

# **INFRACTION APPEAL BOOKLET**



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE**

January 1, 2009

### 1 What does this information sheet cover?

This information sheet tells you about appeals in infraction cases. It is only meant to give you a general idea of the appeal process, so it does not cover everything you may need to know about appeals in infraction cases. To learn more, you should read rules 8.900–8.929 of the California Rules of Court, which set out the procedures for infraction appeals. You can get these rules at any courthouse or county law library or online at [www.courtinfo.ca.gov/rules](http://www.courtinfo.ca.gov/rules).

### 2 What is an infraction?

Infractions are crimes that can be punished by a fine, traffic school, or some form of community service but not by time in jail or prison. (See Penal Code sections 17, 19.6, and 19.8. You can get a copy of these laws at [www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html).) Examples of infractions are many traffic violations for which you can get a ticket or violations of some city or county ordinances for which you can get a citation. If you were also charged with or convicted of a misdemeanor, then your case is a misdemeanor case, not an infraction case.

### 3 What is an appeal?

An appeal is a request to a higher court to review a ruling or decision made by a lower court. **In an infraction case, the court hearing the appeal is the appellate division of the superior court, and the lower court—called the “trial court” in this information sheet—is the superior court.**

It is important to understand that **an appeal is NOT a new trial**. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits. The appellate division’s job is to review a record of what happened in the trial court and the trial court’s decision to see if certain kinds of legal errors were made in the case:

- **Prejudicial error:** The party that appeals (called the “appellant”) may ask the appellate division to determine if an error was made about either the law or court procedures in the case that caused substantial harm to the appellant (this is called “prejudicial error”). Prejudicial error can include

For information about appeal procedures in other cases, see:

- *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO)
- *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO)

You can get these forms at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

things like errors made by the judge about the law or errors or misconduct by the lawyers that harmed the appellant. When it conducts its review, the appellate division presumes that the judgment, order, or other decision being appealed is correct. It is the responsibility of the appellant to show the appellate division that an error was made and that the error was harmful.

- **No substantial evidence:** The appellant may also ask the appellate division to determine if there was substantial evidence supporting the judgment, order, or other decision being appealed. When it conducts its review, the appellate division only looks to see if there was evidence that reasonably supports the decision. The appellate division generally will not reconsider the trial court’s conclusion about which side had more or stronger evidence or whether witnesses were telling the truth or lying.

**The appellate division generally will not overturn the judgment, order, or other decision being appealed unless the record clearly shows that one of these legal errors was made.**

### 4 Do I need a lawyer to appeal?

You do not *have* to have a lawyer; you are allowed to represent yourself in an appeal in an infraction case. But appeals can be complicated, and you will have to follow the same rules that lawyers have to follow. If you have any questions about the appeal procedures, you should talk to a lawyer. You will need to hire a lawyer yourself if you want one. You can get information about finding a lawyer on the California Courts Online Self-Help Center at [www.courtinfo.ca.gov/selfhelp/lowcost](http://www.courtinfo.ca.gov/selfhelp/lowcost).

If you are representing yourself, you must inform the court if your address, telephone number, or other contact information changes so that the court can contact you if needed.

### **5 Who can appeal?**

Only a party in the trial court case can appeal a decision in that case. You may not appeal on behalf of a friend, a spouse, a child, or another relative.

The party that is appealing is called the APPELLANT; in an infraction case, this is usually the party convicted of committing the infraction. The other party is called the RESPONDENT; in an infraction case, this is usually the government agency that filed the criminal charges (on court papers, this party is called the People of the State of California).

### **6 Can I appeal any decision that the trial court made?**

No. Generally, you may appeal only a final judgment of the trial court—the decision at the end that decides the whole case. The final judgment includes the punishment that the court imposed. Other rulings made by the trial court before final judgment cannot be separately appealed, but can be reviewed only later as part of an appeal of the final judgment. In an infraction case, the party that was convicted of committing an infraction usually appeals that conviction or the sentence (the fine or other punishment) ordered by the trial court. In an infraction case, a party can also appeal from an order made by the trial court after judgment that affects a substantial right of the appellant (Penal Code section 1466(2)(B). You can get a copy of this law at [www.leginfo.ca.gov/calaw.html](http://www.leginfo.ca.gov/calaw.html).)

