waived**
2 **by initial application**

3
4 Court fees and costs that must be waived upon granting an application to proceed
5 in forma pauperis for an initial fee waiver include:

- 6
7 (1) Clerk's fees for filing papers;
8
9 (2) Clerk's fees for reasonably necessary certification and copying;
10
11 (3) Clerk's fees for issuance of process and certificates;
12
13 (4) Clerk's fees for transmittal of papers;
14
15 (5) Court-appointed interpreter's fees for parties in small claims actions;
16
17 (6) Sheriff's and marshal's fees under article 7 of chapter 2 of part 3 of division
18 2 of title 3 of division 2 of the Government Code (commencing with section
19 26720);
20
21 (7) Reporter's daily fees for attendance at hearings and trials held within 60 days
22 of the date of the order granting the application;
23
24 (8) The court fee for a telephone appearance under ~~Government Code section~~
25 68070.1(e) Code of Civil Procedure section 367.5; and
26
27 (9) Clerk's fees for preparing, copying, certifying, and transmitting the clerk's
28 transcript on appeal to the reviewing court and the party. A party proceeding
29 in forma pauperis under an initial fee waiver must specify with particularity
30 the documents to be included in the clerk's transcript on appeal.
31

32 *Rule 3.55 amended and renumbered effective July 1, 2009; adopted as rule 3.61 effective January*
33 *1, 2007; previously amended effective January 1, 2009.*
34

35
36 **Rule ~~3.56~~ 3.62. Additional court fees and costs that may be included in initial**
37 **fee waiver waived**

38
39 Necessary The court fees and costs that may be waived upon granting an
40 application for an initial fee waiver, either at the outset or upon later application,
41 include:
42

- 43 (1) Jury fees and expenses;

- 1
2 (2) Court-appointed interpreter's fees for witnesses;
3
4 (3) Witness fees of peace officers whose attendance is reasonably necessary for
5 prosecution or defense of the case;
6
7 (4) Reporter's fees for attendance at hearings and trials held more than 60 days
8 after the date of the order granting the application;
9
10 (5) Witness fees of court-appointed experts; and
11
12 (6) Other fees or expenses as itemized in the application.
13

14 *Rule 3.56 amended and renumbered effective July 1, 2009; adopted as rule 3.62 effective January*
15 *1, 2007.*
16
17

18 **Rule 3.57. Amount of lien for waived fees and costs**
19

20 To determine the amount of the court lien for waived fees and costs, any party to a
21 civil action in which an initial fee waiver has been granted may ask the clerk to
22 calculate the total amount of court fees and costs that have been waived as of the
23 date of the request.
24

25 *Rule 3.57 adopted effective July 1, 2009.*
26
27

28 **Rule 3.58 3-63. Posting notice**
29

30 Each trial court must post in a conspicuous place near the filing window or counter
31 a notice, 8½ by 11 inches or larger, advising litigants in English and Spanish that
32 they may ask the court to waive court fees and costs. The notice must be
33 substantially as follows:
34

35 "NOTICE: If you are unable to pay fees and costs, you may ask the court to permit
36 you to proceed without paying them. Ask the clerk for the *Information Sheet on*
37 *Waiver of Superior Court Fees and Costs* or *Information Sheet on Waiver of Court*
38 *Fees and Costs for Appeal or Writ Proceedings* and the ~~*Application for Waiver of*~~
39 ~~*Request to Waive Court Fees and Costs.*~~"
40

41 *Rule 3.58 amended and renumbered effective July 1, 2009; adopted as rule 3.63 effective January*
42 *1, 2007.*
43
44

1 **Rule 5.175. Bifurcation of issues**

2
3 (a) * * *

4
5 (b) **Notice by clerk**

6
7 The clerk must mail copies of the order deciding the bifurcated issue and any
8 statement of decision under rule ~~232.5~~ 3.1591 to the parties within 10 days of
9 their filing and must file a certificate of mailing.

10
11 *(Subd (b) amended effective July 1, 2009; adopted as part of subd (a) effective July 1,*
12 *1989; previously amended effective January 1, 1994; previously amended and lettered*
13 *effective January 1, 2003.)*

14
15 (c) * * *

16
17 *Rule 5.175 amended effective July 1, 2009; adopted as rule 1269 effective July 1, 1989;*
18 *previously amended effective January 1, 1994; previously amended and renumbered effective*
19 *January 1, 2003.*

20
21
22 **Rule 8.26. Waiver of fees and costs**

23
24 (a) **Application form**

25
26 An application for initial waiver of court fees and costs in the Supreme Court
27 or Court of Appeal must be made on *Request to Waive Court Fees* (form
28 FW-001). The clerk must provide *Request to Waive Court Fees* (form FW-
29 001) and the *Information Sheet on Waiver of Fees and Costs (Supreme*
30 *Court, Court of Appeal, or Appellate Division*) (form APP-015/FW-015-
31 INFO) without charge to any person who requests any fee waiver application
32 or states that he or she is unable to pay any court fee or cost.

33
34 (b) **Filing the application**

35
36 (1) *Appeals*

37
38 The appellant should submit any application for initial waiver of court
39 fees and costs for an appeal with the notice of appeal in the superior
40 court that issued the judgment or order being appealed. The respondent
41 should submit any application for initial waiver of the court fees and
42 costs for an appeal at the time the fees are to be paid to the court.

43
44 (2) *Writ Proceedings*

1
2 The petitioner should submit the application for waiver of the court fees
3 and costs for a writ proceeding with the writ petition.

4
5 (3) *Petitions for Review*
6

7 The petitioner should submit the application for waiver of the court fees
8 and costs for a petition for review in the Supreme Court with the
9 petition.

10
11 **(c) Procedure for determining application**
12

13 The application must be considered and determined as required by
14 Government Code section 68634.5. An order from the Supreme Court or
15 Court of Appeal determining the application for initial fee waiver or setting a
16 hearing on the application in the Supreme Court or Court of Appeal may be
17 made on *Order on Court Fee Waiver (Court of Appeal or Supreme Court)*
18 (form APP-016/FW-016.)

19
20 **(d) Application granted unless acted on by the court**
21

22 The application for initial fee waiver is deemed granted unless the court
23 gives notice of action on the application within five court days after the
24 application is filed.

25
26 **(e) Court fees and costs waived**
27

28 Court fees and costs that must be waived on granting an application for
29 initial waiver of court fees and costs in the Supreme Court or Court of
30 Appeal include:

31
32 (1) The fee for filing the notice of appeal under Government Code section
33 68926;

34
35 (2) The fee for filing an original proceeding required under Government
36 Code section 68926;

37
38 (3) The fee for filing a petition for review required by Government Code
39 section 68927; and

40
41 (4) Any court fee for telephonic oral argument.
42

1 **(f) Denial of the application**
2

3 If an application is denied, the applicant must pay the court fees and costs or
4 submit the new application or additional information requested by the court
5 within 10 days after the clerk gives notice of the denial.
6

7 **(g) Confidential Records**
8

9 (1) No person may have access to an application for an initial fee waiver
10 submitted to the court except the court and authorized court personnel,
11 any persons authorized by the applicant, and any persons authorized by
12 order of the court. No person may reveal any information contained in
13 the application except as authorized by law or order of the court. An
14 order granting access to an application or financial information may
15 include limitations on who may access the information and on the use
16 of the information after it has been released.
17

18 (2) Any person seeking access to an application or financial information
19 provided to the court by an applicant must make the request by motion,
20 supported by a declaration showing good cause as to why the
21 confidential information should be released.
22

23 *Rule 8.26 adopted effective July 1, 2009.*
24

25 **Advisory Committee Comment**
26

27 **Subdivision (a).** The waiver of court fees and costs is called an “initial” waiver because, under
28 Government Code section 68630 and following, any such waiver may later be modified,
29 terminated, or retroactively withdrawn if the court determines that the applicant was not or is no
30 longer eligible for a waiver. The court may, at a later time, order that the previously waived fees
31 be paid.
32

33 **Subdivision (b)(1).** If an applicant is requesting waiver of both Court of Appeal fees, such as the
34 fee for filing the notice of appeal, and superior court fees, such as the fee for preparing,
35 certifying, copying, and transmitting the clerk’s transcript, the clerk of the superior court may ask
36 the applicant to provide two signed copies of *Request to Waive Court Fees* (form FW-001).
37

38 **Subdivision (e).** The parties in an appeal may also ask the superior court to waive the deposit
39 required under Government Code section 68926.1 and the fees under rule 8.122 for preparing,
40 certifying, copying, and transmitting the clerk’s transcript to the reviewing court and to the
41 requesting party.
42

43
44 **Rule 8.100. Filing the appeal**
45

1 (a) * * *

2

3 (b) **Fee and deposit**

4

5 (1) Unless otherwise provided by law, the notice of appeal must be
6 accompanied by a \$655 filing fee under Government Code sections
7 68926 and 68926.1(b), an application for a waiver of court fees and
8 costs on appeal under rules ~~3.50-3.63~~ 8.26, or an order granting such
9 an application. The fee should be paid by check or money order
10 payable to "Clerk, Court of Appeal"; if the fee is paid in cash, the clerk
11 must give a receipt.

12

13 (2) The appellant must also deposit \$100 with the superior court clerk
14 under Government Code section 68926.1, unless otherwise provided by
15 law or the superior court waives the deposit ~~under rules 3.50-3.63~~.

16

17 (3) The clerk must file the notice of appeal even if the appellant does not
18 present the filing fee, the deposit, or an application for, or order
19 granting, a waiver ~~under rules 3.50-3.63~~ of fees and costs.

20

21 *(Subd (b) amended effective July 1, 2009; previously amended effective August 17, 2003,*
22 *and January 1, 2007.)*

23

24 (c) **Failure to pay filing fee**

25

26 (1) The reviewing court clerk must promptly notify the appellant in writing
27 if:

28

29 (A) The reviewing court receives a notice of appeal without the filing
30 fee required by (b)(1), a certificate of cash payment under (e)(5),
31 or an application for, or order granting, a fee waiver under rules
32 ~~3.50-3.63~~ 8.26;

33

34 (B) * * *

35

36 (C) An application for a waiver under rules ~~3.50-3.63~~ 8.26 is denied.

37

38 (2) A clerk's notice under (1)(A) or (B) must state that the court may
39 dismiss the appeal unless, within 15 days after the notice is sent, the
40 appellant either:

41

42 (A) * * *

43

1 (B) Files an application for a waiver under rules ~~3.50–3.63~~ 8.26 if the
2 appellant has not previously filed such an application.

3
4 (3) * * *

5
6 *(Subd (c) amended effective July 1, 2009; previously amended effective January 1, 2007,*
7 *and January 1, 2008.)*

8
9 **(d) Failure to pay deposit**

10
11 (1) If the appellant fails to pay the deposit to the superior court required
12 under (b)(2), the superior court clerk must promptly notify the appellant
13 in writing that the reviewing court may dismiss the appeal unless,
14 within 15 days after the notice is sent, the appellant either:

15
16 (A) * * *

17
18 (B) Files an application in the superior court for a waiver ~~under rules~~
19 3.50–3.63 of fees and costs if the appellant has not previously
20 filed such an application or an order granting such an application.

21
22 (2)–(3) * * *

23
24 *(Subd (d) amended effective July 1, 2009; adopted effective January 1, 2008.)*

25
26 **(e)–(g) * * ***

27
28 *Rule 8.100 amended effective July 1, 2009; repealed and adopted as rule 1 effective January 1,*
29 *2002; previously amended effective January 1, 2003, August 17, 2003, and January 1, 2008;*
30 *previously amended and renumbered effective January 1, 2007.*

31
32 **Advisory Committee Comment**

33
34 **Subdivision (a).** * * *

35
36 **Subdivision (b).** * * *

37
38 **Subdivision (c)(2).** This subdivision addresses the content of a clerk’s notice that a check for the
39 filing fee has been dishonored or that the reviewing court has received a notice of appeal without
40 the filing fee, a certificate of cash payment, or an application for, or order granting, a fee waiver.
41 Rule 8.26(f) addresses what an appellant must do when a fee waiver application is denied.

42
43 **Subdivision (e).** * * *

44
45

1 **Rule 8.122. Clerk's transcript**

2
3 **(a)–(b) * * ***

4
5 **(c) Deposit for cost of transcript**

6
7 (1)–(2) * * *

8
9 (3) Within 10 days after the clerk sends a notice under (1), the appellant
10 and any party wanting to purchase a copy of the clerk's transcript must
11 deposit the estimated cost with the clerk, unless otherwise provided by
12 law or the party submits an application for, or an order granting, a
13 waiver of the cost ~~under rules 3.50–3.63.~~

14
15 *(Subd (c) amended effective July 1, 2009; previously amended effective January 1, 2007,*
16 *and January 1, 2008.)*

17
18 **(d) * * ***

19
20 *Rule 8.122 amended effective July 1, 2009; repealed and adopted as rule 5 effective January 1,*
21 *2002; previously amended effective January 1, 2003, and January 1, 2005; previously amended*
22 *and renumbered as rule 8.120 effective January 1, 2007, and as rule 8.122 effective January 1,*
23 *2008.*

24
25 **Advisory Committee Comment**

26
27 **Subdivision (a). * * ***

28
29 **Subdivision (b). * * ***

30
31 **Subdivision (c).** Under subdivision (c)(2), a clerk who sends a notice under subdivision (c)(1)
32 must include a certificate stating the date on which the clerk sent it. This provision is intended to
33 establish the date when the 10-day period for depositing the cost of the clerk's transcript under
34 this rule begins to run.

35
36 The Superior Court will make the determination on any application to waive the fees for
37 preparing, certifying, copying, and transmitting the clerk's transcript.

38
39
40 **Rule 8.128. Superior court file instead of clerk's transcript**

41
42 **(a) * * ***

43
44 **(b) Cost estimate; preparation of file; transmittal**

1 (1) Within 10 days after a stipulation under (a) is filed, the superior court
2 clerk must mail the appellant an estimate of the cost to prepare the file,
3 including the cost of sending the index under (3). The appellant must
4 deposit the cost or file an application for, or an order granting, a waiver
5 of the cost within 10 days after the clerk mails the estimate.
6

7 (2) Within 10 days after the appellant deposits the cost or the court files an
8 order waiving that cost, the superior court clerk must put the superior
9 court file in chronological order, number the pages, and attach a
10 chronological index and a list of all attorneys of record, the parties they
11 represent, and any unrepresented parties.
12

13 (3) * * *

14 (4) * * *

15
16
17 *(Subd (b) amended effective July 1, 2009.)*

18
19 *Rule 8.128 amended effective July 1, 2009; repealed and adopted as rule 5.2 effective January 1,*
20 *2002; previously amended and renumbered effective January 1, 2007; previously amended*
21 *effective January 1, 2008.*
22

23
24 **Advisory Committee Comment**

25
26 **Subdivision (b).** The Superior Court will make the determination on any application to waive the
27 fees for preparing and transmitting the trial court file.
28

29
30 **Rule 8.486. Petitions**

31
32 (a) * * *

33
34 (b) **Contents of supporting documents**

35
36 (1)–(2) * * *

37
38 (3) If a transcript under (1)(D) is unavailable, the record must include a
39 declaration by counsel or, if the petitioner is unrepresented, the
40 petitioner:

41
42 (A) Explaining why the transcript is unavailable and fairly
43 summarizing the proceedings, including the ~~petitioner's~~ parties'
44 arguments and any statement by the court supporting its ruling.

