Title 3. Civil Rules

Division 1. General Provisions

Chapter 1. Preliminary Rules

Rule 3.1. Title

The rules in this title may be referred to as the Civil Rules.

Rule 3.1 adopted effective January 1, 2007.

Chapter 2. Scope of the Civil Rules

Rule 3.10. Application

The Civil Rules apply to all civil cases in the superior courts, including general civil, family, juvenile, and probate cases, unless otherwise provided by a statute or rule in the California Rules of Court.

Rule 3.10 adopted effective January 1, 2007.

Rule 3.20. Preemption of local rules

(a) Fields occupied

The Judicial Council has preempted all local rules relating to pleadings, demurrers, ex parte applications, motions, discovery, provisional remedies, and the form and format of papers. No trial court, or any division or branch of a trial court, may enact or enforce any local rule concerning these fields. All local rules concerning these fields are null and void unless otherwise permitted or required by a statute or a rule in the California Rules of Court.

(Subd (a) amended effective January 1, 2007; adopted as untitled subd effective July 1, 1997; previously amended effective July 1, 2000.)

(b) Application

This rule applies to all matters identified in (a) except:

(1) Trial and post-trial proceedings including but not limited to motions in limine (see rule 3.112(f));

(2) Proceedings under Code of Civil Procedure sections 527.6, 527.7, and 527.8; the Family Code; the Probate Code; the Welfare and Institutions Code; and the Penal Code and all other criminal proceedings;

(3) Eminent domain proceedings; and

(4) Local court rules adopted under the Trial Court Delay Reduction Act.

(Subd (b) amended effective January 1, 2007; adopted effective July 1, 2000; previously amended effective July 1, 2000, and January 1, 2002.)

Rule 3.20 amended and renumbered effective January 1, 2007; adopted as rule 302 effective July 1, 1997; amended and renumbered as rule 981.1 effective July 1, 2000; previously amended effective January 1, 2002.

Chapter 3. Attorneys

Rule 3.35. Definition of limited scope representation; application of rules

(a) Definition

"Limited scope representation" is a relationship between an attorney and a person seeking legal services in which they have agreed that the scope of the legal services will be limited to specific tasks that the attorney will perform for the person.

(b) Application

Rules 3.35 through 3.37 apply to limited scope representation in civil cases, except in family law cases. Rules 5.70 and 5.71 apply to limited scope representation in family law cases.

(c) Types of limited scope representation

These rules recognize two types of limited scope representation:

(1) *Noticed representation*

Rule 3.36 provides procedures for cases in which an attorney and a party notify the court and other parties of the limited scope representation.

(2) *Undisclosed representation*

Rule 3.37 applies to cases in which the limited scope representation is not disclosed.

Rule 3.35 adopted effective January 1, 2007.

Rule 3.36. Notice of limited scope representation and application to be relieved as attorney

(a) Notice of limited scope representation

A party and an attorney may provide notice of their agreement to limited scope representation by serving and filing a *Notice of Limited Scope Representation* (form MC-950).

(b) Notice and service of papers

After the notice in (a) is received and until either a substitution of attorney or an order to be relieved as attorney is filed and served, papers in the case must be served on both the attorney providing the limited scope representation and the client.

(c) Procedures to be relieved as counsel on completion of representation

Notwithstanding rule 3.1362, an attorney who has completed the tasks specified in the *Notice of Limited Scope Representation* (form MC-950) may use the procedures in this rule to request that he or she be relieved as attorney in cases in which the attorney has appeared before the court as an attorney of record and the client has not signed a *Substitution of Attorney—Civil* (form MC-050).

(d) Application

An application to be relieved as attorney on completion of limited scope representation under Code of Civil Procedure section 284(2) must be directed to the client and made on the *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955).

(e) Filing and service of application

The application to be relieved as attorney must be filed with the court and served on the client and on all other parties or attorneys for parties in the case. The client must also be served with a blank *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-956).

(f) No objection

If no objection is served and filed with the court within 15 days from the date that the *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955) is served on the client, the attorney making the application must file an updated form MC-955 indicating the lack of objection, along with a proposed *Order on Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-958). The clerk must then forward the order for judicial signature.

(g) Objection

If an objection to the application is served and filed within 15 days, the clerk must set a hearing date on the *Objection to Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-956). The hearing must be scheduled no later than 25 days from the date the objection is filed. The clerk must send the notice of the hearing to the parties and the attorney.

(h) Service of the order

If no objection is served and filed and the proposed order is signed under (f), the attorney who filed the *Application to Be Relieved as Attorney on Completion of Limited Scope Representation* (form MC-955) must serve a copy of the signed order on the client and on all parties or the attorneys for all parties who have appeared in the case. The court may delay the effective date of the order relieving the attorney until proof of service of a copy of the signed order on the client has been filed with the court.

Rule 3.36 adopted effective January 1, 2007.

Rule 3.37. Nondisclosure of attorney assistance in preparation of court documents

(a) Nondisclosure

In a civil proceeding, an attorney who contracts with a client to draft or assist in drafting legal documents, but not to make an appearance in the case, is not required to disclose within the text of the documents that he or she was involved in preparing the documents.

(b) Attorney's fees

If a litigant seeks a court order for attorney's fees incurred as a result of document preparation, the litigant must disclose to the court information required for a proper determination of the attorney's fees, including:

(1) The name of the attorney who assisted in the preparation of the documents;

(2) The time involved or other basis for billing;

(3) The tasks performed; and

(4) The amount billed.

(c) Application of rule

This rule does not apply to an attorney who has made a general appearance in a case.

Rule 3.37 adopted effective January 1, 2007.

Division 2. Waiver of Fees and Costs

Rule 3.50. Application of rules

(a) Application

The rules in this division govern applications in the trial court for an initial waiver of court fees and costs because of the applicant's financial condition. As provided in Government Code sections 68631 and following, any waiver may later be ended, modified, or retroactively withdrawn if the court determines that the applicant is not eligible for the waiver. As provided in Government Code sections 68636 and 68637, the court may, at a later time, determine that the previously waived fees and costs be paid.

(Subd (a) amended and lettered effective July 1, 2009; adopted as unlettered subd effective January 1, 2007.)

(b) Definitions

For purpose of the rules in this division, "initial fee waiver" means the initial waiver of court fees and costs that may be granted at any stage of the proceedings and includes both the fees and costs specified in rule 3.55 and any additional fees and costs specified in rule 3.56.

(Subd (b) adopted effective July 1, 2009.)

Rule 3.50 amended effective July 1, 2009; adopted effective January 1, 2007.

Rule 3.51. Method of application

An application for initial fee waiver under rule 3.55 must be made on *Request to Waive Court Fees* (form FW-001). An application for initial fee waiver under rule 3.56 must be made on *Request to Waive Additional Court Fees (Superior Court)* (form FW-002). The clerk must provide the forms and the *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO) without charge to any person who requests any fee waiver application or indicates that he or she is unable to pay any court fee or cost.

Rule 3.51 amended effective July 1, 2009; adopted effective January 1, 2007; previously amended effective January 1, 2007.

Rule 3.52. Procedure for determining application

The procedure for determining an application is as follows:

(1) The trial court must consider and determine the application as required by Government Code sections 68634 and 68635.

(2) An order determining an application for an initial fee waiver must be made on *Order on Court Fee Waiver (Superior Court)* (form FW-003), except as provided in (6) below.

(3) An order determining an application for an initial fee waiver after a hearing in the trial court must be made on *Order on Court Fee Waiver After Hearing (Superior Court)* (form FW-008).

(4) Any order granting a fee waiver must be accompanied by a blank *Notice of Improved Financial Situation or Settlement* (form FW-010).

(5) Any order denying an application without a hearing on the ground that the information on the application conclusively establishes that the applicant is not eligible for a waiver must be accompanied by a blank *Request for Hearing About Fee Waiver Order (Superior Court)* (form FW-006).

(6) Until January 1, 2013, a court with a computerized case management system may produce electronically generated court fee waiver orders as long as:

   (A) The document is substantively identical to the mandatory Judicial Council form it is replacing;

   (B) Any electronically generated form is identical in both language and legally mandated elements, including all notices and advisements, to the mandatory Judicial Council form it is replacing; and

   (C) The order is an otherwise legally sufficient court order, as provided in rule 1.31(g), concerning orders not on Judicial Council mandatory forms.

Rule 3.52 amended and renumbered effective July 1, 2009; adopted as rule 3.56 effective January 1, 2007; previously amended effective January 1, 2007.

Rule 3.53. Application granted unless acted on by the court

The application for initial fee waiver is deemed granted unless the court gives notice of action on the application within five court days after it is filed. If the application is deemed granted under this provision, the clerk must prepare and serve a *Notice: Waiver of Court Fees (Superior Court)* (form FW-005) five court days after the application is filed.

Rule 3.53 amended and renumbered effective July 1, 2009; adopted as rule 3.57 effective January 1, 2007; previously amended effective January 1, 2007.

Rule 3.54. Confidentiality

(a) Confidential records

No person may have access to an application for an initial fee waiver except the court and authorized court personnel, any persons authorized by the applicant, and any persons authorized by order of the court. No person may reveal any information contained in the application except as authorized by law or order of the court.

(Subd (a) amended and lettered effective July 1, 2009; adopted as unlettered subd effective January 1, 2007.)

(b) Request for access to confidential records

Any person seeking access to an application or financial information provided to the court by an applicant must make the request by noticed motion, supported by a declaration showing good cause regarding why the confidential information should be released.

(Subd (b) adopted July 1, 2009.)

(c) Order

An order granting access to an application or financial information may include limitations on who may access the information and on the use of the information after it has been released.

(Subd (c) adopted July 1, 2009.)

Rule 3.54 amended and renumbered effective July 1, 2009; adopted as rule 3.60 effective January 1, 2007; previously amended effective January 1, 2008.

Rule 3.55. Court fees and costs included in all initial fee waivers

Court fees and costs that must be waived upon granting an application for an initial fee waiver include:

(1) Clerk's fees for filing papers;

(2) Clerk's fees for reasonably necessary certification and copying;

(3) Clerk's fees for issuance of process and certificates;

(4) Clerk's fees for transmittal of papers;

(5) Court-appointed interpreter's fees for parties in small claims actions;

(6) Sheriff's and marshal's fees under article 7 of chapter 2 of part 3 of division 2 of title 3 of the Government Code (commencing with section 26720);

(7) Reporter's daily fees for attendance at hearings and trials held within 60 days of the date of the order granting the application;

(8) The court fee for a telephone appearance under Code of Civil Procedure section 367.5; and

(9) Clerk's fees for preparing, copying, certifying, and transmitting the clerk's transcript on appeal to the reviewing court and the party. A party proceeding under an initial fee waiver must specify with particularity the documents to be included in the clerk's transcript on appeal.

Rule 3.55 amended and renumbered effective July 1, 2009; adopted as rule 3.61 effective January 1, 2007; previously amended effective January 1, 2009.

Rule 3.56. Additional court fees and costs that may be included in initial fee waiver

Necessary court fees and costs that may be waived upon granting an application for an initial fee waiver, either at the outset or upon later application, include:

(1) Jury fees and expenses;

(2) Court-appointed interpreter's fees for witnesses;

(3) Witness fees of peace officers whose attendance is reasonably necessary for prosecution or defense of the case;

(4) Reporter's fees for attendance at hearings and trials held more than 60 days after the date of the order granting the application;

(5) Witness fees of court-appointed experts; and

(6) Other fees or expenses as itemized in the application.

Rule 3.56 amended and renumbered effective July 1, 2009; adopted as rule 3.62 effective January 1, 2007.

Rule 3.57. Amount of lien for waived fees and costs

To determine the amount of the court lien for waived fees and costs, any party to a civil action in which an initial fee waiver has been granted may ask the clerk to calculate the total amount of court fees and costs that have been waived as of the date of the request.

Rule 3.57 adopted effective July 1, 2009.

Rule 3.58. Posting notice

Each trial court must post in a conspicuous place near the filing window or counter a notice, 8½ by 11 inches or larger, advising litigants in English and Spanish that they may ask the court to waive court fees and costs. The notice must be substantially as follows:

"NOTICE: If you are unable to pay fees and costs, you may ask the court to permit you to proceed without paying them. Ask the clerk for the *Information Sheet on Waiver of Superior Court Fees and Costs* or *Information Sheet on Waiver of Court Fees and Costs for Appeal or Writ Proceedings* and the *Request to Waive Court Fees*."

Rule 3.58 amended and renumbered effective July 1, 2009; adopted as rule 3.63 effective January 1, 2007.

Division 3. Filing and Service

Chapter 1. Filing

Rule 3.100. Payment of filing fees by credit or debit card

Rule 3.100. Payment of filing fees by credit or debit card

A party may pay a filing fee by credit or debit card provided the court is authorized to accept payment by this method under Government Code section 6159, rule 10.820, and other applicable law.

Rule 3.100 adopted effective January 1, 2007.

Chapter 2. Time for Service

Rule 3.110. Time for service of complaint, cross-complaint, and response

Rule 3.110. Time for service of complaint, cross-complaint, and response

(a) Application

This rule applies to the service of pleadings in civil cases except for collections cases under rule 3.740(a), unlawful detainer actions, proceedings under the Family Code, and other proceedings for which different service requirements are prescribed by law.

(Subd (a) amended effective July 1, 2007; previously amended effective January 1, 2007.)

(b) Service of complaint

The complaint must be served on all named defendants and proofs of service on those defendants must be filed with the court within 60 days after the filing of the complaint. When the complaint is amended to add a defendant, the added defendant must be served and proof of service must be filed within 30 days after the filing of the amended complaint.

(c) Service of cross-complaint

A cross-complaint against a party who has appeared in the action must be accompanied by proof of service of the cross-complaint at the time it is filed. If the cross-complaint adds new parties, the cross-complaint must be served on all parties and proofs of service on the new parties must be filed within 30 days of the filing of the cross-complaint.

(d) Timing of responsive pleadings

The parties may stipulate without leave of court to one 15-day extension beyond the 30-day time period prescribed for the response after service of the initial complaint.

(e) Modification of timing; application for order extending time

The court, on its own motion or on the application of a party, may extend or otherwise modify the times provided in (b)–(d). An application for a court order extending the time to serve a pleading must be filed before the time for service has elapsed. The application must be accompanied by a declaration showing why service has not been completed, documenting the efforts that have been made to complete service, and specifying the date by which service is proposed to be completed.

(Subd (e) amended effective January 1, 2007.)

(f) Failure to serve

If a party fails to serve and file pleadings as required under this rule, and has not obtained an order extending time to serve its pleadings, the court may issue an order to show cause why sanctions shall not be imposed.

(Subd (f) amended effective January 1, 2007.)

(g) Request for entry of default

If a responsive pleading is not served within the time limits specified in this rule and no extension of time has been granted, the plaintiff must file a request for entry of default within 10 days after the time for service has elapsed. The court may issue an order to show cause why sanctions should not be imposed if the plaintiff fails to timely file the request for the entry of default.

(Subd (g) amended effective January 1, 2007.)

(h) Default judgment

When a default is entered, the party who requested the entry of default must obtain a default judgment against the defaulting party within 45 days after the default was entered, unless the court has granted an extension of time. The court may issue an order to show cause why sanctions should not be imposed if that party fails to obtain entry of judgment against a defaulting party or to request an extension of time to apply for a default judgment within that time.

(Subd (h) amended effective January 1, 2007.)

(i) Order to show cause

Responsive papers to an order to show cause issued under this rule must be filed and served at least 5 calendar days before the hearing.

(Subd (i) amended effective January 1, 2007.)

Rule 3.110 amended effective July 1, 2007; adopted as rule 201.7 effective July 1, 2002; previously amended and renumbered effective January 1, 2007.

Chapter 3. Papers to Be Served

Rule 3.220. Case cover sheet

(a) Cover sheet required

The first paper filed in an action or proceeding must be accompanied by a case cover sheet as required in (b). The cover sheet must be on a form prescribed by the Judicial Council and must be filed in addition to any cover sheet required by local court rule. If the plaintiff indicates on the cover sheet that the case is complex under rule 3.400 et seq., or a

collections case under rule 3.740, the plaintiff must serve a copy of the cover sheet with the complaint. In all other cases, the plaintiff is not required to serve the cover sheet. The cover sheet is used for statistical purposes and may affect the assignment of a complex case.

(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 2000, January 1, 2002, and January 1, 2007.)

(b) List of cover sheets

(1) Civil Case Cover Sheet (form CM-010) must be filed in each civil action or proceeding, except those filed in small claims court or filed under the Probate Code, Family Code, or Welfare and Institutions Code.

(2) [**Note:** Case cover sheets will be added for use in additional areas of the law as the data collection program expands.]

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 2002, and July 1, 2003.)

(c) Failure to provide cover sheet

If a party that is required to provide a cover sheet under this rule or a similar local rule fails to do so or provides a defective or incomplete cover sheet at the time the party's first paper is submitted for filing, the clerk of the court must file the paper. Failure of a party or a party's counsel to file a cover sheet as required by this rule may subject that party, its counsel, or both, to sanctions under rule 2.30.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 2002.)

Rule 3.220 amended effective January 1, 2009; adopted as rule 982.2 effective July 1, 1996; previously amended and renumbered as rule 201.8 effective July 1, 2002, and as rule 3.220 effective January 1, 2007; previously amended effective January 1, 2000, January 1, 2002, and July 1, 2003.

Rule 3.221. Information about alternative dispute resolution

(a) Court to provide information package

Each court must make available to the plaintiff, at the time the complaint is filed in all general civil cases, an alternative dispute resolution (ADR) information package that includes, at a minimum, all of the following:

(1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes. The Administrative Office of the Courts has prepared model language that the courts may use to provide this information.

(2) Information about the ADR programs available in that court, including citations to any applicable local court rules and directions for contacting any court staff responsible for providing parties with assistance regarding ADR.

(3) In counties that are participating in the Dispute Resolution Programs Act (DRPA), information about the availability of local dispute resolution programs funded under the DRPA. This information may take the form of a list of the applicable programs or directions for contacting the county's DRPA coordinator.

(4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 2002.)

(b) Court may make package available on Web site

A court may make the ADR information package available on its Web site as long as paper copies are also made available in the clerk's office.

(Subd (b) adopted effective July 1, 2002.)

(c) Plaintiff to serve information package

In all general civil cases, the plaintiff must serve a copy of the ADR information package on each defendant together with the complaint. Cross-complainants must serve a copy of the ADR information package on any new parties to the action together with the cross-complaint.

(Subd (c) amended effective January 1, 2007; adopted as subd (b) effective January 1, 2001; previously amended and relettered effective July 1, 2002.)

Rule 3.221 amended and renumbered effective January 1, 2007; adopted as rule 1590.1 effective January 1, 2001; previously amended and renumbered as rule 201.9 effective July 1, 2002.

Rule 3.222. Papers to be served on cross-defendants

A cross-complainant must serve a copy of the complaint or, if it has been amended, the most recently amended complaint and any answers thereto on cross-defendants who have not previously appeared.

Rule 3.222 amended and renumbered effective January 1, 2007; adopted as rule 202 effective January 1, 1985; previously amended effective January 1, 2003.

Chapter 4. Miscellaneous

Rule 3.250. Limitations on the filing of papers

Rule 3.252. Service of papers on the clerk when a party's address is unknown
Rule 3.254. List of parties

Rule 3.250. Limitations on the filing of papers

(a) Papers not to be filed

The following papers, whether offered separately or as attachments to other documents, may not be filed unless they are offered as relevant to the determination of an issue in a law and motion proceeding or other hearing or are ordered filed for good cause:

(1) Subpoena;

(2) Subpoena duces tecum;

(3) Deposition notice, and response;

(4) Notice to consumer or employee, and objection;

(5) Notice of intention to record testimony by audio or video tape;

(6) Notice of intention to take an oral deposition by telephone, videoconference, or other remote electronic means;

(7) Agreement to set or extend time for deposition, agreement to extend time for response to discovery requests, and notice of these agreements;

(8) Interrogatories, and responses or objections to interrogatories;

(9) Demand for production or inspection of documents, things, and places, and responses or objections to demand;

(10) Request for admissions, and responses or objections to request;

(11) Agreement for physical and mental examinations;

(12) Demand for delivery of medical reports, and response;

(13) Demand for exchange of expert witnesses;

(14) Demand for production of discoverable reports and writings of expert witnesses;

(15) List of expert witnesses whose opinion a party intends to offer in evidence at trial and declaration;

(16) Statement that a party does not presently intend to offer the testimony of any expert witness;

(17) Declaration for additional discovery;

(18) Stipulation to enlarge the scope of number of discovery requests from that specified by statute, and notice of the stipulation;

(19) Demand for bill of particulars or an accounting, and response;

(20) Request for statement of damages, and response, unless it is accompanied by a request to enter default and is the notice of special and general damages;

(21) Notice of deposit of jury fees;

(22) Notice to produce party, agent, or tangible things before a court, and response; and

(23) Offer to compromise, unless accompanied by an original proof of acceptance and a written judgment for the court's signature and entry of judgment.

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 2001.)

(b) Retaining originals of papers not filed

Unless the paper served is a response, the party who serves a paper listed in (a) must retain the original with the original proof of service affixed. The original of a response must be served, and it must be retained by the person upon whom it is served. All original papers must be retained until six months after final disposition of the case, unless the court on motion of any party and for good cause shown orders the original papers preserved for a longer period.

(Subd (b) amended effective January 1, 2007; amended effective January 1, 2003.)

(c) Papers defined

As used in this rule, papers include printed forms furnished by the clerk, but do not include notices filed and served by the clerk.

Rule 3.250 amended and renumbered effective January 1, 2007; adopted as rule 201.5 effective July 1, 1987; previously amended effective January 1, 2001, and January 1, 2003.

Rule 3.252. Service of papers on the clerk when a party's address is unknown

(a) Service of papers

When service is made under Code of Civil Procedure section 1011(b) and a party's residence address is unknown, the notice or papers delivered to the clerk, or to the judge if

there is no clerk, must be enclosed in an envelope addressed to the party in care of the clerk or the judge.

(Subd (a) amended and lettered effective January 1, 2003.)

(b) Information on the envelope

The back of the envelope delivered under (a) must bear the following information:

"Service is being made under Code of Civil Procedure section 1011(b) on a party whose residence address is unknown."

[Name of party whose residence address is unknown]

[Case name and number]

(Subd (b) amended and lettered effective January 1, 2003.)

Rule 3.252 renumbered effective January 1, 2007; adopted as rule 202.5 effective July 1, 1997; previously amended effective January 1, 2003.

Rule 3.254. List of parties

(a) Duties of first-named plaintiff or petitioner

If more than two parties have appeared in a case and are represented by different counsel, the plaintiff or petitioner named first in the complaint or petition must:

(1) Maintain a current list of the parties and their addresses for service of notice on each party; and

(2) Furnish a copy of the list on request to any party or the court.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective July 1, 1984.)

(b) Duties of each party

Each party must:

(1) Furnish the first-named plaintiff or petitioner with its current address for service of notice when it first appears in the action;

(2) Furnish the first-named plaintiff or petitioner with any changes in its address for service of notice; and

(3) If it serves an order, notice, or pleading on a party who has not yet appeared in the action, serve a copy of the list required under (a) at the same time as the order, notice, or pleading is served.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective July 1, 1984.)

Rule 3.254 amended and renumbered effective January 1, 2007; adopted as rule 387 effective July 1, 1984; previously amended and renumbered as rule 202.7 effective January 1, 2003.

Division 4. Parties and Actions

Chapter 1. [Reserved]

Chapter 2. Joinder of Parties [Reserved]

Chapter 3. Related Cases

Rule 3.300. Related cases

Rule 3.300. Related cases

(a) Definition of "related case"

A pending civil case is related to another pending civil case, or to a civil case that was dismissed with or without prejudice, or to a civil case that was disposed of by judgment, if the cases:

(1) Involve the same parties and are based on the same or similar claims;

(2) Arise from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact;

(3) Involve claims against, title to, possession of, or damages to the same property; or

(4) Are likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

(Subd (a) adopted effective January 1, 2007.)

(b) Duty to provide notice

Whenever a party in a civil action knows or learns that the action or proceeding is related to another action or proceeding pending, dismissed, or disposed of by judgment in any state or federal court in California, the party must serve and file a Notice of Related Case.

(Subd (b) amended and relettered effective January 1, 2007; adopted as part of subd (a) effective January 1, 1996; previously amended effective January 1, 2007.)