### **7 How do I start my appeal?**

First, you must file a notice of appeal. The notice of appeal tells the other party in the case and the trial court that you are appealing the trial court's decision. You may use *Notice of Appeal and Record of Oral Proceedings (Infraction)* (form CR-142) to prepare and file a notice of appeal in an infraction case. You can get form CR-142 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

### **8 Is there a deadline for filing my notice of appeal?**

Yes. In an infraction case, you must file your notice of appeal within **30 days** after the trial court makes (“renders”) its judgment in your case or issues the order you are appealing. The date the trial court makes its judgment is normally the date the trial court orders you to pay a fine or orders other punishment in your case (sentences you). **This deadline for filing the notice of appeal cannot be extended. If your notice of appeal is late, the appellate division will not be able to consider your appeal.**

### **9 How do I file my notice of appeal?**

To file the notice of appeal in an infraction case, you must bring or mail the original notice of appeal to the clerk of the trial court in which you were convicted of the infraction. It is a good idea to bring or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

There is no fee for filing the notice of appeal in an infraction case. You can ask the clerk of that court if there are any other requirements for filing your notice of appeal.

After you file your notice of appeal, the clerk will send a copy of your notice to the office of the prosecuting attorney (for example, the district attorney, county counsel, city attorney, or state Attorney General).

### **10 If I file a notice of appeal, do I still have to pay my fine or complete other parts of my punishment?**

**Filing the notice of appeal does NOT automatically postpone the deadline for paying your fine or completing any other part of your sentence.** To postpone your sentence, you must ask the trial court for a “stay” of the judgment. If you want a stay, you must first ask the trial court for a stay. You can also apply to the appellate division for a stay, but you must show in your application to appellate division that you first asked the trial court a stay and that the trial court unjustifiably denied your request. Your fine or other parts of your punishment will not be postponed unless the trial court



or appellate division grants a stay. If you do not get a stay and you do not pay your fine or satisfy another part of your sentence by the date ordered by the court, a warrant may be issued for your arrest or a civil collections process may be started against you, which could result in a civil penalty being added to your fine.

### **11** Is there anything else I need to do when I file my notice of appeal?

Yes. When you file your notice of appeal, you must tell the trial court whether you want a record of what was said in the trial court (this is called a record of the “oral proceedings”) sent to the appellate division and, if so, what form of that record you want to use. *Notice of Appeal and Record of Oral Proceedings (Infraction)* (form CR-142) includes boxes you can check to tell the court whether and how you want to provide this record.

### **12** In what cases does the appellate division need a record of the oral proceedings?

You do not *have* to send the appellate division a record of what was said in the trial court. But if you want to raise any issue in your appeal that would require the appellate division to consider what was said in the trial court, the appellate division will need a record of these oral proceedings. For example, if you are claiming that there was not substantial evidence supporting the judgment, order, or other decision you are appealing, the appellate division will need a record of the oral proceedings. Since the appellate division judges were not there for the proceedings in the trial court, an official record of these proceedings must be prepared and sent to the appellate court for its review.

Depending on what form of the record you choose to use, you will be responsible for paying to have the official record of the oral proceedings prepared (unless you are indigent) or for preparing an initial draft of the record yourself. If you do not take care of these responsibilities, a record of the oral proceedings in the trial court will not be prepared and sent to the appellate division. If the appellate division does not receive the record, it will not be able to consider what was said in the trial court in deciding whether a legal error was made.

### **13** What are the different forms of the record?

There are three ways a record of the oral proceedings in a trial court can be prepared and provided to the appellate division in an infraction case:

- a. You can use a *statement on appeal*.
- b. If the proceedings were officially electronically recorded, the trial court can have a transcript prepared from the recording or, if the court has a local rule permitting this and all the parties agree (“stipulate”), you can use the official electronic recording itself as the record, instead of a transcript.
- c. If a court reporter was there during the trial court proceedings, the reporter can prepare a record called a “*reporter’s transcript*.”

Read below for more information about these options.

#### **a. Statement on appeal**

**Description:** A statement on appeal is a summary of the trial court proceedings approved by the trial court judge who conducted the trial court proceedings (the term “judge” includes commissioners and temporary judges).

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

**Contents:** A statement on appeal must include a summary of the oral proceedings that the appellant believes necessary for the appeal and a summary of the trial court’s decision. It must also include a statement of the points the appellant is raising on appeal (see rule 8.916 of the California Rules of Court for more information about what must be included in a statement on appeal and the procedures for preparing a statement. You can get a copy of this



rule at any courthouse or county law library or online at [www.courtinfo.ca.gov/rules](http://www.courtinfo.ca.gov/rules).)

**Preparing a proposed statement:** If you choose to use a statement on appeal, you must prepare a proposed statement. If you are not represented by a lawyer, you must use *Proposed Statement on Appeal (Infraction)* (form CR-143) to prepare your proposed statement. You can get form CR-143 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

**Serving and filing a proposed statement:** You must serve and file your proposed statement within 20 days after you file your notice of appeal. “Serve and file” means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver (“serve”) the proposed statement to the prosecuting attorney and any other party in the way required by law. If the prosecuting attorney did not appear in your case, you do not need to serve the prosecuting attorney.
- Make a record that the proposed statement has been served. This record is called a “proof of service.” *Proof of Service (Appellate Division)* (form APP-109) can be used to make this record. The proof of service must show who served the proposed statement, who was served with the proposed statement, how the proposed statement was served (by mail or in person), and the date the proposed statement was served.
- File the original proposed statement and the proof of service with the trial court. You should make a copy of the proposed statement you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the proposed statement to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and on the California Courts Online Self-Help Center at

[www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving](http://www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving).