1 This declaration may omit a full summary of the proceedings if
2 part of the relief sought is an order to prepare a transcript for use
3 by an indigent criminal defendant in support of the petition and if
4 the declaration demonstrates the petitioner's need for and
5 entitlement to the transcript; or

6
7 (B) * * *

8
9 (4) * * *

10
11 *(Subd (b) amended effective July 1, 2009; adopted as subd (c) effective January 1, 2005;*
12 *previously amended effective January 1, 2006, July 1, 2006, January 1, 2007; previously*
13 *amended and relettered effective January 1, 2009.)*

14
15 (c)–(e) * * *

16
17 *Rule 8.486 amended effective July 1, 2009; repealed and adopted as rule 56 effective January 1,*
18 *2005; previously amended and renumbered as rule 8.490 effective January 1, 2007, and as rule*
19 *8.486 effective January 1, 2009; previously amended effective July 1, 2005, January 1, 2006, July*
20 *1, 2006, and January 1, 2008.*

21
22
23 **Rule 8.818. Waiver of fees and costs**

24
25 **(a) Applications for waiver of fees and costs**

26
27 **(1) Appeals**

28
29 **(A) If the trial court previously issued an order granting a party's**
30 **request to waive court fees and costs in a case, and that fee waiver**
31 **is still in effect, all of the court fees for an appeal to the appellate**
32 **division in that case that are listed in (d) are waived by that order,**
33 **and the party is not required to file a new application for waiver**
34 **of court fees and costs for an appeal to the appellate division in**
35 **that case.**

36
37 **(B) If the trial court did not previously issue an order granting a**
38 **party's request to waive court fees and costs in a case or an order**
39 **that was previously issued is no longer in effect, an application**
40 **for initial waiver of court fees and costs for an appeal must be**
41 **made on Request to Waive Court Fees (form FW-001). The**
42 **appellant should file the application with the notice of appeal in**
43 **the trial court that issued the judgment or order being appealed.**

1 The respondent should file any application at the time the fees are
2 to be paid to the court.

3
4 (2) Writ Proceedings

5
6 To request the waiver of fees and costs in a writ proceeding, the
7 petitioner must complete *Request to Waive Court Fees* (form FW-001).
8 The petitioner should file the application with the writ petition.

9
10 (3) Forms

11
12 The clerk must provide *Request to Waive Court Fees* (form FW-001)
13 and *Information Sheet on Waiver of Fees and Costs (Supreme Court,*
14 *Court of Appeal, Appellate Division)* (form APP-015/FW-015-INFO)
15 without charge to any person who requests any fee waiver application
16 or states that he or she is unable to pay any court fee or cost.

17
18 **(b) Procedure for determining application**

19
20 The application must be considered and determined as required by
21 Government Code section 68634.5. An order determining the application for
22 initial fee waiver or setting a hearing on the application may be made on
23 *Order on Court Fee Waiver (Superior Court)* (form FW-003).

24
25 **(c) Application granted unless acted on by the court**

26
27 The application for initial fee waiver is deemed granted unless the court
28 gives notice of action on the application within five court days after the
29 application is filed.

30
31 **(d) Court fees and costs waived**

32
33 Court fees and costs that must be waived upon granting an application for
34 initial waiver of court fees and costs include:

- 35
36 (1) The fee for filing the notice of appeal;
37
38 (2) The clerk's fees for preparing and certifying the clerk's transcript on
39 appeal and for copying and transmitting a copy of this transcript to the
40 applicant;
41
42 (3) The fee for preparing a transcript of an official electronic recording
43 under rule 8.835 or a copy of such an electronic recording; and

1
2 (4) Any court fee for telephonic oral argument.

3
4 **(e) Denial of the application**

5
6 If an application is denied, the applicant must pay the court fees and costs or
7 submit the new application or additional information requested by the court
8 within 10 days after the clerk gives notice of the denial.

9
10 **(f) Confidential Records**

11
12 (1) No person may have access to an application for an initial fee waiver
13 submitted to the court except the court and authorized court personnel,
14 any person authorized by the applicant, and any persons authorized by
15 order of the court. No person may reveal any information contained in
16 the application except as authorized by law or order of the court. An
17 order granting access to an application or financial information may
18 include limitations on who may access the information and on the use
19 of the information after it has been released.

20
21 (2) Any person seeking access to an application or financial information
22 provided to the court by an applicant must make the request by motion,
23 supported by a declaration showing good cause as to why the
24 confidential information should be released.

25
26 *Rule 8.818 adopted effective July 1, 2009.*

27
28 **Advisory Committee Comment**

29
30 **Subdivision (a)(1)(B).** The waiver of court fees and costs is called an “initial” waiver because,
31 under Government Code section 68630 and following, any such waiver may later be modified,
32 ended, or retroactively withdrawn if the court determines that the applicant was not or is no
33 longer eligible for a waiver. The court may, at a later time, order that the previously waived fees
34 be paid.

35
36
37 **Rule 8.821. Notice of appeal**

38
39 **(a) * * ***

40
41 **(b) Filing fee**

42
43 (1) Unless otherwise provided by law, the notice of appeal must be
44 accompanied by the filing fee required under Government Code section

1 70621, an application for a waiver of court fees and costs on appeal
2 under ~~rules 3.50–3.63~~ rule 8.818, or an order granting such an
3 application for a waiver of court fees and costs. The filing fee is
4 nonrefundable.
5

- 6 (2) The clerk must file the notice of appeal even if the appellant does not
7 present the filing fee or an application for, or order granting, a waiver
8 ~~under rules 3.50–3.63~~ of court fees and costs.
9

10 *(Subd (b) amended effective July 1, 2009.)*
11

12 **(c) Failure to pay filing fee**
13

- 14 (1) The clerk must promptly notify the appellant in writing if:
15

16 (A) The court receives a notice of appeal without the filing fee
17 required by (b) or an application for, or order granting, a fee
18 waiver ~~under rules 3.50–3.63~~ of court fees and costs;
19

20 (B) * * *

21
22 (C) An application for a waiver under ~~rules 3.50–3.63~~ rule 8.818 is
23 denied.
24

- 25 (2) A clerk's notice under (1)(A) or (B) must state that the court may
26 dismiss the appeal unless, within 15 days after the notice is sent, the
27 appellant either:
28

29 (A) * * *

30
31 (B) Files an application for a waiver under ~~rules 3.50–3.63~~ rule 8.818
32 if the appellant has not previously filed such an application or an
33 order granting such an application.
34

- 35 (3) * * *

36
37 *(Subd (c) amended effective July 1, 2009.)*
38

39 **(d)–(e) * * ***
40

41 *Rule 8.821 amended effective July 1, 2009; adopted effective January 1, 2009.*
42
43

Advisory Committee Comment

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

Subdivision (a). * * *

Subdivision (b). * * *

Subdivision (c)(2). This subdivision addresses the content of a clerk’s notice that a check for the filing fee has been dishonored or that the reviewing court has received a notice of appeal without the filing fee, a certificate of cash payment, or an application for, or order granting, a fee waiver. Rule 8.818(e) addresses what an appellant must do when a fee waiver application is denied.

Rule 8.832. Clerk’s transcript

(a)–(b) * * *

(c) Deposit for cost of clerk’s transcript

(1)–(2) * * *

(3) Within 10 days after the clerk sends a notice under (1), the appellant and any party wanting to purchase a copy of the clerk’s transcript must deposit the estimated cost with the clerk, unless otherwise provided by law or the party submits an application for a waiver of the cost under rule 8.818; or an order granting, a waiver of ~~the~~ this cost under rules 3.50–3.63.

(Subd (c) amended effective July 1, 2009.)

(d) * * *

Rule 8.832 amended effective July 1, 2009; adopted effective January 1, 2009.

Rule 8.833. Trial court file instead of clerk’s transcript

(a) * * *

(b) Cost estimate; preparation of file; transmittal

(1) * * *

(2) Within 10 days after the clerk mails the estimate under (1), the appellant must deposit the estimated cost with the clerk, unless otherwise provided by law or the party submits an application for a

1 waiver of the cost under rule 8.818, or an order granting, a waiver of
2 ~~the this cost under rules 3.50–3.63.~~

3
4 (3)–(5) * * *

5
6 *(Subd (b) amended effective July 1, 2009.)*

7
8 *Rule 8.833 amended effective July 1, 2009; adopted effective January 1, 2009.*

9
10
11 **Rule 8.860. Normal record on appeal**

12
13 (a) * * *

14
15 (b) **Stipulation for limited record**

16
17 If, before the record is certified, the appellant ~~or counsel for the appellant and~~
18 ~~the People~~ and the respondent stipulate in writing that any part of the record
19 is not required for proper determination of the appeal and file that stipulation
20 in the trial court, that part of the record must not be prepared or sent to the
21 appellate division.

22
23 *(Subd (b) amended effective July 1, 2009.)*

24
25 *Rule 8.860 amended effective July 1, 2009; adopted effective January 1, 2009.*

26
27
28 **Rule 8.862. Preparation of clerk’s transcript**

29
30 (a)–(b) * * *

31
32 (c) **When preparation must be completed**

33
34 Within 20 days after the notice of appeal is filed, the clerk must complete
35 preparation of an original clerk’s transcript for the appellate division, one
36 copy for the appellant, and one copy for the ~~prosecuting attorney~~ respondent.
37 If there is more than one appellant, the clerk must prepare an extra copy for
38 each additional appellant who is represented by separate counsel or self-
39 represented.

40
41 *(Subd (c) amended effective July 1, 2009.)*

42
43 (d) * * *

1 *Rule 8.862 amended effective July 1, 2009; adopted effective January 1, 2009.*
2
3

4 **Rule 8.863. Trial court file instead of clerk's transcript**
5

6 **(a)–(b) * * ***
7

8 **(c) Copies**
9

10 The clerk must send a copy of the index to the appellant and the ~~prosecuting~~
11 ~~attorney~~ respondent for use in paginating their copies of the file to conform
12 to the index. If there is more than one appellant, the clerk must prepare an
13 extra copy of the index for each additional appellant who is represented by
14 separate counsel or self-represented.

15
16 *(Subd (c) amended effective July 1, 2009.)*
17

18 *Rule 8.863 amended effective July 1, 2009; adopted effective January 1, 2009.*
19
20

21 **Rule 8.869. Statement on appeal**
22

23 **(a)–(b) * * ***
24

25 **(c) Contents of the proposed statement on appeal**
26

27 A proposed statement prepared by the appellant must contain:
28

29 (1) A condensed narrative of the oral proceedings that the appellant
30 believes necessary for the appeal and a summary of the trial court's
31 holding and the sentence imposed on the ~~appellant~~ defendant. Subject
32 to the court's approval, the appellant may present some or all of the
33 evidence by question and answer; and
34

35 (2) * * *
36

37 *(Subd (c) amended effective July 1, 2009.)*
38

39 **(d)–(g) * * ***
40

41 *Rule 8.869 amended effective July 1, 2009; adopted effective January 1, 2009.*
42
43

1 **Rule 8.916. Statement on appeal**

2
3 **(a)–(b) * * ***

4
5 **(c) Contents of the proposed statement on appeal**

6
7 A proposed statement prepared by the appellant must contain:

8
9 (1) A condensed narrative of the oral proceedings that the appellant
10 believes necessary for the appeal and a summary of the trial court's
11 holding and the sentence imposed on the ~~appellant~~ defendant. Subject
12 to the court's approval, the appellant may present some or all of the
13 evidence by question and answer; and

14
15 (2) * * *

16
17 *(Subd (c) amended effective July 1, 2009.)*

18
19 **(d)–(g) * * ***

20
21 *Rule 8.916 amended effective July 1, 2009; adopted effective January 1, 2009.*

22
23
24 **Rule 8.1010. Record on transfer**

25
26 **(a) Contents**

27
28 The record on transfer must contain:

29
30 (1) The original record on appeal prepared under rules ~~8.753–8.761~~ in a
31 ~~limited civil case or under rules 8.783–8.785~~ in a criminal case 8.830–
32 8.843, 8.860–8.873, or 8.910–8.923;

33
34 (2)–(3) * * *

35
36 *(Subd (a) amended effective July 1, 2009; previously amended effective January 1, 2007.)*

37
38 **(b) Clerks' duties**

39
40 (1) The superior court clerk must promptly send the record on transfer to
41 the Court of Appeal and notify the parties that the record was sent
42 when:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

(A) * * *

(B) The superior court clerk sends a copy of an appellate division opinion certified for publication to the Court of Appeal under rule ~~8.707~~ 8.887;

(C)–(D) * * *

(2) * * *

(Subd (b) amended effective July 1, 2009; previously amended effective January 1, 2007.)

Rule 8.1010 amended effective July 1, 2009; repealed and adopted as rule 65 effective January 1, 2003; previously amended and renumbered effective January 1, 2007.

Rule 8.1105. Publication of appellate opinions

(a)–(e) * * *

(f) Editing

(1) Computer versions of all opinions of the Supreme Court and Courts of Appeal must be provided to the Reporter of Decisions on the day of filing. Opinions of superior court appellate divisions certified for publication must be provided as prescribed in rule ~~8.707~~ 8.887.

(2) * * *

(Subd (f) amended effective July 1, 2009; adopted as subd (e) effective January 1, 2005; previously amended effective January 1, 2007; previously relettered effective April 1, 2007.)

Rule 8.1105 amended effective July 1, 2009; repealed and adopted as rule 976 effective January 1, 2005; previously amended and renumbered effective January 1, 2007; previously amended effective April 1, 2007, and July 23, 2008.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

Title 3. Civil Rules
Division 8. Alternative Dispute Resolution
Chapter 3. General Rules Relating to Mediation of Civil Cases

22
23
24
25
26
27
28
29
30
31

Article 3. Requirements for Addressing Complaints About Court-Program Mediators

32
33
34
35

Rule 3.865. Application and purpose

Rule 3.866. Definitions

Rule 3.867. Complaint coordinator

Rule 3.868. Complaint procedure required

Rule 3.869. General requirements for complaint procedures and complaint proceedings

Rule 3.870. Permissible court actions on complaints

Rule 3.871. Confidentiality of complaint proceedings, information, and records

Rule 3.872. Disqualification from subsequently serving as an adjudicator

36
37
38
39
40
41
42
43
44
45

Rule 3.865. Application and purpose

The rules in this article apply to each superior court that makes a list of mediators available to litigants in general civil cases or that recommends, selects, appoints, or compensates a mediator to mediate any general civil case pending in that court. These rules are intended to promote the resolution of complaints that mediators in court-connected mediation programs for civil cases may have violated a provision of the rules of conduct for such mediators in article 2. They are intended to help courts promptly resolve any such complaints in a manner that is respectful and fair to the complainant and the mediator and consistent with the California mediation confidentiality statutes.

Rule 3.865 adopted effective July 1, 2009, effective date extended to January 1, 2010.

Advisory Committee Comment

As used in this article, complaint means a written communication presented to a court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct for mediators in article 2.

