

NOTICE REGARDING ELECTRONIC FILING FOR SELF-REPRESENTED LITIGANTS

California Rules of Court, rule [8.71](#) requires that for parties with attorneys, *all* filings in civil cases be made through the Court's electronic filing system (TrueFiling).

Self-represented litigants, however, are exempt from the requirement to file documents electronically. (CRC, rule 8.71(b). However, if a self-represented litigant chooses to file documents electronically, he or she is bound by the rules of electronic filing laid out in California Rules of Court, Article 5. Represented parties are *required* to file electronically.

When electronically filing, you must comply with the requirements of TrueFiling and California Rules of Court, rule [8.74](#). By electronically filing any document with the court, you agree to file *all* documents electronically. You also agree to receive service of documents electronically unless you notify the court and all parties that you do not accept electronic service and choose to be served paper copies at an address you provide. (CRC, rules 8.71(b)(2) and [8.78\(a\)\(2\)](#).)

For electronic filing support, registration and training, please review the following resources at courts.ca.gov/2dca:

- Register for TrueFiling
- TrueFiling Quick Start Guide
- TrueFiling Support and Training
- Guide to Creating Electronic Appellate Documents
- How to Prepare Electronic Filings
- Frequently asked questions regarding electronic filing

Please note: any references contained within this self-help manual regarding document formatting (for example, color covers), apply only to paper filings.

DISCLAIMER

The materials included here are not legal advice and may not be used as legal authority. The primary legal authority for the practices described in this manual is the California Rules of Court.¹ This manual does not replace or supersede the California Rules of Court. It is merely a general summary of the applicable rules. The rules themselves are subject to change, and you should consult them directly.

In the event the information here differs from the California Rules of Court, you must follow the California Rules of Court. The California Rules of Court are referred to throughout this manual as "CRC" (for example, "CRC, rule 8.108").

The California Rules of Court are available at any law library, on the Internet at www.courts.ca.gov/rules, or can be ordered for a fee by calling (800) 328-9352.

¹ See CRC, rules 8.100-8.278 if you are appealing from the unlimited jurisdiction of the superior court to the Court of Appeal. Appeals from the limited jurisdiction of the superior court to the appellate division of the superior court are covered by CRC, rules 8.800-8.891; transfer from the Appellate Division of Superior Court to the Court of Appeal is covered by CRC rules 8.1000-8.1018. This manual discusses only appeals to the Second Appellate District Court of Appeal, not to the Appellate Division.

CHAPTER 1

FILING THE NOTICE OF APPEAL

The filing of the *Notice of Appeal* is the event that begins the entire appeals process. It notifies the superior court, the Court of Appeal, and the opposing parties involved with the case of a person's intentions to have the Court of Appeal reexamine all or part of the superior court trial for errors of law. The *Notice of Appeal* must meet strict content and time requirements set out in California Rules of Court (CRC). Additionally, the payment of certain fees must accompany the *Notice of Appeal*. The following chapter describes those requirements and instructions for preparing your own *Notice of Appeal*. This chapter also discusses the topic of appealability, which determines if a person has the legal right to appeal a decision in a superior court case. The *Notice of Appeal* MUST be filed at the superior court.

The Designation of the Record is discussed at length in **Chapter 2**. Frequently, however, appellants file their *Notice Designating the Record on Appeal* at the same time that they file their *Notice of Appeal*. If you would like to do so, make sure that you thoroughly read **Chapter 2** along with **Chapter 1**. Like the *Notice of Appeal* the *Notice Designating the Record on Appeal* MUST be filed at the superior court.

Deciding If You Can Appeal What the Trial Court Did (Appealability)

Appealability, meaning a person's legal right to have the Court of Appeal review a decision that was made in the superior court, can be a tricky issue.

