



[Fam. Violence App. Project v. Super. Ct. of Contra Costa County \(Aug. 10, 2026, S288176\) Cal.5th \[346 Cal.Rptr.3d 841\]](#)

If you work at a legal aid or nonprofit and intend to advocate with your local courts regarding implementation of the FVAP decision, please use these talking points and FAQs to ensure uniform compliance across the State and avoid any potential barriers to enforcing these rights.

What should we be advocating for?

The FVAP Petitioners and counsel believe that, reading the opinion in its entirety, the following is required to comply with the Supreme Court's ruling. The Court specifically rooted its ruling in the duty to ensure "meaningful access to the judicial system" and we believe the following is the only genuine way to achieve that. The Court also specifically noted that its prior attempts to guarantee these rights, such as in *Jameson v. Desta*, "ha[ve] proven illusory" because on-the-ground realities made them so. Without explaining people's rights fully to them or by creating barriers to exercising those rights, the same will occur when implementing FVAP. With your partnership, we hope to avoid that here.

What NOT to suggest (or accept as appropriate if suggested by your court):

- Mandatory forms of any kind;
- A requirement for advance requests for verbatim record or electronic recording;
- Requiring litigants to identify specific proceedings or dates to which the request applies;
- Onerous ability-to-pay requirements;
- Requiring a litigant to affirmatively announce that they desire a record without any inquiry from the court, including a clear explanation of the consequences of not making a request;
- Continuing a proceeding until a court reporter may be available; and
- Any other burdensome processes that would make it difficult for a limited English proficient or pro per litigant to navigate on their own or to exercise this right without delay or undue burden.

What you SHOULD request:

- **Limited cases:** always turn on the electronic recording equipment when a court reporter is not available because Govt. Code section 69957 permits electronic recording in these circumstances and the Court has a duty to create a verbatim record.
- **Unlimited cases when a court reporter is not available:**
 - (1) Judicial Inquiry. Judicial officers should inquire whether litigants want a recording, with a clear warning that a failure to make that request could have negative consequences for the litigant, including on appeal, together with informing litigants that the court will make a verbatim recording electronically if a litigant is unable to afford the cost of a private court reporter. This could be done individually at the outset of each hearing, but for the sake of efficiency for calendars of cases in which the issue is likely to arise multiple

times, we suggest that the judicial officer make an announcement at the start of the calendar informing litigants (through interpreters where needed) of the following:

- There is no court reporter available to create a verbatim record.
- A verbatim record is a word-for-word record of what everyone says in the proceedings.
- Without a verbatim record, you may not be able to fully exercise your rights, including your right to appeal a ruling you think is wrong.
- If you want to preserve these rights but cannot afford to pay for your own court reporter – which costs a minimum of \$1500 – you are entitled to have the proceedings recorded for free.
- If this applies to you, my staff will turn on the electronic recording equipment. You will not be charged any fee and there is no penalty if you choose to have your proceeding recorded.
- Does anyone have any questions?
- Is anyone here able to afford the cost of a private court reporter? Please raise your hand.
- For those of you who cannot afford a private court reporter, does anyone NOT want me to create a verbatim record for your case? If you do not raise your hand, I will interpret that as a request that a verbatim recording be made.
 - Exclude only those cases where both sides do NOT want a verbatim recording or both sides can afford a private court reporter.

(2) Accessible information and assistance at the Self-Help Center:

- Provide clear and detailed information regarding what a verbatim recording is, what it is used for, what the consequences are without one, that there may not be a court reporter available for their hearing, and, if not, they are entitled to have the proceedings electronically recorded if they cannot afford to pay the minimum \$1,500 charge for a private court reporter.
- Ensure all written information is in plain English and is translated into common languages.
- Ensure all information is verbally provided to litigants with limited or no literacy.
- Provide assistance in making a written request—for example, in an Unlawful Detainer Answer or a Petition for Temporary Restraining Order, assist the litigant with writing the words “I request a verbatim recording be created of all my proceedings in this case and I cannot afford to pay for a private court reporter,” citing to the FVAP case for legal support.

(3) Signage throughout the courthouse:

- Post signage in the Self-Help Center, filing clerk’s office, and in appropriate courtrooms that explains (1) there may be no court reporter at your hearing; (2) if you cannot afford a private court reporter, you are entitled to free recording; and (3) how to let the court know you qualify.
- Ensure all signage is in plain English, is translated into all applicable languages, and is in large enough font to be accessible to visually impaired litigants.

Please use the following FAQ to assist you in your advocacy, and feel free to reach out to Petitioners at info@fvaplaw.org or info@baylegal.org if you need any further assistance.

FREQUENTLY ASKED QUESTIONS

❖ What is the central holding of the case?

California courts have a mandatory duty to create a verbatim (word-for-word) record of all civil court proceedings, at least for anyone who requests it and is unable to pay for a private court reporter. Creating a record means either having a court reporter take verbatim notes or electronically recording the proceeding.¹

❖ Does this duty apply only to unlimited civil cases like family and probate?