Complaints about mediators are relatively rare. To ensure the quality of court mediation panels and public confidence in the mediation process and the courts, it is, nevertheless, important to ensure that any complaints that do arise are resolved through procedures that are consistent with California mediation confidentiality statutes (Evid. Code, §§ 703.5 and 1115 et seq.), as well as fair and respectful to the interested parties.

1 The requirements and procedures in this article do not abrogate or limit a court’s inherent or other
2 authority, in its sole and absolute discretion, to determine who may be included on or removed
3 from a court list of mediators; to approve or revoke a mediator’s eligibility to be recommended,
4 selected, appointed, or compensated by the court; or to follow other procedures or take other
5 actions to ensure the quality of mediators who serve in the court’s mediation program in contexts
6 other than when addressing a complaint. The failure to follow a requirement or procedure in this
7 article will not invalidate any action taken by the court in addressing a complaint.
8

9
10 **Rule 3.866. Definitions**

11
12 As used in this article, unless the context or subject matter requires otherwise:

- 13
14 (1) “The rules of conduct” means rules 3.850–3.860 of the California Rules of
15 Court in article 2.
16
17 (2) “Court-program mediator” means a person subject to the rules of conduct
18 under rule 3.851.
19
20 (3) “Inquiry” means an unwritten communication presented to the court’s
21 complaint coordinator indicating that a mediator may have violated a
22 provision of the rules of conduct.
23
24 (4) “Complaint” means a written communication presented to the court’s
25 complaint coordinator indicating that a mediator may have violated a
26 provision of the rules of conduct.
27
28 (5) “Complainant” means the person who makes or presents a complaint.
29
30 (6) “Complaint coordinator” means the person designated by the presiding judge
31 under rule 3.867(a) to receive complaints and inquiries about the conduct of
32 mediators.
33
34 (7) “Complaint committee” means a committee designated or appointed to
35 investigate and make recommendations concerning complaints under rule
36 3.869(d)(2).
37
38 (8) “Complaint procedure” means a procedure for presenting, receiving,
39 reviewing, responding to, investigating, and acting on any inquiry or
40 complaint.
41
42 (9) “Complaint proceeding” means all of the proceedings that take place as part
43 of a complaint procedure concerning a specific inquiry or complaint.
44

1 (10) “Mediation communication” means any statement that is made or any
2 writing that is prepared for the purpose of, in the course of, or pursuant to a
3 mediation or a mediation consultation, as defined in Evidence Code section
4 1115, and includes any communications, negotiations, and settlement
5 discussions between participants in the course of a mediation or a mediation
6 consultation.

7
8 *Rule 3.866 adopted effective July 1, 2009, effective date extended to January 1, 2010.*
9

10 **Advisory Committee Comment**
11

12 **Paragraph (2).** Under rule 3.851, the rules of conduct apply when a mediator, or a firm with
13 which a mediator is affiliated, has agreed to be included on a superior court’s list or panel of
14 mediators for general civil cases and is notified by the court or the parties that he or she has been
15 selected to mediate a case within that court’s mediation program or when a mediator has agreed
16 to mediate a general civil case after being notified that he or she was recommended, selected, or
17 appointed by a court, or will be compensated by a court, to mediate a case within a court’s
18 mediation program.

19
20 **Paragraphs (3) and (4).** The distinction between “inquiries” and “complaints” is significant
21 because some provisions of this article apply only to complaints (i.e., written communications
22 presented to the court’s complaint coordinator indicating that a mediator may have violated a
23 provision of the rules of conduct) and not to inquiries.
24
25

26 **Rule 3.867. Complaint coordinator**
27

28 **(a) Designation of the complaint coordinator**
29

30 The presiding judge must designate a person who is knowledgeable about
31 mediation to serve as the complaint coordinator.
32

33 *(Subd (a) amended and lettered effective July 1, 2009, effective date extended to January 1,*
34 *2010; adopted as unlettered subd effective January 1, 2006.)*
35

36 **(b) Identification of the complaint coordinator**
37

38 The court must make the complaint coordinator’s identity and contact
39 information readily accessible to litigants and the public.
40

41 *(Subd (b) adopted effective July 1, 2009, effective date extended to January 1, 2010.)*
42

43 *Rule 3.867 amended and renumbered effective July 1, 2009, effective date extended to January 1,*
44 *2010; adopted as rule 1622.1 effective January 1, 2006; previously amended and renumbered as*
45 *rule 3.866 effective January 1, 2007.*
46

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45

Advisory Committee Comment

The alternative dispute resolution program administrator appointed under rule 10.783(a) may also be appointed as the complaint coordinator if that person is knowledgeable about mediation.

Rule 3.868. Complaint procedure required

Each court to which this article applies under rule 3.865 must establish a complaint procedure by local rule of court that is consistent with this article.

(Subd amended and unlettered effective July 1, 2009, effective date extended to January 1, 2010; adopted as subd (a) effective January 1, 2003; previously amended effective January 1, 2006, and January 1, 2007.)

Rule 3.868 amended and renumbered effective July 1, 2009, effective date extended to January 1, 2010; adopted as rule 1622 effective January 1, 2003; previously amended effective January 1, 2006; previously amended and renumbered as rule 3.865 effective January 1, 2007.

Rule 3.869. General requirements for complaint procedures and complaint proceedings

(a) Submission and referral of inquiries and complaints to the complaint coordinator

All inquiries and complaints should be submitted or referred to the complaint coordinator.

(b) Acknowledgment of complaint

The complaint coordinator must send the complainant a written acknowledgment that the court has received the complaint.

(c) Preliminary review and disposition of complaints

The complaint coordinator must conduct a preliminary review of all complaints to determine whether the complaint can be informally resolved or closed, or whether the complaint warrants investigation.

(d) Procedure for complaints not resolved through the preliminary review

The following procedures are required only if a complaint is not resolved or closed through the preliminary review.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

(1) *Mediator’s notice and opportunity to respond*

The mediator must be given notice of the complaint and an opportunity to respond.

(2) *Investigation and recommendation*

(A) Except as provided in (B), the complaint must be investigated and a recommendation concerning court action on the complaint must be made by either an individual who has experience as a mediator and who is familiar with the rules of conduct stated in article 2 or a complaint committee that has at least one such individual as a member.

(B) A court with eight or fewer authorized judges may waive the requirement in (A) for participation by an individual who has experience as a mediator in conducting the investigation and making the recommendation if the court cannot find a suitable qualified individual to perform the functions described in (A) or for other grounds of hardship.

(3) *Final decision*

The final decision on the complaint must be made by the presiding judge or his or her designee, who must not be the complaint coordinator or an individual who investigated the complaint before its submission for final decision.

(e) Notice of final action

(1) The court must send the complainant notice of the final action taken by the court on the complaint.

(2) If the complaint was not closed during the preliminary review, the court must send notice of the final action to the mediator.

(f) Promptness

The court must process complaints promptly at all stages.

(g) Records of complaints

1 The court should maintain sufficient information about each complaint and
2 its disposition to identify any history or patterns of complaints submitted
3 under these rules.
4

5 *Rule 3.869 adopted effective July 1, 2009, effective date extended to January 1, 2010.*
6

7 **Advisory Committee Comment**
8

9 The Administrative Office of the Courts has developed model local rules that satisfy the
10 requirements of this rule. These model local rules were developed with input from judicial
11 officers, court administrators, alternative dispute resolution (ADR) program administrators, court-
12 program mediators, and public commentators and are designed so that they can be readily adapted
13 to the circumstances of individual courts and specific complaints. Courts are encouraged to adopt
14 rules that follow the model rules, to the extent feasible. Courts can obtain copies of these model
15 rules from civil ADR program staff at the Administrative Office of the Courts.
16

17 **Subdivision (a).** Coordination of inquiries and complaints by a person knowledgeable about
18 mediation is important to help ensure that the requirements of this article are followed and that
19 mediation confidentiality is preserved.
20

21 **Subdivision (c).** Courts are encouraged to resolve inquiries and complaints about mediators using
22 the simplest, least formal procedures that are appropriate under the circumstances, provided that
23 they meet the requirements stated in this article.
24

25 Most complaints can be appropriately resolved during the preliminary review stage of the
26 complaint process, through informal discussions between or among the complaint coordinator,
27 the complainant, and the mediator. Although complaint coordinators are not required to
28 communicate with the mediator during the preliminary review, they are encouraged to consider
29 doing so. For example, some complaints may arise from a misunderstanding of the mediator's
30 role or from behavior that would not violate the standards of conduct. These types of complaints
31 might appropriately be addressed by providing the complainant with additional information or by
32 informing the mediator that certain behavior was upsetting to a mediation participant.
33

34 The circumstances under which a complaint coordinator might informally resolve or close a
35 complaint include, for example, when (1) the complaint is withdrawn; (2) no violation of the rules
36 of conduct appears to have occurred; (3) the alleged violation of the rules of conduct is very
37 minor and the mediator has provided an acceptable explanation or response; and (4) the
38 complainant, the mediator, and the complaint coordinator have agreed on a resolution. In
39 determining whether to close a complaint, the complaint coordinator might also consider whether
40 there are or have been other complaints about the mediator.
41

42 **Subdivision (d).** At the investigation and recommendation stage, all courts are encouraged to
43 consider using a complaint committee comprised of members with a variety of backgrounds,
44 including at least one person with experience as a mediator, to investigate and make
45 recommendations concerning those rare complaints that are not resolved during the preliminary
46 review.
47

48 Courts are also encouraged to have a judicial officer who is knowledgeable about mediation, or a
49 committee that includes another person who is knowledgeable about mediation, make the final
50 decision on complaints that are not resolved through the preliminary review.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

Rule 3.870. Permissible court actions on complaints

After an investigation has been conducted, the presiding judge or his or her designee may do one or more of the following:

- (1) Direct that no action be taken on the complaint;
- (2) Counsel, admonish, or reprimand the mediator;
- (3) Impose additional training requirements as a condition of the mediator remaining on the court’s panel or list;
- (4) Suspend the mediator from the court’s panel or list or otherwise temporarily prohibit the mediator from receiving future mediation referrals from the court; or
- (5) Remove the mediator from the court’s panel or list or otherwise prohibit the mediator from receiving future mediation referrals from the court.

Rule 3.870 adopted effective July 1, 2009, effective date extended to January 1, 2010.

Advisory Committee Comment

This rule does not abrogate or limit any existing legal right or duty of the court to take other actions, including interim suspension of a mediator pending final action by the court on a complaint.

Rule 3.871. Confidentiality of complaint proceedings, information, and records

(a) Intent

This rule is intended to:

- (1) Preserve the confidentiality of mediation communications as required by Evidence Code sections 1115–1128;
- (2) Promote cooperation in the reporting, investigation, and resolution of complaints about court-program mediators; and

1 (3) Protect mediators against damage to their reputations that might result
2 from the disclosure of unfounded complaints against them.

3
4 *(Subd (a) amended effective July 1, 2009, effective date extended to January 1, 2010;*
5 *previously amended effective January 1, 2007.)*
6

7 **(b) Preserving the confidentiality of mediation communications**
8

9 All complaint procedures and complaint proceedings must be designed and
10 conducted in a manner that preserves the confidentiality of mediation
11 communications, including but not limited to the confidentiality of any
12 communications between the mediator and individual mediation participants
13 or subgroups of mediation participants.

14
15 *(Subd (b) amended effective July 1, 2009, effective date extended to January 1, 2010.)*
16

17 **(c) Confidentiality of complaint proceedings**
18

19 All complaint proceedings must occur in private and must be kept
20 confidential. No information or records concerning the receipt, investigation,
21 or resolution of an inquiry or a complaint may be open to the public or
22 disclosed outside the course of the complaint proceeding except as provided
23 in (d) or as otherwise required by law.

24
25 *(Subd (c) amended effective July 1, 2009, effective date extended to January 1, 2010;*
26 *previously amended effective January 1, 2007.)*
27

28 **(d) Authorized disclosures**
29

30 After the decision on a complaint, the presiding judge, or a person whom the
31 presiding judge designates to do so, may authorize the public disclosure of
32 information or records concerning the complaint proceeding that do not
33 reveal any mediation communications. The disclosures that may be
34 authorized under this subdivision include the name of a mediator against
35 whom action has been taken under rule 3.870, the action taken, and the
36 general basis on which the action was taken. In determining whether to
37 authorize the disclosure of information or records under this subdivision, the
38 presiding judge or the designee should consider the purposes of the
39 confidentiality of complaint proceedings stated in (a)(2) and (a)(3).
40

41 *(Subd (d) amended effective July 1, 2009, effective date extended to January 1, 2010;*
42 *previously amended effective January 1, 2007.)*
43

1 **(e) Disclosures required by law**
2

3 In determining whether the disclosure of information or records concerning a
4 complaint proceeding is required by law, courts should consider the purposes
5 of the confidentiality of complaint proceedings stated in (a). If it appears that
6 the disclosure of information or records concerning a complaint proceeding
7 that would reveal mediation communications is required by law, before the
8 information or records are disclosed, notice should be given to any person
9 whose mediation communications may thereby be revealed.

10
11 *(Subd (e) amended effective July 1, 2009, effective date extended to January 1, 2010;*
12 *previously amended effective January 1, 2007.)*

13
14 *Rule 3.871 amended and renumbered effective July 1, 2009, effective date extended to January 1,*
15 *2010; adopted as rule 1622.2 effective January 1, 2006; previously amended and renumbered as*
16 *rule 3.867 effective January 1, 2007.*

17
18 **Advisory Committee Comment**
19

20 Under rule 3.866(9), the complaint proceedings covered by this rule include proceedings to
21 address inquiries as well as complaints (i.e., to unwritten as well as written communications
22 indicating that a mediator may have violated a provision of the rules of conduct).
23

24 **Subdivision (a).** See Evidence Code sections 1115 and 1119 concerning the scope and types of
25 mediation communications protected by mediation confidentiality. Rule 3.871 is intended to
26 supplement the confidentiality of mediation communications established by the Evidence Code
27 by ensuring that disclosure of information or records about a complaint proceeding does not
28 reveal confidential mediation communications. Rule 3.871 is not intended to supersede or
29 abrogate the confidentiality of mediation communications established by the Evidence Code.
30

31 **Subdivision (b).** Private meetings, or “caucuses,” between a mediator and subgroups of
32 participants are common in court-connected mediations, and it is frequently understood that these
33 communications will not be disclosed to other participants in the mediation. (See Cal. Rules of
34 Court, rule 3.854(c).) It is important to protect the confidentiality of these communications in
35 complaint proceedings so that one participant in the mediation does not learn what another
36 participant discussed in confidence with the mediator without the consent of the participants in
37 the caucus communication.
38

39 **Subdivisions (c)–(e).** The provisions of (c)–(e) that authorize the disclosure of information and
40 records related to complaint proceedings do not create any new exceptions to mediation
41 confidentiality. Although public disclosure of information and records about complaint
42 proceedings that do not reveal mediation communications may be authorized under (d),
43 information and records that *would* reveal mediation communications may be publicly disclosed
44 only as required by law (e.g., in response to a subpoena or court order) and consistent with the
45 statutes and case law governing mediation confidentiality. A person who is knowledgeable about
46 California’s mediation confidentiality laws should determine whether the disclosure of mediation
47 communications is required by law.
48

1 Evidence Code sections 915 and 1040 establish procedures and criteria for deciding whether
2 information acquired in confidence by a public employee in the course of his or her duty is
3 subject to disclosure. These sections may be applicable or helpful in determining whether the
4 disclosure of information or records acquired by judicial officers, court staff, and other persons in
5 the course of a complaint proceeding is required by law or should be authorized in the discretion
6 of the presiding judge.
7

8
9 **Rule 3.872. Disqualification from subsequently serving as an adjudicator**

10
11 A person who has participated in a complaint proceeding or otherwise received
12 information about the substance of a complaint, other than information that is
13 publicly disclosed under rule 3.871(d), must not subsequently hear or determine
14 any contested issue of law, fact, or procedure concerning the dispute that was the
15 subject of the underlying mediation or any other dispute that arises from the
16 mediation as a judge, an arbitrator, a referee, or a juror, or in any other
17 adjudicative capacity, in any court action or proceeding.
18

19 *Rule 3.872 amended and renumbered effective July 1, 2009, effective date extended to January 1,*
20 *2010; adopted as rule 1622.3 effective January 1, 2006; previously amended and renumbered as*
21 *rule 3.868 effective January 1, 2007.*

22
23 **Advisory Committee Comment**

24
25 Persons who participated in a complaint proceeding are prohibited from subsequently
26 adjudicating the dispute that was the subject of the underlying mediation or any other dispute that
27 arises from the mediation because they may have learned of confidential mediation
28 communications that were disclosed in the complaint proceeding or may have been influenced by
29 what transpired in that proceeding. Because the information that can be disclosed publicly under
30 rule 3.871(d) is limited and excludes mediation communications, it is unnecessary to disqualify
31 persons who received only publicly disclosed information from subsequently adjudicating the
32 dispute.



