


ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: Paul J. Beard, II FIRM NAME: FisherBroyles LLP STREET ADDRESS: 453 S. Spring Street, Suite 400-1458 CITY: Los Angeles TELEPHONE NO.: 818-216-3988 E-MAIL ADDRESS: paul.beard@fisherbroyles.com ATTORNEY FOR (name): Plaintiff Mendocino Railway	STATE BAR NUMBER: 210563 STATE: CA ZIP CODE: 90013 FAX NO.:	FOR COURT USE ONLY ELECTRONICALLY FILED 9/13/2023 12:14 PM Superior Court of California County of Mendocino By: Dorothy Jess  Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO STREET ADDRESS: 100 North First Street MAILING ADDRESS: CITY AND ZIP CODE: Ukiah, CA 95482 BRANCH NAME:		
PLAINTIFF/PETITIONER: Mendocino Railway DEFENDANT/RESPONDENT: John Meyer OTHER PARENT/PARTY:		
APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE)		SUPERIOR COURT CASE NUMBER: SCUJ-CVED-2020-74939
RE: Appeal filed on (date): 7/11/2023		COURT OF APPEAL CASE NUMBER (if known): A168497
Notice: Please read <i>Information on Appeal Procedures for Unlimited Civil Cases</i> (form APP-001-INFO) before completing this form. This form must be filed in the superior court, not in the Court of Appeal.		

1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

I choose to use the following method of providing the Court of Appeal with a record of the documents filed in the superior court (check a, b, c, or d, and fill in any required information):

- a. A clerk's transcript under rule 8.122. (You must check (1) or (2) and fill out the clerk's transcript section (item 4) on pages 2 and 3 of this form.)
- (1) I will pay the superior court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.
- (2) I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (a) or (b)):
- (a) An order granting a waiver of court fees and costs under rules 3.50–3.58; or
- (b) An application for a waiver of court fees and costs under rules 3.50–3.58. (Use *Request to Waive Court Fees* (form FW-001) to prepare and file this application.)
- b. An appendix under rule 8.124.
- c. The original superior court file under rule 8.128. (NOTE: *Local rules in the Court of Appeal, First, Third, and Fourth Appellate Districts, permit parties to stipulate (agree) to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.*)
- d. An agreed statement under rule 8.134. (You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)

2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

I choose to proceed (you must check a or b below):

- a. WITHOUT a record of the oral proceedings (what was said at the hearing or trial) in the superior court. I understand that without a record of the oral proceedings in the superior court, the Court of Appeal will not be able to consider what was said during those proceedings in deciding whether an error was made in the superior court proceedings.

CASE NAME: Mendocino Railway v. John Meyer	SUPERIOR COURT CASE NUMBER: SCUK-CVED-2020-74939
--	---

2. b. WITH the following record of the oral proceedings in the superior court (*you must check (1), (2), or (3) below*):
- (1) A reporter's transcript under rule 8.130. (*You must fill out the reporter's transcript section (item 5) on pages 3 and 4 of this form.*) I have (*check all that apply*):
- (a) Deposited with the superior court clerk the approximate cost of preparing the transcript by including the deposit with this notice as provided in rule 8.130(b)(1).
- (b) Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).
- (c) Attached the reporter's written waiver of a deposit under rule 8.130(b)(3)(A) for (*check either (i) or (ii)*):
- (i) all of the designated proceedings.
- (ii) part of the designated proceedings.
- (d) Attached a certified transcript under rule 8.130(b)(3)(C).
- (2) An agreed statement. (*Check and complete either (a) or (b) below.*)
- (a) I have attached an agreed statement to this notice.
- (b) All the parties have stipulated (agreed) in writing to try to agree on a statement. (*You must attach a copy of this stipulation to this notice.*) I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.
- (3) A settled statement under rule 8.137. (*You must check (a), (b), or (c) below, and fill out the settled statement section (item 6) on page 4.*)
- (a) The oral proceedings in the superior court were not reported by a court reporter.
- (b) The oral proceedings in the superior court were reported by a court reporter, but I have an order waiving fees and costs.
- (c) I am asking to use a settled statement for reasons other than those listed in (a) or (b). (*You must serve and file the motion required under rule 8.137(b) at the same time that you file this form. You may use form APP-025 to prepare the motion.*)

