

Memorandum

To: Appellate Rules Subcommittee
From: Bill Dorsaneo
Date: October 24, 2016
Re: Filing Documents Under Seal

While reviewing the draft of proposed Rule 9.2(d), it has become increasingly clear to me that the procedures followed in the trial courts probably should be sequenced and coordinated with the procedures following in the appellate courts. As a result, I have revised the draft of proposed Civil Procedure Rule 193.4. Subdivisions (b) and (c) of the draft are designed to provide more detailed guidance to counsel and to trial judges about how documents filed “under seal” or “presented to the court in camera” are presented or produced to the court and how the court should handle them thereafter in anticipation of an appeal or mandamus review of the trial court’s order concerning disclosure of the documents.

The revised draft of proposed Rule 9.2(d) also contains paragraphs concerning the procedures for transmission of documents that were filed under seal or presented for in-camera inspection in the trial court under Rule 193.4 (*see* proposed Appellate Rule 9.2(d)(3) and 9.2(d)(6)). I have also prepared a draft revision of those portions of Civil Procedure Rule 76a to match the current draft of proposed Appellate Rule 9.2(d).

I am also sending the following documents to the members of the Appellate Rules Subcommittee, the trial judges who are members of the Advisory Committee and some other members of the Advisory Committee who have been providing guidance and assistance to us.

1. The draft of Proposed Appellate Rule 9.2(d) dated 10/21/2016.
2. The draft of Proposed Civil Procedure Rule 193.4 dated 10/21/2016.

3. Draft of proposed revisions to Civil Procedure Rule 76a dated 10/24/2016.
4. A memorandum entitled Filing “Documents Under Seal in Trial and Appellate Courts” dated 10/21/2016.
5. A memorandum entitled “Addressing Bill Dorsaneo’s Questions Regarding Rule 9.2 as Redrafted as of September 21, 2016.” From Judge Stephen Yelenosky to the Appellate Rules Subcommittee and Trial Judges dated October 4, 2016.

I plan to schedule a conference call before our first meeting in 2017 to discuss Proposed Civil Procedure Rule 9.2(d) dated 10/26/2016 and Proposed Civil Procedure Rule 193.4 sometime before the first meeting.

Happy Holidays!!