STATEMENT OF DECISIONS AND OBJECTIONS SEMINAR

SAN LUIS OBISPO FAMILY LAW BAR

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1. Course Materials 16 pages with key CCP and Rules of Court attached
2. Statement of Decision and Judgment Timeline (ACFLS-Spring 2012)
3. Example of Opinion Objections Being Made, Not Addressed and Reversal Follows
4. Example of Opinion Where Objections Not Being Made and Rule of Implied Findings Applied on Appeal and Judgment Affirmed
5. Motion for a Judgment Different Than Announced
6. Sample Request for Statement of Decision (2)
7. Sample Objections to Proposed Statement of Decision
8. Sample Response to Objections
9. Article: 7 Ways to Leave Your Lover or 7 Ways how to Forfeit Your Appeal in the Trial Court. (ACFLS-Summer 2023)

STATEMENT OF DECISIONS

HISTORY AND REASONS FOR STATEMENT OF DECISION

The history, purpose and importance of a statement of decision are clear. Section 632 originally required written findings of fact and conclusions of law. (See Historical Note, 16A West's Ann.Code Civ.Proc. (1976 ed.) Sec. 632, p. 28.) Findings were considered fundamental to the decision-making process. (7 Witkin, Cal.Procedure (3d ed. 1985) Trial, Sec. 368, p. 373.) The right to findings is a substantial right, as inviolate, under the statute, as that of trial by jury under the constitution. The code provision requiring written findings of fact is for the benefit of the court and the parties. To the court it gives an opportunity to place upon the record, in definite written form, its view of the facts and the law of the case, and to make the case easily reviewable on appeal by exhibiting the exact grounds upon which judgment rests. To the parties, it furnishes the means, in many instances, of having their cause reviewed without great expense. It also furnishes to the losing party a basis of his motion for a new trial; he is entitled to know the precise facts found by the court before proceeding with his motion for new trial, in order that he may be able to point out with precision the errors of the court in matters either of fact or law. (*Frascona v. Los Angeles Ry. Corp.* (1920) 48 Cal.App. 135, 137-138, 191 P. 968, emphasis added; see also *R.E. Folcka Construction, Inc. v. Medallion Home Loan Co.* (1987) 191 Cal.App.3d 50, 532.)

Findings and conclusions of law were replaced in 1981 with a document called "Statement of Decision." (Stats. 1981, Ch.900.) One court has stated, "... the labels may have changed, but the game is the same." Decisions post 1981 may cite earlier cases. This is particularly true in dissolution matters because of the code's requirement that "findings" be made. (E.g. Family Code sect. 4801.)

There are very severe implications if trial counsel fails to make a timely request for a statement of decision.

There are two areas where there will be subsequent impact. First, it is extremely difficult to prevail on appeal if there is no statement of decision. Second, in family law matters, findings may be essential for future motions to modify support.

A. Appellate Review:

The appellate court may review the statement to determine whether the judge's decision is supported by the evidence and the law. The failure to timely request a statement of decision could be determinative of your appeal. Your appeal could be lost because of a failure to perform an act during the trial. The act was not putting on a witness, not cross examination but merely because you failed to request a statement of decision.

B. Subsequent Modifications of Judgments

A statement of decision serves as a record of the circumstances existing at the time of the original award against which a later court may compare present circumstances to evaluate whether there has been a changed circumstances. The absence of a statement of decision on the parties' circumstances was determinative *in In Re Marriage of Laube* (1988) 204 Cal.App.3d 1222.)

STATUTORY AUTHORITY

Code of Civil Procedure section 632 provides:

> "In superior, municipal, and justice courts, upon the trial of a question of fact by the court, written findings of fact and conclusions of law shall not be required. The court shall issue a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues appearing at trial upon the request of any party appearing at the trial."

Cal. Rules of Court, Rule 3.1590 (see Rule 3.1590 attached)

WHEN ARE STATEMENT OF DECISIONS REQUIRED?

The general rule is that a trial court need not issue a statement of decision after a ruling on a motion. *In re Marriage of Feldman* (2007) 153 Cal.App.4th 1470, 1497,see also *Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1294) The source is CCP 632 which references "trial." (see attachment)

But there are exceptions but you must racquet.

Family Code 2127 "As to actions or motions filed under this chapter [motions for relief from judgment] , if a timely request is made, the court shall render a statement of decision where the court has resolved controverted factual evidence."

