

Designating the Record

3. Designating the Record

Designating the record is one of the most important steps in the appeal process.

That's because the Court of Appeal needs a record of what happened in the trial court to decide if the trial court made a mistake.

The parties work to designate – or choose – what parts of the trial court record to send the Court of Appeal. The trial court keeps a record of all the documents and oral proceedings for each case, but the trial court does not automatically send its record to the Court of Appeal.

The record on appeal contains the parts of the trial court record that the parties choose to send the Court of Appeal. The parties can only refer to information that is in the record on appeal when they make legal arguments supporting their side of the case. And when the Court of Appeal makes a decision, it only considers information that is in the record on appeal.

The appellant takes the lead, but designating the record on appeal is equally important for the respondent. Both parties should focus on finding parts of the trial court record that support their arguments in the appeal.

There are many choices to make when designating the record on appeal. The process can be confusing and expensive. However, there are resources available to help and a lawyer can provide advice.

Here's an overview of what to expect from this step of the process and guidance about how to get started.

You can also [watch this step-by-step video on how to designate record on appeal](#) and fill out a designating the record on appeal form online if [you're an appellant](#) or if [you're a respondent](#).

[Get step-by-step instructions to help both appellants and respondents designate the record on appeal](#)

[Get designating the record forms](#)

Deadline to Designate the Record on Appeal

Note: *The form to designate the record on appeal must be served to all other parties in the case before it can be filed with the trial court.*

- The deadline for the appellant to designate the record on appeal is

usually *within 10 days* after the appellant files notice of appeal with the trial court. **The appellant is required to designate the record on appeal.** If the appellant misses the deadline to file notice designating the record on appeal, the appeal can be dismissed.

- **The deadline for the respondent to designate the record on appeal** is usually *within 10 days* after the appellant files notice designating the record on appeal with the trial court. **The respondent is not required to designate the record on appeal.** However, the respondent may choose to designate the record on appeal to include information that helps their side of the appeal but that the appellant did not designate in the record on appeal.
- **Some Courts of Appeal may extend the 10-day deadline while determining if the case is eligible for mediation.** If the case is deemed eligible for mediation, the court can delay the deadline to designate the record on appeal pending the result of mediation. Contact the clerk in the appellate department of your trial court if there's a question about the deadline.

The Difference Between the Trial Court Record and the Record on Appeal

The **trial court record** is the official file of everything that happened during a case. This includes all of the materials and documents that were filed in the trial court. Here are some examples:

- administrative proceedings
- evidence
- exhibits
- initial pleadings
- judgments
- minutes
- motions
- orders
- transcripts of oral proceedings (testimony)
- written decisions

The **record on appeal** is the part of the whole trial court record that is sent to the Court of Appeal for review. The parties must choose materials from the trial court record to include in the record on appeal.

Because an appeal is not a new trial, no one can add anything to the record on appeal that is not already included in the trial court record.

Why the Record on Appeal is So Important

It's critical to understand a few things about the record on appeal:

- Anything **designated** in the record on appeal **can be examined** and considered by the Court of Appeal. That means any party can use it to support their arguments in the appeal. That also means the court may consider any materials designated in the record when it decides the

appeal.

- Anything **not designated** in the record on appeal **cannot be examined** and considered by the Court of Appeal. The Court of Appeal will not know it exists. That means no party can use it to support their arguments in the appeal.
- The Court of Appeal may reject any argument raised by an appellant if the court concludes the appellant has not provided an adequate record to evaluate the argument.

Deciding What to Include in The Record on Appeal

Think of the record on appeal as a package you are sending to the Court of Appeal.

In this package, you and the other parties want to include everything that relates to the issue(s) being appealed. You want to give the Court of Appeal all the information it needs to review what happened in the trial court and to decide if the trial court made a legal mistake.

Now think about your trial and what rulings are being appealed. What parts of the trial court record will best tell the Court of Appeal about these rulings?

Remember, the Court of Appeal will only be able to look at what's in the record on appeal it receives.