(c) Contents of the notice

The Notice of Related Case must:

(1) List all civil cases that are related by court, case name, case number, and filing date;

(2) Identify the case that has the earliest filing date and the court and department in which that case is pending; and

(3) Describe the manner in which the cases are related.

(Subd (c) adopted effective January 1, 2007.)

(d) Service and filing of notice

The Notice of Related Case must be filed in all pending cases listed in the notice and must be served on all parties in those cases.

(Subd (d) amended effective January 1, 2007.)

(e) Time for service

The Notice of Related Case must be served and filed as soon as possible, but no later than 15 days after the facts concerning the existence of related cases become known.

(Subd (e) amended effective January 1, 2007.)

(f) Continuing duty to provide notice

The duty under (b)–(e) is a continuing duty that applies when a party files a case with knowledge of a related action or proceeding, and that applies thereafter whenever a party learns of a related action or proceeding.

(Subd (f) amended and relettered effective January 1, 2007; adopted as part of subd (a; previously adopted as subd (b) effective January 1, 2007.)

(g) Response

Within 5 days after service on a party of a Notice of Related Case, the party may serve and file a response supporting or opposing the notice. The response must state why one or more of the cases listed in the notice are not related or why other good cause exists for the court not to transfer the cases to or from a particular court or department. The response

must be filed in all pending cases listed in the notice and must be served on all parties in those cases.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (c); previously amended and relettered as subd (d) effective January 1, 2007.)

(h) Judicial action

(1) *Related cases pending in one superior court*

If all the related cases have been filed in one superior court, the court, on notice to all parties, may order that the cases, including probate and family law cases, be related and may assign them to a single judge or department. In a superior court where there is a master calendar, the presiding judge may order the cases related. In a court in which cases are assigned to a single judge or department, cases may be ordered related as follows:

(A) Where all the cases listed in the notice are unlimited civil cases, or where all the cases listed in the notice are limited civil cases, the judge who has the earliest filed case must determine whether the cases must be ordered related and assigned to his or her department;

(B) Where the cases listed in the notice include both unlimited and limited civil cases, the judge who has the earliest filed unlimited civil case must determine whether the cases should be ordered related and assigned to his or her department;

(C) Where the cases listed in the notice contain a probate or family law case, the presiding judge or a judge designated by the presiding judge must determine whether the cases should be ordered related and, if so, to which judge or department they should be assigned;

(D) In the event that any of the cases listed in the notice are not ordered related under (A), (B), or (C), any party in any of the cases listed in the notice may file a motion to have the cases related. The motion must be filed with the presiding judge or the judge designated by the presiding judge; and

(E) If the procedures for relating pending cases under this rule do not apply, the procedures under Code of Civil Procedure section 1048 and rule 3.350 must be followed to consolidate cases pending in the same superior court.

(2) *Related cases pending in different superior courts*

(A) If the related cases are pending in more than one superior court on notice to all parties, the judge to whom the earliest filed case is assigned may confer informally with the parties and with the judges to whom each related case is

assigned, to determine the feasibility and desirability of joint discovery orders and other informal or formal means of coordinating proceedings in the cases.

(B) If it is determined that related cases pending in different superior courts should be formally coordinated, the procedures in Code of Civil Procedure section 403 and rule 3.500 must be followed for noncomplex cases, and the procedures in Code of Civil Procedure section 404 et seq. and rules 3.501 et seq. must be followed for complex cases.

(3) *Complex cases*

The provisions in (1) of this subdivision do not apply to cases that have been designated as complex by the parties or determined to be complex by the court.

(Subd (h) amended effective January 1, 2008; adopted as subd (d); previously amended and relettered as subd (e) effective January 1, 2007.)

(i) Ruling on related cases

The court, department, or judge issuing an order relating cases under this rule must either:

(1) File a notice of the order in all pending cases and serve a copy of the notice on all parties listed in the Notice of Related Case; or

(2) Direct counsel for a party to file the notice in all pending cases and serve a copy on all parties.

(Subd (i) adopted effective January 1, 2007.)

(j) Cases not ordered related

If for any reason a case is not ordered related under this rule, that case will remain assigned to the court, judge, or department where it was pending at the time of the filing and service of the Notice of Related Case.

(Subd (j) adopted effective January 1, 2007.)

(k) Exception

A party is not required to serve and file Notice of Related Case under this rule if another party has already filed a notice and served all parties under this rule on the same case.

(Subd (k) adopted effective January 1, 2007.)

Rule 3.300 amended effective January 1, 2008; adopted as rule 804 effective January 1, 1996; previously amended and renumbered effective January 1, 2007.

Chapter 4. Consolidated Cases

Rule 3.350. Consolidation of cases

Rule 3.350. Consolidation of cases

(a) Requirements of motion

(1) A notice of motion to consolidate must:

(A) List all named parties in each case, the names of those who have appeared, and the names of their respective attorneys of record;

(B) Contain the captions of all the cases sought to be consolidated, with the lowest numbered case shown first; and

(C) Be filed in each case sought to be consolidated.

(2) The motion to consolidate:

(A) Is deemed a single motion for the purpose of determining the appropriate filing fee, but memorandums, declarations, and other supporting papers must be filed only in the lowest numbered case;

(B) Must be served on all attorneys of record and all nonrepresented parties in all of the cases sought to be consolidated; and

(C) Must have a proof of service filed as part of the motion.

(Subd (a) amended effective January 1, 2007; adopted effective July 1, 1999.)

(b) Lead case

Unless otherwise provided in the order granting the motion to consolidate, the lowest numbered case in the consolidated case is the lead case.

(Subd (b) amended effective January 1, 2007; adopted effective July 1, 1999.)

(c) Order

An order granting or denying all or part of a motion to consolidate must be filed in each case sought to be consolidated. If the motion is granted for all purposes including trial, any subsequent document must be filed only in the lead case.

(Subd (c) amended effective January 1, 2007; adopted effective July 1, 1999.)

(d) Caption and case number

All documents filed in the consolidated case must include the caption and case number of the lead case, followed by the case numbers of all of the other consolidated cases.

(Subd (d) amended effective January 1, 2007; adopted effective July 1, 1999.)

Rule 3.350 amended and renumbered effective January 1, 2007; adopted as rule 367 effective January 1, 1984; previously amended effective July 1, 1999.

Chapter 5. Complex Cases

Rule 3.400. Definition

(a) Definition

A "complex case" is an action that requires exceptional judicial management to avoid placing unnecessary burdens on the court or the litigants and to expedite the case, keep costs reasonable, and promote effective decision making by the court, the parties, and counsel.

(b) Factors

In deciding whether an action is a complex case under (a), the court must consider, among other things, whether the action is likely to involve:

(1) Numerous pretrial motions raising difficult or novel legal issues that will be time-consuming to resolve;

(2) Management of a large number of witnesses or a substantial amount of documentary evidence;

(3) Management of a large number of separately represented parties;

(4) Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court; or

(5) Substantial postjudgment judicial supervision.

(Subd (b) amended effective January 1, 2007.)

(c) Provisional designation

Except as provided in (d), an action is provisionally a complex case if it involves one or more of the following types of claims:

(1) Antitrust or trade regulation claims;

(2) Construction defect claims involving many parties or structures;

(3) Securities claims or investment losses involving many parties;

(4) Environmental or toxic tort claims involving many parties;

(5) Claims involving mass torts;

(6) Claims involving class actions; or

(7) Insurance coverage claims arising out of any of the claims listed in (c)(1) through (c)(6).

(Subd (c) amended effective January 1, 2007.)

(d) Court's discretion

Notwithstanding (c), an action is not provisionally complex if the court has significant experience in resolving like claims involving similar facts and the management of those claims has become routine. A court may declare by local rule that certain types of cases are or are not provisionally complex under this subdivision.

(Subd (d) amended effective January 1, 2007.)

Rule 3.400 amended and renumbered effective January 1, 2007; adopted as rule 1800 effective January 1, 2000.

Rule 3.401. Complex case designation

A plaintiff may designate an action as a complex case by filing and serving with the initial complaint the *Civil Case Cover Sheet* (form CM-010) marked to indicate that the action is a complex case.

Rule 3.401 renumbered effective January 1, 2007; adopted as rule 1810 effective January 1, 2000; previously amended effective July 1, 2002, and July 1, 2004.

Rule 3.402. Complex case counterdesignations

(a) Noncomplex counterdesignation

If a *Civil Case Cover Sheet* (form CM-010) designating an action as a complex case has been filed and served and the court has not previously declared the action to be a complex case, a defendant may file and serve no later than its first appearance a counter *Civil Case Cover Sheet* (form CM-010) designating the action as not a complex case. The court must decide, with or without a hearing, whether the action is a complex case within 30 days after the filing of the counterdesignation.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 2004.)

(b) Complex counterdesignation

A defendant may file and serve no later than its first appearance a counter *Civil Case Cover Sheet* (form CM-010) designating the action as a complex case. The court must decide, with or without a hearing, whether the action is a complex case within 30 days after the filing of the counterdesignation.

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 2004.)

(c) Joint complex designation

A defendant may join the plaintiff in designating an action as a complex case.

Rule 3.402 amended and renumbered effective January 1, 2007; adopted as rule 1811 effective January 1, 2000; previously amended effective July 1, 2004.

Rule 3.403. Action by court

(a) Decision on complex designation

Except as provided in rule 3.402, if a *Civil Case Cover Sheet* (form CM-010) that has been filed and served designates an action as a complex case or checks a case type described as provisionally complex civil litigation, the court must decide as soon as reasonably practicable, with or without a hearing, whether the action is a complex case.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 2004.)

(b) Court's continuing power

With or without a hearing, the court may decide on its own motion, or on a noticed motion by any party, that a civil action is a complex case or that an action previously declared to be a complex case is not a complex case.

Rule 3.403 amended effective January 1, 2007; adopted as rule 1812 effective January 1, 2000; previously amended effective July 1, 2004; previously amended and renumbered effective January 1, 2007.

Chapter 6. Coordination of Noncomplex Actions

Rule 3.500. Transfer and consolidation of noncomplex common-issue actions filed in different courts

Rule 3.500. Transfer and consolidation of noncomplex common-issue actions filed in different courts

(a) Application

This rule applies when a motion under Code of Civil Procedure section 403 is filed requesting transfer and consolidation of noncomplex cases involving a common issue of fact or law filed in different courts.

(Subd (a) amended and lettered effective January 1, 2007; adopted as unlettered subd.)

(b) Preliminary step

A party that intends to file a motion under Code of Civil Procedure section 403 must first make a good-faith effort to obtain agreement of all parties to each case to the proposed transfer and consolidation.

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (a).)

(c) Motion and hearing

A motion to transfer an action under Code of Civil Procedure section 403 must conform to the requirements generally applicable to motions, and must be supported by a declaration stating facts showing that:

(1) The actions are not complex;

(2) The moving party has made a good-faith effort to obtain agreement to the transfer and consolidation from all parties to the actions; and

(3) The moving party has notified all parties of their obligation to disclose to the court any information they may have concerning any other motions requesting transfer of any case that would be affected by the granting of the motion before the court.

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (b).)

(d) Findings and order

If the court orders that the case or cases be transferred from another court, the order must specify the reasons supporting a finding that the transfer will promote the ends of justice, with reference to the following standards:

(1) The actions are not complex;

(2) Whether the common question of fact or law is predominating and significant to the litigation;

(3) The convenience of the parties, witnesses, and counsel;

(4) The relative development of the actions and the work product of counsel;

(5) The efficient utilization of judicial facilities and staff resources;

(6) The calendar of the courts;

(7) The disadvantages of duplicative and inconsistent rulings, orders, or judgments; and

(8) The likelihood of settlement of the actions without further litigation should coordination be denied.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (c).)

(e) Moving party to provide copies of order

If the court orders that the case or cases be transferred from another court, the moving party must promptly serve the order on all parties to each case and send it to the Judicial Council and to the presiding judge of the court from which each case is to be transferred.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d).)

(f) Moving party to take necessary action to complete transfer and consolidation

If the court orders a case or cases transferred, the moving party must promptly take all appropriate action necessary to assure that the transfer takes place and that proceedings are initiated in the other court or courts to complete consolidation with the case pending in that court.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e).)

(g) Conflicting orders

The coordination staff in the Administrative Office of the Courts must review all transfer orders submitted under (e) and must promptly confer with the presiding judges of any courts that have issued conflicting orders under Code of Civil Procedure section 403. The presiding judges of those courts must confer with each other and with the judges who have

issued the orders to the extent necessary to resolve the conflict. If it is determined that any party to a case has failed to disclose information concerning pending motions, the court may, after a duly noticed hearing, find that the party's failure to disclose is an unlawful interference with the processes of the court.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (f).)

(h) Alternative disposition of motion

If after considering the motion the judge determines that the action or actions pending in another court should not be transferred to the judge's court but instead all the actions that are subject to the motion to transfer should be transferred and consolidated in another court, the judge may order the parties to prepare, serve, and file a motion to have the actions transferred to the appropriate court.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (g).)

Rule 3.500 amended and renumbered effective January 1, 2007; adopted as rule 1500 effective September 21, 1996.

Chapter 7. Coordination of Complex Actions

Article 1. General Provisions

Rule 3.501. Definitions

As used in this chapter, unless the context or subject matter otherwise requires:

(1) "Action" means any civil action or proceeding that is subject to coordination or that affects an action subject to coordination.

(2) "Add-on case" means an action that is proposed for coordination, under Code of Civil Procedure section 404.4, with actions previously ordered coordinated.

(3) "Assigned judge" means any judge assigned by the Chair of the Judicial Council or by a presiding judge authorized by the Chair of the Judicial Council to assign a judge under Code of Civil Procedure section 404 or 404.3, including a "coordination motion judge" and a "coordination trial judge."

(4) "Clerk," unless otherwise indicated, means any person designated by an assigned judge to perform any clerical duties required by the rules in this chapter.

(5) "Coordinated action" means any action that has been ordered coordinated with one or more other actions under chapter 3 (commencing with section 404) of title 4 of part 2 of the Code of Civil Procedure and the rules in this chapter.

(6) "Coordination attorney" means an attorney in the Administrative Office of the Courts appointed by the Chair of the Judicial Council to perform such administrative functions as may be appropriate under the rules in this chapter, including but not limited to the functions described in rules 3.524 and 3.550.

(7) "Coordination motion judge" means an assigned judge designated under Code of Civil Procedure section 404 to determine whether coordination is appropriate.

(8) "Coordination proceeding" means any procedure authorized by chapter 3 (commencing with section 404) of title 4 of part 2 of the Code of Civil Procedure and by the rules in this chapter.

(9) "Coordination trial judge" means an assigned judge designated under Code of Civil Procedure section 404.3 to hear and determine coordinated actions.

(10) "Expenses" means all necessary costs that are reimbursable under Code of Civil Procedure section 404.8, including the compensation of the assigned judge and other necessary judicial officers and employees, the costs of any necessary travel and subsistence determined under rules of the State Board of Control, and all necessarily incurred costs of facilities, supplies, materials, and telephone and mailing expenses.

(11) "Included action" means any action or proceeding included in a petition for coordination.

(12) "Liaison counsel" means an attorney of record for a party to an included action or a coordinated action who has been appointed by an assigned judge to serve as representative of all parties on a side with the following powers and duties, as appropriate:

(A) To receive on behalf of and promptly distribute to the parties for whom he or she acts all notices and other documents from the court;

(B) To act as spokesperson for the side that he or she represents at all proceedings set on notice before trial, subject to the right of each party to present individual or divergent positions; and

(C) To call meetings of counsel for the purpose of proposing joint action.

(13) "Party" includes all parties to all included actions or coordinated actions, and the word "party," "petitioner," or any other designation of a party includes that party's attorney of

record. When a notice or other paper is required to be given or served on a party, the notice or paper must be given to or served on the party's attorney of record, if any.

(14) "Petition for coordination" means any petition, motion, application, or request for coordination of actions submitted to the Chair of the Judicial Council or to a coordination trial judge under rule 3.544.

(15) "Remand" means to return a coordinated action or a severable claim or issue in a coordinated action from a coordination proceeding to the court in which the action was pending at the time the coordination of that action was ordered. If a remanded action or claim had been transferred by the coordination trial judge under rule 3.543 from the court in which the remanded action or claim was pending, the remand must include the retransfer of that action or claim to that court.

(16) "Serve and file" means that a paper filed in a court must be accompanied by proof of prior service of a copy of the paper on each party required to be served under the rules in this chapter.

(17) "Serve and submit" means that a paper to be submitted to an assigned judge under the rules in this chapter must be submitted to that judge at a designated court address. Every paper so submitted must be accompanied by proof of prior service on each party required to be served under the rules in this chapter. If there is no assigned judge or if the paper is of a type included in rule 3.511(a), the paper must be submitted to the Chair of the Judicial Council.

(18) "Side" means all parties to an included or a coordinated action who have a common or substantially similar interest in the issues, as determined by the assigned judge for the purpose of appointing liaison counsel or of allotting peremptory challenges in jury selection, or for any other appropriate purpose. Except as defined in rule 3.515, a side may include less than all plaintiffs or all defendants.

(19) "Transfer" means to remove a coordinated action or severable claim in that action from the court in which it is pending to any other court under rule 3.543, without removing the action or claim from the coordination proceeding. "Transfer" includes "retransfer."

Rule 3.501 amended and renumbered effective January 1, 2007; adopted as rule 1501 effective January 1, 1974; previously amended effective July 1, 1974, and January 1, 2005.

Rule 3.502. Complex case—determination

The court must consider rule 3.400 et seq. in determining whether a case is or is not a complex case within the meaning of Code of Civil Procedure sections 403 and 404.

Rule 3.502 amended and renumbered effective January 1, 2007; adopted as rule 1501.1 effective September 21, 1996; previously amended effective January 1, 2000; previously amended and renumbered as rule 1502 effective January 1, 2005.

Rule 3.503. Requests for extensions of time or to shorten time

(a) Assigned judge may grant request

The assigned judge, on terms that are just, may shorten or extend the time within which any act is permitted or required to be done by a party. Unless otherwise ordered, any motion or application for an extension of time to perform an act required by these rules must be served and submitted in accordance with rule 3.501(17).

(Subd (a) amended effective January 1, 2007; adopted as part of unlettered subd effective January 1, 1974; previously amended and lettered effective January 1, 2005.)

(b) Stipulation requires consent of assigned judge

A stipulation for an extension of time for the filing and service of documents required by the rules in this chapter requires approval of the assigned judge.

(Subd (b) amended and lettered effective January 1, 2005; adopted as part of unlettered subd effective January 1, 1974.)

(c) Extension does not extend time for bringing action to trial

Nothing in this rule extends the time within which a party must bring an action to trial under Code of Civil Procedure section 583.310.

(Subd (c) adopted effective January 1, 2005.)

Rule 3.503 amended and renumbered effective January 1, 2007; adopted as rule 1503 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.504. General law applicable

(a) General law applicable

Except as otherwise provided in the rules in this chapter, all provisions of law applicable to civil actions generally apply to an action included in a coordination proceeding.

(Subd (a) amended effective January 1, 2005.)

(b) Rules prevail over conflicting general provisions of law

To the extent that the rules in this chapter conflict with provisions of law applicable to civil actions generally, the rules in this chapter prevail, as provided by Code of Civil Procedure section 404.7.

(Subd (b) amended and lettered effective January 1, 2005; adopted as part of subd (a).)

(c) Manner of proceeding may be prescribed by assigned judge

If the manner of proceeding is not prescribed by chapter 3 (commencing with section 404) of title 4 of part 2 of the Code of Civil Procedure or by the rules in this chapter, or if the prescribed manner of proceeding cannot, with reasonable diligence, be followed in a particular coordination proceeding, the assigned judge may prescribe any suitable manner of proceeding that appears most consistent with those statutes and rules.

(Subd (c) amended and relettered effective January 1, 2005; adopted as subd (b).)

(d) Specification of applicable local rules

At the beginning of a coordination proceeding, the assigned judge must specify, subject to rule 3.20, any local court rules to be followed in that proceeding, and thereafter all parties must comply with those rules. Except as otherwise provided in the rules in this chapter or as directed by the assigned judge, the local rules of the court designated in the order appointing the assigned judge apply in all respects if they would otherwise apply without reference to the rules in this chapter.

(Subd (d) amended effective January 1, 2007; adopted as subd (c); previously amended and relettered effective January 1, 2005.)

Rule 3.504 amended and renumbered effective January 1, 2007; adopted as rule 1504 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.505. Appellate review

(a) Coordination order to specify reviewing court

If the actions to be coordinated are within the jurisdiction of more than one reviewing court, the coordination motion judge must select and the order granting a petition for coordination must specify, in accordance with Code of Civil Procedure section 404.2, the court having appellate jurisdiction of the coordinated actions.

(Subd (a) amended and lettered effective January 1, 2005; adopted as part of unlettered subd effective January 1, 1974.)

(b) Court for review of order granting or denying coordination

A petition for a writ relating to an order granting or denying coordination may be filed, subject to the provisions of rule 10.1000, in any reviewing court having jurisdiction under the rules applicable to civil actions generally.

(Subd (b) amended effective January 1, 2007; adopted as part of unlettered subd effective January 1, 1974; previously amended and lettered effective January 1, 2005.)

Rule 3.505 amended and renumbered effective January 1, 2007; adopted as rule 1505 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.506. Liaison counsel

(a) Selection and appointment

An assigned judge may at any time request that the parties on each side of the included or coordinated actions select one or more of the attorneys of record on that side for appointment as liaison counsel, and may appoint liaison counsel if the parties are unable to agree.

(Subd (a) amended effective January 1, 2005.)

(b) Duration of appointment by coordination motion judge

Unless otherwise stipulated to or directed by an assigned judge, the appointment of a liaison counsel by a coordination motion judge terminates on the final determination of the issue whether coordination is appropriate. For good cause shown, the coordination motion judge, on the court's own motion or on the motion of any party, may remove previously appointed counsel as liaison counsel.

(Subd (b) amended and lettered effective January 1, 2005; adopted as part of subd (a) effective January 1, 1974.)

(c) Service on party that has requested special notice

Except as otherwise directed by the assigned judge, any party that has made a written request for special notice must be served with a copy of any document thereafter served on the party's liaison counsel.

(Subd (c) amended effective January 1, 2007; adopted as subd (b); previously amended and relettered effective January 1, 2005.)

Rule 3.506 amended and renumbered effective January 1, 2007; adopted as rule 1506 effective January 1, 1974; previously amended effective January 1, 2005.)

Article 2. Procedural Rules Applicable to All Complex Coordination Proceedings

Rule 3.510. Service of papers

(a) Proof of service

Except as otherwise provided in the rules in this chapter, all papers filed or submitted must be accompanied by proof of prior service on all other parties to the coordination proceeding, including all parties appearing in all included actions and coordinated actions. Service and proof of such service must be made as provided for in civil actions generally.

(Subd (a) amended and lettered effective January 1, 2005; adopted as part of unlettered subd effective January 1, 1974.)

(b) Service on liaison counsel

Except as provided in rule 3.506(c), any party for whom liaison counsel has been designated may be served by serving the liaison counsel.

(Subd (b) amended effective January 1, 2007; adopted as part of unlettered subd effective January 1, 1974; previously amended and lettered effective January 1, 2005.)

(c) Effect of failure to serve

Failure to serve any defendant with a copy of the summons and of the complaint, or failure to serve any party with any other paper or order as required by the rules in this chapter, will not preclude the coordination of the actions, but the unserved defendant or party may assert the failure to serve as a basis for appropriate relief.

(Subd (c) amended and lettered effective January 1, 2005; adopted as part of unlettered subd effective January 1, 1974.)

Rule 3.510 amended and renumbered effective January 1, 2007; adopted as rule 1510 effective January 1, 1974; previously amended effective January 1, 2005.)

Rule 3.511. Papers to be submitted to the Chair of the Judicial Council

(a) Types of papers

A copy of the following papers must be submitted to the Chair of the Judicial Council at the Judicial Council's San Francisco office:

(1) Petition for coordination, including a petition for coordination of add-on cases;

(2) Notice of submission of petition for coordination, along with the caption page of the original action;

(3) Order assigning coordination motion judge, if made by a presiding judge;

(4) Order assigning coordination trial judge, if made by a presiding judge;

(5) Notice of opposition;

(6) Response in opposition to or in support of a petition for coordination;

(7) Motion for a stay order;

(8) Notice of hearing on petition;

(9) Order granting or denying coordination, including coordination of add-on cases;

(10) Order of remand;

(11) Order of transfer;

(12) Order terminating a coordination proceeding in whole or in part;

(13) Order dismissing an included or coordinated action;

(14) Notice of appeal; and

(15) Notice of disposition of appeal.