Family Code 3654. "At the request of either party, an order modifying, terminating, or setting aside a support order shall include a statement of decision."

Custody Cases. Although custody is a special proceeding, statutory and decisional law nevertheless require findings of fact when requested by a party. (*In re Rose G.* (1976) 57 Cal.App.3d 406, 416-418,) The substitution of a "statement of decision" for "findings of fact" under the 1977 amendment of Code of Civil Procedure section 632 works no significant change; the court still must address the essential findings required by Civil Code section 4600 if requested by a party (*Michael U. v. Jamie B.* (1985) 39 Cal.3d 787, 792.)

Selected Cases which discuss findings: In re Marriage of Davis (1983) 141 Cal.App.3d 71; In re Marriage of Havens (1981) 125 Cal.App.3d 1012, See, In re Marriage of Davis (183) 141 Cal.App.3d 71, [Rule 3.1590 procedure should be followed where 4320 findings are requested].) Michael U. v. Jamie B. (1985) 39 Cal.3d 787.)

Statements Of Decision Are Not Required When Legal Issues Only Are Litigated But Are Required When There Are Factual Disputes And Or Mixed Questions Of Law And Fact.

"Where there are no factual issues (interpretation of document with no extrinsic evidence introduced), and only a

pure question of law is presented, the court need not issue a statement of decision. If there is no factual dispute, there is nothing to inform the appellate court about except the law and on questions of law the reviewing court must decipher the law for itself. Thus, when the case is submitted on what amounts to a stipulation of facts without oral testimony and there are no conflicting inferences to be drawn from the stipulated facts, "the issue becomes a question of law which can be resolved by an appellate court as well as a trial court." (*Earp v. Earp* (1991) 231 Cal. App.3d 1008; *Enterprise Ins. Co. v. Mulleague* (1987) 196 Cal.App.3d 528, 539-540.)

WHAT HAPPENS IF THE JUDGE DOES NOT PROVIDE A STATEMENT DECISION AFTER REQUEST?

Old Rule: When a party requests a statement of decision, it must be prepared, and the failure to do used to reversible error. (Miramar Hotel Corp. v. Frank B. Hall & Co. (1985) 163 Cal.App.3d 1126, 1129, Marriage of Benjamin S. (1985) 171 Cal.App.3d 738, reversal of custody award after judgment for failure to issue statement of decision.

New Rule. A trial court's error in failing to issue a requested statement of decision is not reversible per se but rather, pursuant to both statute governing requests for statements of decision and constitutional mandate precluding reversal based on procedural error absent miscarriage of justice, is subject to harmless error review. *(F.P. v. Monier* (2017)3 Cal.5th 1099

When is a Timely Request for a Statement of Decision made?

Under 8 hour of Trial.

Motion or any matter less than one day request must be made before matter is submitted. One day is defined as "one calendar day or less than 8 hours over more than one day." (Code of Civil Procedure | 632.) Cal. Rules of Court, Rule 825, defines "submitted," as the earlier of the date the court orders the matter submitted or the date the final paper is required to be filed or the date argument is heard whichever is later. See, *Social Service Union v. County of Monterey* (1989) 208 Cal.App.3d 676, when the court interrupts closing argument and rendered a decision.)Note

also, that Cal. Rules of Court, Rule 3.1590 (h) states that the Rule does not apply in matters completed within one day. Essentially, subsection (h) waives the time schedule set forth in the rule, which is applicable to longer cases (10 days to request a statement, 15 days to submit proposals, 15 days to object to proposals and 10 additional days for the court to issue the statement of decision).

In practice, in the shorter cases, the judge issues the statement of decision orally from the bench at the conclusion of the hearing. This is permissible under Code of Civil Procedure section 632. Better practice would be to object if the statement of decision is not clear. If you do not have time or fail to have the opportunity to properly analyze the statement of decision then file as quickly as possible your objections and/or request a hearing to hear your objections.

Long Cause matters and matters in excess of one day the statement must be requested within **10 days** from the tentative decision. (Code of Civil Procedure § 632) The procedure is set forth in rule 3.1590. For purposes of section 632, the ten days commence at the time the clerk mails the copy of the minute order or decision not when the Judge gives her/his ruling to the clerk.

