

**FREQUENTLY ASKED QUESTIONS REGARDING
NEW FEE FOR ADMINISTERING TRUST ACCOUNTS HOLDING DEPOSITS
FOR REPORTER'S TRANSCRIPTS IN CIVIL APPEALS**

(Rules 8.130(b)(1) and 8.834(b)(2)(A))

Prepared February 3, 2014

QUESTION 1: Is every party in a civil appeal required to pay the new \$50 fee established by rules 8.130(b)(1) and 8.834(b)(2)(A)?

ANSWER: No, only a party in a civil appeal that deposits funds with the superior court to hold in trust for paying the cost of a reporter's transcript in a civil appeal is required to pay this new \$50 fee.

As explained in the report to the Judicial Council recommending adoption of the amendments to rules 8.130(b)(1) and 8.834(b)(2)(A) that establish the new \$50 fee, this fee implements the authority given by Government Code section 70632 for the Judicial Council to set and courts to charge a fee for handling funds held in trust for non-court parties or entities (see <http://www.courts.ca.gov/documents/jc-20131025-itemA7.pdf>).

Because this new \$50 fee is for the purpose of offsetting the courts' costs for holding such funds in trust, parties who do not deposit funds with the superior court to hold in trust for paying the cost of a reporter's transcript are not required to pay this new fee. Both rule 8.130 and rule 8.834 provide for alternatives to depositing funds with the court when a party to a civil appeal designates or requests a copy of a reporter's transcript; a party may instead submit:

- A waiver of this deposit from the court reporter (rules 8.130(b)(3)(A) and 8.834(b)(2)(B));
- A copy of a Transcript Reimbursement Fund application (rules 8.130(b)(3)(B) and 8.834(b)(2)(C)); or
- A certified transcript of all of the proceedings designated by the party (rules 8.130(b)(3)(C) and 8.834(b)(2)(D)).

Under rule 8.834, at the time the estimated cost of the reporter's transcript is provided to the appellant in an appeal in a limited civil case, he or she also has the option of notifying the clerk that he or she now elects to use a statement on appeal instead of a reporter's transcript, elects to proceed without a record of the oral proceedings, or that he or she is abandoning the appeal.

If a party chooses any of the permissible options other than depositing funds with the superior court to hold in trust for the cost of a reporter's transcript, the new \$50 fee would not apply.

QUESTION 2: Should the new \$50 fee be charged each time a party in a civil appeal makes a payment to the court for a reporter's transcript, even if that party previously made a deposit for the transcript – for example when a party deposits additional funds with the court at the request of the court reporter?

ANSWER: No, a party only should be charged this new \$50 fee with the initial deposit for the reporter's transcript to offset the court's costs associated with establishing and administering a new trust account for that party.

The new \$50 fee is a one-time fee intended to cover all of the court's costs associated with establishing and administering a trust account for a reporter's transcript for a particular party in a civil appeal, including the costs associated with receiving multiple deposits into the trust account or making multiple payments from the account, such as when there are multiple court reporters in the same case.

The one exception is if, as part of a request to augment the record, a new deposit is made for an additional reporter's transcript after the originally designated reporter's transcript has been completed, all the funds in the trust account have been disbursed, and the original trust account closed. In such circumstances, the court must establish a new trust account and may charge a new \$50 fee.

QUESTION 3: Is the new \$50 fee automatically waived if the party is granted an initial fee waiver?

ANSWER: No, the new \$50 fee is not automatically waived as part of an initial fee waiver, but it may be waived by the court if a party itemizes this fee in its fee waiver application.

Because this fee is new, it is not currently specifically included on the list under rule 3.55 of the fees that must be waived as part of an initial fee waiver. However, as explained in the report to the Judicial Council, it is the view of the advisory committees that recommended adoption of this fee that it may be waived under rule 3.56(6) as another fee "itemized in the [fee waiver] application." It is anticipated that the advisory committees will be considering whether to recommend that rule 3.55 be amended to specifically include this fee on the list of fees and costs that must be waived as part of an initial fee.

Administrative Office of the Courts Contacts:

Heather Anderson, Senior Attorney, Legal Services Office, 415-865-7691,
heather.anderson@jud.ca.gov

Deirdre Benedict, Senior Court Services Analyst, Trial Court Leadership Services Unit
415-865-8915, deirdre.benedict@jud.ca.gov