So, when you designate the record on appeal, be sure to include all the materials that deal with the issues on appeal.

Each party should choose all the materials that support their legal argument for or against the trial court's decision.

How to Designate the Record on Appeal

When a party designates the record on appeal, they must choose:

1. what materials to include in the record on appeal *and*
2. how to send the materials to the Court of Appeal.

The parties use a form to designate the record on appeal. There is one form for appellants and a different form for respondents.

The parties designate materials from the trial court record to include in the record on appeal. The materials are organized in three categories: documents, oral proceedings, and exhibits.

Choose a category to learn more

[How to include documents in the record on appeal](#)

[How to include oral proceedings in the record on appeal](#)

[How to include exhibits in the record on appeal](#)

You can also [watch a step-by-step video guide](#) to Designating the Record on Appeal for Appellants. While this video is a resource for appellants, it may also be helpful to respondents.

How to include documents in the record on appeal

The record on appeal must include documents filed in the trial court. The appellant generally chooses how the trial court prepares and sends the documents to the Court of Appeal. However, all parties have an opportunity to add documents to the record on appeal for the Court of Appeal to consider.

Select an option to learn more

Choosing what documents to send the Court of Appeal

*Documents that **must be** included*

- The court requires that some documents must be in the record on appeal. This includes the final order or judgment that's being appealed, and certain motions.
- A list of required documents is available at the court or online. [See California Rule of Court 8.122\(b\)](#).

*Documents that **should be** included*

- Any document that relates to the issues or rulings of the appeal should be included in the record on appeal. For the purposes of the Court of Appeal, if a document is not in the record on appeal it does not exist. The Court of Appeal will only consider documents that it receives in the record on appeal.
- It's especially important for the appellant to include all documents that relate to the issues on appeal. An appellant should not fail to designate relevant documents in the record on appeal – even if the appellant thinks some documents might help the other side. If the Court of Appeal concludes that the appellant did not provide enough material to fully consider an argument, the court may reject the argument.
- All parties should carefully review the trial court record and designate all the documents and evidence that they want to reference in their briefs and oral arguments. The parties will only be able to refer to documents that are in the record on appeal when they make legal arguments supporting their side of the case.

Deciding how to send the documents to the Court of Appeal

Because every case is different, the parties can choose how to prepare a record of documents for the Court of Appeal.

Select a format option to learn more

[Clerk's Transcript](#)

[Appendix](#)

[Original Trial Court File \(if local rules allow it\)](#)

[Agreed Statement](#)

[Settled Statement \(if the court allows it\)](#)

Clerk's Transcript

What is it? A clerk's transcript is a collection of documents from the trial court file. A clerk's transcript is prepared by the trial court clerk.

What are the rules? The appellant can always designate a clerk's transcript. The trial court clerk will automatically include documents that are required by the Court of Appeal – for example, the final judgment or order that is being appealed. If the appellant wants to include any other documents in the record on appeal, they must review the trial court record and make a list of documents for the trial court clerk to add.

What are the advantages? There are many advantages of a clerk's transcript and it's the easiest way for a party to get documents. That's because the trial court clerk does all the work of copying the documents, putting them in chronological order, adding page numbers, indexing the documents, and filing them with the Court of Appeal.

What can the respondent do? If the appellant designates a clerk's transcript, the other parties can add documents, exhibits, or oral proceedings that support their side of the case. A respondent uses court [form APP-010](#) to add materials to the clerk's transcript.

If the appellant requests a clerk's transcript and the respondent designates an appendix, then the appeal will proceed by appendix unless the appellant was granted a fee waiver for a clerk's transcript.

Is there a court form? A party uses the notice designating the record on appeal form to select a clerk's transcript. There is one form for appellants and another form for respondents.

How much does it cost? Each case is different. The appellant pays for the costs of the trial court clerk to copy and organize the documents, and to send them to the Court of Appeal. The trial court clerk can provide an estimate for the deposit and fees.

