



CASE ALERT

California courts have a mandatory duty to provide a verbatim (word-for-word) record of all court proceedings for parties who cannot afford to pay for a private court reporter. If a court reporter is unavailable to fulfill that duty, then courts must use electronic recording. ([*Family Violence Appellate Project, et al. vs. Superior Courts of California, et al. \(Case No. S288176\).*](#))

When does this case apply?

- If a party cannot afford a private court reporter, and the court cannot provide a court reporter, the court must use another method to make a verbatim (word-for-word) record, like an electronic recording of the court proceeding
- This case applies to all “proceedings” that take place at court – not just trials or hearings
- A free verbatim record must be granted “upon request” which means if you ask for it you should get it
- The court rejected the idea that a formal fee waiver application should be required before granting the request for a free verbatim record
 - Courts are supposed to be “flexible” when deciding whether someone can afford to pay for a private court reporter
- Courts should not be continuing matters to wait for a free court reporter, instead, if a court has electronic recording, the court must use it
 - The duty to provide a verbatim record isn’t limited to cases involving fundamental rights or liberty interests – it applies to all cases

Who does this case apply to?

- The Supreme Court said the number of people who qualify for a free verbatim record will be large, because the cost for a private court reporter is so high
- This case only applies to making a record, with a court provided court reporter or electronic recording. It does not discuss getting a transcript or a copy of the electronic recording
 - The Transcript Reimbursement Fund administered by the Court Reporter’s Board will not pay for transcripts from electronic recordings ([Bus. & Prof. Code](#) §8030 et seq.)

What should I know about electronic recordings?

- An electronic recording is a permissible record in an appeal in a limited civil case, such as an eviction, if local court rules allow ([Cal. Rules of Court](#), Rule 8.835(c)) or in appellate courts if the parties agree and the court approves ([Cal. Rules of Court](#), Rule 2.952(j)(1)). In other cases, a transcript from the electronic recording is usually required. ([Gov. Code](#) §69957(a); [Cal. Rules of Court](#), Rule 8.835.)
- Electronic recording is already in use throughout California
 - The recording equipment must meet specific quality standards and recordings must be stored securely ([Cal. Rules of Court](#), Rules 2.952, 2.954, 2.400 et seq.)
 - A transcript from an electronic recording must be verified under penalty of perjury. ([Cal. Rules of Court](#), Rule 2.952(g)(1).)

What comes next?

- The legal services community needs to work with local courts, the Judicial Council, and others to ensure this decision is fully implemented, with the least barriers possible for litigants to receive a free verbatim record including an electronic recording
 - We need to ensure “requests” for a free verbatim record are easy to make and that litigants understand why they should want a verbatim record
 - We need to ensure litigants can easily and quickly access a free copy of their electronic recording
 - We need to identify a source for funding free transcripts from electronic recordings

PRACTICE TIPS

Practice Tip 1

If you are submitting a fee-waiver ([FW-001](#)) and request for court reporter ([FW-020](#)):

- considering writing in “or an electronic recording” under item 1.b. on your FW-020
- consider adding “and all related proceedings” under item 2 on your FW-020

Practice Tip 2

If a fee waiver is not required for your case, consider making an oral request under *FVAP v. Superior Courts* for a free verbatim record at any proceeding, hearing, or trial, whether with a court reporter or electronic recording