(Subd (a) adopted effective January 1, 2005.)

(b) Obligation of party

The papers listed in (a) are to be submitted by the party that filed or submitted and served the papers or that was directed to give notice of entry of the order. Notice of submission must be filed with the court as part of the proof of service.

(Subd (b) adopted effective January 1, 2005.)

Rule 3.511 amended and renumbered effective January 1, 2007; adopted as rule 1511 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.512. Electronic submission of documents to the Chair of the Judicial Council

(a) Documents that may be submitted electronically

Any paper listed in rule 3.511(a) may be submitted electronically to coordination@jud.ca.gov.

(Subd (a) amended effective January 1, 2008; previously amended effective January 1, 2007.)

(b) Responsibilities of party submitting documents electronically

A party submitting a document electronically must:

(1) Take all reasonable steps to ensure that the submission does not contain computer code, including viruses, that might be harmful to the Judicial Council's electronic system and to other users of that system; and

(2) Furnish one or more electronic notification addresses and immediately provide any change to his or her electronic notification addresses.

(c) Format of documents to be submitted electronically

A document that is submitted electronically must meet the following requirements:

(1) The software for creating and reading the document must be in the public domain or generally available at a reasonable cost; and

(2) The printing of documents must not result in the loss of document text, format, or appearance.

(d) Signature on documents under penalty of perjury

(1) When a document to be submitted electronically requires a signature under penalty of perjury, the document is deemed signed by the declarant if, before submission, the declarant has signed a printed form of the document.

(2) By electronically submitting the document, the party submitting it indicates that he or she has complied with subdivision (d)(1) of this rule and that the original, signed document is available for review and copying at the request of the court or any party.

(3) At any time after the document is submitted, any other party may serve a demand for production of the original signed document. The demand must be served on all other parties but need not be filed with the court.

(4) Within five days of service of the demand, the party on whom the demand is made must make the original signed document available for review and copying by all other parties.

(e) Signature on documents not under penalty of perjury

If a document does not require a signature under penalty of perjury, the document is deemed signed by the party if the document is submitted electronically.

(f) Digital signature

A party is not required to use a digital signature on an electronically submitted document.

Rule 3.512 amended effective January 1, 2008; adopted as rule 1511.5 effective July 1, 2005; previously amended and renumbered effective January 1, 2007.

Rule 3.513. Service of memorandums and declarations

Unless otherwise provided in the rules in this chapter or directed by the assigned judge, all memorandums and declarations in support of or opposition to any petition, motion, or application must be served and submitted at least nine court days before any hearing on the matter at issue.

Rule 3.513 amended effective January 1, 2007; adopted as rule 1512 effective January 1, 1974; previously amended effective January 1, 2005; previously amended and renumbered effective January 1, 2007.

Rule 3.514. Evidence presented at court hearings

All factual matters to be heard on any petition for coordination, or on any other petition, motion, or application under the rules in this chapter, must be initially presented and heard on declarations, answers to interrogatories or requests for admissions, depositions, or matters judicially noticed. Oral testimony will not be permitted at a hearing except as the assigned judge may permit to resolve factual issues shown by the declarations, responses to discovery, or matters judicially noticed to be in dispute. Only parties that have submitted a petition or motion, or a written response or opposition to a petition or motion, will be permitted to appear at the hearing, except the assigned judge may permit other parties to appear, on a showing of good cause.

Rule 3.514 renumbered effective January 1, 2007; adopted as rule 1513 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.515. Motions and orders for a stay

(a) Motion for stay

Any party may file a motion for an order under Code of Civil Procedure section 404.5 staying the proceedings in any action being considered for, or affecting an action being considered for, coordination, or the court may stay the proceedings on its own motion. The motion for a stay may be included with a petition for coordination or may be served and submitted to the Chair of the Judicial Council and the coordination motion judge by any party at any time prior to the determination of the petition.

(Subd (a) amended effective January 1, 2005.)

(b) Contents of motion

A motion for a stay order must:

(1) List all known pending related cases;

(2) State whether the stay order should extend to any such related case; and

(3) Be supported by a memorandum and by declarations establishing the facts relied on to show that a stay order is necessary and appropriate to effectuate the purposes of coordination.

(Subd (b) amended and lettered effective January 1, 2005; adopted as part of subd (a).)

(c) Service requirements for certain motions for stay orders

If the action to be stayed is not included in the petition for coordination or any response to that petition, the motion for a stay order and all supporting documents must be served on each party to the action to be stayed and any such party may serve and submit opposition to the motion for a stay order.

(Subd (c) amended and lettered effective January 1, 2005; adopted as part of subd (a).)

(d) Opposition to motion for stay order

Any memorandums and declarations in opposition to a motion for a stay order must be served and submitted within 10 days after service of the motion.

(Subd (d) amended and lettered effective January 1, 2005; adopted as part of subd (a).)

(e) Hearing on motion for stay order

A stay order may be issued with or without a hearing. A party filing a motion for a stay order or opposition thereto may request a hearing to determine whether the stay order should be granted. A request for hearing should be made at the time the requesting party files the motion or opposition. If the coordination motion judge grants the request for a hearing, the requesting party must provide notice.

(Subd (e) amended and lettered effective January 1, 2005; adopted as part of subd (a).)

(f) Determination of motion for stay order

In ruling on a motion for a stay order, the assigned judge must determine whether the stay will promote the ends of justice, considering the imminence of any trial or other proceeding that might materially affect the status of the action to be stayed, and whether a final judgment in that action would have a res judicata or collateral estoppel effect with regard to any common issue of the included actions.

(Subd (f) amended and relettered effective January 1, 2005; adopted as subd (e).)

(g) Issuance of stay order and termination of stay

If a stay order is issued, the party that requested the stay must serve and file a copy of the order in each included action that is stayed. Thirty or more days following issuance of the stay order, any party that is subject to the stay order may move to terminate the stay.

(Subd (g) amended and relettered effective January 1, 2005; adopted as subd (b).)

(h) Effect of stay order

Unless otherwise specified in the order, a stay order suspends all proceedings in the action to which it applies. A stay order may be limited by its terms to specified proceedings, orders, motions, or other phases of the action to which the order applies.

(Subd (h) amended and relettered effective January 1, 2005; adopted as subd (c).)

(i) Effect of absence of stay order

In the absence of a stay order, a court receiving an order assigning a coordination motion judge may continue to exercise jurisdiction over the included action for purposes of all pretrial and discovery proceedings, but no trial may be commenced and no judgment may be entered in that action unless trial of the action had commenced before the assignment of the coordination motion judge.

(Subd (i) amended and relettered effective January 1, 2005; adopted as subd (d); previously amended effective July 1, 1974.)

(j) Effect of stay order on dismissal for lack of prosecution

The time during which any stay of proceedings is in effect under the rules in this chapter must not be included in determining whether the action stayed should be dismissed for lack of prosecution under chapter 1.5 (§ 583.110 et seq.) of title 8 of part 2 of the Code of Civil Procedure.

(Subd (j) amended and relettered effective January 1, 2005; adopted as subd (f); previously amended effective January 1, 1986.)

Rule 3.515 renumbered effective January 1, 2007; adopted as rule 1514 effective January 1, 1974; previously amended effective July 1, 1974, January 1, 1986, and January 1, 2005.

Rule 3.516. Motions under Code of Civil Procedure section 170.6

A party making a peremptory challenge by motion or affidavit of prejudice regarding an assigned judge must submit it in writing to the assigned judge within 20 days after service of the order

assigning the judge to the coordination proceeding. All plaintiffs or similar parties in the included or coordinated actions constitute a side and all defendants or similar parties in such actions constitute a side for purposes of applying Code of Civil Procedure section 170.6.

Rule 3.516 renumbered effective January 1, 2007; adopted as rule 1515 effective January 1, 1974; previously amended effective June 19, 1982, and January 1, 2005.

Article 3. Petitions and Proceedings for Coordination of Complex Actions

Rule 3.520. Motions filed in the trial court

(a) General requirements

A motion filed in the trial court under this rule must specify the matters required by rule 3.521(a) and must be made in the manner provided by law for motions in civil actions generally.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1983, and January 1, 2005.)

(b) Permission to submit a petition for coordination

(1) *Request for permission to submit coordination petition*

If a direct petition is not authorized by Code of Civil Procedure section 404, a party may request permission from the presiding judge of the court in which one of the included actions is pending to submit a petition for coordination to the Chair of the Judicial Council. The request must be made by noticed motion accompanied by a proposed order. The proposed order must state that the moving party has permission to submit a petition for coordination to the Chair of the Judicial Council under rules 3.521–3.523.

(2) *Order to be prepared*

If permission to submit a petition is granted, the moving party must serve and file the signed order and submit it to the Chair of the Judicial Council.

(3) *Stay permitted pending preparation of petition*

To provide sufficient time for a party to submit a petition, the presiding judge may stay all related actions pending in that court for a reasonable time not to exceed 30 calendar days.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1983, January 1, 2005, and July 1, 2006.)

Rule 3.520 amended and renumbered effective January 1, 2007; adopted as rule 1520 effective January 1, 1974; previously amended effective January 1, 1983, January 1, 2005, and July 1, 2006.

Rule 3.521. Petition for coordination

(a) Contents of petition

A request submitted to the Chair of the Judicial Council for the assignment of a judge to determine whether the coordination of certain actions is appropriate, or a request that a coordination trial judge make such a determination concerning an add-on case, must be designated a "Petition for Coordination" and may be made at any time after filing of the complaint. The petition must state whether a hearing is requested and must be supported by a memorandum and declarations showing:

(1) The name of each petitioner or, when the petition is submitted by a presiding or sole judge, the name of each real party in interest, and the name and address of each party's attorney of record, if any;

(2) The names of the parties to all included actions, and the name and address of each party's attorney of record, if any;

(3) If the party seeking to submit a petition for coordination is a plaintiff, whether the party's attorney has served the summons and complaint on all parties in all included actions in which the attorney has appeared;

(4) For each included action, the complete title and case number, the date the complaint was filed, and the title of the court in which the action is pending;

(5) The complete title and case number of any other action known to the petitioner to be pending in a court of this state that shares a common question of fact or law with the included actions, and a statement of the reasons for not including the other action in

the petition for coordination or a statement that the petitioner knows of no other actions sharing a common question of fact or law;

(6) The status of each included action, including the status of any pretrial or discovery motions or orders in that action, if known to petitioner;

(7) The facts relied on to show that each included action meets the coordination standards specified in Code of Civil Procedure section 404.1; and

(8) The facts relied on in support of a request that a particular site or sites be selected for a hearing on the petition for coordination.

(Subd (a) amended effective January 1, 2005.)

(b) Submit proof of filing and service

Within five court days of submitting the petition for coordination, the petitioner must submit to the Chair of the Judicial Council proof of filing of the notice of submission of petition required by rule 3.522, and proof of service of the notice of submission of petition and of the petition required by rule 3.523.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2005, and January 1, 2007.)

(c) Copies of pleadings in lieu of proof by declaration

In lieu of proof by declaration of any fact required by (a)(2), (4), (7), and (8), a certified or endorsed copy of the respective pleadings may be attached to the petition for coordination, provided that the petitioner specifies with particularity the portions of the pleadings that are relied on to show the fact.

(Subd (c) amended effective January 1, 2005.)

(d) Effect of imminent trial date

The imminence of a trial in any action otherwise appropriate for coordination may be a ground for summary denial of a petition for coordination, in whole or in part.

(Subd (d) amended effective January 1, 2005.)

Rule 3.521 amended effective January 1, 2007; adopted as rule 1521 effective January 1, 1974; previously amended effective January 1, 2005; previously amended and renumbered effective January 1, 2007.

Rule 3.522. Notice of submission of petition for coordination

(a) Contents of notice of submission

In each included action, the petitioner must file a "Notice of Submission of Petition for Coordination" and the petition for coordination. Each notice must bear the title of the court in which the notice is to be filed and the title and case number of each included action that is pending in that court. Each notice must include:

(1) The date that the petition for coordination was submitted to the Chair of the Judicial Council;

(2) The name and address of the petitioner's attorney of record;

(3) The title and case number of each included action to which the petitioner is a party and the title of the court in which each action is pending; and

(4) The statement that any written opposition to the petition must be submitted and served at least nine court days before the hearing date.

(Subd (a) amended effective January 1, 2007; adopted as part of unlettered subd effective January 1, 1974; previously amended and lettered effective January 1, 2005; previously amended effective January 1, 2006.)

(b) Copies of notice

The petitioner must submit the notice and proof of filing in each included action to the Chair of the Judicial Council within five court days of submitting the petition for coordination.

(Subd (b) amended effective January 1, 2007; adopted as part of unlettered subd effective January 1, 1974; previously.)

Rule 3.522 renumbered effective January 1, 2007; adopted as rule 1522 effective January 1, 1974; previously amended effective January 1, 2005, and January 1, 2006.

Rule 3.523. Service of notice of submission on party

The petitioner must serve the notice of submission of petition for coordination that was filed in each included action, the petition for coordination, and supporting documents on each party appearing in each included action and submit the notice to the Chair of the Judicial Council within five court days of submitting the petition for coordination.

Rule 3.523 amended effective January 1, 2007; adopted as rule 1523 effective January 1, 1974; previously amended effective January 1, 2005; previously amended and renumbered effective January 1, 2007.

Rule 3.524. Order assigning coordination motion judge

(a) Contents of order

An order by the Chair of the Judicial Council assigning a coordination motion judge to determine whether coordination is appropriate, or authorizing the presiding judge of a court to assign the matter to judicial officers of the court to make the determination in the same manner as assignments are made in other civil cases, must include the following:

(1) The special title and number assigned to the coordination proceeding; and

(2) The court address for submitting all subsequent documents to be considered by the coordination motion judge.

(Subd (a) amended and lettered effective January 1, 2005; adopted as part of unlettered subd effective January 1, 1974.)

(b) Service of order

The petitioner must serve the order described in (a) on each party appearing in an included action and send it to each court in which an included action is pending with directions to the clerk to file the order in the included action.

(Subd (b) amended and lettered effective January 1, 2005; adopted as part of unlettered subd effective January 1, 1974.)

Rule 3.524 renumbered effective January 1, 2007; adopted as rule 1524 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.525. Response in opposition to petition for coordination

Any party to an included action that opposes coordination may serve and submit a memorandum and declarations in opposition to the petition. Any response in opposition must be served and filed at least nine court days before the date set for hearing.

Rule 3.525 amended effective January 1, 2007; adopted as rule 1525 effective January 1, 1974; previously amended effective January 1, 2005; previously amended and renumbered effective January 1, 2007.

Rule 3.526. Response in support of petition for coordination

Any party to an included action that supports coordination may serve and submit a written statement in support of the petition. Any response in support must be served and filed at least nine court days before the date set for hearing. If a party that supports coordination does not support the particular site or sites requested by the petitioner for the hearing on the petition for coordination, that party may request that a different site or sites be selected and include in his or her response the facts relied on in support thereof.

Rule 3.526 amended effective January 1, 2007; adopted as rule 1526 effective January 1, 1974; previously amended effective January 1, 2005; previously amended and renumbered effective January 1, 2007.

Rule 3.527. Notice of hearing on petition for coordination

(a) Timing and notice of hearing

The coordination motion judge must set a hearing date on a petition for coordination within 30 days of the date of the order assigning the coordination motion judge. When a coordination motion judge is assigned to decide a petition for coordination that lists additional included actions sharing a common question of law or fact with included actions in a petition for coordination already pending before the judge, the judge may continue the hearing date on the first petition no more than 30 calendar days in order to hear both petitions at the same time. The petitioner must provide notice of the hearing to each party appearing in an included action. If the coordination motion judge determines that a party that should be served with notice of the petition for coordination has not been served with notice, the coordination motion judge must order the petitioner to promptly serve that party. If the coordination motion judge determines that a hearing is not required under (b), the hearing date must be vacated and notice provided to the parties.

(Subd (a) amended and relettered effective January 1, 2005; adopted as subd (b).)

(b) Circumstances in which hearing required

A hearing must be held to decide a petition for coordination if a party opposes coordination. A petition for coordination may not be denied unless a hearing has been held.

(Subd (b) adopted effective January 1, 2005.)

(c) Report to the Chair of the Judicial Council

If the petition for coordination has not been decided within 30 calendar days after the hearing, the coordination motion judge must promptly submit to the Chair of the Judicial Council a written report describing:

(1) The present status of the petition for coordination proceeding;

(2) Any factors or circumstances that may have caused undue or unanticipated delay in the decision on the petition for coordination; and

(3) Any stay orders that are in effect.

(Subd (c) amended effective January 1, 2005.)

Rule 3.527 renumbered effective January 1, 2007; adopted as rule 1527 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.528. Separate hearing on certain coordination issues

When a petition for coordination may be disposed of on the determination of a specified issue or issues, without a hearing on all issues raised by the petition and any opposition, the assigned judge may order that the specified issue or issues be heard and determined before a hearing on the remaining issues.

Rule 3.528 renumbered effective January 1, 2007; adopted as rule 1528 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.529. Order granting or denying coordination

(a) Filing, service, and submittal

When a petition for coordination is granted or denied, the petitioner must promptly file the order in each included action, serve it on each party appearing in an included action, and submit it to the Chair of the Judicial Council.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(b) Stay of further proceedings

When an order granting coordination is filed in an included action, all further proceedings in that action are automatically stayed, except as directed by the coordination trial judge or by the coordination motion judge under (c). The stay does not preclude the court in which the included action is pending from accepting and filing papers with proof of submission of a copy to the assigned judge or from exercising jurisdiction over any severable claim that has not been ordered coordinated.

(Subd (b) amended effective January 1, 2005.)

(c) Authority of coordination motion judge pending assignment of coordination trial judge

After a petition for coordination has been granted and before a coordination trial judge has been assigned, the coordination motion judge may for good cause make any appropriate order as the ends of justice may require but may not commence a trial or enter judgment in any included action. Good cause includes a showing of an urgent need for judicial action to preserve the rights of a party pending assignment of a coordination trial judge.

(Subd (c) amended effective January 1, 2005.)

(d) Order denying coordination

The authority of a coordination motion judge over an included action terminates when an order denying a petition for coordination is filed in the included action and served on the

parties to the action. A stay ordered by the coordination motion judge terminates 10 days after the order denying coordination is filed.

(Subd (d) amended effective January 1, 2005.)

Rule 3.529 amended and renumbered effective January 1, 2007; adopted as rule 1529 effective January 1, 1974; previously amended effective June 19, 1982, and January 1, 2005.

Rule 3.530. Site of coordination proceedings

(a) Recommendation by coordination motion judge

If a petition for coordination is granted, the coordination motion judge must, in the order granting coordination, recommend to the Chair of the Judicial Council a particular superior court for the site of the coordination proceedings.

(b) Factors to consider

The coordination motion judge may consider any relevant factors in making a recommendation for the site of the coordination proceedings, including the following:

(1) The number of included actions in particular locations;

(2) Whether the litigation is at an advanced stage in a particular court;

(3) The efficient use of court facilities and judicial resources;

(4) The locations of witnesses and evidence;

(5) The convenience of the parties and witnesses;

(6) The parties' principal places of business;

(7) The office locations of counsel for the parties; and

(8) The ease of travel to and availability of accommodations in particular locations.

Rule 3.530 renumbered effective January 1, 2007; adopted as rule 1530 effective January 1, 2005.

Rule 3.531. Potential add-on case

(a) Notice

Any party to an included action in a pending petition for coordination must promptly provide notice of any potential add-on cases in which that party is also named or in which that party's attorney has appeared. The party must submit notice to the coordination motion judge and the Chair of the Judicial Council and serve it on each party appearing in

the included actions in the pending petition and each party appearing in the potential add-on cases.

(b) Stipulation or order

By stipulation of all parties or order of the coordination motion judge, each potential add-on case will be deemed an included action for purposes of the hearing on the petition for coordination.

Rule 3.531 renumbered effective January 1, 2007; adopted as rule 1531 effective January 1, 2005.

Rule 3.532. Petition for coordination when cases already ordered coordinated

(a) Assignment of coordination trial judge

If it appears that included actions in a petition for coordination share a common question of law or fact with cases already ordered coordinated, the Chair of the Judicial Council may assign the petition to the coordination trial judge for the existing coordinated cases to decide the petition as a request to coordinate an add-on case under rule 3.544.

(Subd (a) amended effective January 1, 2007.)

(b) Order

The coordination trial judge's order must specify that the request to coordinate an add-on case is either granted or denied.

(c) Filing and service

The petitioner must promptly file the order in each included action, serve it on each party appearing in an included action, and submit a copy to the Chair of the Judicial Council.

(Subd (c) amended effective January 1, 2007.)

(d) Cases added on and right to peremptory challenge

If the coordination trial judge grants the petition, the included actions will be coordinated as add-on cases and the right to file a peremptory challenge under Code of Civil Procedure section 170.6 will be limited by rule 3.516.

(Subd (d) amended effective January 1, 2007.)

(e) Assignment of coordination motion judge if cases not added on

If the coordination trial judge denies the petition as a request to coordinate an add-on case under rule 3.544, the Chair of the Judicial Council must assign a coordination motion judge to determine whether coordination is appropriate under rule 3.524.

(Subd (e) amended effective January 1, 2007.)

Rule 3.532 amended and renumbered effective January 1, 2007; adopted as rule 1532 effective January 1, 2005.

Article 4. Pretrial and Trial Rules for Complex Coordinated Actions

Rule 3.540. Order assigning coordination trial judge

(a) Assignment by the Chair of the Judicial Council

When a petition for coordination is granted, the Chair of the Judicial Council must either assign a coordination trial judge to hear and determine the coordinated actions or authorize the presiding judge of a court to assign the matter to judicial officers of the court in the same manner as assignments are made in other civil cases, under Code of Civil Procedure section 404.3. The order assigning a coordination trial judge must designate an address for submission of papers to that judge.

(Subd (a) amended and lettered effective January 1, 2005; adopted as part of unlettered subd effective January 1, 1974.)

(b) Powers of coordination trial judge

Immediately on assignment, the coordination trial judge may exercise all the powers over each coordinated action that are available to a judge of the court in which that action is pending.

(Subd (b) amended effective January 1, 2007; adopted as part of unlettered subd effective January 1, 1974; previously amended and lettered effective January 1, 2005.)

(c) Filing and service of copies of assignment order

The petitioner must file the assignment order in each coordinated action and serve it on each party appearing in each action, and, if the assignment was made by the presiding judge, submit it to the Chair of the Judicial Council. Every paper filed in a coordinated action must be accompanied by proof of submission of a copy of the paper to the

coordination trial judge at the designated address. A copy of the assignment order must be included in any subsequent service of process on any defendant in the action.

(Subd (c) amended effective January 1, 2011; adopted as part of unlettered subd; previously amended and lettered effective January 1, 2005.)

Rule 3.540 amended effective January 1, 2011; adopted as rule 1540 effective January 1, 1974; previously amended effective January 1, 2005; previously amended and renumbered effective January 1, 2007.

Rule 3.541. Duties of the coordination trial judge

(a) Initial case management conference

The coordination trial judge must hold a case management conference within 45 days after issuance of the assignment order. Counsel and all self-represented persons must attend the conference and be prepared to discuss all matters specified in the order setting the conference. At any time following the assignment of the coordination trial judge, a party may serve and submit a proposed agenda for the conference and a proposed form of order covering such matters of procedure and discovery as may be appropriate. At the conference, the judge may:

(1) Appoint liaison counsel under rule 3.506;

(2) Establish a timetable for filing motions other than discovery motions;

(3) Establish a schedule for discovery;

(4) Provide a method and schedule for the submission of preliminary legal questions that might serve to expedite the disposition of the coordinated actions;

(5) In class actions, establish a schedule, if practicable, for the prompt determination of matters pertinent to the class action issue;

(6) Establish a central depository or depositories to receive and maintain for inspection by the parties evidentiary material and specified documents that are not required by the rules in this chapter to be served on all parties; and

(7) Schedule further conferences if appropriate.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(b) Management of proceedings by coordination trial judge

The coordination trial judge must assume an active role in managing all steps of the pretrial, discovery, and trial proceedings to expedite the just determination of the

coordinated actions without delay. The judge may, for the purpose of coordination and to serve the ends of justice:

(1) Order any coordinated action transferred to another court under rule 3.543;

(2) Schedule and conduct hearings, conferences, and a trial or trials at any site within this state that the judge deems appropriate with due consideration to the convenience of parties, witnesses, and counsel; to the relative development of the actions and the work product of counsel; to the efficient use of judicial facilities and resources; and to the calendar of the courts; and

(3) Order any issue or defense to be tried separately and before trial of the remaining issues when it appears that the disposition of any of the coordinated actions might thereby be expedited.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2005.)