How do the parties get a copy? The trial court clerk will send the appellant a copy of the clerk's transcript when it is ready. The other parties can buy a copy of the clerk's transcript or borrow the appellant's copy after the opening brief is filed.

[Learn more about a clerk's transcript](#)

Appendix

What is it? An appendix is a collection of documents from the trial court file. An appendix is like a clerk's transcript, but an appendix is prepared by a party to the appeal.

An appendix can be prepared by any of the parties in the appeal. The court encourages all parties to work together and agree on the contents of an appendix before filing.

What are the advantages? The main advantage of an appendix is that you do not pay the trial court clerk to prepare your documents. But there are many disadvantages. It takes a lot of time to create an appendix and it can be difficult.

What are the rules? Either side can designate an appendix. A party or their lawyer must prepare all the documents required by the Court of Appeal *and* prepare the documents the parties want to include in the appendix. A party may have to pay the trial court to get copies of documents they do not already have.

A party must follow the court rules to organize the documents in order by date, and then add page numbers. They also need to create a chronological *and* alphabetical index (or list) of all of the documents. A party must also file the appendix with the Court of Appeal with their brief *and* pay to serve a copy of the index to all the other parties in the case.

If an appendix does not follow the strict formatting guidelines, the Court of Appeal will reject an appendix and return it to the party to fix. The party will then need to serve and file the corrected appendix.

If the parties file a joint appendix, they must include a stipulation designating the contents. If each party files an appendix separately, they are not required to include a stipulation designating the contents.

If an appendix is electronically filed (e-filed) with the court, a party must follow the special electronic filing rules for their Court of Appeal.

What can the respondent do? It depends on what the appellant does.

- If the appellant used an appendix and the parties did not agree on the contents, then a respondent can provide a respondent's appendix with the additional documents. The respondent uses [form APP-011](#) to designate an appendix.
- If the appellant requests a clerk's transcript and a respondent files a designation for an appendix, then all parties must proceed with an appendix unless the appellant was granted a fee waiver for a clerk's transcript. This is true even if the appellant chose another option first.

How much does it cost? If a joint appendix is prepared, either the appellant

pays or the parties agree on how to share the cost. If separate appendixes are filed, then each party pays for their own appendix.

How do the parties get a copy? The party who prepares an appendix must serve a copy of the appendix on all the other parties in the case.

[Learn more about an appendix](#)

[Read California Rule of Court 8.124 on the requirements for an appendix](#)

Whole Trial Court File

What is it? The whole trial court file includes all the documents of a case, in chronological order, just as the trial court clerk keeps them.

What are the advantages? This is the quickest and cheapest method for getting the trial court documents to the Court of Appeal. The trial court clerk numbers the pages of the documents and creates an index – or list – of all the documents.

What are the rules? The appellant can only designate the whole trial court file if local rules allow it. Only certain Courts of Appeal accept the whole trial court file instead of a clerk's transcript. The second, fifth, and sixth appellate districts **do not allow** the parties to use the whole trial court file. In all other districts, all the parties to the case must have a **written agreement** to use the whole trial court file. The agreement must be filed with the notice designating the record on appeal form.

What can the respondent do? All parties must agree to use the whole trial court file instead of a clerk's transcript. If the appellant cannot get all parties to agree, then the court will not permit the appellant to use the whole trial court file.

How much does it cost? The appellant pays for the trial court clerk to prepare and send the whole trial court file to the Court of Appeal. The trial court clerk can provide an estimate for the deposit and fees.

How do the parties get a copy? The trial court clerk only sends a copy of the index (list) of documents to the appellant and other parties. If any party wants copies of documents that they do not already have, each party is responsible for making a list of documents and paying a fee to the court.

[Learn more about the whole trial court file](#)

How to include oral proceedings in the record on appeal

If the arguments in an appeal will refer to anything that was said in a trial or hearing, then the record on appeal needs to include oral proceedings.

If the case had oral proceedings and they are not included in the record on appeal, the Court of Appeal may not be able to consider the issues in the appeal that were discussed in oral proceedings. The Court of Appeal could still consider issues that are not related to oral proceedings.