Practice Tips:

1 The request does not have to be in writing. An oral request is sufficient. However it must be made prior to the time the case is submitted. (*In re Marriage of Ananeh-Firempong* (1990) 219 Cal.App.3d 272.)
2. However, to make sure you do not forget before the case is submitted, whenever you prepare a trial brief, after the issues to be litigated are set forth, add a new section **"Request for Statement of Decision"** and request a statement for all issues that are listed in the preceding section. The Request must specify "controverted issues." (This will work best in short cause trials. If you have a longer case, a more specific request should be made within 10 days of the issuance of the tentative decision.

3. If you have failed to timely request a statement of decision (before case submitted, within 10 days after long cause), consider a request for findings, there are no time limitations set forth for findings. It may or may not save the day.

Who Drafts The Statement Of Decision?

Either counsel or the court may draft the Statement of Decision. (Cal.Rules of Court, rule 3.1590 (a), (c) and (e); *National Secretarial Service v. Froehlich* (1989) 210 Cal.App.3d 602 [There is no legal reason why the trial court cannot delegate the preparation of both the judgment and the statement of decision to counsel for one of the parties].)

Practice Tip: *If you won at trial you better not let the loser draft the Statement of Decision. It is your job to protect the judgment!*

What do you ask for in a Statement of Decision?

The request must specify the controverted issues as to which a statement is requested. (CCP § 632, *In re Marriage of Bergman* (1985) 168 Cal.App.3d 742.) A material issue is one which is relevant and essential to the judgment and closely related to the trial court's determination of the ultimate issue in the case.

SAMPLE BRIEFING EXAMPLE OF WAIVER FOR FAILURE TO SPECIFY CONTROVERED ISSUES UNDER CCP 632

On February 8, 2022 Mary filed Objections to the Proposed SOD. (10CT 2609-2632.) Ken filed a response to Mary's Objections. (10CT 2635.) He noted first Mary's counsel made a generalized oral request for statement of decision on December 9, 2020, but that oral request did not specify controverted issues and need not meet the requirements of CCP 632. (25 RT 1419:3.) Mary waived the right to obtain a statement of decision.

But Mary also failed to timely request a statement of decision that specified the controverted within 10 days of the court's December 21 order thereby waiving her right to a statement of decision a second time..[1] (10CT 2637-2638 citing *Marriage of Katz* (1991) 234 Cal.App.3d 1711; *Marriage of Arceneaux* (1990) 51 Cal.3d 1130,

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1333 [failure to comply with the first step in the SOD process as required by CCP §632.)

Either waiver means the reviewing court can imply findings.

What Constitutes A Statement Of Decision?

The statement must include the factual and legal basis as to the principal controverted issues at trial.

The general rule is that ultimate facts not evidentiary facts must be set forth. (*People v. Casa Blanca Convalescent Homes* (1984) 159 Cal.App.3d 509; *In re Marriage of Garrity and Bishton* (1986) 181 Cal.App.3d 675.)

If you represent the winner: What is NOT necessary

> Even where proper procedure under sections 632 and 634 has been followed punctiliously, "[t]he trial court is not required to respond point by point to the issues posed in a request for statement of decision. The court's statement of decision is sufficient if it fairly discloses the court's determination as to the ultimate facts and material issues in the case." (*Golden Eagle Ins. Co. v. Foremost Ins. Co.* (1993) 20 Cal.App.4th 1372, 1379–1380, *Ermoian v. Desert Hospital* (2007) 152 Cal.App.4th 475, 500,) "When this rule is applied, the term 'ultimate fact' generally refers to a core fact, such as an essential element of a claim." (*Central Valley General Hospital v. Smith* (2008) 162 Cal.App.4th 501, 513) "Ultimate facts are distinguished from evidentiary facts and from legal conclusions." (*Ibid.*) Thus, a court is not expected to make findings with regard to "detailed evidentiary facts or to make minute findings as to individual items of evidence." (*Nunes Turfgrass, Inc. v. Vaughan–Jacklin Seed Co.* (1988) 200 Cal.App.3d 1518, 1525) In addition, "[e]ven though a court fails to make a finding on a particular matter, if the judgment is otherwise supported, the omission is harmless error unless the evidence is sufficient to sustain a finding in favor of the complaining party which would have the effect of countervailing or destroying other findings." (Nunes, ; accord, *Kazensky v. City of Merced* (1998) 65 Cal.App.4th 44, 67–68.) *Thompson v. Asimos* (2016) 6 Cal.App.5th 970, 983 [212 Cal.Rptr.3d 158, 171–172]

It is reversible error to label the reporter's transcript, the "statement of decision." (*Whittington v. McKinney* (1991) 234 Cal.App.3d 123, 130.) The memorandum of intended decision is not a substitute for a missing statement decision. (*In re Marriage of Ditto* (1988) 206 Cal.App.3d 643.) Note also that prefactory language in the written order cannot be "deemed complete findings of fact. (*In re Marriage of Jones* 222 Cal.App.3d 505, [no request

for statement of decision and "fragmentay factual statements included in the oral tentative decision" do not constitute a statement of decision.].)