3. RECORD OF AN ADMINISTRATIVE PROCEEDING TO BE TRANSMITTED TO THE COURT OF APPEAL

- I request that the clerk transmit to the Court of Appeal under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the superior court (*give the title and date or dates of the administrative proceeding*):

Title of Administrative Proceeding	Date or Dates
------------------------------------	---------------

4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

(*You must complete this section if you checked item 1a above indicating that you choose to use a clerk's transcript as the record of the documents filed in the superior court.*)

- a. **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed, or if that is not available, the date the document was signed.

Document Title and Description	Date of Filing
(1) Notice of appeal	7/11/2023
(2) Notice designating record on appeal (<i>this document</i>)	9/13/2023
(3) Judgment or order appealed from	6/2/2023
(4) Notice of entry of judgment (<i>if any</i>)	6/5/2023
(5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (<i>if any</i>)	6/5/2023
(6) Ruling on one or more of the items listed in (5)	6/30/2023
(7) Register of actions or docket (<i>if any</i>)	

CASE NAME: Mendocino Railway v. John Meyer

SUPERIOR COURT CASE NUMBER:
SCUK-CVED-2020-74939**4. NOTICE DESIGNATING CLERK'S TRANSCRIPT**

- b. **Additional documents.** (If you want any documents from the superior court proceeding in addition to the items listed in 4a. above to be included in the clerk's transcript, you must identify those documents here.)

- I request that the clerk include in the transcript the following documents that were filed in the superior court proceeding. (You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

	Document Title and Description	Date of Filing
(8)	Complaint	12/22/2020
(9)	Answer	2/18/2021
(10)	First Amended Answer	5/27/2022
(11)	Defendant John Meyer's Trial Brief	8/19/2022

- See additional pages. (Check here if you need more space to list additional documents. List these documents on a separate page or pages labeled "Attachment 4b," and start with number (12).)

c. **Exhibits to be included in clerk's transcript**

- I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court. (For each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence. If the superior court has returned a designated exhibit to a party, the party in possession of the exhibit must deliver it to the superior court clerk within 10 days after service of this notice designating the record. (Rule 8.122(a)(3).))

Exhibit Number	Description	Admitted (Yes/No)
(1)	Include all exhibits - see Attachment 4b, Court's Exhibit Log	
(2)		
(3)		
(4)		

- See additional pages. (Check here if you need more space to list additional exhibits. List these exhibits on a separate page or pages labeled "Attachment 4c," and start with number (5).)

5. NOTICE DESIGNATING REPORTER'S TRANSCRIPT

You must complete both a and b in this section if you checked item 2b(1) above indicating that you choose to use a reporter's transcript as the record of the oral proceedings in the superior court. Please remember that you must pay for the cost of preparing the reporter's transcript.

a. **Format of the reporter's transcript**

I request that the reporters provide (check one):

- (1) My copy of the reporter's transcript in electronic format.
- (2) My copy of the reporter's transcript in paper format.
- (3) My copy of the reporter's transcript in electronic format and a second copy in paper format.

(Code Civ. Proc., § 271.)

CASE NAME: Mendocino Railway v. John Meyer	SUPERIOR COURT CASE NUMBER: SCUK-CVED-2020-74939
--	---

5. b. **Proceedings**

I request that the following proceedings in the superior court be included in the reporter's transcript. *(You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)*

Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1) 8/23/2022	E	Full	Trial-Day 1	Trisha R. Hathaway-Link	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(2) 8/24/2022	E	Full	Trial-Day 2	Carol J. Deuchar	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(3) 8/25/2022	E	Full	Trial-Day 3	Carol J. Deuchar	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
(4) 8/29/2022	E	Partial	Trial-Day 4	recorded/transcribed	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

See additional pages. *(Check here if you need more space to list additional proceedings. List these exhibits on a separate page or pages labeled "Attachment 5b," and start with number (5).)*