Because every case is different, the parties can choose how to prepare a record of oral proceedings for the Court of Appeal.

Select a type of oral proceeding to learn more

You can also [watch a video](#) about what to do if you cannot get a reporter's transcript and need an agreed or settled statement.

Reporter's Transcript

What is it? A reporter's transcript is a written record of the oral proceedings in the trial court. This exact word-for-word record of what was said is prepared by a court reporter who was in the trial or hearing. From the court's perspective, a reporter's transcript is the best type of oral proceeding.

What are the rules? An appellant can always designate a reporter's transcript if a court reporter took notes during the trial. The appellant must decide what oral proceedings to include. This should be oral proceedings for days or specific hearings in the trial when the issues being appealed were discussed.

In many cases, there was no court reporter taking notes in the trial. If there was no court reporter taking notes, it is not possible to get a reporter's transcript.

How much does it cost? A fee is charged for each day of transcript. The fee is determined by how long the court was in session that day. The court reporter can provide an estimate of the fee for the transcript.

If the appellant decides to order a reporter's transcript, they must pay a deposit. The deposit is the amount of the estimated fee. Sometimes there is a refund if the actual cost of preparing the reporter's transcript is less than the deposit.

Even if an appellant has a fee waiver from the court, there will always be a cost for the reporter's transcript. That's because the court reporter works for a separate business and is not an employee of the court. There is a Transcript Reimbursement Fund but it has very little money at this time. Requests for financial support of transcripts are not likely to be approved.

What can the respondent do? If there was a court reporter in the trial and a reporter's transcript is available, the other parties should review the choice for oral proceedings in the appellant's designating the record on appeal form [APP-003](#).

- If the appellant chooses to send a reporter's transcript for the oral proceedings, the other parties should review what oral proceedings the appellant included. If a respondent wants to include additional oral proceedings from other days or hearings, the respondent can file a Respondent's Notice Designating the Record on Appeal (unlimited civil case) [form APP-010](#). The respondent must serve and file this form within 10 days after the appellant files their notice designating the record.
- If the appellant chooses a settled statement for the oral proceedings, the other parties may be able to designate a reporter's transcript if they first get an order from the trial court that gives them permission. In this situation, a respondent agrees to provide the reporter's transcript at their own expense. The respondent must serve and file a Notice Designating the Record on Appeal (unlimited civil case) [form APP-010](#) within 20 calendar days from the date the appellant served a copy of their settled statement. The trial court clerk or court reporter can provide an estimate of the fee for preparing the reporter's transcript. The respondent is usually required to pay a deposit in advance.

How do the parties get a copy? The party who pays for the reporter's transcript automatically gets a copy. The other parties can buy a copy of the reporter's transcript from the trial court.

[Learn more about a reporter's transcript](#)

Agreed Statement

What is it? An agreed statement is a summary of part or all of the trial court proceedings. An agreed statement is prepared by the parties. It can take a lot of time to prepare an agreed statement.

How is it used? An agreed statement can be used instead of a reporter's transcript for the record of oral proceedings. It can also be used instead of a clerk's transcript for the record of documents. However, an agreed statement is most frequently included as a part of the record on appeal, when a transcript of an oral proceeding is not available. An agreed statement is less often used as a complete substitute for the record on appeal.

What are the rules? To use an agreed statement, all parties must agree on what the statement says and all parties must sign the statement. An agreed statement must include some basic information about the case, such as what the trial court case was about and how the trial court decided the issue(s) being appealed. If an agreed statement is being used instead of a clerk's transcript, the parties must also attach copies of all the documents that are required to be included in a clerk's transcript.

The appellant can file an agreed statement with the notice of appeal. If the parties need more time to complete an agreed statement, they can stipulate (agree) to more time. An agreed statement must be filed within 40 calendar days after the appellant files a notice of appeal.

It can be difficult to get all parties to agree on what the statement says. If the parties cannot agree, a settled statement – also called a statement on appeal – may be another option.