A trial court cannot base its finding on an assumption not supported by the evidence. (*In re Marriage of Huffmeister* (1987) 191 Cal.App.3d 351) The Statement must reveal what if any figures the court determined represented the parties income and expenses.(*In re Marriage of Ramer* (1986) 187 Cal.App.3d 263.) The Statement must explain the factual or legal basis for the court's ultimate conclusion regarding valuation. (*In re Marriage of Hargrave* (1985) 163 Cal.App.3d 346.)

First Step: Effect Of Failure To Request Statement Of Decision On Appeal- The Doctrine of Implied Findings

The failure to timely request a statement of decision or waiver means the reviewing appellate court will invoke the doctrine of implied findings. It will be presumed on appeal that the trial court made all factual findings necessary to support the judgment for which there is substantial evidence. The judgment will be presumed correct and all intendments an presumptions are indulged in favor of its correctness. Appellate review will be limited to searching the record for any substantial evidence that will support the lower court's implied findings. (*In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130.)

EXAMPLE 2023 CASE *In re Marriage of Destiny and Justin* C. (2023) 87 Cal.App.5th 763 See text following these course materials

ANOTHER EXAMPLE *UNPUB* In re Marriage of Wehrli (Cal. Ct. App., Aug. 3, 2023, No. D079527) 2023 WL 4943315

Cases Where A Statement Of Decision Was Not Requested In The Trial Court And The Failure To Request Was Not Fatal To The Appeal. (Don't count on this)

In re Marriage of Fingert (1990) 221 Cal.App.3d 1575; [settled statement], *In re Marriage of Powers* (1990) 218 Cal.App.3d 626;, 634, fn. 5.,*In re Marriage of Seaman*

(1991) 1 Cal.App.4th 1489;, 1494-1495, fn. 3, [attorney fees reviewed because reasons set forth in award.]

What Is A Statement Of Calculation? (You must make a separate request.)

When valuation of a asset is at issue, (as compared to characterization) counsel must also request a statement of calculation as well as a statement of decision. Marriage of Arceneaux (1990) 51 Cal.3d 1130, *In re Marriage of Bergman* (1985) 168 Cal.App.3d 742, [pension valuation]; In re *Marriage of Hebbring* (1989) 207 Cal.App.3d 1260[gun collection]; *In re Marriage of Ananeh-Firempong* (1990) 219 Cal.App.3d 272, [request for calculation not fulfilled regarding valuation of medical practice]; same case, failure to request computation of attorneys fees waived right.

Practice Tip: If valuation and or attorney fees are at issue make sure that you request a statement of calculation during your trial!

Oral Statements Trumped by the SOD.

The written Statement of Decision controls over previous oral statements. (In re Marriage of Heistermann (1991) 234 Cal.App.3d 1195, 1203 .)

> "In any event, the court's written statement of decision does not mention these considerations, but simply states the time had come to shift the burden of support to society. The written statement of decision controls over vague antecedent oral statements. (Wilcox v. Sway (1945) 69 Cal.App.2d 560, 565.)"

Can A Statement Of Decision Be Waived?

A party may waive his or her right to a written statement of decision. Section 632 provides that "[t]he statement of decision shall be in writing, unless the parties appearing at trial agree otherwise." In *Whittington v. McKinney*

(1991) 234 Cal.App.3d 123, 130, Whittington's counsel waived his client's right to a statement with an "Uh-huh."

