

May 18, 2026

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Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Re: Comments on SPR26-02

Dear Judicial Council of California:

The California Academy of Appellate Lawyers (calappellate.org), referred to herein as the Academy, one of the nation's first bar organizations devoted to appellate practice, provides comments to the Judicial Council's proposed revisions to the rules addressing the record designation process. As set forth below, the Academy generally supports the proposals, with some suggestions.

Register of Actions and title of documents

The Academy agrees with the proposal requiring superior court clerks to send parties a copy of the Register of Actions before record designations are due and agrees with the proposal requiring litigants to use the names of documents as they appear on the Register of Actions.

Elimination of Agreed Statement

The Academy agrees with the proposal to eliminate the option of an agreed statement given it is rarely used and a stipulated settled statement effectively accomplishes the same purpose.

Comments re: CRC 8.120

The Academy recommends that the proposal to amend CRC 8.120(b) include an electronic recording, and/or official transcript thereof, when used by the court in lieu of a court reporter (and a corresponding change should be made to CRC 8.149(b) and any other relevant forms and rules of court). This way the record on appeal can include the verbatim record in whatever form it has actually been taken. While electronic recording is statutorily prohibited in most unlimited civil cases, some courts and individual judges have allowed electronic recording given the constitutional issues with the statutory prohibition. And of course, this issue is pending before the Supreme Court.

Comments re: CRC 8.130 and APP-003

The Academy generally agrees with the concept of shortening APP-003 and creating sub-forms.

The Academy believes, however, that the APP-003 items regarding the record of oral proceedings should be modified and/or clarified. Currently (as well as in proposed revised form APP-003(C)), if the Reporter's Transcript ("RT") designation does not include all of the oral proceedings in the case, the party is required to explain why and identify the issues they intend to raise on appeal. The reference to "all of the oral proceedings in the case" is broader than the language used in CRC 8.130(a)(2), which states "If the appellant designates less than all the testimony, the notice must state the points to be raised on appeal; the appeal is then limited to those points unless, on motion, the reviewing court permits otherwise."

Initially, the Academy believes clarification is needed regarding "all of the oral proceedings" and "all the testimony." In many cases that have gone to trial, there are oral proceedings early on the case—such as motion practice—that will have nothing to do with the appeal. On the other hand, some appeals may include no "testimony" but just "oral proceedings." The

Academy believes clarification is needed here. Perhaps something along these lines. In an appeal with actual testimony, if all testimony is not designated, the party must explain why. In an appeal with only oral proceedings, but no actual testimony, if all oral proceedings are not designated, the party must explain why. The same rule should apply if the appeal includes both oral proceedings and testimony. The Academy does not believe it is fair or practical to require a party to set forth the points that will be raised on appeal at this very early stage of the process even if not all oral proceedings or testimony are designated.

Additionally, it is the Academy's belief that pro per litigants and newer appellate attorneys struggle with this item and rule, particularly in family law appeals where parties often have simultaneous proceedings in the superior court on different issues, any one of which can be subject to an appeal. The question then arises: if all the RTs for the particular order(s) on appeal are designated but not all the RTs in the broader family law action or other related actions, does the party have to indicate not all of the oral proceedings are included? Our understanding is that the answer is generally no: so long as all the relevant RTs are included for the particular order(s) being appealed, that should be enough to say all the RTs are included, even if other unrelated RTs are not included.

As an example, in one family law action, a party can separately appeal a temporary child support order, a temporary spousal support order, a final custody order, a final child support order, a final spousal support order, a DVRO denial or issuance, a dissolution status judgment, a final property order, etc. If a party files an appeal from only the final custody order, and that party includes in their designation all the RTs for that custody order, would that party be able to indicate on the APP-003 form that they included "all" the RTs and thus not have to specify why and the issues they intend to raise on appeal? We believe the answer should be yes, because they are including all the RTs for the particular order they are appealing.

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The APP-003 form, as existing and as revised, is not clear on this issue and thus should be clarified in accordance with this understanding.

Respectfully Submitted,

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