(1) In order to appeal, you must be aggrieved² by a decision at the superior court. Generally, you would have been considered to have "lost" at the

² Aggrieved means the superior court or an administrative agency denied your claim or ruled against you in a way that causes you some type of harm or injury (for example, it upheld your being fired by your employer), or cost you money (for example, ordering you to pay doctor bills for someone you hurt in a car accident that you caused).

superior court. You also must have been a party in the case in the superior court. You may not appeal for a spouse, a child (unless you are the child's guardian) or a friend.

(2) Even if you were aggrieved, not every court ruling is appealable. While there are numerous exceptions, in most cases you can appeal only a **final judgment**. The final judgment tells what the final result of the case is – who has “won,” who has “lost,” and what actions must take place (i.e., the payment of money). The court usually issues a final judgment at the end of the case and that judgment says what one or more parties must do (such as pay money to the other party). This judgment may have been made by the superior court judge or a jury. All final judgments are appealable.

You can also appeal most **orders** the trial court makes after final judgment. After the judge or jury has issued a final judgment, the judge may order further instructions to one of the parties. For example, after a trial, sometimes the side that won may make a motion for attorney's fees, which the judge may grant with an order to pay attorney's fees. Such orders after final judgment are also appealable.

Many cases end without a trial because the judge decides the plaintiff doesn't have a case even if everything in the complaint is true. (This is called a demurrer.) Other cases don't get to trial because the judge decides the plaintiff doesn't have enough evidence to have a chance of winning at trial, even looking at that evidence most favorably to the plaintiff's position. (This is called a summary judgment.) When a trial court grants a demurrer, the defendant is entitled to a dismissal of the case. Such a dismissal is appealable. After granting a summary judgment motion, the court will enter a judgment in favor of the prevailing party. This judgment is a final judgment and is appealable. However, until the court issues an order dismissing the case, or a judgment after the granting of a summary judgment motion, the demurrer or summary judgment cannot be appealed. Furthermore, if a trial court denies a demurrer or summary judgment, that denial is not appealable and can only be challenged through a petition for writ.

Special considerations are discussed at length in [Appendix 5](#). For a list of less typical decisions that can be appealed or for more information about what constitutes an appealable judgment or order, refer to the California Code of Civil Procedure, section [904.1](#).

How to Find the Appealable Decision in the Record

When filing your Notice of Appeal, you must attach the file-stamped, signed document with the superior court's ruling. The file stamp on the document shows the date the superior court filed it and verifies that the document is official. **Without this file-stamped, signed document, your appeal will be rejected.**

The file-stamped, signed judgment or order can be found in the superior court file and could be in the form of piece of paper labeled 'Judgment,' 'Order,' or 'Order after Judgment,' or it could be in the form of a minute order (explained below). If the superior court file contains a formal judgment or order, signed by the judge and file-stamped, you can use a photocopy of it as the basis for your appeal.

If the superior court file does not contain a formal judgment, the appealable order might appear in the minutes of the case. The minutes are the official court record of what happened during the case and are written down by the clerk of the superior court. You can identify the minutes by looking for the word 'Minutes' at the bottom of the page as it appears in the superior court file. If the minutes are signed by the judge and file-stamped, they become a minute order and can be used as the basis for your appeal.

Sometimes, the superior court file contains neither a formal judgment nor a signed minute order. The minutes might show that the judge ordered one of the parties to prepare a separate document titled 'Judgment,' 'Order,' or 'Order after Judgment.'" If this is the case, you may **not** use the minute order as the basis of the appeal.

If a signed order or judgment has not been prepared as ordered by the judge in the court's minutes, you, as appellant, will need to prepare and have it entered before you can proceed with your appeal. If you prepare a proposed

order of judgment, you must first serve it (see [Proof of Service](#)) on opposing counsel and the superior court. Prior to service, ask for opposing counsels' approval within a certain number of days. If opposing counsel approves, take or mail the approval along with the proposed judgment or order to the superior court department where your case was heard. Ask for the order to be signed by the judge and file-stamped by the clerk.