The Second Step under CCP 634 Filing Objections To The Proposed Statement Of Decision

Under the statutory scheme, when it is properly adhered to, any party "affected by the judgment" may serve and file objections to the proposed statement or judgment within **15** days after the proposed statement or judgment has been served. (Cal.Rules of Court, rule 3.1590, subd. (d)

EXAMPLE OF PROPER AND TIMELY OBJECTIONS BEING MADE LEADING TO A REVERSAL. *Marriage of Dawe* (2003) 2003 WL 1605768

If you want to change the judge's mind, do more than merely Object to ambiguity

The purpose of Objections is to bring to the attention of the trial judge that the PSOD is incomplete or ambiguous. It is not to "reargue" the case. If you want to change the court's mind, the correct way is either:

1)pre judgment

Prior to entry of Judgment, after hearing and before entry of judgment, a party brought a motion to enter a different order than announced. No new facts were presented. The trial court denied the motion on the ground it was advised of no authority for the presentation of such a motion. The appellate court stated:

> "We perceive no impropriety in the motion presented by plaintiff. Although no authority for such a motion has been brought to our attention, it i**s fundamental that a court is not bound by its statement of intended decision and may enter a wholly different judgment than that announced. There is no impropriety in a party's requesting the court, by noticed motion, to exercise its power to enter a judgment different than that announced."** (*Canal-Randolph Anaheim, Inc. v. Wilkoski* (1978) 78 Cal.App.3d 477, 494.)

2) Post judgment

Motion for new trial, Motion to Vacate.

A motion for new trial can be brought by any party to the judgment, asking the court that rendered the decision to reexamine an *issue of fact* and render a modified or different decision. (CCP §§ 656, 657.) **The grounds for new trial are wholly statutory; the court cannot grant the motion on any other basis.**; see *Marriage of Herr* (2009) 174 Cal.App.4th 1463, 1471, courts have no *inherent* power to grant a new trial" at original proceeding, trial court effectively and impermissibly granted new trial sua sponte

Of the seven grounds authorized under CCP § 657, the following are applicable to family law proceedings:

(*Irregularity in the proceedings* of the court or adverse party, or any order of the court or abuse of discretion by which either party was prevented from having a fair trial. [CCP § 657(1); e.g., *Webber v. Webber* (1948) 33 C2d 153, 163-164.)

Accident or surprise, which ordinary prudence could not have guarded against. [CCP § 657(3)]

Newly-discovered evidence, material to the moving party, which could not, with reasonable diligence, have been discovered and produced at trial. [CCP § 657(4); see *People v. Norman* (1960) 177 CA2d 59, 67 —new evidence must be such that a different result would be probable on retrial]

Insufficiency of the evidence to justify the court's decision, or the decision is against the law. [CCP § 657(6)] E.g., default judgment entered in excess of prayer. [See *Don v. Cruz* (1982) 131 CA3d 695, 703-706,

Error in law occurring at the trial and excepted to by the moving party. [CCP

Because the right to a new trial is purely statutory, the procedural steps prescribed by statute ("are *mandatory* and must be *strictly followed.(Herr, supra.)*

VERY STRICT DEADLINES. You miss one you are done for.

Failure To Object To A Proposed Statement Of Decision Can Also Be Fatal To An Appeal and the Doctrine of Implied Findings Applies

In re Marriage of Arceneaux (1991) 51 Cal.3d 1130, 1137, held that "a litigant who fails to bring to the attention of the trial court alleged deficiencies in the court's statement of decision waive[s] the right to complain of such errors

on appeal, **thereby allowing the appellate court to make implied findings in favor of the prevailing party...."**

The *Arceneaux* decision explained that "it would be unfair to allow counsel to lull the trial court and opposing counsel into believing the statement of decision was acceptable, and thereafter to take advantage of an error on appeal although it could have been corrected at trial.... It is clearly unproductive to deprive a trial court of the opportunity to correct such a purported defect by allowing a litigant to raise the claimed error for the first time on appeal." (*Arceneaux* supra, p. 1138, An example of this rule being applied is *Rebney v. Wells Fargo Bank* 232 Cal.App.3d 1344.

EXAMPLE. In re Marriage of Destiny and Justin C. (2023) 89 Cal.App.5th 763, 769–770, review denied (Apr. 26, 2023)

Having failed to object to the finding in the statement of decision that there was no domestic violence within five years of the custody order, Mother cannot now complain the trial court "overlooked" certain testimony.