**Review and modifications:** The prosecuting attorney and any other party have 10 days from the date you serve your proposed statement to serve and file proposed changes (called “amendments”) to this statement. The trial judge then reviews both your proposed statement and any proposed amendments and makes any corrections or modifications to the proposed statement that are needed to make sure that the statement provides a complete and accurate summary of the trial court proceedings.

**Completion and certification:** If the judge makes any corrections or modifications to the proposed statement, the corrected or modified statement will be sent to you, the prosecuting attorney, and any other party for your review. If you disagree with anything in the judge’s statement, you will have 10 days from the date the statement is sent to you to serve and file objections to the statement. The judge then reviews any objections, makes any additional corrections to the statement, and certifies the statement as a complete and accurate summary of the trial court proceedings.

**Sending the statement to the appellate division:** Once the trial judge certifies the statement on appeal, the trial court clerk will send the statement to the appellate division along with the clerk’s transcript.

#### **b. Official electronic recording or transcript from official recording**

**When available:** In some infraction cases, the trial court proceedings are officially recorded on approved electronic recording equipment. If your case was officially recorded, you can ask to have a transcript prepared for the appellate division from the official electronic recording of the proceedings. You should check with the trial court to see if your case was officially electronically recorded before you choose this option.

If the court has a local rule for the appellate division permitting this and all the parties agree (“stipulate”), a copy of the official electronic recording itself can be used as the record of these oral proceedings



instead of preparing a transcript. You should check with the trial court to see if your case was officially electronically recorded and check to make sure that there is a local rule permitting the use of the recording itself before choosing this option. If you choose this option, you must attach a copy of your agreement with the other parties (called a “stipulation”) to your notice regarding the oral proceedings.

**Cost:** Ordinarily, the appellant must pay for preparing the transcript or making a copy of the official electronic recording. If, however, you are indigent (you cannot afford to pay the cost of the transcript or electronic recording), you may be able to get a free transcript or official electronic recording. You can complete and file *Defendant’s Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210) to show that you are indigent. You can get form MC-210 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). The court will review this form to decide whether you are indigent.

If you are indigent, an official electronic recording of your case was made, and you show that you need a transcript, the court must provide you with a free transcript. Whether you need a transcript depends on the issues you are raising on appeal. If the issues you are raising on appeal include that there was not substantial evidence supporting the judgment, order, or other decision you are appealing or that there was misconduct in your case that harmed you, that is generally enough to show that you need a transcript. If you ask for a transcript, the court may ask you what issues you are raising on appeal and may decide that a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising.

**Completion and delivery:** Once you deposit the estimated cost of the transcript or official electronic recording with the clerk or show the court you are indigent and need a transcript, the clerk will have the transcript or copy of the recording prepared. When the transcript is completed or the copy of the official electronic recording is prepared, the clerk will send the transcript or recording to the appellate division along with the clerk’s transcript.

### c. Reporter’s transcript

**When available:** In some infraction cases, a court reporter is there in the trial court and makes a record of the oral proceedings. If a court reporter made a record of your case, you can ask to have the court reporter prepare a transcript of those oral proceedings, called a “reporter’s transcript.” You should check with the trial court to see if a court reporter made a record of your case before you choose this option.

**Cost:** Ordinarily, the appellant must pay for preparing a reporter’s transcript. The court reporter will provide the clerk of the trial court with an estimate of the cost of preparing the transcript, and the clerk will notify you of this estimate. If you want the reporter to prepare the transcript, you must deposit this estimated amount with the clerk within 10 days after the clerk sends you the estimate.

If, however, you are indigent (you cannot afford to pay the cost of the reporter’s transcript), you may be able to get a free transcript. You can complete and file *Defendant’s Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210) to show that you are indigent. You can get form MC-210 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). The court will review this form to decide whether you are indigent.

If you are indigent, a court reporter made a record of your case, and you show that you need a transcript, the court must provide you with a free transcript. Whether you need a transcript depends on the issues you are raising on appeal. If the issues you are raising on appeal include that there was not substantial evidence supporting the judgment, order, or other decision you are appealing or that there was misconduct in your case that harmed you, that is generally enough to show that you need a transcript. If you ask for a reporter’s transcript, the court may ask you what issues you are raising on appeal and may decide that a statement on appeal or a transcript of only some of the oral proceedings will be a good enough record to consider the issues you are raising.