JUDICIAL COUNCIL OF CALIFORNIA MEETINGS

Open to the Public Unless Indicated as Closed (Cal. Rules of Court, rule 10.6(a))

Judicial Council of California • Sacramento Offices

2860 Gateway Oaks Drive, Suite 400 • Sacramento, California 95833

Thursday, February 19, 2015 • 9:30 a.m.–2:50 p.m.

Meeting materials will be hyperlinked to agenda titles as soon as possible after receipt by Judicial Council Support. For recent postings of hyperlinked reports, please check the agenda at <http://www.courts.ca.gov/28690.htm>.

THURSDAY, FEBRUARY 19, 2015, AGENDA

CLOSED SESSION (RULE 10.6(b))—PERSONNEL AND OTHER CONFIDENTIAL MATTERS

Session 9:30–10:10 a.m.

Transitional Break 10:10–10:20 a.m. (approx.)

NOTE: Time is estimated. Actual start and end times may vary.

OPEN SESSION (RULE 10.6(a))—MEETING AGENDA

10:20–10:30 a.m. Swearing in of New Council Member

The Chief Justice will administer the oath of office to a new council member.

10:30–10:35 a.m. Approval of Minutes

Approve minutes of the January 22, 2015, Judicial Council meeting.

10:35–10:45 a.m. Chief Justice's Report

Chief Justice Tani G. Cantil-Sakauye will report.

10:45–10:55 a.m. Administrative Director's Report

Mr. Martin Hoshino, Administrative Director, will report.

10:55–11:25 a.m. Public Comment

The Judicial Council welcomes public comment on general matters of judicial administration and on specific agenda items, as it can enhance the council's understanding of the issues coming before it.

Please see our [public comment procedures](#).

- 1) Submit advance requests to speak by **4:00 p.m., Tuesday, February 17, 2015.**
- 2) Submit written comments for this meeting by **1:00 p.m. on Wednesday, February 18, 2015.**

Contact information for advance requests to speak, written comments, and questions:

E-mail: judicialcouncil@jud.ca.gov

Postal mail or delivery in person:

Judicial Council of California
455 Golden Gate Avenue
San Francisco, California 94102-3688
Attention: Cliff Alumno

Break 11:25–11:40 a.m. (approx.)

CONSENT AGENDA (ITEMS A1–A3 THROUGH G)

A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Nancy Carlisle at 415-865-7614 at least 48 hours before the meeting.

ITEMS A1–A3 RULES AND FORMS

Criminal Jury Instructions

Item A1 Jury Instructions: Revisions to Criminal Jury Instructions (Action Required)

The Advisory Committee on Criminal Jury Instructions recommends approval of the proposed revisions to the *Judicial Council of California Criminal Jury Instructions* (CALCRIM). These changes will keep CALCRIM current with statutory and case authority.

Hon. Sandy R. Kriegler, Chair, Advisory Committee on Criminal Jury Instructions

Ms. Robin S. Seeley, Legal Services

Civil and Small Claims

Item A2 Fee Waivers: Change in Federal Poverty Guidelines, Revisions to Application Form, and Specific Fees Included in Waivers (Action Required)

The Civil and Small Claims Advisory Committee recommends modifying the *Request to Waive Court Fees* (form FW-001) effective March 1, 2015, to reflect the 2015 increase to the federal poverty guidelines and at the same time make other clarifying changes to the form. 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 recent changes in law that mandates that any fees charged for the court's cost for court reporting services and assessments for court investigation under certain provisions of the Probate Code be included in a waiver. Several fee waiver forms and information sheets would be revised to reflect these changes.

Hon. Patricia M. Lucas, Chair, Civil and Small Claims Advisory Committee

Hon. Raymond J. Ikola, Chair, Appellate Advisory Committee

Ms. Anne M. Ronan, Legal Services

Family and Juvenile Law

Item A3 Judicial Council Form: Update to Federal Poverty Guidelines (Action Required)

The Family and Juvenile Law Advisory Committee recommends revising one Judicial Council form, *Financial Declaration—Juvenile Dependency* (form JV-132), containing figures based on the federal poverty guidelines to reflect the updates to those guidelines recently published by the federal government.

Hon. Jerilyn L. Borack and Hon. Mark A. Juhas, Cochairs, Family and Juvenile Law Advisory Committee

Mr. Corby Sturges, Center for Families, Children and the Courts

Item B Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E) and Judicial Council staff recommend that the Judicial Council accept the audit report that pertains to the Superior Court of Madera County. This acceptance complies with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports will enhance accountability and provide the courts with information to minimize financial, compliance, and operational risk.

Hon. Richard D. Huffman, Chair, Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch

Mr. John A. Judnick, Audit Services

Item C Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required) **MOVED TO DISCUSSION AGENDA**

Item D Judicial Branch Education: Report to the Legislature on Compliance with Welfare and Institutions Code Section 304.7 (Action Required)

The Judicial Council's Center for Judiciary Education and Research recommends that the council review and approve the attached report to be submitted to the Legislature on the compliance by judges, commissioners, and referees with the education requirements of Welfare and Institutions Code section 304.7.

Dr. Diane E. Cowdrey, Center for Judiciary Education and Research

Item E Judicial Council Report to the Legislature: Status Update of Judicial Branch Courthouse Construction Program for Fiscal Year 2014–2015 (Action Required)

The Judicial Council Capital Program recommends approving the status update of the judicial branch courthouse construction program for fiscal year 2014–2015 for submission to the Legislature. This report also indicates that actual fiscal year end revenues and expenditures of the construction program's Immediate and Critical Needs Account will be made available this fall, as a change is being requested to the Legislature's annual submission deadline so it aligns with when these figures become available. The annual submission of this report is required under Government Code section 70371.8.

Mr. Curtis L. Child, Chief Operating Officer

Mr. William J. Guerin, Capital Program

Item F **Judicial Council Report to the Legislature: Fiscal Year 2013–2014 Expenditures of the Trial Court Interpreters Program (Action Required)**

The Judicial Council's Court Operations Services office recommends approving the annual report on trial court interpreter expenditures for submission to the Legislature and the Department of Finance. This report is required by the Budget Act of 2013.

Mr. Curtis L. Child, Chief Operating Officer

Ms. Donna Hershkowitz, Court Operations Services

Item G **Criminal Law: Judicial Council Appointment to the California Council for Interstate Adult Offender Supervision (Action Required)**

The Executive and Planning Committee (E&P) recommends the appointment of Hon. Ana L. España of the Superior Court of San Diego County to the California Council for Interstate Adult Offender Supervision. The seven-member council must include a superior court judge appointed by the Judicial Council. The California Council is required by the Interstate Compact for Adult Offender Supervision, which governs state administration of the transfer across state lines of the supervision of adult parolees and probationers. The individual selected for appointment will also serve simultaneously on the California Council for Interstate Juvenile Offender Supervision.

Hon. Douglas P. Miller, Chair, Executive and Planning Committee

Ms. Jody Patel, Chief of Staff

DISCUSSION AGENDA (ITEMS H–L)

Item H **11:40 a.m.–12:10 p.m.**

Judicial Branch Administration: California State Auditor's Report on the Judicial Council (No Action Required. There are no materials for this item.)

The newly formed Audit Recommendations Working Group, charged with reviewing recommendations by the California State Auditor, was asked to report back to the Judicial

Council in February 2015. The Audit Recommendations Working Group recommends approval of the proposed audit implementation work plan.

Speakers: Hon. Marsha Slough, Chair of the Trial Court Presiding Judges Advisory Committee
Mr. Martin Hoshino, Administrative Director

New Item 12:10–12:25 p.m.

California’s Language Access Plan: Implementation Task Force (No Action Required. There are no materials for this item.)

The Chair of the Language Access Plan Implementation Task Force will provide an informational update on proposed areas for focus, anticipated outreach, and potential challenges as implementation commences on the *Strategic Plan for Language Access in the California Courts*, which the Judicial Council adopted at the January 22, 2015, council meeting.

Speaker: Hon. Mariano-Florentino Cuéllar, Chair, Language Access Plan Implementation Task Force

Item I 12:25–12:55 p.m.

Trial Court Trust Fund Allocations: 2 Percent State-Level Reserve (Action Required)

The Trial Court Budget Advisory Committee’s 2 Percent Funding Request Review Subcommittee (TCBAC subcommittee) presents a recommendation to the Judicial Council on the Superior Court of Napa County’s application for supplemental funding for relocation costs due to the significant Napa earthquake on August 24, 2014, that required the immediate closure of the court’s historic courthouse. Under the current policy adopted by the Judicial Council, from January 1 through March 15, 25 percent of the remaining Trial Court Trust Fund 2 percent state-level reserve is available for court requests due to unforeseen emergencies or unanticipated expenses. These court requests are to be reviewed and recommendations made to the Judicial Council by the TCBAC subcommittee. For 2014–2015, the 25 percent amount remaining in the 2 percent state-level reserve is \$9.34 million. The total amount requested by the Superior Court of Napa County is \$187,000.

Speakers: Hon. Marsha Slough, Co-Chair, 2 Percent Funding Request Review Subcommittee
Ms. Mary Beth Todd, Co-Chair, 2 Percent Funding Request Review Subcommittee
Mr. Rick Feldstein, Executive Officer, Superior Court of California, County of Napa
Mr. Zlatko Theodorovic, Finance

Recess 12:55–1:25 p.m. (approx.)

Item J 1:25–1:55 p.m.

Technology: Programmatic and Staffing Changes to Trial Court Programs (Action Required)

The Judicial Council Technology Committee and Trial Court Budget Advisory Committee jointly recommend that the Judicial Council approve changes to a number of trial court–related statewide technology programs that would achieve short-term, medium-term, and long-term savings in the State Trial Court Improvement and Modernization Fund; that the council’s Information Technology office consider reducing as many external contractors as possible; and that the council consider creating a working group, or designating an existing committee, to focus on information technology efficiencies and cost saving measures for smaller courts.

Speakers: Hon. Laurie M. Earl, Chair, Trial Court Budget Advisory Committee
Hon James E. Herman, Chair, Judicial Council Technology Committee
Mr. Robert Oyung, Chief Information Officer, Superior Court of California,
County of Santa Clara
Mr. Zlatko Theodorovic, Finance

Item K 1:55–2:15 p.m.

Trial Courts: Recidivism Reduction Fund Court Grant Program Recommended Awards (Action Required)

As part of the Budget Act of 2014, the Legislature directed the Judicial Council of California to develop and administer a competitive grant program for trial courts that incorporate practices known to reduce adult offender recidivism. Criminal Justice Services, staff to the Judicial Council, recommends approving the Recidivism Reduction Fund (RRF) Court Grant Program funding allocation and distribution as well as recommendations related to further RRF funding opportunities for the courts and for grant administration activities.

Speakers: Mr. Curtis L. Child, Chief Operating Officer
Ms. Shelley Curran, Criminal Justice Services

Item C 2:15–2:35 p.m. **MOVED FROM CONSENT AGENDA**

Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E Committee) and Judicial Council staff recommend that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of Nevada*. This acceptance is consistent with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to

NOTE: Time is estimated. Actual start and end times may vary.

finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports promote transparent accountability and provide the courts with information to minimize future financial, compliance, and operational risk.

Speakers: Hon. Richard D. Huffman, Chair, Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch
Mr. John A. Judnick, Audit Services
Mr. Robert Cabral, Audit Services

Item L 2:35–2:50 p.m.

Judicial Branch Administration: Fiscal Year 2015–2016 Budget Change Proposal to Strengthen Information System Security and Data Reliability (Action Required)

In August 2014, the Judicial Council approved a conceptual outline for funding the additional work needed to fully implement an information security program and resolve California State Auditor recommendations. In alignment with this approved concept, Judicial Council staff recommends and the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch supports augmenting the General Fund in fiscal year 2015–2016 to implement recommendations from the California State Auditor. The recommended augmentation—of \$2.4 million, with an ongoing commitment of an additional \$1.1 million in subsequent years—would allow the Judicial Council to comply with the State Auditor’s recommendations in separate audit reports and confidential management letters issued on judicial branch procurement in 2013 and on a statewide review of data reliability in 2014. This proposed funding augmentation includes support for three full-time equivalent positions, which are necessary because existing staff levels cannot support these additional duties. These positions would serve to safeguard Judicial Council information systems while also serving the broader data assurance objectives for California’s state government in biennial reporting by the State Auditor since 2008.

Speakers: Hon. Richard D. Huffman, Chair, Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch
Hon. James E. Herman, Chair, Judicial Council Technology Committee
Mr. Curt Soderlund, Chief Administrative Officer

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

INFO 1 Judicial Council: Implementation of Judicial Council Directives on Judicial Council Staff Restructuring

The chair of E&P presents this informational report on the implementation of the Judicial Council Directives on Staff Restructuring, as approved by the Judicial Council on August 31,

NOTE: Time is estimated. Actual start and end times may vary.

2012. The Judicial Council Staff Restructuring Directives specifically direct the Administrative Director to report to E&P before each council meeting on every directive. This informational report provides an update on the progress of implementation efforts.

INFO 2 **Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106—Report No. 30)**

Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' regular office hours, and (2) the council to post all such notices on its website and also relay them to the Legislature. This is the 30th report to date listing the latest court notices received by the council under this statutory requirement; since the previous report, two superior courts—those of Mendocino and Shasta Counties —have issued new notices.