Mother contends that even if section 3044 is interpreted as requiring a finding of domestic violence within five years of the court's custody order, here there was such evidence provided by the testimony of the parties' neighbor, who allegedly witnessed an incident "3 or 4 years ago" when Father slammed Mother's head down and gave her "a couple of whacks on the side of the head" outside their home. For his part, Father denied ever having punched, slapped or pushed Mother or in any way "attempted to cause [her] physical harm." **The court impliedly rejected the neighbor's testimony when it found that "none of the domestic violence happened five years from when this Court heard evidence on the parenting plan during this trial."**

Mother recognizes that this court must defer to factual findings by the trial court that are supported by substantial evidence. And she concedes that *if* the trial court found there was no credible evidence of domestic violence by Father within five years of the court's order, *that* would be a factual finding entitled to deference from this court. **But she contends because the statement of decision did not explicitly mention that the neighbor's testimony was not credible, the "better-reasoned position" is that the court must have "overlooked" the testimony.**

Mother's argument runs afoul of the doctrine of implied findings and the rule that requires a party to object to the proposed statement of decision on the grounds that it is somehow unclear or ambiguous.[6] "Under the doctrine of implied findings, the reviewing court must *infer, following a bench trial, that the trial court impliedly made every factual finding necessary to support its decision. **Securing a statement of decision is the first step i**n *avoiding the doctrine of implied findings, but is not always enough: The appellant also *(SECOND STEP) must bring ambiguities and*

omissions in the factual findings of the statement of decision to the trial court's attention. If the appellant fails to do so, the reviewing court will infer the trial court made every implied factual finding necessary to uphold its decision, even on issues not addressed in the statement of decision." (*Fladeboe v. American Isuzu Motors Inc.* (2007) 150 Cal.App.4th 42, 48.)

Here, the trial court's proposed statement of decision included a factual finding that there were no incidents of domestic violence within five years of the court's hearing and resulting custody order. This determination necessarily implied that Father did not "whack" Mother on the side of the head three or four years prior to the hearing. If Mother believed the court had somehow "overlooked" the neighbor's testimony, making the factual finding ambiguous, she was obligated to lodge an objection to the proposed statement of decision explaining why it required clarification. (*Fladeboe, supra*, 150 Cal.App.4th at p. 59, ["a party claiming omissions or ambiguities in the factual findings must bring the omissions or ambiguities to the trial court's attention"].) It makes no difference that the court made no express finding rejecting the believability of the neighbor's testimony, because a reviewing court "will infer the trial court made implied factual findings favorable to the prevailing party on all issues necessary to support the judgment, including the omitted or ambiguously resolved issues." (*Id.* at p. 60, 58 Cal.Rptr.3d 225.)

What Is The Effect On An Appeal If The Trial Court Fails To Respond To Your Objections To The Statement Of Decision.

If the trial court fails to rule on the objections, the appellate court will not imply findings in support of the judgment.

Code of Civil Procedure section 634 in the context of a proposed statement of decision:

> "The section declares that if omissions or ambiguities in the statement are timely brought to the trial court's attention, the appellate court will not imply findings in favor of the prevailing party. The clear implication of this provision, of course, is that if a party does not bring such deficiencies to the trial court's attention, he waives his right to claim on appeal that the statement [of decision] was deficient in these regards...." (*In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1133-1134.)

In superior courts, upon the trial of a question of fact by the court, written findings of fact and conclusions of law shall not be required. The court shall issue a statement of decision explaining the factual and legal basis for its decision as to each of the principal controverted issues at trial upon the request of any party appearing at the trial. **The request must be made within 10 days after the court announces a tentative decision unless the trial is concluded within one calendar day or in less than eight hours over more than one day in which event the request must be made prior to the submission of the matter for decision. The request for a statement of decision shall specify those controverted issues as to which the party is requesting a statement of decision.** After a party has requested the statement, any party may make proposals as to the content of the statement of decision.
The statement of decision shall be in writing, unless the parties appearing at trial agree otherwise; however, when the trial is concluded within one calendar day or in less than 8 hours over more than one day, the statement of decision may be made orally on the record in the presence of the parties.