**Completion and delivery:** Once you deposit the estimated cost of the transcript or show the court you



are indigent and need a transcript, the clerk will notify the reporter to prepare the transcript. When the reporter completes the transcript, the clerk will send both the reporter's transcript and clerk's transcript to the appellate division.

### 14 Is there any other part of the record that needs to be sent to the appellate division?

Yes. There are two other parts of the official record that need to be sent to the appellate division:

- **Documents filed in the trial court:** The trial court clerk is responsible for preparing a record of the written documents filed in your case, called a "clerk's transcript," and sending this to the appellate division. (The documents the clerk must include in this transcript are listed in rule 8.912 of the California Rules of Court. You can get a copy of this rule at any courthouse or county law library or online at [www.courtinfo.ca.gov/rules](http://www.courtinfo.ca.gov/rules).)
- **Exhibits submitted during trial:** Exhibits, such as photographs or maps, that were admitted in evidence, refused, or lodged (temporarily placed with the court) in the trial court are considered part of the record on appeal. If you want the appellate division to consider an exhibit, however, you must ask the trial court clerk to send the original exhibit to the appellate division within 10 days after the last respondent's brief is filed in the appellate division. (See rule 8.921 of the California Rules of Court for more information about this procedure. You can get a copy of this rule at any courthouse or county law library or online at [www.courtinfo.ca.gov/rules](http://www.courtinfo.ca.gov/rules).)

Sometimes, the trial court returns an exhibit to a party at the end of the trial. If the trial court returned an exhibit to you or another party and you or the other party ask for the exhibit to be sent to the appellate division, the party who has the exhibit must deliver that exhibit to the appellate division as soon as possible.

### 15 What happens after the record is prepared?

As soon as the record of the oral proceeding is ready, the clerk of the trial court will send it to the appellate

division along with the clerk's transcript. When the appellate division receives this record, it will send you a notice telling you when you must file your brief in the appellate division.

### 16 What is a brief?

A brief is a party's written description of the facts in the case, the law that applies, and the party's argument about the issues being appealed. If you are represented by a lawyer in your appeal, your lawyer will prepare your brief. If you are not represented by a lawyer in your appeal, you will have to prepare your brief yourself. You should read rules 8.927–8.928 of the California Rules of Court, which set out the requirements for preparing, serving, and filing briefs in infraction appeals, including requirements for the format and length of these briefs. You can get these rules at any courthouse or county law library or online at [www.courtinfo.ca.gov/rules](http://www.courtinfo.ca.gov/rules).

**Contents:** If you are the appellant (the party who is appealing), your brief, called the "appellant's opening brief," must clearly explain what you believe are the legal errors made in the trial court. Your brief must refer to the exact places in the clerk's transcript and the statement on appeal (or other record of the oral proceedings) that support your argument. Remember that an appeal is not a new trial. The appellate division will not consider new evidence, such as the testimony of new witnesses or new exhibits, so do not include any new evidence in your brief.

**Serving and filing:** You must serve and file your brief in the appellate division by the deadline the court set in the notice it sent you, which is usually 30 days after the record is filed in the appellate division. "Serve and file" means that you must:

- Have somebody over 18 years old who is not a party to the case—so not you—mail or deliver ("serve") the brief to the respondent (the prosecuting agency) and any other party in the way required by law.
- Make a record that the brief has been served. This record is called a "proof of service." *Proof of Service (Appellate Division)* (form APP-109) can be used to make this record. The proof of service must show who served the brief, who was served with the brief,



how the brief was served (by mail or in person), and the date the brief was served.

- File the original brief and the proof of service with the appellate division. You should make a copy of the brief you are planning to file for your own records before you file it with the court. It is a good idea to bring or mail an extra copy of the brief to the clerk when you file your original and ask the clerk to stamp this copy to show that the original has been filed.

You can get more information about how to serve court papers and proof of service from *What Is Proof of Service?* (form APP-109-INFO) and at [www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving](http://www.courtinfo.ca.gov/selfhelp/lowcost/getready.htm#serving).

**If you do not file your brief by the deadline set by the appellate division, the court may dismiss your appeal.**

### **17 What happens after I file my brief?**

Within 30 days after you serve and file your brief, the respondent (the prosecuting agency) may, but is not required to, respond by serving and filing a respondent's brief. If the respondent does not file a brief, the appellant does not automatically win the appeal. The court will decide the appeal on the record, the appellant's brief, and any oral argument by the appellant.

If the respondent serves and files a brief, within 20 days after the respondent's brief was served, you may, but are not required to, serve and file another brief replying to the respondent's brief. This is called a "reply brief."