INFO 3 **Court Facilities: Trial Court Facility Modification Quarterly Activity Report: Quarter 1, Fiscal Year 2014–2015**

The Trial Court Facility Modification Advisory Committee has completed its facility modification funding for the first quarter of fiscal year 2014–2015. In compliance with the *Trial Court Facility Modifications Policy*, adopted by the Judicial Council on July 27, 2012, the advisory body is submitting its *Trial Court Facility Modification Quarterly Activity Report: Quarter 1, Fiscal Year 2014–2015* as information for the council. This report summarizes the activities of the Trial Court Facility Modification Advisory Committee from July 1, 2014, to September 30, 2014.

INFO 4 **Trial Courts: Report on Expedited Jury Trials**

This report provides data regarding the number of expedited jury trials that have been conducted in the California trial courts since the enactment of the Expedited Jury Trial Act and the dispositions achieved in those cases.

Circulating Order (CO-15-01) Judicial Branch Semiannual Contract Reporting Requirement: Executed Contracts and Vendor Payments for the Period of July 1 through December 31, 2014

Appointment Orders since the last business meeting.

JUDICIAL COUNCIL OF CALIFORNIA
Meeting Minutes—February 19, 2015
Judicial Council of California • Sacramento
Fourth Floor, Veranda Rooms A, B, and C
2860 Gateway Oaks Drive, Suite 400
Sacramento, California 95833

THURSDAY, FEBRUARY 19, 2015

**Non-Business Meeting—Closed Session
Personnel and Other Confidential Matters
(Rule 10.6(b))**

The meeting was called to order at 9:30 a.m. and adjourned at 10:00 a.m.

**Business Meeting—Open Meeting
(Rule 10.6(a))**

Judicial Council members present: Chief Justice Tani G. Cantil-Sakauye; Court of Appeal Justices Judith Ashmann-Gerst and Harry E. Hull, Jr.; Judges Marla O. Anderson, Brian John Back, James R. Brandlin, David De Alba, Emilie H. Elias, Gary Nadler, David Rosenberg, David M. Rubin, Dean T. Stout, and Martin J. Tangeman; Senator Hannah-Beth Jackson, Assembly Member Richard Bloom; Mr. Mark G. Bonino, Mr. James P. Fox, and Ms. Donna D. Melby; **advisory members present:** Judges Daniel J. Buckley, James E. Herman, Brian L. McCabe, Marsha G. Slough, Kenneth K. So, and Joan P. Weber; Commissioner David E. Gunn; Court Executive Officers Richard D. Feldstein and Mary Beth Todd; Supreme Court Clerk Frank A. McGuire; **secretary to the council:** Mr. Martin Hoshino, Administrative Director.

Judicial Council members absent: Supreme Court Justice Ming W. Chin; Court of Appeal Justice Douglas P. Miller; Judges Morris D. Jacobson and Charles D. Wachob; Ms. Debra Elaine Pole.

Speakers present: Supreme Court Justice Mariano-Florentino Cuéllar; Associate Justice Richard D. Huffman, Court of Appeal, Fourth Appellate District, Division One; Judge Laurie M. Earl, Superior Court of California, County of Sacramento; Chief Information Officer Robert Oyung, Superior Court of California, County of Santa Clara.

Others present: Court Executive Officer G. Sean Metroka, Superior Court of California, County of Nevada; Mr. Ben Palmer, Staff, California State Senate; Ms. Debbie Meador, Staff, California State Assembly; Mr. Ken Spence, Staff, California State Assembly; Mr. Joe

Stephenshaw, Staff, California State Assembly; **members of the public:** Ms. Logan Begneaud, Mr. Steve Burdo, Mr. Jim Cantando, Ms. Elizabeth Edmonds, Ms. Roberta Fitzpatrick, Ms. Michelle Garcia, Ms. Irina Giyenko, Mr. Ray Huakins, Ms. Susan Hulsebus, Ms. Fatima Katumbusi, Mr. Mark Light, Mr. Rick Nixon, Mr. Alan Phillips, Ms. Sara Smith, and Ms. Connie Valentine; **media representatives:** Ms. Maria Dinzeo, *Courthouse News Service*; and Mr. Paul Jones, *Daily Journal*.

Call to Order

Chief Justice Cantil-Sakauye, Chair of the Judicial Council, called the meeting to order at 10:15 a.m. in Veranda Rooms A, B, and C on the fourth floor of the Sacramento office of the Judicial Council of California.

Swearing in of New Judicial Council Member

The Chief Justice welcomed Senator Hannah-Beth Jackson, new member of the Judicial Council, to her first meeting. Senator Jackson was selected to represent the California State Senate on the Judicial Council. She noted that the enhancement to our membership to include legislative members was first proposed by former Chief Justice Phil Gibson, and it was enacted through a revision of Article 6 of the State Constitution in 1960. The revision broadened the Judicial Council's membership to include representatives of all groups directly concerned with the improvement of the administration of justice, including the State Bar of California and both houses of the state Legislature. The Chief Justice stated that, at the time of enactment, it was said, "Legislative representation on the council would enable it to maintain better liaison with the Legislature and would help prevent conflict between rules adopted by the council and statutes enacted by the Legislature." The Chief Justice proceeded by administering the oath of office to Senator Jackson.

Opening Remarks from the Chief Justice

The Chief Justice announced that this meeting is the second of the two Judicial Council meetings in Sacramento this year. She noted that the meetings held in Sacramento facilitate direct advocacy with legislators by Judicial Council members on behalf of the branch and the court. The Chief Justice reported that the legislative visits that took place the day before this meeting, and the ones in January, provided council members with an opportunity to advocate for the need for new investment in California's justice system by discussing how the superior courts, Courts of Appeal, and the Supreme Court have adapted to new budget realities with efficiency and innovation and sharing first-hand experiences about how budget cuts in previous years have impacted court operations and access to justice. Many voices shared the needs of the judicial branch and the public it serves but, importantly, they also presented a shared vision for new funding needs and solutions. The Chief Justice reported that closures, adequate funding, Proposition 47, facilities, and reserves were among the recurring themes during the meetings with the legislators. She thanked the members for their active participation in the legislative visits. The Chief Justice also thanked the staff of the Governmental Affairs office for organizing the visits and Judicial Council staff, both in the San Francisco and Sacramento offices, for supporting the council in conducting its regular Judicial Council meetings in Sacramento.

Approval of Meeting Minutes

The Judicial Council approved the minutes of the January 22, 2015, Judicial Council meeting.

Chief Justice's Report

The Chief Justice presented her report summarizing her engagements and ongoing outreach activities since the January council meeting. She began by noting that, although this reporting period was a short one, the topics of her engagements and activities ranged from undocumented and unaccompanied immigrant minors to the diversity and the future of California elections. She was pleased to participate in a video celebrating the recognition of California's law and legal service academies by the American Bar Association with its Alexander Award, which recognizes the academies' work to support racial and ethnic diversity in the legal profession. The Chief Justice reported that, in 2014, these law academies in California had 500 graduating students, and that more than 1,000 members of the local legal profession and community were, and continue to be, actively involved in teaching, supporting, and encouraging nearly 2,000 students. The Chief Justice reported that at least 50 percent of the students have been identified in these law academies as at-risk students to graduate, which is worth noting because it is known that, in the court system, students who were suspended or expelled are almost three times more likely to come in contact with the juvenile justice system. The Chief Justice reported that one of the law academies from her alma mater, C. K. McClatchy High School, visited the Supreme Court during its oral argument session in Sacramento earlier in the month. She thanked Mr. McGuire and Mr. Jorge Navarette, Assistant Clerk Administrator of the Supreme Court, for facilitating this court outreach and civic learning opportunity. The Chief Justice noted that all the Courts of Appeal and almost all of the trial courts engage in some sort of outreach, including mock trials and moot courts, and she believes that these types of outreach activities are essential to the public's understanding of the role of the courts.

The Chief Justice reported that children and teens were also the topic for a panel discussion in which she participated during the midyear meeting of the Conference of Chief Justices in San Antonio, Texas. She joined a panel that included Magistrate Judge Julie Breslow from the District of Columbia; Immigration Judge Dana Marks from the United States Department of Justice in San Francisco; Dr. John Martin, Director of the Center for Public Policy Studies, Immigration & State Courts Initiative; and Texas Administrative Director of the Courts David Slayton. The Chief Justice reported that the panel discussed how state laws give their state courts and their trial courts a primary duty to protect the rights and welfare of all resident children and how the influx of undocumented and unaccompanied children from other countries, particularly South America, had created an intersection of federal immigration law and state child welfare and child custody law in the special immigrant juvenile status process. She reported that the Legislature and the Governor enacted Senate Bill 873 last year, which affirmed court authority and provided some funding for legal representation for these children. She added that judicial officers have already been provided some guidance on this subject, and that the council is cosponsoring a judicial forum in March on the special immigrant juvenile status with the Superior Court of San Diego County. The Chief Justice added that the midyear meeting also included discussions and presentations relating to evidence-based sentencing, pretrial reform,

and adult and juvenile corrections. Judge Roger Warren, Superior Court of Sacramento County, and former Judicial Council member, was one of the lead presenters.

The Chief Justice reported that, representing Judicial Council as its chair, she attended the statewide business meeting of the Trial Court Presiding Judges and Court Executives Advisory Committees. The meeting included candid discussions addressing issues affecting the courts through a useful exchange of thoughts and concerns among court and branch leadership.

The Chief Justice reported that she participated in the New Appellate Justices Institute, which was one of the largest appellate justice institutes for new justices in some time. She noted that many vacant seats on the Supreme Court and Courts of Appeal have now been filled by the Governor, enriching the existing talent pool on the state's appellate court benches. The Chief Justice had the great pleasure to share the stage with legal counsel for the World Series-winning San Francisco Giants when the Santa Clara University School of Law honored her with its Social Justice and Human Rights Award at its annual Diversity Gala and the San Francisco Giants received the Organization of the Year Award.

The Chief Justice reported that Judge Richard Couzens (Ret.), former Judicial Council Distinguished Service Award recipient and an expert veteran lecturer for judges, coordinated the first-of-its-kind pretrial summit titled "Releasing Arrestees: Decisions to Enhance Public Safety" with the Judicial Council's Criminal Justice Services staff, headed by Senior Manager Shelley Curran and the Operations & Programs Division staff. The summit was attended by court executive officers, probation officers, district attorneys, public defenders, service providers, and representatives from the Criminal Justice Institute and the Public Policy Institute of California. The Chief Justice reported that the discussions addressed models and best practices for evidence-based pretrial release. She noted that, nationally, as she mentioned earlier with the Conference of Chief Justices, this concept is an effort that has been growing in momentum, and specifically in California with the Pretrial Programs Grant through the Recidivism Reduction Fund Court Grant Program, which appeared as Item K on the discussion agenda for this meeting. She emphasized that the ultimate goal remains the same: reducing recidivism while enhancing public safety.

The Chief Justice reported that she was pleased to participate in a conference organized by the Future of California Elections to discuss working collaboratively for a more inclusive democracy. She has stated repeatedly that the strength of democratic institutions relies on the public's understanding of those institutions. The conference attendees included Secretary of State Alex Padilla, election representatives, civil rights and civic engagement groups, government employees, and legislative staff. The Chief Justice noted that the lack of civic engagement, as reflected most recently in the low voter turnout during the last midterm elections, has many negative consequences, which are threats to our democracy, because the justice system depends on the public's confidence and trust in—and understanding of—the judiciary. She reported that the Judicial Council recognized those threats many years ago when it created the Commission for Impartial Courts, which was chaired by Justice Chin. The Chief Justice added that it is from that

commission that she created the Power of Democracy Steering Committee based on the commission's recommendations and partnered with Superintendent of Public Instruction Tom Torlakson on a number of civic learning initiatives to engage all students. The Chief Justice concluded her report with mention of the approaching 50th anniversary of the Voting Rights Act.

Administrative Director's Report

In the materials for this council meeting, Mr. Hoshino provided his written report outlining activities in which Judicial Council staff is engaged to further the Judicial Council's goals and priorities for the judicial branch. The report focuses on action since the January council meeting and is exclusive of issues on the business agenda for this meeting. He began his supplemental report by highlighting one of the major themes in his report relating to data collection, specifically the efficacy of data collection from the courts in the areas of filings, workload, and case processing, used to inform budget management, budget appropriations, and finance decisions. Mr. Hoshino indicated that his written report references the research staff's work on improvements in the reporting of statewide statistics based on a set of recommendations from the Court Executives Advisory Committee. He indicated that the enhancements made will allow the courts to submit their filings in the same case-type categories used for the resource assessment study, which will facilitate and augment the precision in the results for the next resource assessment study that will ultimately feed into the workload allocation funding methodology model used for budget development as well as allocations.

Mr. Hoshino referenced another data collection matter related to court workload associated with the implementation of Proposition 47. He reported that Judicial Council staff spoke with the Legislative Analyst's Office (LAO) earlier in the week as it released its report related to the early implementation efforts. Mr. Hoshino reported that a section in that report discusses the state courts and information that it suggests is appropriate for collection. He added that, in the report, the LAO supports the Governor's proposal for \$26.9 million in new funding for the upcoming fiscal year, but recommends to the Legislature that the second-year funding be issued subsequent to additional data collection. Mr. Hoshino reported that Judicial Council staff had made a request for resources to defray the additional cost of the data collection associated with Proposition 47, which was included in the Governor's January 10 budget proposal. Discussions to define the overall costs and net savings continue with the Department of Finance. By the summer of 2016, the Director of Finance must certify the any state savings related to the passage of Proposition 47. Mr. Hoshino thanked Ms. Todd and the court executive officers and their teams, as well as the presiding judges, for collaborating with staff on this effort.

Mr. Hoshino reported that, although he had not been able to visit the courts as much as he would have liked in between the two Judicial Council meetings, he was able to visit the Superior Court of San Bernardino County and receive a tour of some of the new courthouse's innovations and efficiencies. He witnessed a DMV-style process in place to organize the public submission of filings—obtaining a number and then approaching a window when called—and he was surprised to see hardly anyone waiting in line because of the system's efficiency. Mr. Hoshino also described a process that he observed where the public would approach a walk-up/drive-up

window to pay their fines. Similar to the ticket window of a movie theater, the person would go to the window and make payment without entering a courtroom or going through security. He also described the domestic violence e-delivery program developed by the court, which provides the citizens of San Bernardino County online access to forms in a user-friendly manner. Mr. Hoshino noted that, although these processes seem very simple, he believes these advancements occurring in the courts ought to be highlighted.

Mr. Hoshino concluded his report by announcing to the council members that, on their behalf, the Chief and he will be recognizing many of Judicial Council staff employees for their years of service, serving anywhere between 5 and 25 years. He highlighted that this recognition is in the spirit of honoring the great public service contributions of the 19,000 appellate court, superior court, and Judicial Council staff tirelessly working in the judicial system, sometimes under trying conditions, especially over the last several years.

Public Comment

Ms. Daun Abbett, Ms. Karen Anderson, Mr. Marc M. Gorelnik, Ms. Stacey Hart, Ms. Susan Hulsebus, Ms. Anita Jarman, Ms. Brooke Prescott, Ms. Kim M. Robinson, Ms. Kimberly Rosenberger, Ms. Kathleen Russell, Ms. Carol Saia, Mr. Hazart Sanker, Ms. Vickie Van Scyoc, Mr. ET Snell, Ms. Sharon Stephens, Captain Curt Taras, and Ms. Tami Winternitz presented comments on judicial administration issues.