If opposing counsel does not respond to your request for approval within five days, the order is considered approved, and you can submit the proposed order to the trial judge with explanation of why opposing counsels approval is absent. The trial court will hold the proposed order for **20 days** from the date of service. At the end of the twenty days, the court may sign the order or judgment, hold a hearing, and/or make changes to the proposed judgment or order. In any case, the court will mail you a signed, file-stamped copy that may be used as the basis for your appeal.

If you have questions about whether you have an appealable judgment or order, refer to the California Code of Civil Procedure, section [904.1](#), consult with an attorney, or contact the Clerk's Office at the Court of Appeal.

Preparing the Notice of Appeal

The [Notice of Appeal](#) is a relatively straightforward document. However, if you have questions about the document, refer to CRC, rule [8.100\(a\)](#) or contact the Clerk's Office at the Court of Appeal.

The *Notice of Appeal* must be filed at the superior court. Once the appellant has completed the *Notice of Appeal*, a copy must be served on all parties and the original must be filed, along with appropriate filing fees (discussed below), at any filing window of any branch of the superior court in the county in which your superior court case took place. (CRC, rule 8.100(a).) A *Notice of Appeal* may also be filed by the respondent in the same case, in which case the respondent is filing a *Notice of Cross-Appeal*. (CRC, rule 8.100(f).)

Do not file the *Notice of Appeal* or *Notice of Cross-Appeal* at the Court of Appeal. If you are filing your *Notice of Appeal* in Los Angeles County, it is highly recommended that you file the documents directly with the appeals section, located at 111 North Hill Street, Room #111A, Los Angeles, CA

90012. For information on the locations of superior courts in the Second District, see [Appendix 2](#).

Service of documents means that you let the other parties and the court know what you are doing by having copies of the documents you plan to file with the court—in this case, the *Notice of Appeal*—mailed or hand-delivered to them. Copies of all of the documents you prepare to file should be served on all counsel and self-represented parties, and the original should be filed with the court. **Failure to properly serve a document on all appropriate parties will result in that document being rejected for filing by the superior court or the Court of Appeal.**

A document may be hand-delivered or mailed only by someone who is over the age of 18 and is not a party in the lawsuit. For example, if you are self-represented in an appeal, you cannot hand-deliver or mail your *Notice of Appeal* to the parties. Someone else, an adult who is not a party, must do it for you. A *Proof of Service* must be filled out and attached to each document you file. This proof of service says who was served and how they were served. (See [Proof of Service](#).) Depending on whether you are having service done by mail or in person, the person doing the service needs to fill out the Proof of Service properly.

Filing Fees

At the time that the appellant files the *Notice of Appeal*, unless the appellant has a **fee waiver**, he or she must pay two separate fees. (CRC, rule [8.100\(b\)](#).)

1. A \$775 filing fee payable to “Clerk, Court of Appeal,” and
2. A \$100 deposit, made payable to “Clerk of the Superior Court.”

If you, as appellant, have received a fee waiver from the superior court for the case number(s) you are appealing, include a copy of the fee waiver with the *Notice of Appeal*. This fee waiver may apply to the Court of Appeal filing fee if the box for ‘Court of Appeal’ is checked; otherwise, you must apply for a fee waiver. If you, as appellant, did not get a fee waiver in superior court, you may apply to the Court of Appeal for a waiver under CRC, rules [3.50-3.58](#). (See also CRC, rules 8.100(b)(1) and [8.26](#).) A fee waiver allows persons below a certain income level to file their appeal without paying the

filing fee. (See [Information Sheet on Waiver of Appellate Court Fees \(Supreme Court, Court of Appeal, Appellate Division\) APP-015/FW-015-INFO.](#))

If you are the responding party (not the appellant), there are also fees you must pay. Pursuant to the California Government Code, section [68926\(b\)](#), any party other than the appellant must pay \$390 when filing their first document with the Court of Appeal. See CRC, rule [8.25\(c\)\(2\)\(D\)](#), for a list of documents that are considered initial filings by a respondent and where a filing fee may be required. However, the respondent does NOT have to make a \$100 deposit to the clerk of the Superior Court.