### **18 What happens after all the briefs have been filed?**

Once all the briefs have been served and filed or the time to serve and file them has passed, the court will notify you of the date for oral argument in your case.

### **19 What is oral argument?**

"Oral argument" is the parties' chance to explain their arguments to the appellate division judges in person. You do not have to participate in oral argument, if you do not want to; you can notify the appellate division that you want to "waive" oral argument. If all parties waive

oral argument, the judges will decide your appeal based on the briefs and the record that were submitted. But if one party waives oral argument and another party or parties does not, the appellate division will hold oral argument with the party or parties who did not waive it.

If you do choose to participate in oral argument, you will have up to five minutes for your argument, unless the court orders otherwise. Remember that the judges will already have read the briefs, so you do not need to read your brief to the judges. It is more helpful to tell the judges what you think is most important in your appeal or ask the judges if they have any questions you could answer.

### **20 What happens after oral argument?**

After oral argument is held (or the date it was scheduled passes if all the parties waive oral argument), the judges of the appellate division will make a decision about your appeal. The appellate division has 90 days after the date scheduled for oral argument to decide the appeal. The clerk of the court will mail you a notice of that decision.

### **21 What should I do if I want to give up my appeal?**

If you decide you do not want to continue with your appeal, you must file a written document with the appellate division notifying it that you are giving up (this is called "abandoning") your appeal. You can use *Abandonment of Appeal (Infraction)* (form CR-145) to file this notice in an infraction case. You can get form CR-145 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).

If you decide not to continue your appeal and it is dismissed, you will (with only very rare exceptions) permanently give up the chance to raise any objections to your conviction, sentence, or other matter that you could have raised in the appeal. If your punishment was stayed during the appeal, you may be required to start complying with your punishment immediately after your appeal is dismissed.

Clerk stamps date here when form is filed.

Instructions

- This form is only for appealing in an infraction case... Before you fill out this form... You must file this form no later than 30 days after the trial court issued the judgment or order you are appealing... Fill out this form and make a copy of the completed form for your records... Take or mail the completed form to the clerk's office...

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:

Trial Court Case Name: The People of the State of California v.

The clerk will fill in the number below:

Appellate Division Case Number:

1 Your Information

a. Appellant (the party who is filing this appeal):

Name: \_\_\_\_\_

Street address: \_\_\_\_\_ Street City State Zip

Mailing address (if different): \_\_\_\_\_ Street City State Zip

Phone: ( ) E-mail (optional): \_\_\_\_\_

b. Appellant's lawyer (skip this if the appellant is filling out this form):

The lawyer filling out this form (check (1) or (2)):

(1) [ ] was the appellant's lawyer in the trial court. (2) [ ] is the appellant's lawyer for this appeal.

Name: \_\_\_\_\_ State Bar number: \_\_\_\_\_

Street address: \_\_\_\_\_ Street City State Zip

Mailing address (if different): \_\_\_\_\_ Street City State Zip

Phone: ( ) E-mail (optional): \_\_\_\_\_

Fax (optional): ( ) \_\_\_\_\_



Trial Court Case Name: \_\_\_\_\_

**2 Judgment or Order You Are Appealing**

I am/My client is appealing (*check a, b, or c*):

- a.  the final judgment of conviction in the case (Penal Code section 1466(2)(A)).  
The trial court issued (rendered) this judgment on (*fill in the date*): \_\_\_\_\_
  
- b.  an order made by the trial court after judgment that affects an important (substantial) right of mine/my client (Penal Code section 1466 (2)(B)).  
The trial court issued this order on (*fill in the date*): \_\_\_\_\_
  
- c.  other (*describe the action you are appealing and indicate the date the trial court took the action*):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Record of the Oral Proceedings**

*You do not have to provide the appellate division with a record of what was said in the trial court (this is called a record of the "oral proceedings"). But if you do not, the appellate division will not be able to consider what was said during those proceedings in determining whether an error was made in the trial court proceedings.*

**3** I elect (choose)/My client elects to proceed (*check a or b*):

- a.  WITHOUT a record of the oral proceedings in the trial court (*skip item 4*; *sign and date this form*). I understand that if I proceed without a record of the oral proceedings, the appellate division will not be able to consider what was said during those proceedings in deciding whether a legal error was made.  

*(Write initials here):* \_\_\_\_\_
  
- b.  WITH a record of the oral proceedings in the trial court (*complete item 4 below*). I understand that, if I elect (choose) to proceed WITH a record of the oral proceedings in the trial court, I have to choose the record I want and take the actions described below to make sure this record is provided to the appellate division. I understand that if I do not take the actions described below and the appellate division does not receive this record, I am not likely to succeed in my appeal.  