Written Comment

Written comments were received from Ms. Terri Castro, Mr. Marc Gorelnik, Ms. Jackie Gorton, Ms. Carol Saia, and Mr. ET Snell.

Consent Agenda (Items A1–A3, B, and D–G)

ITEMS A1–A3 RULES AND FORMS

Civil Jury Instructions

Item A1 Jury Instructions: Revisions to Criminal Jury Instructions

The Advisory Committee on Criminal Jury Instructions recommended approval of the proposed revisions to the *Judicial Council of California Criminal Jury Instructions* (CALCRIM). These changes would keep CALCRIM current with statutory and case authority.

Council action

The Judicial Council, effective February 19, 2015, approved for publication under rule 2.1050 of the California Rules of Court the criminal jury instructions prepared by the committee. The revised instructions will be published in the official 2015 edition of the *Judicial Council of California Criminal Jury Instructions*.

Civil and Small Claims

Item A2 Fee Waivers: Change in Federal Poverty Guidelines, Revisions to Application Form, and Specific Fees Included in Waivers

The Civil and Small Claims Advisory Committee recommended modifying the *Request to Waive Court Fees* (form FW-001) effective March 1, 2015, to reflect the 2015 increase to the federal poverty guidelines and at the same time make other clarifying changes to the form. In addition, the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee jointly recommended 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 recommended 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 recommended further rule amendments to reflect recent changes in law that mandate that any fees charged for the court's cost for court reporting services and assessments for court investigation under certain provisions of the Probate Code be included in a waiver. Several fee waiver forms and information sheets would be revised to reflect these changes.

Council action

The Judicial Council:

1. Effective March 1, 2015, amended *Request to Waive Court Fees* (form FW-001), to reflect 2015 increases in the federal poverty guidelines and incorporate other nonsubstantive, clarifying changes.
2. Effective July 1, 2015:
 - a. Amended California Rules of Court, rules 3.52, 3.55, 3.56, and 8.818 to:
 - i. 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;
 - ii. add to rule 3.55 the new \$50 fee for the court to hold in trust funds deposited to pay court reporters for a transcript on appeal; and
 - iii. 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 added 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.

- b. Revised 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, and the recently enacted amendments to Government Code section 68631.
3. Effective July 1, 2015, amended rule 3.52 to provide a grace period for courts in which they may use order forms created within their own electronic case management system rather than the newly amended Judicial Council forms.
4. Effective July 1, 2015, further revised form APP-001 to reflect recent changes in appellate fees, rules, and procedures.

Item A3 Judicial Council Form: Update to Federal Poverty Guidelines

The Family and Juvenile Law Advisory Committee recommended revising one Judicial Council form, *Financial Declaration—Juvenile Dependency* (form JV-132), containing figures based on the federal poverty guidelines to reflect the updates to those guidelines recently published by the federal government.

Council action

The Judicial Council, effective February 19, 2015, revised *Financial Declaration—Juvenile Dependency* (form JV-132) to reflect the January 2015 increases to the federal poverty guidelines.

Item B Judicial Branch Administration: Audit Report for Judicial Council Acceptance

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E) and Judicial Council staff recommended that the Judicial Council accept the audit report that pertains to the Superior Court of Madera County. This acceptance complies with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports would enhance accountability and provide the courts with information to minimize financial, compliance, and operational risk.

Council action

The Judicial Council, effective February 19, 2015, accepted the following “pending” audit report dated June 2014 entitled *Audit of the Superior Court of California, County of Madera*, which resulted in the audit report progressing from “pending” status to “final” status. The final report will be published on the California Courts public website.

**Item C Judicial Branch Administration: Audit Report for Judicial Council Acceptance
(Action Required)**

This item was moved to the Discussion Agenda prior to the meeting.

**Item D Judicial Branch Education: Report to the Legislature on Compliance with
Welfare and Institutions Code Section 304.7**

The Judicial Council’s Center for Judiciary Education and Research recommended that the council review and approve the attached report to be submitted to the Legislature on the compliance by judges, commissioners, and referees with the education requirements of Welfare and Institutions Code section 304.7.

Council action

The Judicial Council, effective February 19, 2015, approved the report *2014 Juvenile Judicial Officer Training Survey* for submission to the Legislature pursuant to Welfare and Institutions Code section 304.7(c).

**Item E Judicial Council Report to the Legislature: Status Update of Judicial Branch
Courthouse Construction Program for Fiscal Year 2014–2015**

The Judicial Council Capital Program recommended approving the status update of the judicial branch courthouse construction program for fiscal year (FY) 2014–2015 for submission to the Legislature. This report also indicates that actual fiscal year-end revenues and expenditures of the construction program’s Immediate and Critical Needs Account will be made available this fall, as a change is being requested to the Legislature’s annual submission deadline so it aligns with when these figures become available. The annual submission of this report is required under Government Code section 70371.8.

Council action

The Judicial Council, effective February 19, 2015, approved the status update of the judicial branch courthouse construction program for FY 2014–2015 and directed staff to submit the report to the Legislature.

**Item F Judicial Council Report to the Legislature: Fiscal Year 2013–2014 Expenditures
of the Trial Court Interpreters Program**

The Judicial Council’s Court Operations Services office recommended approving the annual report on trial court interpreter expenditures for submission to the Legislature and the Department of Finance. This report is required by the Budget Act of 2013.

Council action

The Judicial Council, effective February 19, 2015, approved the report to the Legislature summarizing the FY 2013–2014 trial court interpreter expenditures in conformance with the requirements of the Budget Act of 2013 (Stats. 2013, ch. 20) and directed staff to submit the report to the Legislature and the Department of Finance.

Item G Criminal Law: Judicial Council Appointment to the California Council for Interstate Adult Offender Supervision

The Executive and Planning Committee (E&P) recommended the appointment of Hon. Ana L. España, Superior Court of California, County of San Diego, to the California Council for Interstate Adult Offender Supervision. The seven-member council must include a superior court judge appointed by the Judicial Council. The California Council is required by the Interstate Compact for Adult Offender Supervision, which governs state administration of the transfer across state lines of the supervision of adult parolees and probationers. The individual selected for appointment would also serve simultaneously on the California Council for Interstate Juvenile Offender Supervision.

Council action

The Judicial Council, effective February 19, 2015, appointed Judge Ana L. España, Superior Court of California, County of San Diego, to the California Council for Interstate Adult Offender Supervision, as provided in Penal Code section 11181(c).

Discussion Agenda (Items C, H–L, and New Item)

Item H Judicial Branch Administration: California State Auditor's Report on the Judicial Council

The chair of and lead staff to the newly formed Working Group with Audit Recommendations, which is charged with reviewing recommendations by the California State Auditor, provided a status report as directed by the Judicial Council during its February 2015 meeting.

No council action

New Item California's Language Access Plan: Implementation Task Force

The chair of the Language Access Plan Implementation Task Force provided an informational update on proposed areas for focus, anticipated outreach, and potential challenges as implementation commences on the *Strategic Plan for Language Access in the California Courts*, which the Judicial Council adopted during its January 22, 2015.

No council action

Item I Trial Court Trust Fund Allocations: 2 Percent State-Level Reserve

The Trial Court Budget Advisory Committee's 2 Percent Funding Request Review Subcommittee (TCBAC subcommittee) presented a recommendation to the Judicial Council on the application of the Superior Court of California, County of Napa, for supplemental funding for relocation costs due to the significant Napa earthquake on August 24, 2014, that required the immediate closure of the court's historic courthouse. Under the current policy adopted by the Judicial Council, from January 1 through March 15, 25 percent of the remaining Trial Court Trust Fund 2 percent state level reserve is available for court requests due to unforeseen emergencies or unanticipated expenses. These court requests are to be reviewed and recommendations made to the Judicial Council by the TCBAC subcommittee. For 2014–2015, the 25 percent amount remaining in the 2 percent state-level reserve is \$9.34 million. The total amount requested by the Superior Court of Napa County was \$187,000.

Council action

The Judicial Council, effective February 19, 2015, allocated a one-time distribution of \$187,000 to the Superior Court of California, County of Napa. The court is directed to reimburse the Trial Court Trust Fund (TCTF) 2 percent state-level reserve if and when a reimbursement from the Federal Emergency Management Agency (FEMA) is received by the court for costs associated with this request.

Item J Technology: Programmatic and Staffing Changes to Trial Court Programs

The Judicial Council Technology Committee and Trial Court Budget Advisory Committee jointly recommended that the Judicial Council approve changes to a number of trial court–related statewide technology programs that would achieve short-term, medium-term, and long-term savings in the State Trial Court Improvement and Modernization Fund; that the council's Information Technology office consider reducing as many external contractors as possible; and that the council consider creating a working group, or designating an existing committee, to focus on information technology efficiencies and cost saving measures for smaller courts.

Council action

The Judicial Council, effective February 19, 2015:

1. Directed the Judicial Council Technology Committee to oversee the implementation of the proposed actions outlined in the report. Short-term actions (within 12 months) will result in a savings of approximately \$1.0 million, and medium-term (12–24 months) to long-term (24–36 months) actions are anticipated to result in additional savings. Long-term actions are to be initiated immediately due to the length of time required for analysis, implementation, and transition from existing to new solutions.
2. Directed the Judicial Council Information Technology office to consider reducing as many external contractors as possible.

3. Approved the creation of a working group, or designation of an existing advisory committee, to focus on information technology (IT) efficiencies and cost saving measures for smaller courts.

Item K Trial Courts: Recidivism Reduction Fund Court Grant Program Recommended Awards

As part of the Budget Act of 2014, the Legislature directed the Judicial Council to develop and administer a competitive grant program for trial courts that incorporates practices known to reduce adult offender recidivism. Criminal Justice Services, staff to the Judicial Council, recommended approving the Recidivism Reduction Fund (RRF) Court Grant Program funding allocation and distribution as well as recommendations related to further RRF funding opportunities for the courts and for grant administration activities.

Council action

The Judicial Council, effective February 19, 2015:

1. Approved awards of approximately \$13.654 million to 27 superior courts for the period of April 1, 2015, to April 30, 2017, from the Recidivism Reduction Fund Court Grant Program, as stated in the report (see Attachment 1);
2. Allowed the six courts that did not meet the minimum 65-point requirement for funding (per Section 2.5.1 of the request for proposals) to submit revised proposals for review, rescoring by Judicial Council staff, and possible funding from the remaining balance of the RRF Court Grant Program;
3. After funds have been distributed to courts for the implementation and operation of programs outlined in Recommendations 1 and 2 above, made any remaining funds available to all interested trial courts for small training, planning, or technical assistance grants related to programs known to reduce adult offender recidivism; and
4. Authorized Criminal Justice Services staff to work with the grantee courts to enable them to shift budgeted amounts from one fiscal year to another, modify budgets if necessary, or roll over unspent funds at fiscal year-end, provided these funds are within the courts' original award amounts.

Item C Judicial Branch Administration: Audit Report for Judicial Council Acceptance

This item was moved from the Consent Agenda prior to the meeting.

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E Committee) and Judicial Council staff recommended that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of Nevada*. This acceptance

is consistent with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports promote transparent accountability and provide the courts with information to minimize future financial, compliance, and operational risk.

Council action

The Judicial Council, effective February 19, 2015, accepted the audit report dated July 2014 entitled *Audit of the Superior Court of California, County of Nevada*. The acceptance of the audit report resulted in the audit report progressing from “pending” status to “final” status and the publication of the final report on the California Courts public website.

Item L Judicial Branch Administration: Fiscal Year 2015–2016 Budget Change Proposal to Strengthen Information System Security and Data Reliability

In August 2014, the Judicial Council approved a conceptual outline for funding the additional work needed to fully implement an information security program and resolve California State Auditor recommendations. In alignment with this approved concept, Judicial Council staff recommended, and the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch supported, augmenting the General Fund in FY 2015–2016 to implement recommendations from the California State Auditor. The recommended augmentation—of \$2.4 million, with an ongoing commitment of an additional \$1.1 million in subsequent years—would allow the Judicial Council to comply with the State Auditor’s recommendations in separate audit reports and confidential management letters issued on judicial branch procurement in 2013 and on a statewide review of data reliability in 2014. This proposed funding augmentation included support for three full-time equivalent positions, which are necessary because existing staff levels cannot support these additional duties. These positions would serve to safeguard Judicial Council information systems while also serving the broader data assurance objectives for California’s state government in biennial reporting by the State Auditor since 2008.

Council action

The Judicial Council, effective February 19, 2015, with oversight from the chairs of the Judicial Council Technology Committee (JCTC), Trial Court Presiding Judges Advisory Committee (TCPJAC), and Court Executives Advisory Committee (CEAC), approved the submission of a budget change proposal to the state Department of Finance requesting a one-time augmentation of \$2.4 million in FY 2015–2016 and an additional \$1.1 million in subsequent fiscal years to implement recommendations from the California State Auditor intended to strengthen security controls and assure the reliability of judicial branch data. The funding requested will be used to achieve the following deliverables and objectives:

1. Audit and Accountability

- a. Deliverable: Implementation of user-access auditing tools that enable the courts to locally collect and monitor server log data and report on user account changes
- b. Budget: \$615,000 one time and \$47,000 ongoing
- c. Objective: A centrally funded auditing program that provides licensing for the courts to use the same auditing tools implemented within the Judicial Council, without diverting court funding from other priorities

2. Risk Assessment

- a. Deliverable: Establishment of periodic organizational risk assessments of Judicial Council information systems
- b. Budget: \$210,000 one time and \$208,000 ongoing
- c. Objective: Ongoing risk assessments to determine risk and magnitude of harm associated with unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support their operations and assets

3. Contingency Planning

- a. Deliverable: Implementation of a disaster recovery program to guard against inadvertent disruptions of Judicial Council information systems and data loss
- b. Budget: \$889,000 one time and \$512,000 ongoing
- c. Objective: A disaster recovery program to ensure service continuity by addressing potential disruptions in information technology systems, from minor interruptions, such as temporary power failures, to major disasters, such as fires, natural disasters, and terrorism

4. Security Program Management

- a. Deliverable: Implementation of a formalized security program for Judicial Council information systems
- b. Budget: \$365,000 one time and \$345,000 ongoing

- c. Objective: Improvements in the security program for Judicial Council information systems to implement and enforce best practices to avoid risk of compromising data and data loss
5. Media Protection
- a. Deliverable: Complete preparations for the implementation of a data classification program within the Judicial Council
 - b. Budget: \$325,000 one time
 - c. Objective: A properly architected data classification program to ensure that data is stored, labeled, and safeguarded appropriately according to its classification and that the appropriate security measures are followed to preserve the integrity, availability, and required level of confidentiality of the council's information resources
6. Staff Support (3.0 full-time equivalent (FTE) positions included in the figures above to perform the functions below)
- a. A disaster recovery program (referenced above in item 3, Contingency Planning) for a workload increase that will require one additional position for a full-time Business System Analyst to administer the program
 - b. A security program (referenced above in item 4, Security Program Management) for a workload increase that will require the addition of 1.0 FTE Supervising Analyst B position and 1.0 FTE Business Systems Analyst position for developing and overseeing a security operation, enforcing compliance standards, and working with external agencies to communicate threats and vulnerabilities

Information-Only Items (No Action Required)

INFO 1 Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106—Report No. 29)

Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' regular office hours, and (2) the council to post all such notices on its website and also relay them to the Legislature. This report was the 29th to date listing the latest court notices received by the council under this statutory requirement. Since the previous report, one superior court, the Superior Court of California, County of Butte, has issued a new notice.