Is there a court form? No, there is no court form to use when preparing an agreed statement.

How much does it cost? There is no additional court cost to file an agreed statement. The parties may have costs if they ask a lawyer to help prepare the statement.

[Learn more about agreed statements](#)

[Read California Rule of Court 8.134 on agreed statements](#)

Settled Statement or Statement on Appeal

What is it? A settled statement is a summary of the trial court proceedings that includes the facts and how the case was decided. A settled statement is prepared by the appellant. It can take a lot of time to prepare a settled statement.

How is it used? A settled statement can be used instead of a reporter's transcript for the record of oral proceedings. It can also be used instead of a clerk's transcript for the record of documents. However, a settled statement is most frequently included as a part of the record on appeal, when a transcript of an oral proceeding is not available. A settled statement is less often used as a complete substitute for the record on appeal.

What are the rules? Unlike an agreed statement, to use a settled statement the parties do not all have to agree. However, there are rules about when a settled statement must be submitted and sometimes you need the court's permission to use a settled statement.

- If oral proceedings were not recorded in the trial court, then the appellant does not need to ask the court permission to use a settled statement for oral proceedings.
- If oral proceedings were recorded in the trial court, then the appellant must file a motion with the trial court and ask permission to use a settled statement. The motion must explain why it will save money – and will not burden the opposing parties or the court – to use a settled statement for the oral proceedings.

What can the respondent do? The other parties have an opportunity to review the appellant's settled statement. A respondent can object to any part of the explanation or propose changes to the settled statement. A respondent must serve and file suggested changes within 20 calendar days from the date the appellant served a copy of their settled statement.

If there is a disagreement about an issue that is important in the appeal, the trial court judge can order a hearing to discuss it. It is the trial

court's job to decide what the final version of the settled statement says.

Is there a court form? Yes. To prepare a settled statement, the appellant uses form [APP-014](#) for a Proposed Statement on Appeal. To prepare a response to the appellant's proposed settled statement, a respondent uses form [APP-020](#).

How much does it cost? There is no additional court cost to file a settled statement. The parties may have costs if they ask a lawyer to help prepare the statement or prepare changes to the statement.

[Learn more about settled statements](#)

[Read California Rule of Court 8.137 on settled statements](#)

How to include exhibits in the record on appeal

Exhibits that were filed in the trial court can also be included in the record on appeal. Exhibits include photographs or documents that were admitted in evidence or lodged (temporarily kept) in the trial court.

An exhibit offered at the trial is considered part of the clerk's transcript, however it is not automatically copied into the record.

If a party wants an exhibit to be part of the record, they must add the exhibit to their list of materials to be included in the clerk's transcript. Be sure to include the exhibit name and number so the trial court clerk can find it in the case file.

If a party is preparing documents in an appendix for the record on appeal, they can include any exhibits that are in the trial court's record. If the parties agreed to designate the whole trial court file, all exhibits will be included in the record on appeal.

Note: If a designated exhibit was returned after the trial ended, the party who received the exhibit must return it to the trial court.

How to File Notice Designating the Record on Appeal with the Trial Court

After a party decides what information to include in the record on appeal, he or she must follow the court's process to designate the record on appeal.

Here are the steps required to designate the record on appeal with the trial court.

Step 1: Complete the Notice Designating the Record on Appeal form (unlimited civil cases)

The form is where the appellant or respondent tells the trial court which

materials to send the Court of Appeal. The form is available at the court or online.

An **appellant** can fill out form [APP-003](#) to designate the record on appeal

A **respondent** can fill out form [APP-010](#) to designate the record on appeal or fill out form [APP-011](#) to designate an appendix

Step 2: Serve a copy of the completed form to all parties in the case

Before the form can be filed with the trial court, it must first be served to all parties in the case. This is because it's important to let the other parties know what is happening and give them an opportunity to review the materials.

Step 3: File the original form and proof of service with the trial court

The court filing must include the original designating the record on appeal form [APP-003](#) (for appellants) **or** form [APP-010](#) (for respondents) **and** original proof of service for all parties in the case.