*(Write initials here):* \_\_\_\_\_

**4** I want to use the following record of what was said in the trial court proceedings in my case (*check and complete only one— a, b, c, or d*):

- a.  **Statement on Appeal.** *A statement on appeal is a summary of the trial court proceedings approved by the trial court. See form CR-141-INFO for information about preparing a proposed statement. (Check (1) or (2)):*

Trial Court Case Name: \_\_\_\_\_

## 4 a. (continued)

- (1)  I have attached my proposed statement on appeal to this notice of appeal. *(If you are not represented by an attorney in this appeal, you must use Proposed Statement on Appeal (Infraction) (form CR-143) to prepare and file this proposed statement. You can get form CR-143 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).)*
- (2)  I have NOT attached my proposed statement. I understand that I must serve and file this proposed statement in the trial court within 20 days of the date I file this notice of appeal and that if I do not file the proposed statement on time, the court may dismiss my appeal.

OR

- b.  **Transcript From Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. (Check (1) or (2)):*
- (1)  I will pay the trial court clerk's office for this transcript myself. I understand that if I do not pay for this transcript, it will not be prepared and provided to the appellate division.
- (2)  I am asking that this transcript be prepared at no cost to me because I cannot afford to pay this cost. I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210). *(You can get form MC-210 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). The court will review this form to decide if you are eligible for a free transcript.)*

OR

- c.  **Copy of Official Electronic Recording.** *This option is available only if an official electronic recording was made of what was said in the trial court, the court has a local rule for the appellate division permitting the use of the official electronic recording itself as the record of the proceedings, and you and the respondent (the prosecuting agency) have agreed (stipulated) that you want to use the official electronic recording itself as the record of what was said in your case. Check with the trial court to see if an official electronic recording was made in your case before choosing this option. You must attach a copy of the agreement (stipulation) between you and the respondent to this notice. (Check (1) or (2)):*
- (1)  I will pay the trial court clerk's office for this official electronic recording myself. I understand that if I do not pay for this recording, it will not be provided to the appellate division.
- (2)  I am asking that this official electronic recording be provided at no cost to me because I cannot afford to pay this cost. I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210). *(You can get form MC-210 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). The court will review this form to decide if you are eligible for a free copy of the official electronic recording.)*



Trial Court Case Name: \_\_\_\_\_

④ (continued)

**OR**

d.  **Reporter's transcript.** *This option is available only if there was a court reporter in the trial court who made a record of what was said in court. Check with the trial court to see if there was a court reporter in your case before choosing this option. (Check (1) or (2)):*

(1)  I will pay the trial court clerk's office for this transcript myself when I receive the court reporter's estimate of the cost of the transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the appellate division.

(2)  I am asking that this transcript be prepared at no cost to me because I cannot afford to pay the cost. I have completed and attached *Defendant's Financial Statement on Eligibility for Appointment of Counsel and Reimbursement and Record on Appeal at Public Expense* (form MC-210). (You can get form MC-210 at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms). The court will review this form to decide if you are eligible for a free reporter's transcript.)

**REMINDER: Except in the very limited circumstances listed in rule 8.902(b), you must file this form no later than 30 days after the trial court issued the judgment or order you are appealing in your case. If your notice of appeal is late, the court will not take your appeal.**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*\_\_\_\_\_  
*Signature of appellant or attorney*

Clerk stamps date here when form is filed.

Instructions

- This form is only for preparing a statement on appeal in an infraction case... Before you fill out this form, read Information on Appeal Procedures for Infractions... This form can be filed at the same time as your notice of appeal... Fill out this form and make a copy of the completed form for your records... You must serve a copy of the completed form on each of the other parties in the case... Take or mail the completed form and proof of service on each of the other parties to the clerk's office...

You fill in the name and street address of the court that issued the judgment or order you are appealing:

Superior Court of California, County of

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

Trial Court Case Number:

Trial Court Case Name: The People of the State of California v.

You fill in the appellate division case number (if you know it):

Appellate Division Case Number:

1 Your Information

a. Appellant (the party who is filing this appeal):

Name: \_\_\_\_\_

Street address: \_\_\_\_\_ Street City State Zip

Mailing address (if different): \_\_\_\_\_ Street City State Zip

Phone: ( ) E-mail (optional): \_\_\_\_\_

b. Appellant's lawyer (skip this if the appellant is filling out this form):

The lawyer filling out this form (check (1) or (2)):

(1) [ ] was the appellant's lawyer in the trial court.

(2) [ ] is the appellant's lawyer for this appeal.