INFO 2 Court Facilities: Trial Court Facility Modification Advisory Committee Fiscal Year 2013–2014 Annual Report

The Trial Court Facility Modifications Advisory Committee (TCFMAC) has completed its facility modification funding for FY 2013–2014. In compliance with the *Trial Court Facility Modifications Policy* adopted by the Judicial Council on July 27, 2012, the TCFMAC submitted the annual report for FY 2013–2014.

INFO 3 Court Security: Report on Screening Equipment Replacement for Fiscal Year 2013–2014

The Screening Equipment Replacement Program has been in operation since FY 2006–2007 and provides \$2.286 million in funding from the Trial Court Trust Fund to replace outdated or malfunctioning screening equipment in the trial courts. Each year, the Administrative Director approves the list of entrance screening equipment to be funded that year through this program. This report updated the council on the entrance screening equipment that was replaced in FY 2013–2014 using that funding.

**Circulating Orders
(Approved Since the January Business Meeting)**

- Circulating Order (CO-15-01): Judicial Branch Semiannual Contract Reporting Requirement: Executed Contracts and Vendor Payments for the Period of July 1 through December 31, 2014

**Appointment Orders
(Since the January Business Meeting)**

- January 20, 2015: 2014–2015 Judicial Council Internal Committee Appointments
- January 29, 2015: 2014–2015 Judicial Council Member Liaison Assignments

Adjournment

In Memoriam

The Chief Justice adjourned the meeting in remembrance of the following judicial colleagues recently deceased, honoring their service to their courts and to the cause of justice:

- Justice Arthur Alarcon (Ret.), who before he retired from the United States Court of Appeals for the Ninth Circuit, actually served on the California Court of Appeal, Second Appellate District;
- Judge William Draper, Jr. (Ret.), Superior Court of San Diego County;
- Judge Jules Fleuret (Ret.), Superior Court of San Bernardino County;
- Judge L. S. Porter (Ret.), Superior Court of Sacramento County; and
- Judge Elwood Rich (Ret.), Superior Court of Riverside County.

Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at 2:45 p.m.

Respectfully submitted,



Martin Hoshino
Administrative Director and
Secretary to the Judicial Council

Attachments

1. Summary of Recidivism Reduction Fund Proposed Grant Funding
2. Judicial Council Roll Call/Voting Sheets for the Consent Agenda and Discussion Agenda Items C, I, J, K, and L

Judicial Council of California
Criminal Justice Services
Summary of Recidivism Reduction Fund Proposed Grant Funding

CATEGORY: PRETRIAL			
No.	Applicant Court	Budget Amount Requested	Approximate Proposed Grant Funding Allocation
1	Alameda	598,270	598,270
2	El Dorado	763,799	600,000
3	Fresno	599,935	599,935
4	Imperial	378,041	378,041
5	Monterey	338,754	338,754
6	Orange	618,878	600,000
7	Shasta	902,642	600,000
8	Solano	302,049	302,049
9	Sonoma	855,336	600,000
10	Yuba	293,930	293,930
		\$ 5,651,634	\$ 4,910,979
CATEGORY: COLLABORATIVE COURTS			
11	Contra Costa	572,037	572,037
12	Kern	600,000	600,000
13	Lake	439,613	439,613
14	Mendocino	508,425	508,425
15	Merced	582,877	582,877
16	Modoc	343,477	343,477
17	Sacramento	597,131	597,131
18	San Diego	827,823	600,000
19	San Francisco	599,687	599,687
20	San Joaquin	598,500	598,500
21	San Mateo	603,378	600,000
22	Santa Clara	600,000	600,000
23	Santa Cruz	591,401	591,401
24	Tehama	599,705	599,705
25	Tulare	600,000	600,000
26	Tuolumne	134,176	134,176
27	Ventura	175,248	175,248
		\$ 8,973,478	\$ 8,742,277
TOTAL Proposed Grant Awards		\$	13,653,256

JUDICIAL COUNCIL ROLL CALL / VOTING SHEET
 Thursday, February 19, 2015 Meeting


Attachment 2

Agenda Item # / Subject: CONSENT CALENDAR Roll Call _____ Voice Vote X

VOTING MEMBERS		PRESENT	YES	NO	ABSTAIN	RECUSE
1.	Justice Tani G. Cantil-Sakauye, Chair					
2.	Judge Marla O. Anderson					
3.	Justice Judith Ashmann-Gerst					
4.	Judge Brian John Back					
5.	Assemblyman Richard Bloom					
6.	Mr. Mark G. Bonino					
7.	Judge James R. Brandlin					
8.	Justice Ming W. Chin <i>absent</i>	N/A	N/A	N/A	N/A	N/A
9.	Judge David De Alba					
10.	Judge Emilie H. Elias					
11.	Mr. James P. Fox					
12.	Justice Harry E. Hull, Jr.					
13.	Sen. Hanna Beth Jackson					
14.	Ms. Donna D'Angelo Melby					
15.	Justice Douglas P. Miller <i>absent</i>	N/A	N/A	N/A	N/A	N/A
16.	Judge Gary Nadler					
17.	Ms. Debra E. Polc <i>absent</i>	N/A		N/A	N/A	N/A
18.	Judge David Rosenberg					
19.	Judge David M. Rubin					
20.	Judge Dean T. Stout					
21.	Judge Martin J. Tangeman					

NON-VOTING MEMBERS		PRESENT
1.	Judge Daniel J. Buckley	
2.	Mr. Richard D. Feldstein	
3.	Commissioner David E. Gunn	
4.	Judge James E. Herman	
5.	Judge Morris D. Jacobson <i>absent</i>	N/A
6.	Judge Brian L. McCabe	
7.	Mr. Frank A. McGuire	
8.	Judge Marsha G. Slough	
9.	Judge Kenneth K. So	
10.	Ms. Mary Beth Todd	
11.	Judge Charles D. Wachob	
12.	Judge Joan P. Weber	

Totals: Present _____ Absent _____ Yes _____ No _____ Abstain _____ Recuse _____


 Mr. Martin N. Hoshino
 Secretary to the Judicial Council

** For a roll call vote, the Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain"). A member's recusal is indicated in the right column. After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. Changes of votes are permitted at this time, before the result is announced. In roll call voting, a record of how each member voted, as well as the result of the vote, will be entered in full in the minutes.

*** For a voice vote, the Secretary indicates votes as he or she heard them.

JUDICIAL COUNCIL ROLL CALL / VOTING SHEET
Thursday, February 19, 2015 Meeting

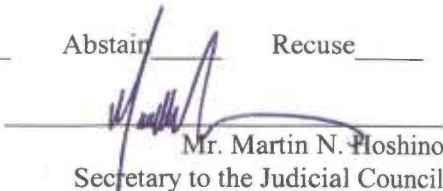
Attachment 2

Agenda Item # / Subject: C - Audit Report (Nevada City) Roll Call _____ Voice Vote X

VOTING MEMBERS		PRESENT	YES	NO	ABSTAIN	RECUSE
1.	Justice Tani G. Cantil-Sakauye, Chair					
2.	Judge Marla O. Anderson					
3.	Justice Judith Ashmann-Gerst					
4.	Judge Brian John Back					
5.	Assemblyman Richard Bloom					
6.	Mr. Mark G. Bonino					
7.	Judge James R. Brandlin					
8.	Justice Ming W. Chin <i>absent</i>	N/A	N/A	N/A	N/A	N/A
9.	Judge David De Alba					
10.	Judge Emilie H. Elias					
11.	Mr. James P. Fox					
12.	Justice Harry E. Hull, Jr.					
13.	Sen. Hanna Beth Jackson					
14.	Ms. Donna D'Angelo Melby					
15.	Justice Douglas P. Miller <i>absent</i>	N/A	N/A	N/A	N/A	N/A
16.	Judge Gary Nadler					
17.	Ms. Debra E. Pole <i>absent</i>					
18.	Judge David Rosenberg					
19.	Judge David M. Rubin					
20.	Judge Dean T. Stout					
21.	Judge Martin J. Tangeman					

NON-VOTING MEMBERS		PRESENT
1.	Judge Daniel J. Buckley	
2.	Mr. Richard D. Feldstein	
3.	Commissioner David E. Gunn	
4.	Judge James E. Herman	
5.	Judge Morris D. Jacobson <i>absent</i>	N/A
6.	Judge Brian L. McCabe	
7.	Mr. Frank A. McGuire	
8.	Judge Marsha G. Slough	
9.	Judge Kenneth K. So	
10.	Ms. Mary Beth Todd	
11.	Judge Charles D. Wachob	
12.	Judge Joan P. Weber	

Totals: Present _____ Absent _____ Yes _____ No _____ Abstain _____ Recuse _____


 Mr. Martin N. Fioshino
 Secretary to the Judicial Council

** For a roll call vote, the Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain"). A member's recusal is indicated in the right column. After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. Changes of votes are permitted at this time, before the result is announced. In roll call voting, a record of how each member voted, as well as the result of the vote, will be entered in full in the minutes.

*** For a voice vote, the Secretary indicates votes as he or she heard them.

JUDICIAL COUNCIL ROLL CALL / VOTING SHEET
Thursday, February 19, 2015 Meeting


Attachment 2

Agenda Item # / Subject: I - TCF Allocations 2% Roll Call _____ Voice Vote X

VOTING MEMBERS		PRESENT	YES	NO	ABSTAIN	RECUSE
1.	Justice Tani G. Cantil-Sakauye, Chair					
2.	Judge Marla O. Anderson					
3.	Justice Judith Ashmann-Gerst					
4.	Judge Brian John Back					
5.	Assemblyman Richard Bloom					
6.	Mr. Mark G. Bonino					
7.	Judge James R. Brandlin					
8.	Justice Ming W. Chin <i>absent</i>	N/A	N/A	N/A	N/A	N/A
9.	Judge David De Alba					
10.	Judge Emilie H. Elias					
11.	Mr. James P. Fox					
12.	Justice Harry E. Hull, Jr.					
13.	Sen. Hanna Beth Jackson					
14.	Ms. Donna D'Angelo Melby					
15.	Justice Douglas P. Miller <i>absent</i>	N/A	N/A	N/A	N/A	N/A
16.	Judge Gary Nadler					
17.	Ms. Debra E. Pole <i>absent</i>					
18.	Judge David Rosenberg					
19.	Judge David M. Rubin					
20.	Judge Dean T. Stout					
21.	Judge Martin J. Tangeman					

NON-VOTING MEMBERS		PRESENT
1.	Judge Daniel J. Buckley	
2.	Mr. Richard D. Feldstein	
3.	Commissioner David E. Gunn	
4.	Judge James E. Herman	
5.	Judge Morris D. Jacobson <i>absent</i>	N/A
6.	Judge Brian L. McCabe	
7.	Mr. Frank A. McGuire	
8.	Judge Marsha G. Slough	
9.	Judge Kenneth K. So	
10.	Ms. Mary Beth Todd	
11.	Judge Charles D. Wachob	
12.	Judge Joan P. Weber	

Totals: Present _____ Absent _____ Yes _____ No _____ Abstain _____ Recuse _____



 Mr. Martin N. Hoshino
 Secretary to the Judicial Council

** For a roll call vote, the Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain"). A member's recusal is indicated in the right column. After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. Changes of votes are permitted at this time, before the result is announced. In roll call voting, a record of how each member voted, as well as the result of the vote, will be entered in full in the minutes.

*** For a voice vote, the Secretary indicates votes as he or she heard them.

JUDICIAL COUNCIL ROLL CALL / VOTING SHEET
Thursday, February 19, 2015 Meeting


Attachment 2

Agenda Item # / Subject: J - Technology Program / Staff Changes all _____ Voice Vote _____

VOTING MEMBERS		PRESENT	YES	NO	ABSTAIN	RECUSE
1.	Justice Tani G. Cantil-Sakauye, Chair					
2.	Judge Marla O. Anderson					
3.	Justice Judith Ashmann-Gerst					
4.	Judge Brian John Back					
5.	Assemblyman Richard Bloom					
6.	Mr. Mark G. Bonino					
7.	Judge James R. Brandlin					
8.	Justice Ming W. Chin <i>absent</i>	N/A	N/A	N/A	N/A	N/A
9.	Judge David De Alba					
10.	Judge Emilie H. Elias					
11.	Mr. James P. Fox					
12.	Justice Harry E. Hull, Jr.					
13.	Sen. Hanna Beth Jackson					
14.	Ms. Donna D'Angelo Melby					
15.	Justice Douglas P. Miller <i>absent</i>	N/A	N/A	N/A	N/A	N/A
16.	Judge Gary Nadler					
17.	Ms. Debra E. Pole <i>absent</i>	N/A	N/A	N/A	N/A	N/A
18.	Judge David Rosenberg					
19.	Judge David M. Rubin					
20.	Judge Dean T. Stout					
21.	Judge Martin J. Tangeman					

NON-VOTING MEMBERS		PRESENT
1.	Judge Daniel J. Buckley	
2.	Mr. Richard D. Feldstein	
3.	Commissioner David E. Gunn	
4.	Judge James E. Herman	
5.	Judge Morris D. Jacobson <i>absent</i>	N/A
6.	Judge Brian L. McCabe	
7.	Mr. Frank A. McGuire	
8.	Judge Marsha G. Slough	
9.	Judge Kenneth K. So	
10.	Ms. Mary Beth Todd	
11.	Judge Charles D. Wachob	
12.	Judge Joan P. Weber	

Totals: Present _____ Absent _____ Yes _____ No _____ Abstain _____ Recuse _____



 Mr. Martin N. Hoshino
 Secretary to the Judicial Council

** For a roll call vote, the Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain"). A member's recusal is indicated in the right column. After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. Changes of votes are permitted at this time, before the result is announced. In roll call voting, a record of how each member voted, as well as the result of the vote, will be entered in full in the minutes.