The parties should contact the trial court to ask about the specific filing rules and copy requirements in their appeal.

Each trial court has different rules about how to file documents. Some courts require electronic filing (e-filing) on the computer, some require paper filing in person at the court, and some courts give a choice of electronic or paper filing.

If filing on paper, a party should keep an extra copy of the form and each proof of service. It is a good idea to ask the trial court clerk to stamp "filed" on the extra copy of the form to show that the original was filed.

Respondent's Opportunity to Review the Record on Appeal

The appellant is always the first party to designate the record on appeal. The other parties have 10 days to review the appellant's list of materials. The days start when the appellant files notice designating the record on appeal with the trial court.

A respondent can add materials from the trial court record to the record on appeal. But a respondent cannot remove any materials from the appellant's list of materials.

Who Gets a Copy of the Record on Appeal

- **The Court of Appeal** automatically gets a copy of the record on appeal.
- **The appellant** pays the costs to prepare the record on appeal, so the appellant also automatically gets a copy of the record on appeal. The appellant may have a choice to get a copy of the record on appeal electronically, on paper, or both.

- **The respondent** generally does not automatically get a copy of the record on appeal. The respondent can pay to order a copy of the record on appeal, or apply for a fee waiver to cover the cost of their record on appeal. After the record on appeal is filed in the Court of Appeal it is a public record and can be copied for a fee. The respondent can also borrow the appellant's copy of the record on appeal after the opening brief is filed. The respondent is responsible for paying the cost of getting the record from the appellant and returning the record to the appellant.

Next Steps

The trial court prepares the record on appeal and sends it directly to the Court of Appeal. Depending on the trial court's procedures, it will either notify the appellant when their copy of the record on appeal is ready for pick up *or* mail the record on appeal directly to the appellant. If the respondent ordered a copy of the record, they will also be contacted or receive their copy of the record in the mail.

After the record on appeal is filed with the Court of Appeal, the parties receive notice telling them when the appellant's opening brief is due. This sets the schedule for when briefs should be filed in the appeal.

Additional Resources

[Read the California Court's official appeal procedures for unlimited civil cases](#)

[Visit TrueFiling™, the court's online filing system](#)

Common Questions

Why do I have to designate the record on appeal?

Some people ask why they need to designate the record on appeal when the trial court already has a whole file of what happened. There are both legal and practical reasons.

An appeal is reviewed in a different court than the court that issued the original ruling. By law, the Court of Appeal can only look at issues around the alleged legal mistake in the trial court.

Also, the complete trial court record may be large and some parts may not be relevant to the issues raised in the appeal. That's why the parties in the case must designate or choose the parts of the trial court record they want the Court of Appeal to review. The record on appeal helps the Court of Appeal focus on the materials that are needed to decide the issues.

What forms do I need to designate the record?

Here are forms and guides frequently used by the parties when they designate the record for an unlimited civil case:

[Information on Appeal Procedures for Unlimited Civil Cases APP-001-INFO](#)

[Appellant's Notice Designating Record on Appeal APP-003](#)

[Respondent's Notice Designating Record on Appeal APP-010](#)

[Respondent's Notice Electing to Use an Appendix APP-011](#)

[Appellant's Proposed Settled Statement APP-014](#)

[Information Sheet for Proposed Settled Statement APP-014INFO](#)

[Response to Appellant's Proposed Settled Statement APP-020](#)

[Appellant's Motion to Use a Settled Statement APP-025](#)

Can I get online access to the trial court files for my case?

Maybe. Some trial courts keep case documents online. You can contact the trial court to ask about online access. You can also look for a "Search Case Information" section on [your trial court's website](#).

What is a register of actions and how can it help me designate the record on appeal?

The trial court keeps a register – or list – of all the actions for each case. This list includes names and dates for all the evidence, documents, and motions filed in the trial court.