Name: \_\_\_\_\_

State Bar number: \_\_\_\_\_

Street address: \_\_\_\_\_ Street City State Zip

Mailing address (if different): \_\_\_\_\_ Street City State Zip

Phone: ( ) E-mail (optional): \_\_\_\_\_

Fax (optional): ( ) \_\_\_\_\_

Trial Court Case Name: \_\_\_\_\_

**Information About Your Appeal**

2 On (fill in the date): \_\_\_\_\_, I/my client filed a *Notice of Appeal and Record of Oral Proceedings (Infraction)*, choosing to use a statement on appeal as the record of what was said in this case.

**Proposed Statement**

3 **The Charges Against Me/My Client**

- a. If the charges against you/your client are based on a citation (ticket) you received, provide the citation number (fill in the citation number from your ticket): \_\_\_\_\_
- b. The charges against me/my client were (list all of the charges indicated on the citation or complaint filed by the prosecutor with the court): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- c. I/My client (check (1), (2), or (3))
  - (1)  pleaded not guilty to all of the charges.
  - (2)  pleaded guilty to only the following charges: \_\_\_\_\_  
 \_\_\_\_\_
  - (3)  pleaded guilty to all of the charges.

4 **Summary of Any Motions**

- a. Were any motions (requests for the trial court to issue an order) made in this case?  
 Yes (fill out b)       No (go to item 5)
- b. In the spaces below, describe any motions (requests for orders) made in the trial court. Write a complete and accurate summary of what was said at any hearings on these motions and indicate how the trial court ruled on these motions:
  - (1)  I/My client made the following requests (motions) in the trial court (check all that apply):
    - (a)  To submit a photograph or photographs as evidence (describe the photographs):  
 \_\_\_\_\_  
 \_\_\_\_\_

There  was  was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

The court  did  did not accept the photographs.

Check here if you need more space to describe the motion and attach a separate page or pages describing it. At the top of each page write "CR-143, item 4b(1)(a)."



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4 b(1) (continued)

(b)  To submit a map or maps as evidence (*describe the maps*):

\_\_\_\_\_

There  was  was not a hearing on this motion.

*If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing:* \_\_\_\_\_

\_\_\_\_\_

The court  did  did not accept the maps.

Check here if you need more space to describe the motion and attach a separate page or pages describing it. At the top of each page write "CR-143, item 4b(1)(b)."

(c)  To submit other material as evidence (*describe what you asked to submit as evidence in the trial court*): \_\_\_\_\_

\_\_\_\_\_

There  was  was not a hearing on this motion.

*If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing:* \_\_\_\_\_

\_\_\_\_\_

The court  did  did not accept this material.

Check here if you need more space to describe the motion and attach a separate page or pages describing it. At the top of each page write "CR-143, item 4b(1)(c)."

(d)  Other (*describe any other request you made in the trial court and whether the court granted or denied this request*): \_\_\_\_\_

\_\_\_\_\_

Check here if you need more space to describe the motion and attach a separate page or pages describing it. At the top of each page write "CR-143, item 4b(1)(d)."

(2)  The prosecutor made the following request (motion) in the trial court (*describe any request the prosecutor made in the trial court and whether the court granted or denied this request*):

\_\_\_\_\_

\_\_\_\_\_



Trial Court Case Name: \_\_\_\_\_

4 b(2) (continued)

There  was  was not a hearing on this motion.

If there was a hearing on this motion, write a complete and accurate summary of what was said at this hearing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The trial court  granted this motion.  did not grant this motion.

Other (describe any other action the trial court took concerning this motion): \_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space to describe this motion and attach a separate page or pages describing it. At the top of each page, write "CR-143, item 4b(2)."

Check here if other motions were filed, and attach a separate page or pages describing these other motions, identifying who made them and whether there was a hearing on the motion, summarizing what was said at the hearing on the motion, and indicating whether the trial court granted or denied the motion. At the top of each page, write CR-143, item 4b(3).

5 Summary of Testimony

a. Was there a trial in your case?

No  (skip items b, c, and d and go to item 6)

Yes  (complete items b, c, and d)

b. Did you/your client testify at the trial?

No

Yes (write a complete and accurate summary of the testimony you/your client gave. Include only what you actually said; do not comment on or give your opinion about what you said):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space to summarize your/your client's testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write "CR-143, Item 5b."

c. Did an officer from the police department, sheriff's office, or other government agency that charged you/your client testify at the trial? (Check one):

No

Yes (complete (1) and (2)):

(1) The name of the officer who testified is (fill in the officer's name): \_\_\_\_\_

Trial Court Case Name: \_\_\_\_\_

5 c. (continued)

(2) This officer testified that *(write a complete and accurate summary of the officer's testimony. Include only what the officer actually said; do not comment on or give your opinion about what the officer said):*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space to summarize the officer's testimony and attach a separate page or pages summarizing this testimony. At the top of each page, write "CR-143, Item 5c."

d.  Were there any other witnesses at the trial?