*** For a voice vote, the Secretary indicates votes as he or she heard them.

JUDICIAL COUNCIL ROLL CALL / VOTING SHEET
Thursday, February 19, 2015 Meeting

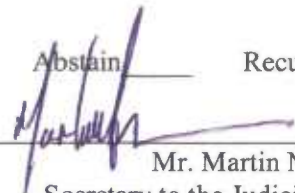
Attachment 2

Agenda Item # / Subject: K - Recidivism Reduction Grants Roll Call _____ Voice Vote X

VOTING MEMBERS		PRESENT	YES	NO	ABSTAIN	RECUSE
1.	Justice Tani G. Cantil-Sakauye, Chair					
2.	Judge Marla O. Anderson					
3.	Justice Judith Ashmann-Gerst					
4.	Judge Brian John Back					
5.	Assemblyman Richard Bloom					
6.	Mr. Mark G. Bonino					
7.	Judge James R. Brandlin					
8.	Justice Ming W. Chin <i>absent</i>	N/A	N/A	N/A	N/A	N/A
9.	Judge David De Alba					
10.	Judge Emilie H. Elias					
11.	Mr. James P. Fox					
12.	Justice Harry E. Hull, Jr.					
13.	Sen. Hanna Beth Jackson					
14.	Ms. Donna D'Angelo Melby					
15.	Justice Douglas P. Miller <i>absent</i>	N/A	N/A	N/A	N/A	N/A
16.	Judge Gary Nadler					
17.	Ms. Debra E. Pole <i>absent</i>					
18.	Judge David Rosenberg					
19.	Judge David M. Rubin					
20.	Judge Dean T. Stout					
21.	Judge Martin J. Tangeman					

NON-VOTING MEMBERS		PRESENT
1.	Judge Daniel J. Buckley	
2.	Mr. Richard D. Feldstein	
3.	Commissioner David E. Gunn	
4.	Judge James E. Herman	
5.	Judge Morris D. Jacobson <i>absent</i>	N/A
6.	Judge Brian L. McCabe	
7.	Mr. Frank A. McGuire	
8.	Judge Marsha G. Slough	
9.	Judge Kenneth K. So	
10.	Ms. Mary Beth Todd	
11.	Judge Charles D. Wachob	
12.	Judge Joan P. Weber	

Totals: Present _____ Absent _____ Yes _____ No _____ Abstain _____ Recuse _____


 Mr. Martin N. Hoshino
 Secretary to the Judicial Council

** For a roll call vote, the Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain"). A member's recusal is indicated in the right column. After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. Changes of votes are permitted at this time, before the result is announced. In roll call voting, a record of how each member voted, as well as the result of the vote, will be entered in full in the minutes.

*** For a voice vote, the Secretary indicates votes as he or she heard them.

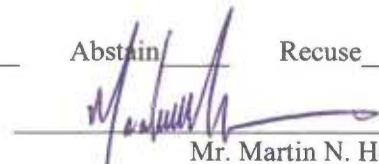
Thursday, February 19, 2015 Meeting

Agenda Item # / Subject: L - FY 15/16 BCP IT Security + Data Reliability Roll Call _____ Voice Vote _____

VOTING MEMBERS		PRESENT	YES	NO	ABSTAIN	RECUSE
1.	Justice Tani G. Cantil-Sakauye, Chair					
2.	Judge Marla O. Anderson					
3.	Justice Judith Ashmann-Gerst					
4.	Judge Brian John Back					
5.	Assemblyman Richard Bloom					
6.	Mr. Mark G. Bonino					
7.	Judge James R. Brandlin					
8.	Justice Ming W. Chin <i>absent</i>	N/A	N/A	N/A	N/A	N/A
9.	Judge David De Alba					
10.	Judge Emilie H. Elias					
11.	Mr. James P. Fox					
12.	Justice Harry E. Hull, Jr.					
13.	Sen. Hanna Beth Jackson					
14.	Ms. Donna D'Angelo Melby					
15.	Justice Douglas P. Miller <i>absent</i>	N/A	N/A	N/A	N/A	N/A
16.	Judge Gary Nadler					
17.	Ms. Debra E. Pole <i>absent</i>					
18.	Judge David Rosenberg					
19.	Judge David M. Rubin					
20.	Judge Dean T. Stout					
21.	Judge Martin J. Tangeman					

NON-VOTING MEMBERS		PRESENT
1.	Judge Daniel J. Buckley	
2.	Mr. Richard D. Feldstein	
3.	Commissioner David E. Gunn	
4.	Judge James E. Herman	
5.	Judge Morris D. Jacobson <i>absent</i>	N/A
6.	Judge Brian L. McCabe	
7.	Mr. Frank A. McGuire	
8.	Judge Marsha G. Slough	
9.	Judge Kenneth K. So	
10.	Ms. Mary Beth Todd	
11.	Judge Charles D. Wachob	
12.	Judge Joan P. Weber	

Totals: Present _____ Absent _____ Yes _____ No _____ Abstain _____ Recuse _____


 Mr. Martin N. Hoshino
 Secretary to the Judicial Council

** For a roll call vote, the Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain"). A member's recusal is indicated in the right column. After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. Changes of votes are permitted at this time, before the result is announced. In roll call voting, a record of how each member voted, as well as the result of the vote, will be entered in full in the minutes.

*** For a voice vote, the Secretary indicates votes as he or she heard them.

AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adopted by the Judicial Council on February 19, 2015,
effective on July 1, 2015

1 **Rule 3.52. Procedure for determining application**

2
3 The procedure for determining an application is as follows:

4
5 (1) * * *

6
7 (2) An order determining an application for an initial fee waiver without a hearing
8 must be made on *Order on Court Fee Waiver (Superior Court)* (form FW-003),
9 except as provided in (6) below.

10
11 (3)–(5) * * *

12
13 (6) Until January 1, ~~2013~~ 2016, a court with a computerized case management system
14 may produce electronically generated court fee waiver orders as long as:

15
16 (A)–(C) * * *

17
18 *Rule 3.52 amended effective July 1, 2015; adopted as rule 3.56 effective January 1, 2007;*
19 *previously amended effective January 1, 2007; previously amended and renumbered as rule 3.52*
20 *effective July 1, 2009.*

21
22 **Rule 3.55. Court fees and costs included in all initial fee waivers**

23
24 Court fees and costs that must be waived upon granting an application for an initial fee
25 waiver include:

26
27 (1)–(6) * * *

28
29 (7) Reporter's ~~daily~~ fees for attendance at hearings and trials, if the reporter is provided
30 by the court held within 60 days of the date of the order granting the application;

31
32 (8) The court fee for a telephone appearance under Code of Civil Procedure section
33 367.5; ~~and~~

34
35 (9) Clerk's fees for preparing, copying, certifying, and transmitting the clerk's
36 transcript on appeal to the reviewing court and the party. A party proceeding under
37 an initial fee waiver must specify with particularity the documents to be included in
38 the clerk's transcript on appeal;

39
40 (10) The fee under rule 8.130(b) or rule 8.834(b) for the court to hold in trust the deposit
41 for a reporter's transcript on appeal; and

1
2 (11) The clerk's fee for preparing a transcript of an official electronic recording under
3 rule 8.835 or a copy of such an electronic recording.
4

5 *Rule 3.55 amended effective July 1, 2015; adopted as rule 3.61 effective January 1, 2007;*
6 *previously amended effective January 1, 2009; previously amended and renumbered as rule 3.55*
7 *effective July 1, 2009.*

8
9 **Advisory Committee Comment**

10
11 The inclusion of court reporter's fees in the fees waived upon granting an application for an initial
12 fee waiver is not intended to mandate that a court reporter be provided for all fee waiver
13 recipients. Rather, it is intended to include within a waiver all fees mandated under the
14 Government Code for the cost of court reporting services provided by a court.
15

16 **Rule 3.56. Additional court fees and costs that may be included in initial fee waiver**
17

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

20
21 (1)–(3) * * *

22
23 (4) ~~Reporter's fees for attendance at hearings and trials held more than 60 days after~~
24 ~~the date of the order granting the application;~~

25
26 (5) Witness fees of court-appointed experts; and

27
28 (6) Other fees or expenses as itemized in the application.
29

30 *Rule 3.56 amended effective July 1, 2015; adopted as rule 3.62 effective January 1, 2007;*
31 *previously amended and renumbered as rule 3.56 effective July 1, 2009.*
32

33 **Rule 8.818. Waiver of fees and costs**
34

35 (a)–(c) * * *

36
37 (d) **Court fees and costs waived**
38

39 Court fees and costs that must be waived upon granting an application for initial
40 waiver of court fees and costs ~~include~~ are listed in rule 3.55. The court may waive
41 other necessary court fees and costs itemized in the application upon granting the
42 application, either at the outset or upon later application.
43

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

- ~~(1) The fee for filing the notice of appeal;~~
- ~~(2) The clerk's fees for preparing and certifying the clerk's transcript on appeal and for copying and transmitting a copy of this transcript to the applicant;~~
- ~~(3) The fee for preparing a transcript of an official electronic recording under rule 8.835 or a copy of such an electronic recording; and~~
- ~~(4) Any court fee for telephonic oral argument.~~

(Subd (d) amended effective July 1, 2015.)

(e)-(f) * * *

Rule 8.818 amended effective July 1, 2015; adopted effective July 1, 2009.

PROOF OF SERVICE

I, Amy D. Palafox, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Kirkland & Ellis LLP, 333 South Hope St., 29th Floor, Los Angeles, California 90071.

On November 13, 2017, I served the documents listed below on the interested parties in this action as follows:

**PETITIONER BARRY S. JAMESON'S
SUPPLEMENTAL LETTER BRIEF**

[Federal Express] By placing the document(s) listed above in a sealed overnight courier envelope and taking such packages to the nearest Federal Express office located at 333 S. Hope Street, Los Angeles, California 90071, with charges thereon fully prepaid in the ordinary course of business.

SERVICE LIST

Original + 8 Paper Copies for Filing	Clerk of the Supreme Court Supreme Court of California 350 McAllister Street San Francisco, CA 94102-4797 Clerk's Office: (415) 865-7000
Service of 1 Paper Copy	In the Court of Appeal, State of California Fourth District, Division One 750 B Street, Suite 300 San Diego, CA 92101 Clerk's Office: (619) 744-0760

<p>Service of 1 Paper Copy</p>	<p>California Superior Court, County of San Diego Hall of Justice Courthouse 330 West Broadway San Diego, CA 92101 Hon. Joel M. Pressman, Judge Department 66</p>
<p>Service of 1 Paper Copy</p>	<p>James J. Wallace II Russell M. Mortyn David J. Ozeran LA FOLLETTE, JOHNSON, DE HAAS, FESLER & AMES 501 W. Broadway, Suite 800 San Diego, CA 92101 Telephone: (619) 400-4977 Facsimile: (619) 400-4979 <i>Counsel for Respondent Taddese Desta, M.D.</i></p>
<p>Service of 1 Paper Copy</p>	<p>Kenneth R. Pedroza Joshua Curt Traver Cassidy Cole Davenport Cole Pedroza LLP 2670 Mission Street, Suite 200 San Marino, CA 91108 <i>Counsel for Respondent Taddese Desta, M.D.</i></p>
<p>Service of 1 Paper Copy</p>	<p>Anna Theresa Ferrari Penelope Athene Preovolos Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105 <i>Family Violence Appellate Project 30 Organizations & Individuals Representing Survivors of Family Violence (Amicus curiae)</i></p>

<p>Service of 1 Paper Copy</p>	<p>Erin Canfield Smith Nancy K. D. Lemon Family Violence Appellate Project 1814 Franklin Street Suite 805 Oakland, CA 94612</p> <p><i>Family Violence Appellate Project 30 Organizations & Individuals Representing Survivors of Family Violence (Amicus curiae)</i></p>
<p>Service of 1 Paper Copy</p>	<p>Mary-Christine Sungaila Martin Max Ellison Hayns and Boone, LLP 600 Anton Boulevard, Suite 700 Costa Mesa, CA 92626</p> <p><i>American Bar Association (Amicus curiae)</i></p>
<p>Service of 1 Paper Copy</p>	<p>Paulette Brown American Bar Association 32 North Clark Street Chicago, IL 60602</p> <p><i>American Bar Association (Amicus curiae)</i></p>

<p>Service of 1 Paper Copy</p>	<p>Jon B. Eisenberg Horvitz & Levy LLP 509 Tucker Street Healdsburg, CA 95448</p> <p><i>California Academy of Appellate Lawyers Beverly Hills Bar Association Inner City Law Center Legal Aid Association of CA Legal Aid Foundation of LA Los Angeles Center for Law and Justice Los Angeles County Bar Association Public Counsel Neighborhood Legal Services of Los Angeles County Erwin Chermersinsky David Marcus Judith Resnik Louis S. Rulli Western Center on Law & Poverty (Amicus curiae)</i></p>
<p>Service of 1 Paper Copy</p>	<p>Margaret Anne Grignon Grignon Law Firm LLP 5150 East Pacific Coast Hwy Suite 200 Long Beach, CA 90804</p> <p><i>California Academy of Appellate Lawyers (Amicus curiae)</i></p>
<p>Service of 1 Paper Copy</p>	<p>Robin Meadow Greines, Martin, Stein & Richland, LLP 5900 Wilshire Blvd., 12th Floor Los Angeles, CA 90036</p> <p><i>California Academy of Appellate Lawyers: (Amicus curiae)</i></p>
<p>Service of 1 Paper Copy</p>	<p>Robert S. Gerstein Law Offices of Robert S. Gerstein 723 Ocean Front Walk Venice, CA 90291</p> <p><i>California Academy of Appellate Lawyers (Amicus curiae)</i></p>

<p>Service of 1 Paper Copy</p>	<p>Dennis A. Fischer Attorney at Law 1448 15th Street, Suite 206 Santa Monica, CA 90404</p> <p><i>California Academy of Appellate Lawyers (Amicus curiae)</i></p>
<p>Service of 1 Paper Copy</p>	<p>Robin Bradle Johansen Remcho Johansen & Purcell 1901 Harrison Street, Suite 1550 Oakland, CA 94612</p> <p><i>California Academy of Appellate Lawyers (Amicus curiae)</i></p>
<p>Service of 1 Paper Copy</p>	<p>Laurie Joanna Hepler Greines, Martin, Stein & Richland LLP One Embarcadero Center, Suite 500 San Francisco, CA 94111</p> <p><i>California Academy of Appellate Lawyers (Amicus curiae)</i></p>
<p>Service of 1 Paper Copy</p>	<p>Michael G. Colantuono Colantuono, Highsmith & Whatley, PC 420 Sierra College Drive, Suite 140 Grass Valley, CA 95945</p> <p><i>California Academy of Appellate Lawyers (Amicus curiae)</i></p>
<p>Service of 1 Paper Copy</p>	<p>Orly Degani Degani & Galston LLP 12400 Wilshire Boulevard, Suite 400 Los Angeles, CA 90025</p> <p><i>California Academy of Appellate Lawyers (Amicus curiae)</i></p>

Service of 1 Paper Copy	<p>Albert Quoc Giang Caldwell Leslie & Proctor, PC 725 South Figueroa Street, 31st Floor Los Angeles, CA 90017</p> <p><i>California Academy of Appellate Lawyers (Amicus curiae)</i></p>
Service of 1 Paper Copy	<p>Michele Leigh Maryott Blaine Hill Evanson Carolyn S. Small Gibson Dunn & Crutcher LLP 3161 Michelson Drive Irvine, CA 92612</p> <p><i>California Academy of Appellate Lawyers (Amicus curiae)</i></p>
Service of 1 Paper Copy	<p>Michael Joseph Levy California Department of Insurance 300 Capitol Mall, Floor 17 Sacramento, CA 95814</p> <p><i>Amicus Curiae Committee of the California Commission on Access to Justice (Amicus curiae)</i></p>
Service of 1 Paper Copy	<p>Catherine J. Blakemore Attorney at Law 1831 K Street Sacramento, CA 95811</p> <p><i>Amicus Curiae Committee of the California Commission on Access to Justice (Amicus curiae)</i></p>

(STATE) I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 13, 2017, at Los Angeles, California.



Amy D. Palafox