Rule 3.541 amended and renumbered effective January 1, 2007; adopted as rule 1541 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.542. Remand of action or claim

The coordination trial judge may at any time remand a coordinated action or any severable claim or issue in that action to the court in which the action was pending at the time the coordination of that action was ordered. Remand may be made on the stipulation of all parties or on the basis of evidence received at a hearing on the court's own motion or on the motion of any party to any coordinated action. No action or severable claim or issue in that action may be remanded over the objection of any party unless the evidence demonstrates a material change in the circumstances that are relevant to the criteria for coordination under Code of Civil Procedure section 404.1. If the order of remand requires that the action be transferred, the provisions of rule 3.543(c)–(e) are applicable to the transfer. A remanded action is no longer part of the coordination proceedings for purposes of the rules in this chapter.

Rule 3.542 amended and renumbered effective January 1, 2007; adopted as rule 1542 effective January 1, 1974; previously amended effective January 1, 2005, and July 1, 2006.

Rule 3.543. Transfer of action or claim

(a) Court may transfer coordinated action

The coordination trial judge may order any coordinated action or severable claim in that action transferred from the court in which it is pending to another court for a specified purpose or for all purposes. Transfer may be made by the court on its own motion or on the motion of any party to any coordinated action.

(Subd (a) amended effective January 1, 2005.)

(b) Hearing on motion to transfer

If a party objects to the transfer, the court must hold a hearing on at least 10 days' written notice served on all parties to that action. At any hearing to determine whether an action or claim should be transferred, the court must consider the convenience of parties, witnesses, and counsel; the relative development of the actions and the work product of counsel; the efficient use of judicial facilities and resources; the calendar of the courts; and any other relevant matter.

(Subd (b) amended effective January 1, 2007; adopted as part of subd (a) effective January 1, 1974; previously amended and lettered effective January 1, 2005.)

(c) Order transferring action

The order transferring the action or claim must designate the court to which the action is transferred and must direct that a copy of the order of transfer be filed in each coordinated action. The order must indicate whether the action remains part of the coordination proceedings for purposes of the rules in this chapter.

(Subd (c) amended and lettered effective January 1, 2005; adopted as part of subd (b) effective January 1, 1974.)

(d) Duties of transferor and transferee courts

(1) *Duty of transferor court*

The clerk of the court in which the action was pending must immediately prepare and transmit to the court to which the action is transferred a certified copy of the order of transfer and of the pleadings and proceedings in the transferred action and must serve a copy of the order of transfer on each party appearing in that action.

(2) *Duty of transferee court*

The court to which the action is transferred must file the action as if the action had been commenced in that court. No fees may be required for such transfer by either court.

(3) *Transmission of papers*

If it is necessary to have any of the original pleadings or other papers in the transferred action before the coordination trial judge, the clerk of the court from which the action was transferred must, on written request of a party to that action or of the coordination trial judge, transmit such papers or pleadings to the court to which the action is transferred and must retain a certified copy.

(Subd (d) amended effective January 1, 2007; adopted as part of subd (b) effective January 1, 1974; previously amended and lettered effective January 1, 2005.)

(e) Transferee court to exercise jurisdiction

On receipt of a transfer order, the court to which the action is transferred may exercise jurisdiction over the action in accordance with the orders and directions of the coordination trial judge, and no other court may exercise jurisdiction over that action except as provided in this rule.

(Subd (e) amended and lettered effective January 1, 2005; adopted as part of subd (b) effective January 1, 1974.)

Rule 3.543 amended and renumbered effective January 1, 2007; adopted as rule 1543 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.544. Add-on cases

(a) Request to coordinate add-on case

A request to coordinate an add-on case must comply with the requirements of rules 3.520 through 3.523, except that the request must be submitted to the coordination trial judge under Code of Civil Procedure section 404.4, with proof of mailing of one copy to the Chair of the Judicial Council and proof of service as required by rule 3.510.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(b) Opposition to request to coordinate an add-on case

Within 10 days after the service of a request, any party may serve and submit a notice of opposition to the request. Thereafter, within 15 days after submitting a notice of opposition, the party must serve and submit a memorandum and declarations in opposition to the request. Failure to serve and submit a memorandum and declarations in opposition may be a ground for granting the request to coordinate an add-on case.

(Subd (b) amended and lettered effective January 1, 2005; adopted as part of subd (a).)

(c) Hearing on request to coordinate an add-on case

The coordination trial judge may order a hearing on a request to coordinate an add-on case under rules 3.527 and 3.528 and may allow the parties to serve and submit additional written materials in support of or opposition to the request. In deciding the request to coordinate, the court must consider the relative development of the actions and the work product of counsel, in addition to any other relevant matter. An application for an order staying the add-on case must be made to the coordination trial judge under rule 3.515.

(Subd (c) amended effective January 1, 2007; adopted as subd (b); previously amended and relettered effective January 1, 2005.)

(d) Order on request to coordinate an add-on case

If no party has filed a notice of opposition within the time required under (b), the coordination trial judge may enter an order granting or denying the request without a hearing. An order granting or denying a request to coordinate an add-on case must be prepared and served under rule 3.529, and an order granting such request automatically stays all further proceedings in the add-on case under rule 3.529.

(Subd (d) amended effective January 1, 2007; adopted as subd (c); previously amended and relettered effective January 1, 2005.)

Rule 3.544 amended and renumbered effective January 1, 2007; adopted as rule 1544 effective January 1, 1974; previously amended effective January 1, 2005.

Rule 3.545. Termination of coordinated action

(a) Coordination trial judge may terminate action

The coordination trial judge may terminate any coordinated action by settlement or final dismissal, summary judgment, or judgment, or may transfer the action so that it may be dismissed or otherwise terminated in the court where it was pending when coordination was ordered.

(Subd (a) amended and lettered effective January 1, 2005; adopted as part of unlettered subd.)

(b) Copies of order dismissing or terminating action and judgment

A certified copy of the order dismissing or terminating the action and of any judgment must be transmitted to:

(1) The clerk of the court in which the action was pending when coordination was ordered, who shall promptly enter any judgment and serve notice of entry of the judgment on all parties to the action and on the Chair of the Judicial Council; and

(2) The appropriate clerks for filing in each pending coordinated action.

(Subd (b) amended and lettered effective January 1, 2005; adopted as part of unlettered subd.)

(c) Judgment in coordinated action

The judgment entered in each coordinated action must bear the title and case number assigned to the action at the time it was filed.

(Subd (c) amended and lettered effective January 1, 2005; adopted as part of unlettered subd.)

(d) Proceedings in trial court after judgment

Until the judgment in a coordinated action becomes final or until a coordinated action is remanded, all further proceedings in that action to be determined by the trial court must be determined by the coordination trial judge. Thereafter, unless otherwise ordered by the coordination trial judge, all such proceedings must be conducted in the court where the action was pending when coordination was ordered. The coordination trial judge must also specify the court in which any ancillary proceedings will be heard and determined. For purposes of this rule, a judgment is final when it is no longer subject to appeal.

(Subd (d) amended and lettered effective January 1, 2005; adopted as part of unlettered subd.)

Rule 3.545 renumbered effective January 1, 2007; adopted as rule 1545 effective January 1, 1974; previously amended effective January 1, 2005.

Article 5. Administration of Coordinated Complex Actions

Rule 3.550. General administration by the Administrative Office of the Courts

Rule 3.550. General administration by the Administrative Office of the Courts

(a) Coordination attorney

Except as otherwise provided in the rules in this chapter, all necessary administrative functions under this chapter will be performed at the direction of the Chair of the Judicial Council by a coordination attorney in the Administrative Office of the Courts.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2005.)

(b) Duties of coordination attorney

The coordination attorney must at all times maintain:

(1) A list of active and retired judges who are qualified and currently available to conduct coordination proceedings; and

(2) A register of all coordination proceedings and a file for each proceeding, for public inspection during regular business hours at the San Francisco office of the Judicial Council.

(Subd (b) amended and lettered effective January 1, 2005; previously adopted as part of subd (a) effective January 1, 2005.)

(c) Coordination proceeding title and case number

The coordination attorney must assign each coordination proceeding a special title and coordination proceeding number. Thereafter all papers in that proceeding must bear that title and number.

(Subd (c) amended and relettered effective January 1, 2005; adopted as subd (b).)

Rule 3.550 amended and renumbered effective January 1, 2007; adopted as rule 1550 effective January 1, 1974; previously amended effective January 1, 2005.

Division 5. Venue [Reserved]

Division 6. Proceedings

Chapter 1. General Provisions [Reserved]

Chapter 2. Stay of Proceedings

Rule 3.650. Duty to notify court and others of stay

Rule 3.650. Duty to notify court and others of stay

(a) Notice of stay

The party who requested or caused a stay of a proceeding must immediately serve and file a notice of the stay and attach a copy of the order or other document showing that the proceeding is stayed. If the person who requested or caused the stay has not appeared, or is not subject to the jurisdiction of the court, the plaintiff must immediately file a notice of the stay and attach a copy of the order or other document showing that the proceeding is stayed. The notice of stay must be served on all parties who have appeared in the case.

(b) When notice must be provided

The party responsible for giving notice under (a) must provide notice if the case is stayed for any of the following reasons:

(1) An order of a federal court or a higher state court;

(2) Contractual arbitration under Code of Civil Procedure section 1281.4;

(3) Arbitration of attorney fees and costs under Business and Professions Code section 6201; or

(4) Automatic stay caused by a filing in another court, including a federal bankruptcy court.

(Subd (b) amended effective January 1, 2007.)

(c) Contents of notice

The notice must state whether the case is stayed with regard to all parties or only certain parties. If it is stayed with regard to only certain parties, the notice must specifically identify those parties. The notice must also state the reason that the case is stayed.

(Subd (c) amended effective January 1, 2006.)

(d) Notice that stay is terminated or modified

When a stay is vacated, is no longer in effect, or is modified, the party who filed the notice of the stay must immediately serve and file a notice of termination or modification of stay. If that party fails to do so, any other party in the action who has knowledge of the termination or modification of the stay must serve and file a notice of termination or modification of stay. Once one party in the action has served and filed a notice of termination or modification of stay, other parties in the action are not required to do so.

(Subd (d) amended effective January 1, 2006.)

Rule 3.650 amended and renumbered effective January 1, 2007; adopted as rule 224 effective January 1, 2004; previously amended effective January 1, 2006.

Chapter 3. Hearings, Conferences, and Proceedings

Chapter 3 amended effective July 1, 2008.

Rule 3.670. Telephone appearance

Rule 3.670. Telephone appearance

(a) Policy favoring telephone appearances

The intent of this rule is to promote uniformity in the practices and procedures relating to telephone appearances in civil cases. To improve access to the courts and reduce litigation costs, courts should permit parties, to the extent feasible, to appear by telephone at appropriate conferences, hearings, and proceedings in civil cases.

(Subd (a) adopted effective January 1, 2008.)

(b) Application

This rule applies to all general civil cases as defined in rule 1.6 and to unlawful detainer and probate proceedings.

(Subd (b) relettered effective January 1, 2008; previously repealed and adopted as subd (a) effective July 1, 1998; previously amended effective January 1, 1999, January 1, 2001, January 1, 2003, and January 1, 2007.)

(c) General provision authorizing parties to appear by telephone

Except as provided in (e)(2), a party may appear by telephone at the following conferences, hearings, and proceedings:

(1) Case management conferences, provided the party has made a good faith effort to meet and confer and has timely served and filed a case management statement before the conference date;

(2) Trial setting conferences;

(3) Hearings on law and motion, except motions in limine;

(4) Hearings on discovery motions;

(5) Status conferences, including conferences to review the status of an arbitration or a mediation; and

(6) Hearings to review the dismissal of an action.

(Subd (c) amended and relettered effective January 1, 2008; previously repealed and adopted as subd (b) effective July 1, 1998; previously amended effective July 1, 1999, and January 1, 2003.)

(d) Required personal appearances

Except as provided in (e)(3), a personal appearance is required for hearings, conferences, and proceedings not listed in (c), including the following:

(1) Trials and hearings at which witnesses are expected to testify;

(2) Hearings on temporary restraining orders;

(3) Settlement conferences;

(4) Trial management conferences;

(5) Hearings on motions in limine; and

(6) Hearings on petitions to confirm the sale of property under the Probate Code.

In addition, except as provided in (e)(3), a personal appearance is required for the following persons:

(7) Applicants seeking an ex parte order, except when the applicant is seeking an order:

(A) For permission to file a memorandum in excess of the applicable page limits;

(B) For an extension of time to serve pleadings;

(C) To set hearing dates on alternative writs and orders to show cause; or

(D) By stipulation of the parties;

(8) Persons ordered to appear to show cause why sanctions should not be imposed for violation of a court order or a rule; or

(9) Persons ordered to appear in an order or citation issued under the Probate Code.

At the proceedings under (7), (8), and (9), parties who are not required to appear in person under this rule may appear by telephone.

(Subd (d) amended and relettered effective January 1, 2008; adopted as subd (c) effective July 1, 1998; previously amended effective July 1, 2002, and January 1, 2003.)

(e) Court discretion to modify rule

(1) *Policy favoring telephone appearances in civil cases*

In exercising its discretion under this provision, the court should consider the general policy favoring telephone appearances in civil cases.

(2) *Court may require personal appearances*

The court may require a party to appear in person at a hearing, conference, or proceeding listed in (c) if the court determines on a hearing-by-hearing basis that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the particular case.

(3) *Court may permit appearances by telephone*

The court may permit a party to appear by telephone at a hearing, conference, or proceeding under (d) if the court determines that a telephone appearance is appropriate.

(Subd (e) adopted effective January 1, 2008.)

(f) Need for personal appearance

If, at any time during a hearing, conference, or proceeding conducted by telephone, the court determines that a personal appearance is necessary, the court may continue the matter and require a personal appearance.

(Subd (f) adopted effective January 1, 2008.)

(g) Notice by party

(1) A party choosing to appear by telephone at a hearing, conference, or proceeding under this rule must either:

(A) Place the phrase "Telephone Appearance" below the title of the moving, opposing, or reply papers; or

(B) At least three court days before the appearance, notify the court and all other parties of the party's intent to appear by telephone. If the notice is oral, it must be given either in person or by telephone. If the notice is in writing, it must be given by filing a "Notice of Intent to Appear by Telephone" with the court at least three court days before the appearance and by serving the notice at the same time on all other parties by personal delivery, fax transmission, express mail, or other means reasonably calculated to ensure delivery to the parties no later than the close of the next business day.

(2) If after receiving notice from another party as provided under (1) a party that has not given notice also decides to appear by telephone, the party may do so by notifying the court and all other parties that have appeared in the action, no later than noon on the court day before the appearance, of its intent to appear by telephone.

(3) If a party that has given notice that it intends to appear by telephone under (1) subsequently chooses to appear in person, the party must so notify the court and all other parties that have appeared in the action, by telephone, at least two court days before the appearance.

(4) The court, on a showing of good cause, may permit a party to appear by telephone at a conference, hearing, or proceeding even if the party has not given the notice required under (1) or (2) and may permit a party to appear in person even if the party has not given the notice required in (3).

(Subd (g) amended and relettered effective January 1, 2008; adopted as subd (d) effective July 1, 1998; previously amended effective January 1, 1999, July 1, 1999, January 1, 2003, and January 1, 2007.)

(h) Notice by court

After a party has requested a telephone appearance under (g), if the court requires the personal appearance of the party, the court must give reasonable notice to all parties before the hearing and may continue the hearing if necessary to accommodate the personal

appearance. The court may direct the court clerk, a court-appointed vendor, a party, or an attorney to provide the notification. In courts using a telephonic tentative ruling system for law and motion matters, court notification that parties must appear in person may be given as part of the court's tentative ruling on a specific law and motion matter if that notification is given one court day before the hearing.

(Subd (h) amended and relettered effective January 1, 2008; adopted as subd (e) effective July 1, 1998; previously amended effective January 1, 1999, and January 1, 2003.)

(i) Provision of telephone appearance services

A court may provide for telephone appearances only through one or more of the following methods:

(1) An agreement with one or more vendors under a statewide master agreement or agreements.

(2) The direct provision by the court of telephone appearance services. If a court directly provides telephone services, it must collect the telephone appearance fees specified in (j), except as provided in (k) and (*l*). A judge may, at his or her discretion, waive telephone appearance fees for parties appearing directly by telephone in that judge's courtroom.

(Subd (i) amended effective July 1, 2013; adopted as subd (f) effective July 1, 1998; previously relettered as subd (i) effective January 1, 2008; previously amended effective January 1, 2003, and July 1, 2011.)

(j) Telephone appearance fee amounts; time for making requests

The telephone appearance fees specified in this subdivision are the statewide, uniform fees to be paid by parties to a vendor or court for providing telephone appearance services. Except as provided under (k) and (*l*), the fees to be paid to appear by telephone are as follows:

(1) The fee to appear by telephone, made by a timely request to a vendor or court providing telephone appearance services, is $86 for each appearance.

(2) An additional late request fee of $30 is to be charged for an appearance by telephone if the request to the vendor or the court providing telephone services is not made at least three days before the scheduled appearance, except:

(A) When an ex parte or other hearing or conference is set on shortened time for which three days' notice would not be feasible or practical, only the applying party—and not any responding party—is to be charged the late fee;

(B) When the court, on its own motion, sets a hearing or conference on shortened time, no late fee is to be charged to any party;

(C) When the matter has a tentative ruling posted within the three-day period, no late fee is to be charged to any party; and

(D) When the request to appear by telephone is made by a party that received notice of another party's intent to appear and afterward decides also to appear by telephone under (g)(2), no late fee is to be charged to that party if its request is made to the vendor or the court providing the service by noon on the court day before the hearing or conference.

(3) A fee of $5 is to be charged instead of the fees under (1) and (2) if a party cancels a telephone appearance request and no telephone appearance is made. A hearing or appearance that is taken off calendar or continued by the court is not a cancelation under this rule. If the hearing or appearance is taken off calendar by the court, there is no charge for the telephone appearance. If the hearing or appearance is continued by the court, the appearance fee must be refunded to the requesting party or, if the party agrees, be applied to the new hearing or appearance date.

(Subd (j) amended effective July 1, 2013; adopted effective July 1, 2011.)

(k) Fee waivers

(1) *Effect of fee waiver*

A party that has received a fee waiver must not be charged the fees for telephone appearances provided under (j), subject to the provisions of Code of Civil Procedure section 367.6(b).

(2) *Responsibility of requesting party*

To obtain telephone services without payment of a telephone appearance fee from a vendor or a court that provides telephone appearance services, a party must advise the vendor or the court that he or she has received a fee waiver from the court. If a vendor requests, the party must transmit a copy of the order granting the fee waiver to the vendor.

(3) *Lien on judgment*

If a party based on a fee waiver receives telephone appearance services under this rule without payment of a fee, the vendor or court that provides the telephone appearance services has a lien on any judgment, including a judgment for costs, that the party may receive, in the amount of the fee that the party would have paid for the telephone appearance. There is no charge for filing the lien.

(Subd (k) adopted effective July 1, 2011.)

(*l*) Title IV-D proceedings

(1) *Court-provided telephone appearance services*

If a court provides telephone appearance services in a proceeding for child or family support under Title IV-D of the Social Security Act brought by or otherwise involving a local child support agency, the court must not charge a fee for those services.

(2) *Vendor-provided telephone appearance services*

If a vendor provides for telephone appearance services in a proceeding for child or family support under Title IV-D, the amount of the fee for a telephone appearance under (j)(1) is $66 instead of $86. No portion of the fee received by the vendor for a telephone appearance under this subdivision is to be transmitted to the State Treasury under Government Code section 72011.

(3) *Responsibility of requesting party*

When a party in a Title IV-D proceeding requests telephone appearance services from a court or a vendor, the party requesting the services must advise the court or the vendor that the requester is a party in a proceeding for child or family support under Title IV-D brought by or otherwise involving a local child support agency.

(4) *Fee waivers applicable*

The fee waiver provisions in (k) apply to a request by a party in a Title IV-D proceeding for telephone appearance services from a vendor.

(Subd (l) amended effective July 1, 2013; adopted effective July 1, 2011.)

(m) Audibility and procedure

The court must ensure that the statements of participants are audible to all other participants and the court staff and that the statements made by a participant are identified as being made by that participant.

(Subd (m) relettered effective July 1, 2011; adopted as subd (f); previously relettered as subd (c) effective January 1, 1989, and as subd (g) effective July 1, 1998; previously amended effective January 1, 2003, and January 1, 2007; previously amended and relettered as subd (j) effective January 1, 2008.)

(n) Reporting

All proceedings involving telephone appearances must be reported to the same extent and in the same manner as if the participants had appeared in person.

(Subd (n) relettered effective July 1, 2011; adopted as subd (h) effective July 1, 1998; previously amended effective January 1, 2003; previously relettered as subd (k) effective January 1, 2008.)

(o) Conference call vendor or vendors

A court, by local rule, may designate the conference call vendor or vendors that must be used for telephone appearances.

*(Subd (o) amended and relettered effective July 1, 2011; adopted as subd (i) effective July 1, 1998; previously amended effective January 1, 1999, and January 1, 2003; previously relettered as subd (*l*) effective January 1, 2008.)*

(p) Information on telephone appearances

The court must publish notice providing parties with the particular information necessary for them to appear by telephone at conferences, hearings, and proceedings in that court under this rule.

(Subd (p) relettered effective July 1, 2011; adopted as subd (j); previously amended effective January 1, 2003, and January 1, 2007; previously amended and relettered as subd (m) effective January 1, 2008.)

Rule 3.670 amended effective July 1, 2013; adopted as rule 298 effective March 1, 1988; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 1989, July 1, 1998, January 1, 1999, July 1, 1999, January 1, 2001, July 1, 2002, January 1, 2003, January 1, 2008, and July 1, 2011.

Advisory Committee Comment

This rule does not apply to criminal or juvenile matters, and it also does not apply to family law matters, except in certain respects as provided in rule 5.324 relating to telephone appearances in proceedings for child or family support under Title IV-D of the Social Security Act. (See Cal. Rules of Court, rule 3.670(b) [rule applies to general civil cases and unlawful detainer and probate proceedings]; rule 5.324(j) [subdivisions (i)–(p) of rule 3.670 apply to telephone appearances in Title IV-D proceedings].)

Under subdivision (i)(3) of this rule and Government Code section 72010(c), even for proceedings in which fees are authorized, the fees may be waived by a judicial officer, in his or her discretion, for parties appearing directly by telephone in that judicial officer's courtroom.

Chapter 4. Special Proceedings on Construction-Related Accessibility Claims

Title 3, Civil Rules—Division 6, Proceedings—Chapter 4, Special Proceedings on Construction-Related Accessibility Claims; adopted effective July 1, 2013.

Rule 3.680. Service of Notice of Stay and Early Evaluation Conference

(a) Service of Application and Notice

The defendant who requested a stay and early evaluation conference on a construction-related claim under Civil Code section 55.54 must, within 10 days of issuance of the notice, serve on all other parties the application for stay and any *Notice of Stay of Proceedings and Early Evaluation Conference* (form DAL-010) issued by the court.

(b) Filing Proof of Service

A proof of service must be filed with the court 15 days before the date set for the early evaluation conference. *Proof of Service–Disability Access Litigation* (form DAL-012) may be used to show service of the documents.

Rule 3.680 adopted effective July 1, 2013.

Rule 3.682. Notice of Mandatory Evaluation Conferences

(a) Service of Application and Notice

The party who requested a mandatory evaluation conference on a construction-related accessibility claim under Civil Code section 55.545 must, within 10 days of issuance of the notice, serve on all other parties the application and any *Notice of Mandatory Evaluation Conference* (form DAL-020) issued by the court.