No

Yes *(fill out (1)-(4)):*

(1) The witness's name is *(fill in the witness's name):*

\_\_\_\_\_

(2) The witness  was  was not an officer from the government agency that charged me/my client.

(3) The witness testified on behalf of  me/my client.  the prosecution.

(4) This witness testified that *(write a complete and accurate summary of the witness's testimony. Include only what the witness actually said; do not comment on or give your opinion about what the witness said):* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if other witnesses testified at the trial. Attach a separate page or pages identifying each other witness that testified at your trial, stating whether that witness testified on your/your client's behalf or the prosecution's behalf, and summarizing what that witness said in his or her testimony. At the top of each page, write "CR-143, item 5e."

**The Trial Court's Findings**

6 a. I/My client was found guilty of the following offenses *(list all of the offenses for which you were/your client was found guilty):* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

b. I/My client was found not guilty of the following offenses *(list all of the offenses for which you were/your client was found not guilty):* \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Trial Court Case Name: \_\_\_\_\_

**6** (continued)

c. The following charges were dismissed after proof of correction was shown to the judge (*list all of the charges that were dismissed*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**7 The Sentence**

The trial court imposed the following fine or other punishment on me/my client (*check all that apply and fill in any required information*):

- a.  A fine of (*fill in the amount of the fine*): \$ \_\_\_\_\_
- b.  Traffic school
- c.  Community service (*fill in the number of hours*): \_\_\_\_\_
- d.  Other punishment (*describe any other punishment that the court imposed on you*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**8 Reasons for Your Appeal**

*Remember, in an appeal, the appellate division can only review a case for whether certain kinds of legal errors were made in the trial court proceedings (read form CR-141-INFO to learn about these legal errors):*

- *There was not "substantial evidence" supporting the judgment, order, or other decision you are appealing*
- *A "prejudicial error" was made during the trial court proceedings.*

*The appellate division:*

- *Cannot retry your case or take new evidence*
- *Cannot consider whether witnesses were telling the truth or lying*
- *Cannot consider whether there was more or stronger evidence supporting your position than there was supporting the trial court's decision*

*(Check all that apply and describe the legal error or errors you believe were made that are the reason for this appeal.)*

a.  There was not substantial evidence that supported the judgment, order, or other decision I am/my client is appealing in this case. (*Explain why you think the judgment, order, or other decision was not supported by substantial evidence*): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Trial Court Case Name: \_\_\_\_\_

8 (continued)

b.  The following error or errors about either the law or court procedure was/were made that caused substantial harm to me/my client. (Describe each error and how you were/your client was harmed by that error.)

(1) Describe the error: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe how this error harmed you/your client: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) Describe the error: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe how this error harmed you/your client: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3) Describe the error: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Describe how this error harmed you/your client: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check here if you need more space to describe these or other errors and attach a separate page or pages describing the errors. At the top of each page, write "CR-143, item 8."

**REMINDER: You must serve and file this form no later than 20 days after you file your notice of appeal. If you do not file this form on time, the court may dismiss your appeal.**

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or print name

▶ \_\_\_\_\_  
Signature of appellant or attorney

Clerk stamps date here when form is filed.

**Instructions**

- This form is only for abandoning (giving up) an appeal in an **infraction** case, such as a case about a traffic ticket.
- Before you fill out this form, read *Information on Appeal Procedures for Infractions* (form CR-141-INFO) to know your rights and responsibilities. You can get form CR-141-INFO at any courthouse or county law library or online at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms).
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the appellate division clerk's office. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

**Superior Court of California, County of**

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

**Trial Court Case Number:****Trial Court Case Name:**  
*The People of the State of California*  
v.  
\_\_\_\_\_

You fill in the appellate division case number (if you know it):

**Appellate Division Case Number:****1 Your Information**

- a. Appellant (the party who filed this appeal):

Name: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State ZipMailing address (if different): \_\_\_\_\_  
Street City State Zip

Phone: ( ) \_\_\_\_\_ E-mail (optional): \_\_\_\_\_

- b. Appellant's lawyer (skip this if the appellant does not have a lawyer for this appeal):

Name: \_\_\_\_\_ State Bar number: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State ZipMailing address (if different): \_\_\_\_\_  
Street City State Zip

Phone: ( ) \_\_\_\_\_ E-mail (optional): \_\_\_\_\_

Fax (optional): ( ) \_\_\_\_\_



Appellate Division Case Number:

Appellate Division Case Name: \_\_\_\_\_

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② On (*fill in the date*): \_\_\_\_\_ I/my client filed a notice of appeal in the trial court case identified in the box on page 1 of this form.

③ By signing and filing this form, I abandon/my client abandons that appeal.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Signature of appellant or attorney*