6. **NOTICE DESIGNATING PROCEEDINGS TO BE INCLUDED IN SETTLED STATEMENT**

(You must complete this section if you checked item 2b(3) above indicating you choose to use a settled statement.) I request that the following proceedings in the superior court be included in the settled statement. *(You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings (for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions), the name of the court reporter who recorded the proceedings (if known), and whether a certified transcript of the designated proceeding was previously prepared.)*

Date	Department	Full/Partial Day	Description	Reporter's Name	Prev. prepared?
(1)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(2)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(3)					<input type="checkbox"/> Yes <input type="checkbox"/> No
(4)					<input type="checkbox"/> Yes <input type="checkbox"/> No

See additional pages. *(Check here if you need more space to list additional proceedings. List these proceedings on a separate page or pages labeled "Attachment 6," and start with number (5).)*

7. a. The proceedings designated in 5b or 6 include do not include all of the testimony in the superior court.

b. If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal. *(Rule 8.130(a)(2) and rule 8.137(d)(1) provide that your appeal will be limited to these points unless the Court of Appeal permits otherwise.)* Points are set forth: Below On a separate page labeled "Attachment 7."

Date: 09/13/2023

Paul Beard

 (TYPE OR PRINT NAME)

/s Paul Beard II

▶ _____
 (SIGNATURE OF APPELLANT OR ATTORNEY)

ATTACHMENT 4b

(12)	Plaintiff's Trial Brief	8/19/2022
(13)	Plaintiff's Request for Judicial Notice (<u>in five parts</u>)	8/19/2022
(14)	Plaintiff's Further Request for Judicial Notice	8/22/2022
(15)	Trial Minutes	8/23/2022
(16)	Defendant John Meyer's Request for Judicial Notice	8/19/2022
(17)	Defendant John Meyer's Further Request for Judicial Notice	8/23/2022
(18)	Defendant John Meyer's Notice of Motion to Reopen Case	9/12/2022
(19)	Plaintiff's Opposition to Defendant's Motion to Reopen Case	9/21/2022
(20)	Defendant John Meyer's Reply Re: Motion to Reopen Case	9/27/2022
(21)	Defendant's Supplemental Declaration of Stephen Johnson ISO Reply Re: Motion to Reopen Case	9/27/2022
(22)	Ruling on Defendant's Motion to Reopen Case	10/7/2022
(23)	Defendant John Meyer's Closing Brief	1/23/2023
(24)	Plaintiff's Closing Brief	1/23/2023
(25)	Defendant John Meyer's Closing Reply Brief	2/7/2023
(26)	Plaintiff's Reply to Defendant Meyer Closing Brief	2/8/2023
(27)	Decision After Trial	4/19/2023
(28)	Plaintiff's Request for Statement of Decision Or, In the Alternative, Plaintiff's Objections to Proposed Statement of Decision	4/27/2023
(29)	Defendant John Meyer's Reply to Plaintiff's Request For Statement of Decision	5/1/2023

ATTACHMENT 4b (page 2)

(30)	Minute Order Re Objections and Request for Statement of Decision	5/16/2023
(31)	Judgment After Trial by Court	6/2/2023
(32)	Plaintiff's Motion to Reopen Bench Trial	6/5/2023
(33)	Defendant's Notice of Entry of Judgment	6/5/2023
(34)	Plaintiff's Objection to Defendant's Proposed Judgment	6/5/2023
(35)	Plaintiff's Motion to Vacate and Set Aside Premature Judgment	6/5/2023
(36)	Defendant's Memorandum of Points and Authorities in Opposition to Plaintiff's Motion to Vacate	6/15/2023
(37)	Defendant's Memorandum of Points and Authorities in Opposition to Plaintiff's Motion to Reopen Bench Trial	6/15/2023
(38)	Defendant's Memorandum of Points and Authorities in Opposition to Plaintiff's Objection to Judgment	6/15/2023
(39)	Plaintiff's Reply ISO Objection to Judgment	6/23/2023
(40)	Plaintiff's Reply ISO Motion to Set Aside/Vacate Judgment	6/23/2023
(41)	Plaintiff's Reply ISO Motion to Reopen Bench Trial	6/23/2023
(42)	Minutes re: Plaintiff's Motion to Reopen Bench	6/30/2023
(43)	Minutes re: Plaintiff's Motion to Set Aside Judgment	6/30/2023
(44)	Order re: Plaintiff's Motion to Reopen Bench Trial	7/11/2023
(45)	Order re: Plaintiff's Motion to Set Aside Judgment	7/11/2023
(46)	Notice of Entry of Order (Reopen Trial)	7/11/2023
(47)	Notice of Entry of Order (Vacate Judgment)	7/11/2023