Defaults

If your *Notice of Appeal* is missing something (proof of service, appropriate fees, etc.), the Superior Court or the Court of Appeal will issue a *Notice of Default* to you. The *Notice of Default* formally informs you that you have not complied with the Rules of Court pertaining to the *Notice of Appeal* and, if you do not fix the problem(s) within **15 days** (e.g., by providing a properly completed *Proof of Service*, paying the fees, or achieving a fee waiver), the Court will dismiss the appeal.

Throughout the appeal process, the Court of Appeal uses the *Notice of Default* to notify a party that they have failed to properly comply with the rules. *Notices of Default* are a warning; a *Notice of Default* always allows some period of time (usually 15 days) for the party to fix the problem(s) with their appeal. If the party fails to fix the problem(s) set out in the *Notice of Default* within the time allowed, the Court may dismiss the appeal. If you receive a *Notice of Default* and do not understand the problem with your filing, refer to the rule of court specified in the Notice or call or visit the Clerk's Office at the Court of Appeal.

Time Limits for Filing a Notice of Appeal

In the same way that deciding whether you have an appealable order or judgment can be difficult, figuring out the time limits for filing a *Notice of Appeal* can also be confusing. But, the time limits are extremely

important. **If the *Notice of Appeal* is late in a civil case, the appeal must be dismissed. (CRC, rule [8.104\(b\)](#).) There are no exceptions to this rule.** You can file a *Notice of Appeal* as soon as the order or judgment is signed by the superior court judge and file-stamped by the court clerk. However, there are three different situations that put different time limits on the filing of the *Notice of Appeal*. You should identify which of these applies to you and proceed accordingly.

1. If a *Notice of Entry of Judgment* has been served on the parties. The judgment in the case is “entered” when it is file-stamped; this is also called the entry of judgment. The parties may not know the exact date when this was done. The court clerk or any party may provide notice that the judgment was entered. The clerk may do so by mailing a *Notice of Entry of Judgment* or a copy of the judgment or order to the parties in the case. If this happens, the *Notice of Appeal* must be filed within **60 days** of the date that the clerk mailed the *Notice of Entry of Judgment* or (*Order*). (CRC, rule 8.104(a)(1).) Any party in the case may provide *Notice of Entry of Judgment* by serving each of the other parties with either (1) a *Notice of Entry of Judgment* (see [Notice of Entry of Judgment](#)) or (2) a file-stamped copy of the judgment. A *Proof of Service* (see [Proof of Service](#)) must be attached to either document. If this happens, the *Notice of Appeal* must be filed within **60 days** of the date of the party’s serving a copy of the judgment, minutes, or *Notice of Entry of Judgment*. (CRC, rule 8.104(a)(1).) If the clerk mails the *Notice of Entry of Judgment* and a party serves the *Notice of Entry of Judgment*, the 60-day time limit starts on the earlier of the two.
2. If there is a *Notice of Entry of Judgment*, the time to file a *Notice of Appeal* can be extended if there is a timely motion:
 - Motion for new trial (Civil Code of Procedure section 663(a) and CRC, rule [8.108\(b\)](#)).
 - Motion to vacate (or set aside) the judgment (Civil Code of Procedure section 629 and CRC, rule 8.108(c)).

- Motion for judgment notwithstanding the verdict (Civil Code of Procedure section 659 and CRC, rule 8.108(d)). Or,
- Motion to reconsider an appealable order. (Civil Code of Procedure section 1008(a) and CRC, rule 8.108(e)).

A party filing a cross-appeal should carefully review CRC, rule 8.108(g) to ensure compliance with the rule governing filing a cross-appeal when the time to file an appeal has been extended by CRC, rule 8.108(e).

3. If there is no *Notice of Entry of Judgment*; the appellant has **180 days** after entry of the order or judgment, to file the *Notice of Appeal*. (CRC, rule 8.104(a)(1)(C).) Even if there are extensions, the *Notice of Appeal* may not be filed if 180 days have passed since the entry of the order or judgment (recall that this is the file-stamped in the upper right-hand corner of the judgment or order).