(b) Filing Proof of Service

A proof of service must be filed with the court 15 days before the date set for the early evaluation conference. *Proof of Service–Disability Access Litigation* (form DAL-012) may be used to show service of the documents.

Rule 3.682 adopted effective July 1, 2013.

Division 7. Civil Case Management

Chapter 1. General Provisions

Rule 3.700. Scope and purpose of the case management rules

Rule 3.700. Scope and purpose of the case management rules

The rules in this division are to be construed and administered to secure the fair, timely, and efficient disposition of every civil case. The rules are to be applied in a fair, practical, and flexible manner so as to achieve the ends of justice.

Rule 3.700 amended and renumbered effective January 1, 2007; adopted as rule 204 effective January 1, 2004.

Chapter 2. Differential Case Management

Rule 3.710. Authority

The rules in this chapter implement Government Code section 68603(c) under the Trial Court Delay Reduction Act of 1990.

Rule 3.710 amended and renumbered effective January 1, 2007; adopted as rule 2101 effective July 1, 1991; previously amended and renumbered as rule 205 effective July 1, 2002.

Rule 3.711. Local court rules

Each court must adopt local rules on differential case management as provided in this chapter consistent with the rules on case management in chapter 3 of this division and standard 2.1 of the California Standards of Judicial Administration.

Rule 3.711 amended and renumbered effective January 1, 2007; adopted as rule 2102 effective July 1, 1991; previously amended effective January 1, 1994, and January 1, 2000; previously amended and renumbered as rule 206 effective July 1, 2002.

Rule 3.712. Application and exceptions

(a) General application

The rules in this chapter apply to all general civil cases filed in the trial courts except those specified in (b), (c), and (d) and except those specified types or categories of general civil cases that have been exempted from the case management rules under rule 3.720(b).

(Subd (a) amended effective February 26, 2013; previously amended effective January 1, 1994, July 1, 2002, January 1, 2007, and July 1, 2007.)

(b) Uninsured motorist cases

To allow for arbitration of the plaintiff's claim, the rules in this chapter do not apply to a case designated by the court as "uninsured motorist" until 180 days after the designation.

(Subd (b) amended and relettered effective January 1, 2007; adopted as subd (c); previously amended effective July 1, 2002.)

(c) Coordinated cases

The rules in this chapter do not apply to any case included in a petition for coordination. If the petition is granted, the coordination trial judge may establish a case progression plan for the cases, which may be assigned for review under the case management rules in chapter 3 of this division or, after appropriate findings, for treatment as an exceptional case.

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (d); previously amended effective July 1, 2002.)

(d) Collections cases

The rules in this chapter do not apply to a collections case, as defined in rule 3.740(a), unless a defendant files a responsive pleading.

(Subd (d) adopted effective July 1, 2007.)

Rule 3.712 amended effective February 26, 2013; adopted as rule 2103 effective July 1, 1991; previously amended and renumbered as rule 207 effective July 1, 2002, and amended and renumbered effective January 1, 2007; previously amended effective January 1, 1994, and July 1, 2007.

Rule 3.713. Delay reduction goals

(a) Case management goals

The rules in this chapter are adopted to advance the goals of Government Code section 68607 and standard 2.1 of the California Standards of Judicial Administration.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 2002.)

(b) Case disposition time goals

The goal of the court is to manage general civil cases from filing to disposition as provided under standard 2.2 of the California Standards of Judicial Administration.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1994, July 1, 2002, and January 1, 2004.)

(c) Judges' responsibility

It is the responsibility of judges to achieve a just and effective resolution of each general civil case through active management and supervision of the pace of litigation from the date of filing to disposition.

(Subd (c) amended effective July 1, 2002.)

Rule 3.713 amended and renumbered effective January 1, 2007; adopted as rule 2104 effective July 1, 1991; previously amended and renumbered as rule 208 effective July 1, 2003; previously amended effective January 1, 1994, and January 1, 2004.

Rule 3.714. Differentiation of cases to achieve goals

(a) Evaluation and assignment

The court must evaluate each case on its own merits as provided in rule 3.715, under procedures adopted by local court rules. After evaluation, the court must:

(1) Assign the case to the case management program for review under the case management rules in chapter 3 of this division for disposition under the case disposition time goals in (b) of this rule;

(2) Exempt the case as an exceptional case under (c) of this rule from the case disposition time goals specified in rule 3.713(b) and monitor it with the goal of disposing of it within three years; or

(3) Assign the case under (d) of this rule to a local case management plan for disposition within six to nine months after filing.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 2002, and January 1, 2004.)

(b) Civil case disposition time goals

Civil cases assigned for review under the case management rules in chapter 3 of this division should be managed so as to achieve the following goals:

(1) *Unlimited civil cases*

The goal of each trial court should be to manage unlimited civil cases from filing so that:

(A) 75 percent are disposed of within 12 months;

(B) 85 percent are disposed of within 18 months; and

(C) 100 percent are disposed of within 24 months.

(2) *Limited civil cases*

The goal of each trial court should be to manage limited civil cases from filing so that:

(A) 90 percent are disposed of within 12 months;

(B) 98 percent are disposed of within 18 months; and

(C) 100 percent are disposed of within 24 months.

(3) *Individualized case management*

The goals in (1) and (2) are guidelines for the court's disposition of all unlimited and limited civil cases filed in that court. In managing individual civil cases, the court must consider each case on its merits. To enable the fair and efficient resolution of civil cases, each case should be set for trial as soon as appropriate for that individual case consistent with rule 3.729.

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 2002, and January 1, 2004.)

(c) Exemption of exceptional cases

(1) The court may in the interest of justice exempt a general civil case from the case disposition time goals under rule 3.713(b) if it finds the case involves exceptional circumstances that will prevent the court and the parties from meeting the goals and deadlines imposed by the program. In making the determination, the court is guided by rules 3.715 and 3.400.

(2) If the court exempts the case from the case disposition time goals, the court must establish a case progression plan and monitor the case to ensure timely disposition consistent with the exceptional circumstances, with the goal of disposing of the case within three years.

(Subd (c) amended effective January 1, 2007; adopted as subd (d); previously amended effective January 1, 2000, and July 1, 2002; previously amended and relettered as subd (c) effective January 1, 2004.)

(d) Local case management plan for expedited case disposition

(1) For expedited case disposition, the court may by local rule adopt a case management plan that establishes a goal for disposing of appropriate cases within six to nine months after filing. The plan must establish a procedure to identify the cases to be assigned to the plan.

(2) The plan must be used only for uncomplicated cases amenable to early disposition that do not need a case management conference or review or similar event to guide the case to early resolution.

(Subd (d) amended and relettered effective January 1, 2004; adopted as subd (e); previously amended effective January 1, 1994, and July 1, 2002.)

Rule 3.714 amended and renumbered effective January 1, 2007; adopted as rule 2105 effective July 1, 1991; amended and renumbered as rule 209 effective July 1, 2002; previously amended effective January 1, 1994, January 1, 200, and January 1, 2004.

Rule 3.715. Case evaluation factors

(a) Time estimate

In applying rule 3.714, the court must estimate the maximum time that will reasonably be required to dispose of each case in a just and effective manner. The court must consider the following factors and any other information the court deems relevant, understanding that no one factor or set of factors will be controlling and that cases may have unique characteristics incapable of precise definition:

(1) Type and subject matter of the action;

(2) Number of causes of action or affirmative defenses alleged;

(3) Number of parties with separate interests;

(4) Number of cross-complaints and the subject matter;

(5) Complexity of issues, including issues of first impression;

(6) Difficulty in identifying, locating, and serving parties;

(7) Nature and extent of discovery anticipated;

(8) Number and location of percipient and expert witnesses;

(9) Estimated length of trial;

(10) Whether some or all issues can be arbitrated or resolved through other alternative dispute resolution processes;

(11) Statutory priority for the issues;

(12) Likelihood of review by writ or appeal;

(13) Amount in controversy and the type of remedy sought, including measures of damages;

(14) Pendency of other actions or proceedings that may affect the case;

(15) Nature and extent of law and motion proceedings anticipated;

(16) Nature and extent of the injuries and damages;

(17) Pendency of underinsured claims; and

(18) Any other factor that would affect the time for disposition of the case.

(Subd (a) amended and lettered effective January 1, 2007; adopted as untitled subd effective July 1, 1991.)

Rule 3.715 amended and renumbered effective January 1, 2007; adopted as rule 2106 effective July 1, 1991; previously amended and renumbered as rule 210 effective July 1, 2002.

Chapter 3. Case Management

Rule 3.720. Application

(a) General application

The rules in this chapter prescribe the procedures for the management of all applicable court cases. These rules may be referred to as "the case management rules."

(Subd (a) amended and lettered effective February 26, 2013; adopted as unlettered subd.)

(b) Emergency suspension of rules

A court by local rule may exempt specified types or categories of general civil cases filed before January 1, 2016, from the case management rules in this chapter, provided that the court has in place alternative procedures for case processing and trial setting for such actions, including, without limitation, compliance with Code of Civil Procedure sections 1141.10 et seq. and 1775 et seq. The court must post the alternative procedures on its website.

(Subd (b) adopted effective February 26, 2013.)

(c) Rules when case management conference set

In any case in which a court sets an initial case management conference, the rules in this chapter apply.

(Subd (c) adopted effective February 26, 2013.)

Rule 3.720 amended effective February 26, 2013; adopted effective January 1, 2007.

Advisory Committee Comment

Subdivision (b) of this rule is an emergency measure in response to the limited fiscal resources available to the courts as a result of the current fiscal crisis and is not intended as a permanent change in the case.

Rule 3.721. Case management review

In every general civil case except complex cases and cases exempted under rules 3.712(b)–(d), 3.714(c)–(d), 3.735(b), 2.573(e), and 3.740(c), the court must review the case no later than 180 days after the filing of the initial complaint

Rule 3.721 amended effective July 1, 2007; adopted effective January 1, 2007.

Rule 3.722. Case management conference

(a) The initial conference

In each case, the court must set an initial case management conference to review the case. At the conference, the court must review the case comprehensively and decide whether to assign the case to an alternative dispute resolution process, whether to set the case for trial, and whether to take action regarding any of the other matters identified in rules 3.727 and 3.728. The initial case management conference should generally be the first case management event conducted by court order in each case, except for orders to show cause.

(b) Notice of the initial conference

Notice of the date of the initial case management conference must be given to all parties no later than 45 days before the conference, unless otherwise ordered by the court. The court may provide by local rule for the time and manner of giving notice to the parties.

(c) Preparation for the conference

At the conference, counsel for each party and each self-represented party must appear by telephone or personally as provided in rule 3.670; must be familiar with the case; and must be prepared to discuss and commit to the party's position on the issues listed in rules 3.724 and 3.727.

(Subd (c) amended effective January 1, 2008.)

(d) Case management order without appearance

If, based on its review of the written submissions of the parties and such other information as is available, the court determines that appearances at the conference are not necessary, the court may issue a case management order and notify the parties that no appearance is required.

(e) Option to excuse attendance at initial conferences in limited civil cases

By local rule the court may provide that counsel and self-represented parties are not to attend an initial case management conference in limited civil cases unless ordered to do so by the court.

Rule 3.722 amended effective January 1, 2008; adopted effective January 1, 2007.

Rule 3.723. Additional case management conferences

The court on its own motion may order, or a party or parties may request, that an additional case management conference be held at any time. A party should be required to appear at an additional conference only if an appearance is necessary for the effective management of the case. In determining whether to hold an additional conference, the court must consider each case individually on its own merits.

Rule 3.723 adopted effective January 1, 2007.

Advisory Committee Comment

Regarding additional case management conferences, in many civil cases one initial conference and one other conference before trial will be sufficient. But in other cases, including complicated or difficult cases, the court may order an additional case management conference or conferences if that would promote the fair and efficient administration of the case.

Rule 3.724. Duty to meet and confer

Unless the court orders another time period, no later than 30 calendar days before the date set for the initial case management conference, the parties must meet and confer, in person or by telephone, to consider each of the issues identified in rule 3.727 and, in addition, to consider the following:

(1) Resolving any discovery disputes and setting a discovery schedule;

(2) Identifying and, if possible, informally resolving any anticipated motions;

(3) Identifying the facts and issues in the case that are uncontested and may be the subject of stipulation;

(4) Identifying the facts and issues in the case that are in dispute;

(5) Determining whether the issues in the case can be narrowed by eliminating any claims or defenses by means of a motion or otherwise;

(6) Determining whether settlement is possible;

(7) Identifying the dates on which all parties and their attorneys are available or not available for trial, including the reasons for unavailability;

(8) Any issues relating to the discovery of electronically stored information, including:

(A) Issues relating to the preservation of discoverable electronically stored information;

(B) The form or forms in which information will be produced;

(C) The time within which the information will be produced;

(D) The scope of discovery of the information;

(E) The method for asserting or preserving claims of privilege or attorney work product, including whether such claims may be asserted after production;

(F) The method for asserting or preserving the confidentiality, privacy, trade secrets, or proprietary status of information relating to a party or person not a party to the civil proceedings;

(G) How the cost of production of electronically stored information is to be allocated among the parties;

(H) Any other issues relating to the discovery of electronically stored information, including developing a proposed plan relating to the discovery of the information; and

(9) Other relevant matters.

Rule 3.724 amended effective August 14, 2009; adopted effective January 1, 2007.

Rule 3.725. Case Management Statement

(a) Timing of statement

No later than 15 calendar days before the date set for the case management conference or review, each party must file a case management statement and serve it on all other parties in the case.

(b) Joint statement

In lieu of each party's filing a separate case management statement, any two or more parties may file a joint statement.

(c) Contents of statement

Parties must use the mandatory *Case Management Statement* (form CM-110). All applicable items on the form must be completed.

Rule 3.725 adopted effective January 1, 2007.

Rule 3.726. Stipulation to alternative dispute resolution

If all parties agree to use an alternative dispute resolution (ADR) process, they must jointly complete the ADR stipulation form provided for under rule 3.221 and file it with the court.

Rule 3.726 adopted effective January 1, 2007.

Rule 3.727. Subjects to be considered at the case management conference

In any case management conference or review conducted under this chapter, the parties must address, if applicable, and the court may take appropriate action with respect to, the following:

(1) Whether there are any related cases;

(2) Whether all parties named in the complaint or cross-complaint have been served, have appeared, or have been dismissed;

(3) Whether any additional parties may be added or the pleadings may be amended;

(4) Whether, if the case is a limited civil case, the economic litigation procedures under Code of Civil Procedure section 90 et seq. will apply to it or the party intends to bring a motion to exempt the case from these procedures;

(5) Whether any other matters (e.g., the bankruptcy of a party) may affect the court's jurisdiction or processing of the case;

(6) Whether the parties have stipulated to, or the case should be referred to, judicial arbitration in courts having a judicial arbitration program or to any other form of alternative dispute resolution (ADR) process and, if so, the date by which the judicial arbitration or other ADR process must be completed;

(7) Whether an early settlement conference should be scheduled and, if so, on what date;

(8) Whether discovery has been completed and, if not, the date by which it will be completed;

(9) What discovery issues are anticipated;

(10) Whether the case should be bifurcated or a hearing should be set for a motion to bifurcate under Code of Civil Procedure section 598;

(11) Whether there are any cross-complaints that are not ready to be set for trial and, if so, whether they should be severed;

(12) Whether the case is entitled to any statutory preference and, if so, the statute granting the preference;

(13) Whether a jury trial is demanded, and, if so, the identity of each party requesting a jury trial;

(14) If the trial date has not been previously set, the date by which the case will be ready for trial and the available trial dates;

(15) The estimated length of trial;

(16) The nature of the injuries;

(17) The amount of damages, including any special or punitive damages;

(18) Any additional relief sought;

(19) Whether there are any insurance coverage issues that may affect the resolution of the case; and

(20) Any other matters that should be considered by the court or addressed in its case management order.

Rule 3.727 adopted effective January 1, 2007.

Rule 3.728. Case management order

The case management conference must be conducted in the manner provided by local rule. The court must enter a case management order setting a schedule for subsequent proceedings and otherwise providing for the management of the case. The order may include appropriate provisions, such as:

(1) Referral of the case to judicial arbitration or other alternative dispute resolution process;

(2) A date for completion of the judicial arbitration process or other alternative dispute resolution process if the case has been referred to such a process;

(3) In the event that a trial date has not previously been set, a date certain for trial if the case is ready to be set for trial;

(4) Whether the trial will be a jury trial or a nonjury trial;

(5) The identity of each party demanding a jury trial;

(6) The estimated length of trial;

(7) Whether all parties necessary to the disposition of the case have been served or have appeared;

(8) The dismissal or severance of unserved or not-appearing defendants from the action;

(9) The names and addresses of the attorneys who will try the case;

(10) The date, time, and place for a mandatory settlement conference as provided in rule 3.1380;

(11) The date, time, and place for the final case management conference before trial if such a conference is required by the court or the judge assigned to the case;

(12) The date, time, and place of any further case management conferences or review; and

(13) Any additional orders that may be appropriate, including orders on matters listed in rules 3.724 and 3.727.

Rule 3.728 adopted effective January 1, 2007.

Rule 3.729. Setting the trial date

In setting a case for trial, the court, at the initial case management conference or at any other proceeding at which the case is set for trial, must consider all the facts and circumstances that are relevant. These may include:

(1) The type and subject matter of the action to be tried;

(2) Whether the case has statutory priority;

(3) The number of causes of action, cross-actions, and affirmative defenses that will be tried;

(4) Whether any significant amendments to the pleadings have been made recently or are likely to be made before trial;

(5) Whether the plaintiff intends to bring a motion to amend the complaint to seek punitive damages under Code of Civil Procedure section 425.13;

(6) The number of parties with separate interests who will be involved in the trial;

(7) The complexity of the issues to be tried, including issues of first impression;

(8) Any difficulties in identifying, locating, or serving parties;

(9) Whether all parties have been served and, if so, the date by which they were served;

(10) Whether all parties have appeared in the action and, if so, the date by which they appeared;

(11) How long the attorneys who will try the case have been involved in the action;

(12) The trial date or dates proposed by the parties and their attorneys;

(13) The professional and personal schedules of the parties and their attorneys, including any conflicts with previously assigned trial dates or other significant events;

(14) The amount of discovery, if any, that remains to be conducted in the case;

(15) The nature and extent of law and motion proceedings anticipated, including whether any motions for summary judgment will be filed;

(16) Whether any other actions or proceedings that are pending may affect the case;

(17) The amount in controversy and the type of remedy sought;

(18) The nature and extent of the injuries or damages, including whether these are ready for determination;

(19) The court's trial calendar, including the pendency of other trial dates;

(20) Whether the trial will be a jury or a nonjury trial;

(21) The anticipated length of trial;

(22) The number, availability, and locations of witnesses, including witnesses who reside outside the county, state, or country;

(23) Whether there have been any previous continuances of the trial or delays in setting the case for trial;

(24) The achievement of a fair, timely, and efficient disposition of the case; and

(25) Any other factor that would significantly affect the determination of the appropriate date of trial.

Rule 3.729 adopted effective January 1, 2007.

Rule 3.730. Case management order controls

The order issued after the case management conference or review controls the subsequent course of the action or proceeding unless it is modified by a subsequent order.

Rule 3.730 adopted effective January 1, 2007.

Rule 3.734. Assignment to one judge for all or limited purposes

The presiding judge may, on the noticed motion of a party or on the court's own motion, order the assignment of any case to one judge for all or such limited purposes as will promote the efficient administration of justice.

Rule 3.734 amended and renumbered effective January 1, 2007; adopted as rule 213 effective January 1, 1985; previously amended effective July 1, 2002.

Rule 3.735. Management of short cause cases

(a) Short cause case defined

A short cause case is a civil case in which the time estimated for trial by all parties or the court is five hours or less. All other civil cases are long cause cases.

(Subd (a) amended effective January 1, 2007.)

(b) Exemption for short cause case and setting of case for trial

The court may order, upon the stipulation of all parties or the court's own motion, that a case is a short cause case exempted from the requirements of case management review and set the case for trial.

(c) Mistrial

If a short cause case is not completely tried within five hours, the judge may declare a mistrial or, in the judge's discretion, may complete the trial. In the event of a mistrial, the case will be treated as a long cause case and must promptly be set either for a new trial or for a case management conference.

Rule 3.735 amended and renumbered effective January 1, 2007; adopted as rule 214 effective July 1, 2002.

Chapter 4. Management of Collections Cases

Chapter 4 adopted effective July 1, 2008.

Rule 3.740. Collections cases

(a) Definition

"Collections case" means an action for recovery of money owed in a sum stated to be certain that is not more than $25,000, exclusive of interest and attorney fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking any of the following:

(1) Tort damages;

(2) Punitive damages;

(3) Recovery of real property;

(4) Recovery of personal property; or

(5) A prejudgment writ of attachment.

(b) *Civil Case Cover Sheet*

If a case meets the definition in (a), a plaintiff must check the case type box on the *Civil Case Cover Sheet* (form CM-010) to indicate that the case is a collections case under rule 3.740 and serve the *Civil Case Cover Sheet* (form CM-010) with the initial complaint.

(Subd (b) amended effective January 1, 2009.)

(c) Exemption from general time-for-service requirement and case management rules

A collections case is exempt from:

(1) The time-for-service requirement of rule 3.110(b); and

(2) The case management rules that apply to all general civil cases under rules 3.712–3.715 and 3.721–3.730, unless a defendant files a responsive pleading.

(d) Time for service

The complaint in a collections case must be served on all named defendants, and proofs of service on those defendants must be filed, or the plaintiff must obtain an order for publication of the summons, within 180 days after the filing of the complaint.

(e) Effect of failure to serve within required time

If proofs of service on all defendants are not filed or the plaintiff has not obtained an order for publication of the summons within 180 days after the filing of the complaint, the court may issue an order to show cause why reasonable monetary sanctions should not be imposed. If proofs of service on all defendants are filed or an order for publication of the summons is filed at least 10 court days before the order to show cause hearing, the court must continue the hearing to 360 days after the filing of the complaint.

(f) Effect of failure to obtain default judgment within required time

If proofs of service of the complaint are filed or service by publication is made and defendants do not file responsive pleadings, the plaintiff must obtain a default judgment within 360 days after the filing of the complaint. If the plaintiff has not obtained a default judgment by that time, the court must issue an order to show cause why reasonable monetary sanctions should not be imposed. The order to show cause must be vacated if the plaintiff obtains a default judgment at least 10 court days before the order to show cause hearing.

Rule 3.740 amended effective January 1, 2009; adopted effective July 1, 2007.

Rule 3.741. Settlement of collections case

If the plaintiff or other party seeking affirmative relief in a case meeting the definition of "collections case" in rule 3.740(a) files a notice of settlement under rule 3.1385, including a conditional settlement, the court must vacate all hearing, case management conference, and trial dates.

Rule 3.741 adopted effective July 1, 2007.

Chapter 5. Management of Complex Cases

Chapter 5 renumbered effective July 1, 2008; adopted as chapter 4 effective January 1, 2007.

Rule 3.750. Initial case management conference

(a) Timing of conference

The court in a complex case should hold an initial case management conference with all parties represented at the earliest practical date.

(b) Subjects for consideration

At the conference, the court should consider the following subjects:

(1) Whether all parties named in the complaint or cross-complaint have been served, have appeared, or have been dismissed;

(2) Whether any additional parties may be added or the pleadings may be amended;

(3) The deadline for the filing of any remaining pleadings and service of any additional parties;

(4) Whether severance, consolidation, or coordination with other actions is desirable;

(5) The schedule for discovery proceedings to avoid duplication and whether discovery should be stayed until all parties have been brought into the case;

(6) The schedule for settlement conferences or alternative dispute resolution;

(7) Whether to appoint liaison or lead counsel;

(8) The date for the filing of any dispositive motions;

(9) The creation of preliminary and updated lists of the persons to be deposed and the subjects to be addressed in each deposition;

(10) The exchange of documents and whether to establish an electronic document depository;

(11) Whether a special master should be appointed and the purposes for such appointment;

(12) Whether to establish a case-based Web site and other means to provide a current master list of addresses and telephone numbers of counsel; and

(13) The schedule for further conferences.

(c) Objects of conference

Principal objects of the initial case management conference are to expose at an early date the essential issues in the litigation and to avoid unnecessary and burdensome discovery procedures in the course of preparing for trial of those issues.