ATTACHMENT 4b (page 3)

(48) Amended Judgment After Trial

8/30/2023

ATTACHMENT 5b

	<u>Date</u>	<u>Full/Partial</u>	<u>Description</u>	<u>Reporter's Name</u>	<u>Prev. prep?</u>
(5)	11/3/22	Partial	Trial-Day 5	Christine Jones	No
(6)	11/10/22	Partial	Trial-Day 6	Trisha R. Hathaway- Link	No
(7)	6/30/23	Partial	Motion Set Aside Judgment	Trisha R. Hathaway- Link	No

***All reporters have filed written waivers of deposits (attached hereto). Appellant will pay reporters directly.**

**ADAIR, POTSWALD
& HENNESSEY**

Certified Court Reporters

P.O. Box 761 - Ukiah, CA 95482
(707) 462-8420 or (707) 263-5015

(800) 747-DEPO

Ukiah
212 West Perkins St.

September 1, 2023

To: Mendocino County Appeals Clerk

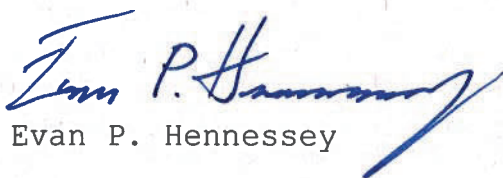
Re: Mendocino Railway vs. Meyer
No. SCUk-CVED-20-74939

This office reported proceedings in the above matter on 8/23/22, 11/10/22, and 6/30/23. The transcripts from those dates have already been prepared.

No deposit is required by us for appeal transcripts on behalf of either of the parties. Any charges will be billed by our office directly to the attorneys involved.

Please call me if you have any questions at 462-8420.

Thank you.


Evan P. Hennessey

cc: Glenn L. Block, Esq.
Stephen F. Johnson, Esq.

COURT REPORTER'S WAIVER OF DEPOSIT FOR TRANSCRIPT ON APPEAL

Superior Court of California, County of Mendocino

Plaintiff/Appellant: Mendocino Railway

Defendant/Respondent: John Meyer

Trial Court Case Number: SCUJ-CVED-2020-74939

Court of Appeal Case Number: A168497

TO THE CLERK OF COURT:

You are hereby notified that I, CAROL J. DEUCHAR, an Official Court Reporter / Reporter Pro Tempore in the above-entitled action, hereby waive the deposit for the reporter's transcript on appeal for the following party/counsel: Mendocino Railway / Paul Beard, Esq.

The waiver is for the following dates of reporting: 8/24/22, 8/25/22.

Executed on September 12, 2023.

CSR#: 13877

Official Reporter Name: CAROL JEANNETTE DEUCHAR

Signature: Carol J. Deuchar

Address: _____

Telephone: _____

Email: cd_csr@yahoo.com

COURT REPORTER'S WAIVER OF DEPOSIT FOR TRANSCRIPT ON APPEAL

Superior Court of California, County of Mendocino

Plaintiff/Appellant: Mendocino Railway

Defendant/Respondent: John Meyer

Trial Court Case Number: SCUJ-CVED-2020-74939

Court of Appeal Case Number: A168497

TO THE CLERK OF COURT:

You are hereby notified that I, Christine Jones, an Official Court Reporter / Reporter Pro Tempore in the above-entitled action, hereby waive the deposit for the reporter's transcript on appeal for the following party/counsel: Mendocino Railway / Paul Beard, Esq.

The waiver is for the following dates of reporting: 11/3/22.

Executed on September 12, 2023.

CSR#: 12920

Official Reporter Name: Christine Jones

Signature: Christine Jones

Address: 100 North State Street, Ukiah, CA 95482

Telephone: 707-463-4483

Email: christine.jones@mendocino.courts.ca.gov