ATTACHMENT 2 CCP 634

634. Omission or ambiguity brought to attention of trial court; inference

When a statement of decision does not resolve a controverted issue, or if the statement is ambiguous and the record shows that the omission or ambiguity was brought to the attention of the trial court either prior to entry of judgment or in conjunction with a motion under Section 657 or 663, it shall not be inferred on appeal or upon a motion under Section 657 or 663 that the trial court decided in favor of the prevailing party as to those facts or on that issue. Code Civ. Proc., § 634

ATTACHMENT 3 Rule of Court 3.1590

Cal.Rules of Court, Rule 3.1590
Formerly cited as CA ST PRETRIAL AND TRIAL Rule 232

Rule 3.1590. Announcement of tentative decision, statement of decision, and judgment

Currentness

(a) Announcement and service of tentative decision

On the trial of a question of fact by the court, the court must announce its tentative decision by an oral statement, entered in the minutes, or by a written statement filed with the clerk. Unless the announcement is made in open court in the presence of all parties that appeared at the trial, the clerk must immediately serve on all parties that appeared at the trial a copy of the minute entry or written tentative decision.

(b) Tentative decision not binding

The tentative decision does not constitute a judgment and is not binding on the court. If the court subsequently modifies or changes its announced tentative decision, the clerk must serve a copy of the modification or change on all parties that appeared at the trial.

(c) Provisions in tentative decision
The court in its tentative decision may:
(1) State that it is the court's proposed statement of decision, subject to a party's objection under (g);
(2) Indicate that the court will prepare a statement of decision;
(3) Order a party to prepare a statement of decision; or
(4) Direct that the tentative decision will become the statement of decision unless, within 10 days after announcement or service of the tentative decision, a party specifies those principal controverted issues as to which the party is requesting a statement of decision or makes proposals not included in the tentative decision.
(d) Request for statement of decision
Within 10 days after announcement or service of the tentative decision, whichever is later, any party that appeared at trial may request a statement of decision to address the principal controverted issues. The principal controverted issues must be specified in the request.
(e) Other party's response to request for statement of decision
If a party requests a statement of decision under (d), any other party may make proposals as to the content of the statement of decision within 10 days after the date of request for a statement of decision.
(f) Preparation and service of proposed statement of decision and judgment
If a party requests a statement of decision under (d), the court must, within 30 days of announcement or service of the tentative decision, prepare and serve a proposed statement of decision and a proposed judgment on all parties that appeared at the trial, unless the court has ordered a party to prepare the statement. A party that has been ordered to prepare the statement must within 30 days after the announcement or service of the tentative decision, serve and submit to the court a proposed statement of decision and a proposed judgment. If the proposed statement of decision and judgment are not served and submitted within that time, any other party that appeared at the trial may within 10 days thereafter: (1) prepare, serve, and submit to the court a proposed statement of decision and judgment or (2) serve on all other parties and file a notice of motion for an order that a statement of decision be deemed waived.
(g) Objections to proposed statement of decision
Any party may, within 15 days after the proposed statement of decision and judgment have been served, serve and file objections to the proposed statement of decision or judgment.
(h) Preparation and filing of written judgment when statement of decision not prepared
If no party requests or is ordered to prepare a statement of decision and a written judgment is required, the court must prepare and serve a proposed judgment on all parties that appeared at the trial within 20 days after the announcement or service of the tentative decision or the court may order a party to prepare, serve, and submit the proposed judgment to the court within 10 days after the date of the order.
(i) Preparation and filing of written judgment when statement of decision deemed waived
If the court orders that the statement of decision is deemed waived and a written judgment is required, the court must, within 10 days of the order deeming the statement of decision waived, either prepare and serve a proposed judgment on all parties that appeared at the trial or order a party to prepare, serve, and submit the proposed judgment to the court within 10 days.
(j) Objection to proposed judgment
Any party may, within 10 days after service of the proposed judgment, serve and file objections thereto.
(k) Hearing
The court may order a hearing on proposals or objections to a proposed statement of decision or the proposed judgment.
***(l)* Signature and filing of judgment**
If a written judgment is required, the court must sign and file the judgment within 50 days after the announcement or service of the tentative decision, whichever is later, or, if a hearing was held under (k), within 10 days after the hearing. An electronic signature by the court is as effective as an original

signature. The judgment constitutes the decision on which judgment is to be entered under Code of Civil Procedure section 664.

(m) Extension of time; relief from noncompliance

The court may, by written order, extend any of the times prescribed by this rule and at any time before the entry of judgment may, for good cause shown and on such terms as may be just, excuse a noncompliance with the time limits prescribed for doing any act required by this rule.

(n) Trial within one day

When a trial is completed within one day or in less than eight hours over more than one day, a request for statement of decision must be made before the matter is submitted for decision and the statement of decision may be made orally on the record in the presence of the parties.