(d) Meet and confer requirement

The court may order counsel to meet privately before the initial case management conference to discuss the items specified in (a) and to prepare a joint statement of matters agreed upon, matters on which the court must rule at the conference, and a description of the major legal and factual issues involved in the litigation.

Rule 3.750 adopted effective January 1, 2007.

Rule 3.751. Electronic service

The court may provide in a case management order that documents filed electronically in a central electronic depository available to all parties are deemed served on all parties.

Rule 3.751 renumbered effective January 1, 2007; adopted as rule 1830 effective January 1, 2000.

Chapter 6. Management of Class Actions

Chapter 6 renumbered effective July 1, 2008; adopted as chapter 5 effective January 1, 2007.

Rule 3.760. Application

(a) Class actions

The rules in this chapter apply to each class action brought under Civil Code section 1750 et seq. or Code of Civil Procedure section 382 until the court finds the action is not maintainable as a class action or revokes a prior class certification.

(Subd (a) amended effective January 1, 2007.)

(b) Relief from compliance with rules

The court, on its own motion or on motion of any named party, may grant relief from compliance with the rules in this chapter in an appropriate case.

(Subd (b) amended effective January 1, 2007.)

Rule 3.760 amended and renumbered effective January 1, 2007; adopted as rule 1850 effective January 1, 2002.

Rule 3.761. Form of complaint

(a) Caption of pleadings

A complaint for or against a class party must include in the caption the designation "CLASS ACTION." This designation must be in capital letters on the first page of the complaint, immediately below the case number but above the description of the nature of the complaint.

(b) Heading and class action allegations

The complaint in a class action must contain a separate heading entitled "CLASS ACTION ALLEGATIONS," under which the plaintiff describes how the requirements for class certification are met.

Rule 3.761 renumbered effective January 1, 2007; adopted as rule 1851 effective January 1, 2002.

Rule 3.762. Case conference

(a) Purpose

One or more conferences between the court and counsel for the parties may be held to discuss class issues, conduct and scheduling of discovery, scheduling of hearings, and other matters. No evidence may be presented at the conference, but counsel must be fully prepared to discuss class issues and must possess authority to enter into stipulations.

(b) Notice by the parties

Notice of the conference may be given by any party. If notice is given by a named plaintiff, notice must be served on all named parties to the action. If notice is given by a defendant, notice must be served only on the parties who have appeared. Within 10 calendar days after receipt of the notice, the plaintiff must serve a copy on each named party who has not appeared in the action and must file a declaration of service. If the plaintiff is unable to serve any party, the plaintiff must file a declaration stating the reasons for failure of service.

(Subd (b) amended effective January 1, 2007.)

(c) Notice by the court

The court may give notice of the conference to the plaintiff. Within 10 calendar days after receipt of the notice given by the court, the plaintiff must serve a copy of the notice on all parties who have been served in the action, whether they have appeared or not, and must file a declaration of service. If the plaintiff is unable to serve any party, the plaintiff must file a declaration stating the reasons for failure of service.

(Subd (c) amended effective January 1, 2007.)

(d) Timing of notice

The notice must be filed and served on the parties at least 20 calendar days before the scheduled date of the conference.

(Subd (d) amended effective January 1, 2007.)

(e) Timing of conference

A conference may be held at any time after the first defendant has appeared. Before selecting a conference date, the party noticing the conference must:

(1) Obtain prior approval from the clerk of the department assigned to hear the class action; and

(2) Make reasonable efforts to accommodate the schedules of all parties entitled to receive notice under (b).

(Subd (e) amended effective January 1, 2007.)

Rule 3.762 amended and renumbered effective January 1, 2007; adopted as rule 1852 effective January 1, 2002.

Rule 3.763. Conference order

At the conclusion of the conference, the court may make an order:

(1) Approving any stipulations of the parties;

(2) Establishing a schedule for discovery;

(3) Setting the date for the hearing on class certification;

(4) Setting the dates for any subsequent conferences; and

(5) Addressing any other matters related to management of the case.

Rule 3.763 renumbered effective January 1, 2007; adopted as rule 1853 effective January 1, 2002.

Rule 3.764. Motion to certify or decertify a class or amend or modify an order certifying a class

(a) Purpose

Any party may file a motion to:

(1) Certify a class;

(2) Determine the existence of and certify subclasses;

(3) Amend or modify an order certifying a class; or

(4) Decertify a class.

(b) Timing of motion, hearing, extension, deferral

A motion for class certification should be filed when practicable. In its discretion, the court may establish a deadline for the filing of the motion, as part of the case conference or as part of other case management proceedings. Any such deadline must take into account discovery proceedings that may be necessary to the filing of the motion.

(c) Format and filing of motion

(1) *Time for service of papers*

Notice of a motion to certify or decertify a class or to amend or modify a certification order must be filed and served on all parties to the action at least 28 calendar days before the date appointed for hearing. Any opposition to the motion must be served and filed at least 14 calendar days before the noticed or continued hearing, unless the court for good cause orders otherwise. Any reply to the opposition must be served and filed at least 5 calendar days before the noticed or continued date of the hearing, unless the court for good cause orders otherwise. The provisions of Code of Civil Procedure section 1005 otherwise apply.

(2) *Length of papers*

An opening or responding memorandum filed in support of or in opposition to a motion for class certification must not exceed 20 pages. A reply memorandum must not exceed 15 pages. The provisions of rule 3.1113 otherwise apply.

(3) *Documents in support*

The documents in support of a motion for class certification consist of the notice of motion; a memorandum; evidence in support of the motion in the form of

declarations of counsel, class representatives, or other appropriate declarants; and any requests for judicial notice.

(4) *Documents in opposition*

The documents in opposition to the motion consist of the opposing party's memorandum; the opposing party's evidence in opposition to the motion, including any declarations of counsel or other appropriate declarants; and any requests for judicial notice.

(Subd (c) amended effective January 1, 2007.)

(d) Presentation of evidence

Evidence to be considered at the hearing must be presented in accordance with rule 3.1306.

(Subd (d) amended effective January 1, 2007.)

(e) Stipulations

The parties should endeavor to resolve any uncontroverted issues by written stipulation before the hearing. If all class issues are resolved by stipulation of the named parties and approved by the court before the hearing, no hearing on class certification is necessary.

Rule 3.764 amended and renumbered effective January 1, 2007; adopted as rule 1854 effective January 1, 2002.

Rule 3.765. Class action order

(a) Class described

An order certifying, amending, or modifying a class must contain a description of the class and any subclasses.

(b) Limited issues and subclasses

When appropriate, an action may be maintained as a class action limited to particular issues. A class may be divided into subclasses.

Rule 3.765 renumbered effective January 1, 2007; adopted as rule 1855 effective January 1, 2002.

Rule 3.766. Notice to class members

(a) Party to provide notice

If the class is certified, the court may require either party to notify the class of the action in the manner specified by the court.

(b) Statement regarding class notice

The class proponent must submit a statement regarding class notice and a proposed notice to class members. The statement must include the following items:

(1) Whether notice is necessary;

(2) Whether class members may exclude themselves from the action;

(3) The time and manner in which notice should be given;

(4) A proposal for which parties should bear the costs of notice; and,

(5) If cost shifting or sharing is proposed under subdivision (4), an estimate of the cost involved in giving notice.

(c) Order

Upon certification of a class, or as soon thereafter as practicable, the court must make an order determining:

(1) Whether notice to class members is necessary;

(2) Whether class members may exclude themselves from the action;

(3) The time and manner of notice;

(4) The content of the notice; and

(5) The parties responsible for the cost of notice.

(d) Content of class notice

The content of the class notice is subject to court approval. If class members are to be given the right to request exclusion from the class, the notice must include the following:

(1) A brief explanation of the case, including the basic contentions or denials of the parties;

(2) A statement that the court will exclude the member from the class if the member so requests by a specified date;

(3) A procedure for the member to follow in requesting exclusion from the class;

(4) A statement that the judgment, whether favorable or not, will bind all members who do not request exclusion; and

(5) A statement that any member who does not request exclusion may, if the member so desires, enter an appearance through counsel.

(e) Manner of giving notice

In determining the manner of the notice, the court must consider:

(1) The interests of the class;

(2) The type of relief requested;

(3) The stake of the individual class members;

(4) The cost of notifying class members;

(5) The resources of the parties;

(6) The possible prejudice to class members who do not receive notice; and

(7) The res judicata effect on class members.

(f) Court may order means of notice

If personal notification is unreasonably expensive or the stake of individual class members is insubstantial, or if it appears that all members of the class cannot be notified personally, the court may order a means of notice reasonably calculated to apprise the class members of the pendency of the action—for example, publication in a newspaper or magazine; broadcasting on television, radio, or the Internet; or posting or distribution through a trade or professional association, union, or public interest group.

(Subd (f) lettered effective January 1, 2007; adopted as part of subd (e) effective January 1, 2002.)

Rule 3.766 amended and renumbered effective January 1, 2007; adopted as rule 1856 effective January 1, 2002.

Rule 3.767. Orders in the conduct of class actions

(a) Court orders

In the conduct of a class action, the court may make orders that:

(1) Require that some or all of the members of the class be given notice in such manner as the court may direct of any action in the proceeding, or of their opportunity to seek to appear and indicate whether they consider the representation fair and adequate, or of the proposed extent of the judgment;

(2) Impose conditions on the representative parties or on intervenors;

(3) Require that the pleadings be amended to eliminate allegations as to representation of absent persons, and that the action proceed accordingly;

(4) Facilitate the management of class actions through consolidation, severance, coordination, bifurcation, intervention, or joinder; and

(5) Address similar procedural matters.

(Subd (a) amended effective January 1, 2007.)

(b) Altered or amended orders

The orders may be altered or amended as necessary.

(Subd (b) amended effective January 1, 2007.)

Rule 3.767 amended and renumbered effective January 1, 2007; adopted as rule 1857 effective January 1, 2002.

Rule 3.768. Discovery from unnamed class members

(a) Types of discovery permitted

The following types of discovery may be sought, through service of a subpoena and without a court order, from a member of a class who is not a party representative or who has not appeared:

(1) An oral deposition;

(2) A written deposition; and

(3) A deposition for production of business records and things.

(b) Motion for protective order

A party representative, deponent, or other affected person may move for a protective order to preclude or limit the discovery.

(c) Interrogatories require court order

A party may not serve interrogatories on a member of a class who is not a party representative or who has not appeared, without a court order.

(d) Determination by court

In deciding whether to allow the discovery requested under (a) or (c), the court must consider, among other relevant factors:

(1) The timing of the request;

(2) The subject matter to be covered;

(3) The materiality of the information being sought;

(4) The likelihood that class members have such information;

(5) The possibility of reaching factual stipulations that eliminate the need for such discovery;

(6) Whether class representatives are seeking discovery on the subject to be covered; and

(7) Whether discovery will result in annoyance, oppression, or undue burden or expense for the members of the class.

(Subd (d) amended effective January 1, 2007.)

Rule 3.768 amended and renumbered effective January 1, 2007; adopted as rule 1858 effective January 1, 2002.

Rule 3.769. Settlement of class actions

(a) Court approval after hearing

A settlement or compromise of an entire class action, or of a cause of action in a class action, or as to a party, requires the approval of the court after hearing.

(Subd (a) amended effective January 1, 2007.)

(b) Attorney's fees

Any agreement, express or implied, that has been entered into with respect to the payment of attorney's fees or the submission of an application for the approval of attorney's fees must be set forth in full in any application for approval of the dismissal or settlement of an action that has been certified as a class action.

(Subd (b) amended effective January 1, 2007.)

(c) Preliminary approval of settlement

Any party to a settlement agreement may serve and file a written notice of motion for preliminary approval of the settlement. The settlement agreement and proposed notice to

class members must be filed with the motion, and the proposed order must be lodged with the motion.

(Subd (c) amended effective January 1, 2007.)

(d) Order certifying provisional settlement class

The court may make an order approving or denying certification of a provisional settlement class after the preliminary settlement hearing.

(e) Order for final approval hearing

If the court grants preliminary approval, its order must include the time, date, and place of the final approval hearing; the notice to be given to the class; and any other matters deemed necessary for the proper conduct of a settlement hearing.

(f) Notice to class of final approval hearing

If the court has certified the action as a class action, notice of the final approval hearing must be given to the class members in the manner specified by the court. The notice must contain an explanation of the proposed settlement and procedures for class members to follow in filing written objections to it and in arranging to appear at the settlement hearing and state any objections to the proposed settlement.

(Subd (f) amended effective January 1, 2007.)

(g) Conduct of final approval hearing

Before final approval, the court must conduct an inquiry into the fairness of the proposed settlement.

(h) Judgment and retention of jurisdiction to enforce

If the court approves the settlement agreement after the final approval hearing, the court must make and enter judgment. The judgment must include a provision for the retention of the court's jurisdiction over the parties to enforce the terms of the judgment. The court may not enter an order dismissing the action at the same time as, or after, entry of judgment.

(Subd (h) amended effective January 1, 2009.)

Rule 3.769 amended effective January 1, 2009; adopted as rule 1859 effective January 1, 2002; previously amended and renumbered effective January 1, 2007.

Rule 3.770. Dismissal of class actions

(a) Court approval of dismissal

A dismissal of an entire class action, or of any party or cause of action in a class action, requires court approval. The court may not grant a request to dismiss a class action if the court has entered judgment following final approval of a settlement. Requests for dismissal must be accompanied by a declaration setting forth the facts on which the party relies. The declaration must clearly state whether consideration, direct or indirect, is being given for the dismissal and must describe the consideration in detail.

(Subd (a) amended effective January 1, 2009; adopted as untitled subd effective January 1, 1984; previously amended and lettered as subd (a) effective January 1, 2002; previously amended effective January 1, 2007.)

(b) Hearing on request for dismissal

The court may grant the request without a hearing. If the request is disapproved, notice of tentative disapproval must be sent to the attorneys of record. Any party may seek, within 15 calendar days of the service of the notice of tentative disapproval, a hearing on the request. If no hearing is sought within that period, the request for dismissal will be deemed denied.

(Subd (b) amended effective January 1, 2007; adopted as untitled subd effective January 1, 1984; previously amended and lettered as subd (b) effective January 1, 2002.)

(c) Notice to class of dismissal

If the court has certified the class, and notice of the pendency of the action has been provided to class members, notice of the dismissal must be given to the class in the manner specified by the court. If the court has not ruled on class certification, or if notice of the pendency of the action has not been provided to class members in a case in which such notice was required, notice of the proposed dismissal may be given in the manner and to those class members specified by the court, or the action may be dismissed without notice to the class members if the court finds that the dismissal will not prejudice them.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 2002.)

Rule 3.770 amended effective January 1, 2009; adopted as rule 365 effective January 1, 1984; previously amended and renumbered as rule 1860 effective January 1, 2002, and as rule 3.770 effective January 1, 2007.

Rule 3.771. Judgment

(a) Class members to be included in judgment

The judgment in an action maintained as a class action must include and describe those whom the court finds to be members of the class.

(Subd (a) amended and lettered effective January 1, 2007; adopted as unlettered subd effective January 1, 2002.)

(b) Notice of judgment to class

Notice of the judgment must be given to the class in the manner specified by the court.

(Subd (b) amended and lettered effective January 1, 2007; adopted as unlettered subd effective January 1, 2002.)

Rule 3.771 amended and renumbered effective January 1, 2007; adopted as rule 1861 effective January 1, 2002.

Division 8. Alternative Dispute Resolution

Chapter 1. General Provisions

Rule 3.800. Definitions

As used in this division:

(1) "Alternative dispute resolution process" or "ADR process" means a process, other than formal litigation, in which a neutral person or persons resolve a dispute or assist parties in resolving their dispute.

(2) "Mediation" means a process in which a neutral person or persons facilitate communication between disputants to assist them in reaching a mutually acceptable agreement. As used in this division, mediation does not include a settlement conference under rule 3.1380.

Rule 3.800 amended and renumbered effective January 1, 2007; adopted as rule 1580 effective January 1, 2001; previously amended effective July 1, 2002.

Chapter 2. Judicial Arbitration

Rule 3.810. Application

The rules in this chapter (commencing with this rule) apply if Code of Civil Procedure, part 3, title 3, chapter 2.5 (commencing with section 1141.10) is in effect.

Rule 3.810 amended and renumbered effective January 1, 2007; adopted as rule 1600.1 effective January 1, 1988; previously amended effective July 1, 1999, and January 1, 2000; previously amended and renumbered as rule 1600 effective January 1, 2004.

Rule 3.811. Cases subject to and exempt from arbitration

(a) Cases subject to arbitration

Except as provided in (b), the following cases must be arbitrated:

(1) In each superior court with 18 or more authorized judges, all unlimited civil cases where the amount in controversy does not exceed $50,000 as to any plaintiff;

(2) In each superior court with fewer than 18 authorized judges that so provides by local rule, all unlimited civil cases where the amount in controversy does not exceed $50,000 as to any plaintiff;

(3) All limited civil cases in courts that so provide by local rule;

(4) Upon stipulation, any limited or unlimited civil case in any court, regardless of the amount in controversy; and

(5) Upon filing of an election by all plaintiffs, any limited or unlimited civil case in any court in which each plaintiff agrees that the arbitration award will not exceed $50,000 as to that plaintiff.

(Subd (a) amended effective January 1, 2004.)

(b) Cases exempt from arbitration

The following cases are exempt from arbitration:

(1) Cases that include a prayer for equitable relief that is not frivolous or insubstantial;

(2) Class actions;

(3) Small claims cases or trials de novo on appeal from the small claims court;

(4) Unlawful detainer proceedings;

(5) Family Law Act proceedings except as provided in Family Code section 2554;

(6) Any case otherwise subject to arbitration that is found by the court not to be amenable to arbitration on the ground that arbitration would not reduce the probable time and expense necessary to resolve the litigation;

(7) Any category of cases otherwise subject to arbitration but excluded by local rule as not amenable to arbitration on the ground that, under the circumstances relating to the particular court, arbitration of such cases would not reduce the probable time and expense necessary to resolve the litigation; and

(8) Cases involving multiple causes of action or a cross-complaint if the court determines that the amount in controversy as to any given cause of action or cross-complaint exceeds $50,000.

(Subd (b) adopted effective January 1, 2004.)

Rule 3.811 renumbered effective January 1, 2007; adopted as rule 1600 effective July 1, 1979; previously amended effective January 1, 1982, January 1, 1986, January 1, 1988, and July 1, 1999; previously amended and renumbered as rule 1601 effective January 1, 2004.

Rule 3.812. Assignment to arbitration

(a) Stipulations to arbitration

When the parties stipulate to arbitration, the case must be set for arbitration forthwith. The stipulation must be filed no later than the time the initial case management statement is filed, unless the court orders otherwise.

(Subd (a) amended effective January 1, 2004; previously amended effective July 1, 1979, January 1, 1999, and January 1, 2003.)

(b) Plaintiff election for arbitration

Upon written election of all plaintiffs to submit a case to arbitration, the case must be set for arbitration forthwith, subject to a motion by defendant for good cause to delay the arbitration hearing. The election must be filed no later than the time the initial case management statement is filed, unless the court orders otherwise.

(Subd (b) amended effective January 1, 2004; adopted effective July 1, 1979; previously amended effective January 1, 1982, January 1, 1986, January 1, 1988, and January 1, 2003.)

(c) Cross-actions

A case involving a cross-complaint where all plaintiffs have elected to arbitrate must be removed from the list of cases assigned to arbitration if, upon motion of the cross-complainant made within 15 days after notice of the election to arbitrate, the court determines that the amount in controversy relating to the cross-complaint exceeds $50,000.

(Subd (c) amended effective January 1, 2004; adopted as part of subd (b) effective July 1, 1979; amended and lettered effective January 1, 2003.)

(d) Case management conference

Absent a stipulation or an election by all plaintiffs to submit to arbitration, cases must be set for arbitration when the court determines that the amount in controversy does not exceed $50,000. The amount in controversy must be determined at the first case management conference or review under the rules on case management in division 7 of this title that takes place after all named parties have appeared or defaulted.

(Subd (d) amended effective January 1, 2007; adopted as subd (c); previously amended effective July 1, 1979, January 1, 1982, and January 1, 2004; previously amended and relettered effective January 1, 2003.

Rule 3.812 amended and renumbered effective January 1, 2007; adopted as rule 1601 effective; July 1, 1976; previously amended effective July 1, 1979, January 1, 1982, January 1, 1985, January 1, 1986, January 1, 1988, January 1, 1991, and January 1, 2003; previously amended and renumbered as rule 1602 effective January 1, 2004.

Rule 3.813. Arbitration program administration

(a) Arbitration administrator

The presiding judge must designate the ADR administrator selected under rule 10.783 to serve as arbitration administrator. The arbitration administrator must supervise the selection of arbitrators for the cases on the arbitration hearing list, generally supervise the operation of the arbitration program, and perform any additional duties delegated by the presiding judge.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(b) Responsibilities of ADR committee

The ADR committee established under rule 10.783 is responsible for:

(1) Appointing the panels of arbitrators provided for in rule 3.814;

(2) Removing a person from a panel of arbitrators;

(3) Establishing procedures for selecting an arbitrator not inconsistent with these rules or local court rules; and

(4) Reviewing the administration and operation of the arbitration program periodically and making recommendations to the Judicial Council as the committee deems appropriate to improve the program, promote the ends of justice, and serve the needs of the community.

(Subd (b) amended effective January 1, 2007; adopted as subd (d); previously amended and relettered as subd (b) effective January 1, 2004.)

Rule 3.813 amended and renumbered effective January 1, 2007; adopted as rule 1603 effective July 1, 1976; previously amended July 1, 1979, July 1, 1999, and January 1, 2004.

Rule 3.814. Panels of arbitrators

(a) Creation of panels

Every court must have a panel of arbitrators for personal injury cases, and such additional panels as the presiding judge may, from time to time, determine are needed.

(Subd (a) amended effective January 1, 2004; previously amended effective July 1, 1979, and July 1, 2001.)

(b) Composition of panels

The panels of arbitrators must be composed of active or inactive members of the State Bar, retired court commissioners who were licensed to practice law before their appointment as commissioners, and retired judges. A former California judicial officer is not eligible for the panel of arbitrators unless he or she is an active or inactive member of the State Bar.

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 1979, January 1, 1996, July 1, 2001, and January 1, 2004.)

(c) Responsibilities of ADR committee

The ADR committee is responsible for determining the size and composition of each panel of arbitrators. The personal injury panel, to the extent feasible, must contain an equal number of those who usually represent plaintiffs and those who usually represent defendants.

(Subd (c) amended effective January 1, 2004; previously amended effective July 1, 2001.)

(d) Service on panel

Each person appointed serves as a member of a panel of arbitrators at the pleasure of the ADR committee. A person may be on arbitration panels in more than one county. An appointment to a panel is effective when the person appointed:

(1) Agrees to serve;

(2) Certifies that he or she is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and these rules; and

(3) Files an oath or affirmation to justly try all matters submitted to him or her.

(Subd (d) amended effective January 1, 2004; previously amended effective January 1, 1996, and July 1, 2001.)

(e) Panel lists

Lists showing the names of panel arbitrators available to hear cases must be available for public inspection in the ADR administrator's office.

(Subd (e) amended effective January 1, 2007; previously amended effective July 1, 2001, and January 1, 2004.)

Rule 3.814 amended and renumbered effective January 1, 2007; adopted as rule 1604 effective July 1, 1976; previously amended effective July 1, 1979, January 1, 1996, July 1, 2001, and January 1, 2004.

Rule 3.815. Selection of the arbitrator

(a) Selection by stipulation

By stipulation, the parties may select any person to serve as arbitrator. If the parties select a person who is not on the court's arbitration panel to serve as the arbitrator, the stipulation will be effective only if:

(1) The selected person completes a written consent to serve and the oath required of panel arbitrators under these rules; and

(2) Both the consent and the oath are attached to the stipulation.

A stipulation may specify the maximum amount of the arbitrator's award. The stipulation to an arbitrator must be served and filed no later than 10 days after the case has been set for arbitration under rule 3.812.

(Subd (a) amended effective January 1, 2007; adopted effective January 1, 2004.)