No. The duty to create a verbatim record of civil proceedings for low-income litigants applies no matter what type of civil case it is. The only difference is that the ability to pay threshold only applies in family law, probate, and other unlimited civil cases. In limited civil cases like unlawful detainers and small claims, the court should electronically record *any time* a court reporter is not available.²

❖ How do courts determine “ability to pay” in unlimited cases?

The right to the creation of a free verbatim recording applies broadly to “all litigants who cannot afford to hire a private court reporter”³

No formal fee waiver application is required, courts must be “flexible” in determining inability to pay, and the number of litigants who will qualify for electronic recording will be much larger than the number of people who would otherwise qualify for a fee waiver.⁴

❖ How is a “request” made?

The Supreme Court did not expressly state how a request should be made, but it rejected the notion that a formal fee waiver application is required. No mandatory form should be required.⁵

The primary duty is to ensure “meaningful access in all cases to an official verbatim record of proceedings.”⁶ This necessarily means no additional steps or barriers.

An oral request at the hearing or a confirmation at the hearing that the litigant desires a record should be sufficient.

❖ What does it mean for a court reporter to be “unavailable”?

“Unavailable” means there is no court reporter in the courtroom ready to create a verbatim record.⁷

¹ Opn. 19 (“Where a [unlimited civil] litigant requests the creation of an official verbatim record and establishes an inability to pay for a private court reporter, a superior court has a duty to provide some way for the litigant to obtain an official verbatim record, including by electronic recording if an official reporter is unavailable. It has no discretion to decline to do so.”).

² Govt. Code § 69957(a) (permitting use of electronic recording in limited civil cases where a court reporter is unavailable); Opn. 19.

³ Opn. FN. 3 (emphasis added).

⁴ *Id.* (“Courts should be flexible in assessing a litigant’s ability to pay. We . . . reject[] the contention that a formal in forma pauperis application is required before relief can be granted.”) (internal citations omitted); *id.* (“Because the costs involved in hiring a private court reporter can be significant, the population of litigants who cannot afford to hire a private court reporter, but who can afford to pay routine court fees and costs, may be large.”).

⁵ *Id.*

⁶ Opn. 34 (emphasis added).

⁷ Opn. 33 (“We also need not exhaustively define unavailability in this context, as amici curiae urge this court to do. The relevant inquiry is whether an indigent litigant would be deprived ‘of the equal access to justice that in forma pauperis status was intended to afford’ if electronic recording were not used.”).

❖ **Does this only apply to trials or evidentiary hearings?**

No. This case applies to all civil “proceedings,” including case management conferences and other proceedings – not just trials or hearings.⁸

❖ **My court has a General Order – is that good enough?**

Mostly likely no. Unless the General Order requires electronic recording to be available in every type of proceeding in every type of civil case where a court reporter is unavailable (and most pre-existing General Orders did not), it is insufficient.⁹

❖ **Is a continuance still an option?**

If one party desires a continuance, the normal “good cause” continuance standard applies.¹⁰ However, courts may not continue proceedings because a court reporter is unavailable; they should instead use electronic recording.¹¹

❖ **Does this ruling entitle me to a transcript or a copy of the electronic recording?**

No, this decision does not entitle you to a transcript of the proceedings and does not expressly entitle you to a copy of the electronic recording itself. But we believe that reasonable access to a copy of the electronic recording is necessary to make a court’s implementation of the right “meaningful.” Each of the 58 superior courts has its own policies around this and should be urged to make electronic recordings available to the parties for free or for only a nominal fee (subject to any fee waiver).

The Transcript Reimbursement Fund can provide reimbursement for transcripts prepared by a California licensed, certified shorthand reporter, but not those prepared by certified transcriptionists employed by electronic recording companies.¹² However, electronic recordings alone, even without transcripts, can be used for many purposes, including to assist in preparing proposed findings and orders, to resolve disputes about such documents, to replay testimony and prior oral rulings for the benefit of the court, and even to prepare settled statements for use on appeal where an electronic recording cannot itself be used for the appeal.

In addition to implementing the ruling in this case, Petitioners and a coalition of other stakeholders are already working on (1) ensuring all litigants can remotely and easily order a copy of the electronic recording, and (2) ensuring copies are low-cost, and free for fee waiver eligible litigants.

[Please take a few moments to respond to our survey about your organization’s experiences with this issue.](#)

⁸ Opn. 35. Cal. R. Ct. Rule 3.672(c)(5)) defines “proceeding” as any “conference, hearing, or any other matter before the court, including an evidentiary hearing or trial”.)

⁹ Opn. 34 (“[T]he general orders are limited to proceedings involving fundamental rights or liberty interests ... [they] therefore fall short of what *Jameson* and the in forma pauperis doctrine require. ... [*Jameson* and the in forma pauperis doctrine] reflect the broader policy of ensuring meaningful access to the judicial system as a whole.”).

¹⁰ See Cal. R. Ct. Rule 3.1332(c).

¹¹ Opn. 2 (noting that the guarantee for indigent litigants of access to an official verbatim record under *Jameson* “has proven illusory” where a litigant is faced with accepting a continuance or going forward without a record).

¹² Bus. & Prof. Code § 8030, et seq.