The register of actions can be very helpful in designating materials for the record on appeal. That's because the register of actions includes the information you need to provide the trial court when you make a list of things to include in the record on appeal. Also, it takes less time to read through the register of actions than it takes to read through the whole trial court file.

The register of actions is available in the trial court case file. Any party to the case can access the case file at the trial court. The register of actions may also be available online if the trial court has a public download service.

Can I add new exhibits, documents, or testimony to the record on appeal?

No. You can only include exhibits, documents, and testimony that are part of the trial court record. You cannot include new information, new evidence, or new witnesses in the record on appeal.

Can I include administrative proceedings in the record on appeal?

You can only include administrative proceedings if the administrative record was previously lodged with the trial court. An administrative record can include written items provided at the administrative hearing. It can also include the transcribed oral proceedings that took place during the administrative hearing. Normally there is not a jury at an administrative hearing.

There are two types of administrative proceedings that can be included in the record on appeal: written and oral. An example of a written administrative proceeding is the documents that were submitted as evidence in support for or against what the administrative hearing was about. An example of an oral administrative proceeding is a transcript of what was said at an administrative hearing such as questions to or from a party, or a ruling on a decision.

Here are some examples of administrative hearings:

- a hearing at a DMV to revoke a person's driver's license
- a hearing of a governing body before a disciplinary board to revoke or suspend a particular license – for example, a medical, real estate, teaching, or contractor license
- a hearing of a governmental body or department regarding wrongful termination, harassment, worker's compensation, or discontinuation of certain benefits
- a hearing of a governing body or department regarding environmental matters – for example, water, air quality, or endangered species matters

Am I required to include oral proceedings in the record on appeal?

No. However, the decision to appeal without oral proceedings should be carefully considered. If there are no oral proceedings in the record on appeal, neither party can raise any issues in the appeal about what was said in the trial.

What does the Court of Appeal review in the record on appeal?

The Court of Appeal justices rarely read all the information they receive in the record on appeal. Instead, the justices read the parts of the record on appeal that the parties discuss in their briefs and oral arguments, and the parts that are relevant to the issues on appeal. Each party must prepare a legal argument about why their side of the case is right. All parties must include references that tell the Court of Appeal justices exactly where to find places in the record on appeal that support their argument.

The justices may (but are not required to) read any other materials that are in the record on appeal. The appellant should include all materials relevant to the issues that are raised in the appeal – even if they are helpful to the other side. Otherwise, the Court of Appeal may conclude the record on appeal is not adequate and may reject the appellant's claim.

How do I serve a document to other parties?

The court requires each party to tell the other parties in the case when they file documents in the appeal. The court calls this “serving notice.”

Who to serve. If there is more than one other party in the case, each party must be served with a copy of the document.

If the other party has a lawyer, then the document is served to the lawyer. If the other party does not have a lawyer, then the document is served to the other party.

How to serve. There are three ways to serve a document: by mail, in person, or electronically. Anyone can be served by mail or in person, but a recipient must agree to be served electronically.

The court has rules about who can serve a document. The appellant may serve a document electronically. But if the document is mailed or personally delivered, it must be done by a person who is over 18 and not a party to the case.

Proof of service. A party must give the court proof that the other parties were served with a copy of the document. All parties are encouraged to use court form [APP-009 \(delivery by mail or in person\)](#) or form [APP-009E \(electronic delivery\)](#) for proof of service. This form tells the court who served the document, who was served, how the document was served, and the date the document was served.

A party must give the court one proof of service form for each document that is delivered. All sections of the form must be completed and signed by the person who serves notice. [Learn more about proof of service](#)

[Get a blank proof of service form APP-009 \(mail or in person\)](#)

[Get a blank proof of service form APP-009e \(electronic\)](#)

[Get instructions for the proof of service form](#)

[Get detailed proof of service information from the California Courts](#)

Can I serve the notice of appeal form and the notice designating the record on appeal form at the same time?

Since both the notice of appeal and notice designating the record on appeal forms must be served on the other parties, some appellants find it's easier and saves money to serve both forms at the same time, however, that is not required.