(b) Selection absent stipulation or local procedures

If the arbitrator has not been selected by stipulation and the court has not adopted local rules or procedures for the selection of the arbitrator as permitted under (c), the arbitrator will be selected as follows:

(1) Within 15 days after a case is set for arbitration under rule 3.812, the administrator must determine the number of clearly adverse sides in the case; in the absence of a cross-complaint bringing in a new party, the administrator may assume there are two sides. A dispute as to the number or identity of sides must be decided by the presiding judge in the same manner as disputes in determining sides entitled to peremptory challenges of jurors.

(2) The administrator must select at random a number of names equal to the number of sides, plus one, and mail the list of randomly selected names to counsel for the parties.

(3) Each side has 10 days from the date of mailing to file a rejection, in writing, of no more than one name on the list; if there are two or more parties on a side, they must join in the rejection of a single name.

(4) Promptly on the expiration of the 10-day period, the administrator must appoint, at random, one of the persons on the list whose name was not rejected, if more than one name remains.

(5) The administrator must assign the case to the arbitrator appointed and must give notice of the appointment to the arbitrator and to all parties.

(Subd (b) amended effective January 1, 2007; adopted as subd (a); previously amended effective July 1, 1979, January 1, 1982, and January 1, 1984; previously amended and relettered as subd (b) effective January 1, 2004.)

(c) Local selection procedures

Instead of the procedure in (b), a court that has an arbitration program may, by local rule or by procedures adopted by its ADR committee, establish any fair method of selecting an arbitrator that:

(1) Affords each side an opportunity to challenge at least one listed arbitrator peremptorily; and

(2) Ensures that an arbitrator is appointed within 30 days from the submission of a case to arbitration.

The local rule or procedure may require that all steps leading to the selection of the arbitrator take place during or immediately following the case management conference or review under the rules on case management in division 7 of this title at which the court determines the amount in controversy and the suitability of the case for arbitration.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 2004.)

(d) Procedure if first arbitrator declines to serve

If the first arbitrator selected declines to serve, the administrator must vacate the appointment of the arbitrator and may either:

(1) Return the case to the top of the arbitration hearing list, restore the arbitrator's name to the list of those available for selection to hear cases, and appoint a new arbitrator; or

(2) Certify the case to the court.

(Subd (d) amended and relettered effective January 1, 2004; adopted as subd (b); previously amended effective January 1, 1991, and January 1, 1994.)

(e) Procedure if second arbitrator declines to serve or hearing is not timely held

If the second arbitrator selected declines to serve or if the arbitrator does not complete the hearing within 90 days after the date of the assignment of the case to him or her, including any time due to continuances granted under rule 3.818, the administrator must certify the case to the court.

(Subd (e) amended effective January 1, 2007; adopted as subd (c); previously amended effective January 1, 1991; previously amended and relettered effective January 1, 2004.)

(f) Cases certified to court

If a case is certified to the court under either (d) or (e), the court must hold a case management conference. If the inability to hold an arbitration hearing is due to the neglect or lack of cooperation of a party who elected or stipulated to arbitration, the court may set the case for trial and may make any other appropriate orders. In all other circumstances, the court may reassign the case to arbitration or make any other appropriate orders to expedite disposition of the case.

(Subd (f) amended effective January 1, 2007; adopted as part of subd (c); previously amended and relettered as subd (f) effective January 1, 2004.)

Rule 3.815 amended and renumbered effective January 1, 2007; adopted as rule 1605 effective July 1, 1976; previously amended effective July 1, 1979, January 1, 1982; January 1, 1984, January 1, 1991, January 1, 1994, and January 1, 2004.

Rule 3.816. Disqualification for conflict of interest

(a) Arbitrator's duty to disqualify himself or herself

The arbitrator must determine whether any cause exists for disqualification upon any of the grounds set forth in Code of Civil Procedure section 170.1 governing the disqualification of judges. If any member of the arbitrator's law firm would be disqualified under subdivision (a)(2) of section 170.1, the arbitrator is disqualified. Unless the ground for disqualification is disclosed to the parties in writing and is expressly waived by all parties in writing, the arbitrator must promptly notify the administrator of any known ground for disqualification and another arbitrator must be selected as provided in rule 3.815.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 1979, July 1, 1990, July 1, 2001, January 1, 2004, and July 1, 2004.)

(b) Disclosures by arbitrator

In addition to any other disclosure required by law, no later than five days before the deadline for parties to file a motion for disqualification of the arbitrator under Code of Civil Procedure section 170.6 or, if the arbitrator is not aware of his or her appointment or of a matter subject to disclosure at that time, as soon as practicable thereafter, an arbitrator must disclose to the parties:

(1) Any matter subject to disclosure under subdivisions (D)(5)(a) and (D)(5)(b) of canon 6 of the Code of Judicial Ethics; and

(2) Any significant personal or professional relationship the arbitrator has or has had with a party, attorney, or law firm in the instant case, including the number and nature of any other proceedings in the past 24 months in which the arbitrator has been privately compensated by a party, attorney, law firm, or insurance company in the instant case for any services, including service as an attorney, expert witness, or consultant or as a judge, referee, arbitrator, mediator, settlement facilitator, or other alternative dispute resolution neutral.

(Subd (b) amended effective January 1, 2008; adopted effective July 1, 2001; previously amended effective January 1, 2007.)

(c) Request for disqualification

A copy of any request by a party for the disqualification of an arbitrator under Code of Civil Procedure section 170.1 or 170.6 must be sent to the ADR administrator.

(Subd (c) amended effective January 1, 2007; adopted as subd (b), previously amended and relettered effective July 1, 2001; previously amended effective July 1, 1979, July 1, 1990, and January 1, 2004.)

(d) Arbitrator's failure to disqualify himself or herself

On motion of any party, made as promptly as possible under Code of Civil Procedure sections 170.l and 1141.18(d) and before the conclusion of arbitration proceedings, the appointment of an arbitrator to a case must be vacated if the court finds that:

(1) The party has demanded that the arbitrator disqualify himself or herself;

(2) The arbitrator has failed to do so; and

(3) Any of the grounds specified in section 170.1 exists.

The ADR administrator must return the case to the top of the arbitration hearing list and appoint a new arbitrator. The disqualified arbitrator's name must be returned to the list of those available for selection to hear cases, unless the court orders that the circumstances of the disqualification be reviewed by the ADR administrator, the ADR committee, or the presiding judge for appropriate action.

(Subd (d) amended effective January 1, 2007; adopted as subd (c) effective January 1, 1994; previously amended and relettered effective July 1, 2001; previously amended effective January 1, 2004.)

Rule 3.816 amended effective January 1, 2008; adopted as rule 1606 effective July 1, 1976; previously amended effective July 1, 1979, July 1, 1990, January 1, 1994, July 1, 2001, January 1, 2004, and July 1, 2004; previously amended and renumbered effective January 1, 2007.

Rule 3.817. Arbitration hearings; notice; when and where held

(a) Setting hearing; notice

Within 15 days after the appointment of the arbitrator, the arbitrator must set the time, date, and place of the arbitration hearing and notify each party and the administrator in writing of the time, date, and place set.

(Subd (a) amended and lettered effective January 1, 2004; adopted as part of unlettered subd.)

(b) Date of hearing; limitations

Except upon the agreement of all parties and the arbitrator, the arbitration hearing date must not be set:

(1) Earlier than 30 days after the date the arbitrator sends the notice of the hearing under (a); or

(2) On Saturdays, Sundays, or legal holidays.

(Subd (b) amended and lettered effective January 1, 2004; adopted as part of unlettered subd.)

(c) Hearing completion deadline

The hearing must be scheduled so as to be completed no later than 90 days from the date of the assignment of the case to the arbitrator, including any time due to continuances granted under rule 3.818.

(Subd (c) amended effective January 1, 2007; adopted as part of unlettered subd; previously amended and relettered effective January 1, 2004.)

(d) Hearing location

The hearing must take place in appropriate facilities provided by the court or selected by the arbitrator.

(Subd (d) amended effective January 1, 2004.)

Rule 3.817 amended and renumbered effective January 1, 2007; adopted as rule 1611 effective July 1, 1976; previously amended effective July 1, 1979, and January 1, 1992; previously amended and renumbered as rule 1607 effective January 1, 2004.

Rule 3.818. Continuances

(a) Stipulation to continuance; consent of arbitrator

Except as provided in (c), the parties may stipulate to a continuance in the case, with the consent of the assigned arbitrator. An arbitrator must consent to a request for a continuance if it appears that good cause exists. Notice of the continuance must be sent to the ADR administrator.

(Subd (a) amended effective January 1, 2004; previously amended effective January 1, 1984, and January 1, 1992.)

(b) Court grant of continuance

If the arbitrator declines to give consent to a continuance, upon the motion of a party and for good cause shown, the court may grant a continuance of the arbitration hearing. In the event the court grants the motion, the party who requested the continuance must notify the arbitrator and the arbitrator must reschedule the hearing, giving notice to all parties to the arbitration proceeding.

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 1979, and January 1, 2004.)

(c) Limitation on length of continuance

An arbitration hearing must not be continued to a date later than 90 days after the assignment of the case to the arbitrator, including any time due to continuances granted under this rule, except by order of the court upon the motion of a party as provided in (b).

(Subd (c) amended effective January 1, 2004; previously amended effective January 1, 1991 and January 1, 1994.)

Rule 3.818 amended and renumbered effective January 1, 2007; adopted as rule 1607 effective July 1, 1976; previously amended effective July 1, 1979, January 1, 1984, January 1, 1991, January 1, 1992, and January 1, 1994; previously amended and renumbered as rule 1608 effective January 1, 2004;

Rule 3.819. Arbitrator's fees

(a) Filing of award required

Except as provided in (b), the arbitrator's award must be timely filed with the clerk of the court under rule 3.825(b) before a fee may be paid to the arbitrator.

(Subd (a) amended effective January 1, 2013; previously amended effective July 1, 1979, January 1, 2004, and January 1, 2007.)

(b) Exceptions for good cause

On the arbitrator's verified ex parte application, the court may for good cause authorize payment of a fee:

(1) If the arbitrator devoted a substantial amount of time to a case that was settled without a hearing or without an award being filed. For this purpose, a case is considered settled when one of the following is filed:

(A) A notice of settlement of the entire case, under rule 3.1385; or

(B) A *Request for Dismissal* (form CIV-110) of the entire case or as to all parties to the arbitration is filed; or

(2) If the award was not timely filed.

(Subd (b) amended effective January 1, 2013; previously amended effective July 1, 1979, January 1, 1987, and January 1, 2004.)

(c) Arbitrator's fee statement

The arbitrator's fee statement must be submitted to the administrator promptly upon the completion of the arbitrator's duties and must set forth the title and number of the cause

arbitrated, the date of any arbitration hearing, and the date the award, notice of settlement, or request for dismissal was filed.

(Subd (c) amended effective January 1, 2013; previously amended effective July 1, 1979, January 1, 2004, and January 1, 2007.)

Rule 3.819 amended effective January 1, 2013; adopted as rule 1608 effective July 1, 1976; previously amended effective July 1, 1979, and January 1, 1987; previously amended and renumbered as rule 1609 effective January 1, 2004, and as rule 3.819 effective January 1, 2007.

Rule 3.820. Communication with the arbitrator

(a) Disclosure of settlement offers prohibited

No disclosure of any offers of settlement made by any party may be made to the arbitrator prior to the filing of the award.

(Subd (a) amended and relettered effective January 1, 2004; adopted as part of unlettered subd.)

(b) Ex parte communication prohibited

An arbitrator must not initiate, permit, or consider any ex parte communications or consider other communications made to the arbitrator outside the presence of all of the parties concerning a pending arbitration, except as follows:

(1) An arbitrator may communicate with a party in the absence of other parties about administrative matters, such as setting the time and place of hearings or making other arrangements for the conduct of the proceedings, as long as the arbitrator reasonably believes that the communication will not result in a procedural or tactical advantage for any party. When such a discussion occurs, the arbitrator must promptly inform the other parties of the communication and must give the other parties an opportunity to respond before making any final determination concerning the matter discussed.

(2) An arbitrator may initiate or consider any ex parte communication when expressly authorized by law to do so.

(Subd (b) amended effective January 1, 2007; adopted as part of unlettered subd; previously amended and lettered effective January 1, 2004.)

Rule 3.820 amended and renumbered effective January 1, 2007; adopted as rule 1609 effective July 1, 1976; previously amended and renumbered as rule 1610 effective January 1, 2004.

Rule 3.821. Representation by counsel; proceedings when party absent

(a) Representation by counsel

A party to the arbitration has a right to be represented by an attorney at any proceeding or hearing in arbitration, but this right may be waived. A waiver of this right may be revoked, but if revoked, the other party is entitled to a reasonable continuance for the purpose of obtaining counsel.

(Subd (a) amended effective January 1, 2004.)

(b) Proceedings when party absent

The arbitration may proceed in the absence of any party who, after due notice, fails to be present and to obtain a continuance. An award must not be based solely on the absence of a party. In the event of a default by defendant, the arbitrator must require the plaintiff to submit such evidence as may be appropriate for the making of an award.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2004.)

Rule 3.821 amended and renumbered effective January 1, 2007; adopted as rule 1610 effective July 1, 1976; previously amended and renumbered as rule 1611 effective January 1, 2004.

Rule 3.822. Discovery

(a) Right to discovery

The parties to the arbitration have the right to take depositions and to obtain discovery, and to that end may exercise all of the same rights, remedies, and procedures, and are subject to all of the same duties, liabilities, and obligations as provided in part 4, title 3, chapter 3 of the Code of Civil Procedure, except as provided in (b).

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective July 1, 1976.)

(b) Completion of discovery

All discovery must be completed not later than 15 days before the date set for the arbitration hearing unless the court, upon a showing of good cause, makes an order granting an extension of the time within which discovery must be completed.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective July 1, 1976.)

Rule 3.822 amended and renumbered effective January 1, 2007; adopted as rule 1612 effective July 1, 1976; previously amended effective July 1, 1979, and January 1, 2004.

Rule 3.823. Rules of evidence at arbitration hearing

(a) Presence of arbitrator and parties

All evidence must be taken in the presence of the arbitrator and all parties, except where any of the parties has waived the right to be present or is absent after due notice of the hearing.

(Subd (a) amended effective January 1, 2004.)

(b) Application of civil rules of evidence

The rules of evidence governing civil cases apply to the conduct of the arbitration hearing, except:

(1) *Written reports and other documents*

Any party may offer written reports of any expert witness, medical records and bills (including physiotherapy, nursing, and prescription bills), documentary evidence of loss of income, property damage repair bills or estimates, police reports concerning an accident that gave rise to the case, other bills and invoices, purchase orders, checks, written contracts, and similar documents prepared and maintained in the ordinary course of business.

(A) The arbitrator must receive them in evidence if copies have been delivered to all opposing parties at least 20 days before the hearing.

(B) Any other party may subpoena the author or custodian of the document as a witness and examine the witness as if under cross-examination.

(C) Any repair estimate offered as an exhibit, and the copies delivered to opposing parties, must be accompanied by:

(i) A statement indicating whether or not the property was repaired, and, if it was, whether the estimated repairs were made in full or in part; and

(ii) A copy of the receipted bill showing the items of repair made and the amount paid.

(D) The arbitrator must not consider any opinion as to ultimate fault expressed in a police report.

(2) *Witness statements*

The written statements of any other witness may be offered and must be received in evidence if:

(A) They are made by declaration under penalty of perjury;

(B) Copies have been delivered to all opposing parties at least 20 days before the hearing; and

(C) No opposing party has, at least 10 days before the hearing, delivered to the proponent of the evidence a written demand that the witness be produced in person to testify at the hearing. The arbitrator must disregard any portion of a statement received under this rule that would be inadmissible if the witness were testifying in person, but the inclusion of inadmissible matter does not render the entire statement inadmissible.

(3) *Depositions*

(A) The deposition of any witness may be offered by any party and must be received in evidence, subject to objections available under Code of Civil Procedure section 2025.410, notwithstanding that the deponent is not "unavailable as a witness" within the meaning of Evidence Code section 240 and no exceptional circumstances exist, if:

(i) The deposition was taken in the manner provided for by law or by stipulation of the parties and within the time provided for in these rules; and

(ii) Not less than 20 days before the hearing the proponent of the deposition delivered to all opposing parties notice of intention to offer the deposition in evidence.

(B) The opposing party, upon receiving the notice, may subpoena the deponent and, at the discretion of the arbitrator, either the deposition may be excluded from evidence or the deposition may be admitted and the deponent may be further cross-examined by the subpoenaing party. These limitations are not applicable to a deposition admissible under the terms of Code of Civil Procedure section 2025.620.

(Subd (b) amended effective January 1, 2008; previously amended effective July 1, 1979, January 1, 1984, January 1, 1988, July 1, 1990, January 1, 2004, and January 1, 2007.)

(c) Subpoenas

(1) *Compelling witnesses to appear*

The attendance of witnesses at arbitration hearings may be compelled through the issuance of subpoenas as provided in the Code of Civil Procedure, in section 1985 and elsewhere in part 4, title 3, chapters 2 and 3. It is the duty of the party requesting the subpoena to modify the form of subpoena so as to show that the appearance is before an arbitrator and to give the time and place set for the arbitration hearing.

(2) *Adjournment or continuances*

At the discretion of the arbitrator, nonappearance of a properly subpoenaed witness may be a ground for an adjournment or continuance of the hearing.

(3) *Contempt*

If any witness properly served with a subpoena fails to appear at the arbitration hearing or, having appeared, refuses to be sworn or to answer, proceedings to compel compliance with the subpoena on penalty of contempt may be had before the superior court as provided in Code of Civil Procedure section 1991 for other instances of refusal to appear and answer before an officer or commissioner out of court.

(Subd (c) amended effective January 1, 2007; previously amended effective July 1, 1979, and January 1, 2004.)

(d) Delivery of documents

For purposes of this rule, "delivery" of a document or notice may be accomplished manually or by mail in the manner provided by Code of Civil Procedure section 1013. If service is by mail, the times prescribed in this rule for delivery of documents, notices, and demands are increased by five days.

(Subd (d) amended effective January 1, 2004; adopted effective January 1, 1988.)

Rule 3.823 amended effective January 1, 2008; adopted as rule 1613 effective July 1, 1976; previously amended effective July 1, 1979, January 1, 1984, January 1, 1988, July 1, 1990, and January 1, 2004; previously amended and renumbered effective January 1, 2007.

Rule 3.824. Conduct of the hearing

(a) Arbitrator's powers

The arbitrator has the following powers; all other questions arising out of the case are reserved to the court:

(1) To administer oaths or affirmations to witnesses;

(2) To take adjournments upon the request of a party or upon his or her own initiative when deemed necessary;

(3) To permit testimony to be offered by deposition;

(4) To permit evidence to be offered and introduced as provided in these rules;

(5) To rule upon the admissibility and relevancy of evidence offered;

(6) To invite the parties, on reasonable notice, to submit arbitration briefs;

(7) To decide the law and facts of the case and make an award accordingly;

(8) To award costs, not to exceed the statutory costs of the suit; and

(9) To examine any site or object relevant to the case.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(b) Record of proceedings

(1) *Arbitrator's record*

The arbitrator may, but is not required to, make a record of the proceedings.

(2) *Record not subject to discovery*

Any records of the proceedings made by or at the direction of the arbitrator are deemed the arbitrator's personal notes and are not subject to discovery, and the arbitrator must not deliver them to any party to the case or to any other person, except to an employee using the records under the arbitrator's supervision or pursuant to a subpoena issued in a criminal investigation or prosecution for perjury.

(3) *No other record*

No other record may be made, and the arbitrator must not permit the presence of a stenographer or court reporter or the use of any recording device at the hearing, except as expressly permitted by (1).

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2004.)

Rule 3.824 amended and renumbered effective January 1, 2007; adopted as rule 1614 effective July 1, 1976; previously amended effective January 1, 2004.

Rule 3.825. The award

(a) Form and content of the award

(1) *Award in writing*

The award must be in writing and signed by the arbitrator. It must determine all issues properly raised by the pleadings, including a determination of any damages and an award of costs if appropriate.

(2) *No findings or conclusions required*

The arbitrator is not required to make findings of fact or conclusions of law.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(b) Filing the award or amended award

(1) *Time for filing the award*

Within 10 days after the conclusion of the arbitration hearing, the arbitrator must file the award with the clerk, with proof of service on each party to the arbitration. On the arbitrator's application in cases of unusual length or complexity, the court may allow up to 20 additional days for the filing and service of the award.

(2) *Amended award*

Within the time for filing the award, the arbitrator may file and serve an amended award.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1995, and January 1, 2004.)

Rule 3.825 amended and renumbered effective January 1, 2007; adopted as rule 1615 effective July 1, 1976; previously amended effective January 1, 1983, January 1, 1985, January 1, 1995, January 1, 2003, and January 1, 2004.

Rule 3.826. Trial after arbitration

(a) Request for trial; deadline

Within 60 days after the arbitration award is filed with the clerk of the court, a party may request a trial by filing with the clerk a request for trial, with proof of service of a copy upon all other parties appearing in the case. A request for trial filed after the parties have been served with a copy of the award by the arbitrator, but before the award has been filed with the clerk, is valid and timely filed. The 60-day period within which to request trial may not be extended.

(Subd (a) amended effective January 1, 2012; previously amended effective January 1, 1985, July 1, 1990, January 1, 2004, and January 1, 2007.)

(b) Prosecution of the case

If a party makes a timely request for a trial, the case must proceed as provided under an applicable case management order. If no pending order provides for the prosecution of the case after a request for a trial after arbitration, the court must promptly schedule a case management conference.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(c) References to arbitration during trial prohibited

The case must be tried as though no arbitration proceedings had occurred. No reference may be made during the trial to the arbitration award, to the fact that there had been arbitration proceedings, to the evidence adduced at the arbitration hearing, or to any other aspect of the arbitration proceedings, and none of the foregoing may be used as affirmative evidence, or by way of impeachment, or for any other purpose at the trial.

(Subd (c) amended effective January 1, 2004.)

(d) Costs after trial

In assessing costs after the trial, the court must apply the standards specified in Code of Civil Procedure section 1141.21.

(Subd (d) amended effective January 1, 2007; previously amended effective July 1, 1979, and January 1, 2004.)

Rule 3.826 amended effective January 1, 2012; adopted as rule 1616 effective July 1, 1976; previously amended effective July 1, 1979, July 1, 1990, and January 1, 2004; previously amended and renumbered effective January 1, 2007.

Rule 3.827. Entry of award as judgment

(a) Entry of award as judgment by clerk

The clerk must enter the award as a judgment immediately upon the expiration of 60 days after the award is filed if no party has, during that period, served and filed either:

(1) A request for trial as provided in these rules; or

(2) A *Request for Dismissal* (form CIV-110) of the entire case or as to all parties to the arbitration. The *Request for Dismissal* must be fully completed. If the request is for dismissal of the entire case, it must include the signatures of all parties. If the request is for dismissal as to all parties to the arbitration, it must include the signatures of all those parties.

(Subd (a) amended effective January 1, 2013; previously amended effective January 1, 2012.)

(b) Notice of entry of judgment

Promptly upon entry of the award as a judgment, the clerk must mail notice of entry of judgment to all parties who have appeared in the case and must execute a certificate of mailing and place it in the court's file in the case.

(c) Effect of judgment

The judgment so entered has the same force and effect in all respects as, and is subject to all provisions of law relating to, a judgment in a civil case or proceeding, except that it is not subject to appeal and it may not be attacked or set aside except as provided in rule 3.828. The judgment so entered may be enforced as if it had been rendered by the court in which it is entered.

Rule 3.827 amended effective January 1, 2013; adopted effective January 1, 2007; previously amended effective January 1, 2012.

Rule 3.828. Vacating judgment on award

(a) Motion to vacate

A party against whom a judgment is entered under an arbitration award may, within six months after its entry, move to vacate the judgment on the ground that the arbitrator was subject to a disqualification not disclosed before the hearing and of which the arbitrator was then aware, or upon one of the grounds set forth in Code of Civil Procedure sections 473 or 1286.2(a)(1), (2), and (3), and on no other grounds.

(b) Notice and grounds for granting motion

The motion must be heard upon notice to the adverse parties and to the arbitrator, and may be granted only upon clear and convincing evidence that the grounds alleged are true, and that the motion was made as soon as practicable after the moving party learned of the existence of those grounds.

Rule 3.828 adopted effective January 1, 2007.

Rule 3.829. Settlement of case

If a case is settled, each plaintiff or other party seeking affirmative relief must notify the arbitrator and the court as required in rule 3.1385.