What happens if the trial court makes a mistake with the record on appeal?

Sometimes the court makes a mistake and does not include a designated part of the record on appeal in a clerk's or reporter's transcript. If this happens, the party who added the item to the record on appeal can take action to fix the issue.

The party can prepare and file a notice of omission with the trial court. The notice should ask the trial court to prepare and send the missing item to the Court of Appeal and to all parties that received a copy of the record on appeal.

There is no court form for this kind of notice. The party prepares an omission letter and files the letter with the trial court. The party must also serve the notice of correction to all the parties and the Court of Appeal. [Learn more.](#)

What happens if I forget to designate something in the record on appeal? Can I add it later?

If you forget something when you designate the record on appeal, it is possible to add materials later by filing a motion to augment the record.

A motion to augment the record is a request to the Court of Appeal to add new material to the record on appeal because you forgot to designate it or did not know at the time that you would need to. If the court grants your motion to augment the record, you may have to pay additional costs to add the material(s). This is especially true if you want to include an additional reporter's transcript.

Each item you want to add must be part of the trial court record. If the Court of Appeal grants the motion, the item(s) in the motion will be added to the record for the Court of Appeal to review.

Check with your Court of Appeal about their rules for providing a missing item. Some Courts of Appeal request that you submit the missing item and motion as two separate documents.

If you do not have a copy of the missing item, you may not be required to attach the item to the motion when you file it with the Court of Appeal. You may be able to request that the Court of Appeal order the trial court to provide and prepare the documents. [Learn more.](#)

What happens if I make a mistake or miss the deadline to designate/pay for the record on appeal?

The trial court will send a notice of default if either party makes a mistake or fails to do what the California Rules of Court say to do. This can happen if a party misses the deadline to designate or pay for the record on appeal.

The party that did something wrong has 15 days from the date the notice of

default was mailed to fix the problem. If the party does not fix the problem within the 15 days, the trial court will notify the Court of Appeal.

If the appellant is the party that did not fix the problem, the Court of Appeal may dismiss the appeal.

If the respondent is the party that did not fix the problem, the appeal may go forward on the appellant's brief and the record on appeal.

What happens if I don't receive my copy of the record on appeal?

You can contact the trial court clerk if you do not receive your copy of the record on appeal within 120 days after filing notice designating the record.

Some trial courts keep case dockets online where you can track what's happening with your case. Case dockets list all the actions in a case, including the status of processing the record on appeal. You can contact the trial court to ask about online access. You can also look for a "Search Case Information" section on [your trial court's website](#).

How do I know if my case is a limited civil case and an unlimited civil case?

Generally, there are two types of civil cases:

1. Unlimited civil cases – family law cases, probate cases, temporary restraining orders, and cases involving an amount of money over \$25,000.
2. Limited civil cases – all other cases, including cases involving an amount of money less than \$25,000.

Appeals in unlimited civil cases are decided in a Court of Appeal. Appeals in limited civil cases are decided in the appellate division of a superior court.

The information in this resource is only for unlimited civil cases. For information about appeals in limited civil cases, visit or call the appellate division of the superior court in your case. [You can find your superior court online here](#)

How do I get a fee waiver?

During an appeal, there are fees in both the trial court and the Court of Appeal. If you want your fees waived in both courts, you must have a fee waiver in both courts.

The rules for fee waivers are different for each party. [Learn more](#)

Where can I get legal help?

[Form APP-001](#) has full instructions on appeal procedures, including what needs to be in a brief.

Each Court of Appeal has [self-help resources online](#). You can also contact your local Court of Appeal to see if they have a self-help center at the court.

You can visit a [law library](#) to do legal research.

The California Courts website has a lot of [information about lawyers and legal help](#).

If you need help finding a lawyer, the [California Bar Association website](#) can connect you to lawyer referral service in your area.



Video: Preserving the Record on Appeal, 5:33



Video: If you Can't Get a Reporter's Transcript, 5:18



Video: Designating the Record for Appellants, 15:51

FORMS

Documents you will need for your case.