Rule 3.829 amended and renumbered effective January 1, 2007; adopted as rule 1618 effective January 1, 1992; previously amended effective January 1, 2004.

Rule 3.830. Arbitration not pursuant to rules

These rules do not prohibit the parties to any civil case or proceeding from entering into arbitration agreements under part 3, title 9 of the Code of Civil Procedure. Neither the ADR committee nor the ADR administrator may take any part in the conduct of an arbitration under an agreement not in conformity with these rules except that the administrator may, upon joint request of the parties, furnish the parties to the agreement with a randomly selected list of at least three names of members of the appropriate panel of arbitrators.

Rule 3.830 amended and renumbered effective January 1, 2007; adopted as rule 1617 effective July 1, 1976; previously amended effective January 1, 2004.

Chapter 3. General Rules Relating to Mediation of Civil Cases

Article 1. Procedures for All Court Mediation Programs

Division 8, Alternative Dispute Resolution—Chapter 3, General Rules Relating to Mediation of Civil Cases—Article 1, Procedures for All Court Mediation Programs; adopted effective July 1, 2011.

Rule 3.835. Application

The rules in this article apply to all court mediation programs for general civil cases, as defined in rule 1.6, unless otherwise specified.

Rule 3.835 adopted effective July 1, 2012.

Rule 3.845. Form of mediator statements and reports

If a mediator is required to submit a statement or report to the court concerning the status or result of the mediation, the statement or report must be submitted on the Judicial Council *Statement of Agreement or Nonagreement* (form ADR-100). The mediator's completed form ADR-100 must not disclose the terms of any agreement or any other communications or conduct that occurred in the course of the mediation, except as allowed in Evidence Code sections 1115–1128.

Rule 3.845 adopted effective July 1, 2012.

Advisory Committee Comment

This rule does not preclude courts from asking mediators to provide other information about court-program mediations on separate forms or surveys that do not request any information that will allow identification of a specific case or mediation participant and that will not become part of the court's case file.

Article 2. Rules of Conduct for Mediators in Court-Connected Mediation Programs for Civil Cases

Rule 3.850. Purpose and function

(a) Standards of conduct

The rules in this article establish the minimum standards of conduct for mediators in court-connected mediation programs for general civil cases. These rules are intended to guide the conduct of mediators in these programs, to inform and protect participants in these mediation programs, and to promote public confidence in the mediation process and the courts. For mediation to be effective, there must be broad public confidence in the integrity and fairness of the process. Mediators in court-connected programs are responsible to the parties, the public, and the courts for conducting themselves in a manner that merits that confidence.

(Subd (a) amended effective January 1, 2007.)

(b) Scope and limitations

These rules are not intended to:

(1) Establish a ceiling on what is considered good practice in mediation or discourage efforts by courts, mediators, or others to educate mediators about best practices;

(2) Create a basis for challenging a settlement agreement reached in connection with mediation; or

(3) Create a basis for a civil cause of action against a mediator.

(Subd (b) amended effective January 1, 2007.)

Rule 3.850 amended and renumbered effective January 1, 2007; adopted as rule 1620 effective January 1, 2003.

Rule 3.851. Application

(a) Circumstances applicable

The rules in this article apply to mediations in which a mediator:

(1) Has agreed to be included on a superior court's list or panel of mediators for general civil cases and is notified by the court or the parties that he or she has been selected to mediate a case within that court's mediation program; or

(2) Has agreed to mediate a general civil case pending in a superior court after being notified by the court or the parties that he or she was recommended, selected, or appointed by that court or will be compensated by that court to mediate a case within that court's mediation program. A mediator who is not on a superior court list or panel and who is selected by the parties is not "recommended, selected, or appointed" by the court within the meaning of this subdivision simply because the court approves the parties' agreement to use this mediator or memorializes the parties' selection in a court order.

(Subd (a) amended effective January 1, 2010; previously amended effective January 1, 2007, and January 1, 2009.)

(b) Application to listed firms

If a court's panel or list includes firms that provide mediation services, all mediators affiliated with a listed firm are required to comply with the rules in this article when they are notified by the court or the parties that the firm was selected from the court list to mediate a general civil case within that court's mediation program.

(Subd (b) amended effective July 1, 2007; previously amended effective January 1, 2007.)

(c) Time of applicability

Except as otherwise provided in these rules, the rules in this article apply from the time the mediator agrees to mediate a case until the end of the mediation in that case.

(Subd (c) amended effective January 1, 2007.)

(d) Inapplicability to judges

The rules in this article do not apply to judges or other judicial officers while they are serving in a capacity in which they are governed by the Code of Judicial Ethics.

(Subd (d) amended effective January 1, 2007.)

(e) Inapplicability to settlement conferences

The rules in this article do not apply to settlement conferences conducted under rule 3.1380.

(Subd (e) amended effective January 1, 2007.)

Rule 3.851 amended effective January 1, 2010; adopted as rule 1620.1 effective January 1, 2003; previously amended and renumbered effective January 1, 2007; previously amended effective July 1, 2007, and January 1, 2009.

Advisory Committee Comment

Subdivision (d). Although these rules do not apply to them, judicial officers who serve as mediators in their courts' mediation programs are nevertheless encouraged to be familiar with and observe these rules when mediating, particularly the rules concerning subjects not covered in the Code of Judicial Ethics such as voluntary participation and self-determination.

Rule 3.852. Definitions

As used in this article, unless the context or subject matter requires otherwise:

(1) "Mediation" means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement.

(2) "Mediator" means a neutral person who conducts a mediation.

(3) "Participant" means any individual, entity, or group, other than the mediator taking part in a mediation, including but not limited to attorneys for the parties.

(4) "Party" means any individual, entity, or group taking part in a mediation that is a plaintiff, a defendant, a cross-complainant, a cross-defendant, a petitioner, a respondent, or an intervenor in the case.

Rule 3.852 amended and renumbered effective January 1, 2007; adopted as rule 1620.2 effective January 1, 2003.

Advisory Committee Comment

The definition of "mediator" in this rule departs from the definition in Evidence Code section 1115(b) in that it does not include persons designated by the mediator to assist in the mediation or to communicate with a participant in preparation for the mediation. However, these definitions are applicable only to these rules of conduct and do not limit or expand mediation confidentiality under the Evidence Code or other law.

The definition of "participant" includes insurance adjusters, experts, and consultants as well as the parties and their attorneys.

Rule 3.853. Voluntary participation and self-determination

A mediator must conduct the mediation in a manner that supports the principles of voluntary participation and self-determination by the parties. For this purpose a mediator must:

(1) Inform the parties, at or before the outset of the first mediation session, that any resolution of the dispute in mediation requires a voluntary agreement of the parties;

(2) Respect the right of each participant to decide the extent of his or her participation in the mediation, including the right to withdraw from the mediation at any time; and

(3) Refrain from coercing any party to make a decision or to continue to participate in the mediation.

Rule 3.853 amended and renumbered effective January 1, 2007; adopted as rule 1620.3 effective January 1, 2003.

Advisory Committee Comment

Voluntary participation and self-determination are fundamental principles of mediation that apply both to mediations in which the parties voluntarily elect to mediate and to those in which the parties are required to go to mediation in a mandatory court mediation program or by court order. Although the court may order participants to attend mediation, a mediator may not mandate the extent of their participation in the mediation process or coerce any party to settle the case.

After informing the parties of their choices and the consequences of those choices, a mediator can invoke a broad range of approaches to assist the parties in reaching an agreement without offending the principles of voluntary participation and self-determination, including (1) encouraging the parties to continue participating in the mediation when it reasonably appears to the mediator that the possibility of reaching an uncoerced, consensual agreement has not been exhausted and (2) suggesting that a party consider obtaining professional advice (for example, informing an unrepresented party that he or she may consider obtaining legal advice). Conversely, examples of conduct that violate the principles of voluntary participation and self-determination include coercing a party to continue participating in the mediation after the party has told the mediator that he or she wishes to terminate the mediation, providing an opinion or evaluation of the dispute in a coercive manner or over the objection of the parties, using abusive language, and threatening to make a report to the court about a party's conduct at the mediation.

Rule 3.854. Confidentiality

(a) Compliance with confidentiality law

A mediator must, at all times, comply with the applicable law concerning confidentiality.

(b) Informing participants of confidentiality

At or before the outset of the first mediation session, a mediator must provide the participants with a general explanation of the confidentiality of mediation proceedings.

(c) Confidentiality of separate communications; caucuses

If, after all the parties have agreed to participate in the mediation process and the mediator has agreed to mediate the case, a mediator speaks separately with one or more participants out of the presence of the other participants, the mediator must first discuss with all

participants the mediator's practice regarding confidentiality for separate communications with the participants. Except as required by law, a mediator must not disclose information revealed in confidence during such separate communications unless authorized to do so by the participant or participants who revealed the information.

(d) Use of confidential information

A mediator must not use information that is acquired in confidence in the course of a mediation outside the mediation or for personal gain.

Rule 3.854 renumbered effective January 1, 2007; adopted as rule 1620.4 effective January 1, 2003.

Advisory Committee Comment

Subdivision (a). The general law concerning mediation confidentiality is found in Evidence Code sections 703.5 and 1115–1128 and in cases interpreting those sections. (See, e.g., *Foxgate Homeowners' Association, Inc. v. Bramalea California, Inc.* (2001) 26 Cal.4th 1; *Rinaker v. Superior Court* (1998) 62 Cal.App.4th 155; and *Gilbert v. National Corp. for Housing Partnerships* (1999) 71 Cal.App.4th 1240.)

Rule 3.855. Impartiality, conflicts of interest, disclosure, and withdrawal

(a) Impartiality

A mediator must maintain impartiality toward all participants in the mediation process at all times.

(b) Disclosure of matters potentially affecting impartiality

(1) A mediator must make reasonable efforts to keep informed about matters that reasonably could raise a question about his or her ability to conduct the proceedings impartially, and must disclose these matters to the parties. These matters include:

(A) Past, present, and currently expected interests, relationships, and affiliations of a personal, professional, or financial nature; and

(B) The existence of any grounds for disqualification of a judge specified in Code of Civil Procedure section 170.1.

(2) A mediator's duty to disclose is a continuing obligation, from the inception of the mediation process through its completion. Disclosures required by this rule must be made as soon as practicable after a mediator becomes aware of a matter that must be disclosed. To the extent possible, such disclosures should be made before the first mediation session, but in any event they must be made within the time required by applicable court rules or statutes.

(Subd (b) amended effective January 1, 2007.)

(c) Proceeding if there are no objections or questions concerning impartiality

Except as provided in (f), if, after a mediator makes disclosures, no party objects to the mediator and no participant raises any question or concern about the mediator's ability to conduct the mediation impartially, the mediator may proceed.

(Subd (c) amended effective January 1, 2007.)

(d) Responding to questions or concerns concerning impartiality

If, after a mediator makes disclosures or at any other point in the mediation process, a participant raises a question or concern about the mediator's ability to conduct the mediation impartially, the mediator must address the question or concern with the participants. Except as provided in (f), if, after the question or concern is addressed, no party objects to the mediator, the mediator may proceed.

(Subd (d) amended effective January 1, 2007.)

(e) Withdrawal or continuation upon party objection concerning impartiality

In a two-party mediation, if any party objects to the mediator after the mediator makes disclosures or discusses a participant's question or concern regarding the mediator's ability to conduct the mediation impartially, the mediator must withdraw. In a mediation in which there are more than two parties, the mediator may continue the mediation with the nonobjecting parties, provided that doing so would not violate any other provision of these rules, any law, or any local court rule or program guideline.

(f) Circumstances requiring mediator recusal despite party consent

Regardless of the consent of the parties, a mediator either must decline to serve as mediator or, if already serving, must withdraw from the mediation if:

(1) The mediator cannot maintain impartiality toward all participants in the mediation process; or

(2) Proceeding with the mediation would jeopardize the integrity of the court or of the mediation process.

Rule 3.855 amended and renumbered effective January 1, 2007; adopted as rule 1620.5 effective January 1, 2003.

Advisory Committee Comment

Subdivision (b). This subdivision is intended to provide parties with information they need to help them determine whether a mediator can conduct the mediation impartially. A mediator's overarching duty under this subdivision is to make a "reasonable effort" to identify matters that, in the eyes of a reasonable person, could raise a question about the mediator's ability to conduct the mediation impartially, and to

inform the parties about those matters. What constitutes a "reasonable effort" to identify such matters varies depending on the circumstances, including whether the case is scheduled in advance or received on the spot, and the information about the participants and the subject matter that is provided to the mediator by the court and the parties.

The interests, relationships, and affiliations that a mediator may need to disclose under (b)(1)(A) include: (1) prior, current, or currently expected service as a mediator in another mediation involving any of the participants in the present mediation; (2) prior, current, or currently expected business relationships or transactions between the mediator and any of the participants; and (3) the mediator's ownership of stock or any other significant financial interest involving any participant in the mediation. Currently expected interests, relationships, and affiliations may include, for example, an intention to form a partnership or to enter into a future business relationship with one of the participants in the mediation.

Although (b)(1) specifies interests, relationships, affiliations, and matters that are grounds for disqualification of a judge under Code of Civil Procedure section 170.1, these are only examples of common matters that reasonably could raise a question about a mediator's ability to conduct the mediation impartially and, thus, must be disclosed. The absence of particular interests, relationships, affiliations, and section 170.1 matters does not necessarily mean that there is no matter that could reasonably raise a question about the mediator's ability to conduct the mediation impartially. A mediator must make determinations concerning disclosure on a case-by-case basis, applying the general criteria for disclosure under (b)(1).

Attorney mediators should be aware that under the section 170.1 standard, they may need to make disclosures when an attorney in their firm is serving or has served as a lawyer for any of the parties in the mediation. Section 170.1 does not specifically address whether a mediator must disclose when another member of the mediator's dispute resolution services firm is providing or has provided services to any of the parties in the mediation. Therefore, a mediator must evaluate such circumstances under the general criteria for disclosure under (b)(1)—that is, is it a matter that, in the eyes of a reasonable person, could raise a question about the mediator's ability to conduct the mediation impartially?

If there is a conflict between the mediator's obligation to maintain confidentiality and the mediator's obligation to make a disclosure, the mediator must determine whether he or she can make a general disclosure of the circumstance without revealing any confidential information, or must decline to serve.

Rule 3.856. Competence

(a) Compliance with court qualifications

A mediator must comply with experience, training, educational, and other requirements established by the court for appointment and retention.

(b) Truthful representation of background

A mediator has a continuing obligation to truthfully represent his or her background to the court and participants. Upon a request by any party, a mediator must provide truthful information regarding his or her experience, training, and education.

(c) Informing court of public discipline and other matters

A mediator must also inform the court if:

(1) Public discipline has been imposed on the mediator by any public disciplinary or professional licensing agency;

(2) The mediator has resigned his or her membership in the State Bar or another professional licensing agency while disciplinary or criminal charges were pending;

(3) A felony charge is pending against the mediator;

(4) The mediator has been convicted of a felony or of a misdemeanor involving moral turpitude; or

(5) There has been an entry of judgment against the mediator in any civil action for actual fraud or punitive damages.

(d) Assessment of skills; withdrawal

A mediator has a continuing obligation to assess whether or not his or her level of skill, knowledge, and ability is sufficient to conduct the mediation effectively. A mediator must decline to serve or withdraw from the mediation if the mediator determines that he or she does not have the level of skill, knowledge, or ability necessary to conduct the mediation effectively.

Rule 3.856 renumbered effective January 1, 2007; adopted as rule 1620.6 effective January 1, 2003.

Advisory Committee Comment

Subdivision (d). No particular advanced academic degree or technical or professional experience is a prerequisite for competence as a mediator. Core mediation skills include communicating clearly, listening effectively, facilitating communication among all participants, promoting exploration of mutually acceptable settlement options, and conducting oneself in a neutral manner.

A mediator must consider and weigh a variety of issues in order to assess whether his or her level of skill, knowledge, and ability is sufficient to make him or her effective in a particular mediation. Issues include whether the parties (1) were involved or had input in the selection of the mediator; (2) had access to information about the mediator's background or level of skill, knowledge, and ability; (3) have a specific expectation or perception regarding the mediator's level of skill, knowledge, and ability; (4) have expressed a preference regarding the style of mediation they would like or expect; or (5) have expressed a desire to discuss legal or other professional information, to hear a personal evaluation of or opinion on a set of facts as presented, or to be made aware of the interests of persons who are not represented in mediation.

Rule 3.857. Quality of mediation process

(a) Diligence

A mediator must make reasonable efforts to advance the mediation in a timely manner. If a mediator schedules a mediation for a specific time period, he or she must keep that time period free of other commitments.

(b) Procedural fairness

A mediator must conduct the mediation proceedings in a procedurally fair manner. "Procedural fairness" means a balanced process in which each party is given an opportunity to participate and make uncoerced decisions. A mediator is not obligated to ensure the substantive fairness of an agreement reached by the parties.

(c) Explanation of process

In addition to the requirements of rule 3.853 (voluntary participation and self-determination), rule 3.854(a) (confidentiality), and (d) of this rule (representation and other professional services), at or before the outset of the mediation the mediator must provide all participants with a general explanation of:

(1) The nature of the mediation process;

(2) The procedures to be used; and

(3) The roles of the mediator, the parties, and the other participants.

(Subd (c) amended effective January 1, 2007.)

(d) Representation and other professional services

A mediator must inform all participants, at or before the outset of the first mediation session, that during the mediation he or she will not represent any participant as a lawyer or perform professional services in any capacity other than as an impartial mediator. Subject to the principles of impartiality and self-determination, a mediator may provide information or opinions that he or she is qualified by training or experience to provide.

(e) Recommending other services

A mediator may recommend the use of other services in connection with a mediation and may recommend particular providers of other services. However, a mediator must disclose any related personal or financial interests if recommending the services of specific individuals or organizations.

(f) Nonparticipants' interests

A mediator may bring to the attention of the parties the interests of others who are not participating in the mediation but who may be affected by agreements reached as a result of the mediation.

(g) Combining mediation with other ADR processes

A mediator must exercise caution in combining mediation with other alternative dispute resolution (ADR) processes and may do so only with the informed consent of the parties and in a manner consistent with any applicable law or court order. The mediator must inform the parties of the general natures of the different processes and the consequences of revealing information during any one process that might be used for decision making in another process, and must give the parties the opportunity to select another neutral for the subsequent process. If the parties consent to a combination of processes, the mediator must clearly inform the participants when the transition from one process to another is occurring.

(h) Settlement agreements

Consistent with (d), a mediator may present possible settlement options and terms for discussion. A mediator may also assist the parties in preparing a written settlement agreement, provided that in doing so the mediator confines the assistance to stating the settlement as determined by the parties.

(Subd (h) amended effective January 1, 2007.)

(i) Discretionary termination and withdrawal

A mediator may suspend or terminate the mediation or withdraw as mediator when he or she reasonably believes the circumstances require it, including when he or she suspects that:

(1) The mediation is being used to further illegal conduct;

(2) A participant is unable to participate meaningfully in negotiations; or

(3) Continuation of the process would cause significant harm to any participant or a third party.

(j) Manner of withdrawal

When a mediator determines that it is necessary to suspend or terminate a mediation or to withdraw, the mediator must do so without violating the obligation of confidentiality and in a manner that will cause the least possible harm to the participants.

Rule 3.857 amended and renumbered effective January 1, 2007; adopted as rule 1620.7 effective January 1, 2003.

Advisory Committee Comment

Subdivision (c). The explanation of the mediation process should include a description of the mediator's style of mediation.

Subdivision (d). Subject to the principles of impartiality and self-determination, and if qualified to do so, a mediator may (1) discuss a party's options, including a range of possible outcomes in an adjudicative process; (2) offer a personal evaluation of or opinion on a set of facts as presented, which should be clearly identified as a personal evaluation or opinion; or (3) communicate the mediator's opinion or view of what the law is or how it applies to the subject of the mediation, provided that the mediator does not also advise any participant about how to adhere to the law or on what position the participant should take in light of that opinion.

One question that frequently arises is whether a mediator's assessment of claims, defenses, or possible litigation outcomes constitutes legal advice or the practice of law. Similar questions may arise when accounting, architecture, construction, counseling, medicine, real estate, or other licensed professions are relevant to a mediation. This rule does not determine what constitutes the practice of law or any other licensed profession. A mediator should be cautious when providing any information or opinion related to any field for which a professional license is required, in order to avoid doing so in a manner that may constitute the practice of a profession for which the mediator is not licensed, or in a manner that may violate the regulations of a profession that the mediator is licensed to practice. A mediator should exercise particular caution when discussing the law with unrepresented parties and should inform such parties that they may seek independent advice from a lawyer.

Subdivision (i). Subdivision (i)(2) is not intended to establish any new responsibility or diminish any existing responsibilities that a mediator may have, under the Americans With Disabilities Act or other similar law, to attempt to accommodate physical or mental disabilities of a participant in mediation.

Rule 3.858. Marketing

(a) Truthfulness

A mediator must be truthful and accurate in marketing his or her mediation services. A mediator is responsible for ensuring that both his or her own marketing activities and any marketing activities carried out on his or her behalf by others comply with this rule.

(b) Representations concerning court approval

A mediator may indicate in his or her marketing materials that he or she is a member of a particular court's panel or list but, unless specifically permitted by the court, must not indicate that he or she is approved, endorsed, certified, or licensed by the court.

(c) Promises, guarantees, and implications of favoritism

In marketing his or her mediation services, a mediator must not:

(1) Promise or guarantee results; or

(2) Make any statement that directly or indirectly implies bias in favor of one party or participant over another.

(d) Solicitation of business

A mediator must not solicit business from a participant in a mediation proceeding while that mediation is pending.

Rule 3.858 renumbered effective January 1, 2007; adopted as rule 1620.8 effective January 1, 2003.

Advisory Committee Comment

Subdivision (d). This rule is not intended to prohibit a mediator from accepting other employment from a participant while a mediation is pending, provided that there was no express solicitation of this business by the mediator and that accepting that employment does not contravene any other provision of these rules, including the obligations to maintain impartiality, confidentiality, and the integrity of the process. If other employment is accepted from a participant while a mediation is pending, however, the mediator may be required to disclose this to the parties under rule 3.855.

This rule also is not intended to prohibit a mediator from engaging in general marketing activities. General marketing activities include, but are not limited to, running an advertisement in a newspaper and sending out a general mailing (either of which may be directed to a particular industry or market).

Rule 3.859. Compensation and gifts

(a) Compliance with law

A mediator must comply with any applicable requirements concerning compensation established by statute or the court.

(b) Disclosure of and compliance with compensation terms

Before commencing the mediation, the mediator must disclose to the parties in writing any fees, costs, or charges to be paid to the mediator by the parties. A mediator must abide by any agreement that is reached concerning compensation.

(c) Contingent fees

The amount or nature of a mediator's fee must not be made contingent on the outcome of the mediation.

(Subd (c) amended effective January 1, 2007.)

(d) Gifts and favors

A mediator must not at any time solicit or accept from or give to any participant or affiliate of a participant any gift, bequest, or favor that might reasonably raise a question concerning the mediator's impartiality.

Rule 3.859 amended and renumbered effective January 1, 2007; adopted as rule 1620.9 effective January 1, 2003.

Advisory Committee Comment

Subdivision (b). It is good practice to put mediation fee agreements in writing, and mediators are strongly encouraged to do so; however, nothing in this rule is intended to preclude enforcement of a compensation agreement for mediation services that is not in writing.

Subdivision (d). Whether a gift, bequest, or favor "might reasonably raise a question concerning the mediator's impartiality" must be determined on a case-by-case basis. This subdivision is not intended to prohibit a mediator from accepting other employment from any of the participants, consistent with rule 3.858(d).

Rule 3.860. Attendance sheet and agreement to disclosure

(a) Attendance sheet

In each mediation to which these rules apply under rule 3.851(a), the mediator must request that all participants in the mediation complete an attendance sheet stating their names, mailing addresses, and telephone numbers; retain the attendance sheet for at least two years; and submit it to the court on request.

(Subd (a) amended effective January 1, 2007.)

(b) Agreement to disclosure

The mediator must agree, in each mediation to which these rules apply under rule 3.851(a), that if an inquiry or a complaint is made about the conduct of the mediator, mediation communications may be disclosed solely for purposes of a complaint procedure conducted pursuant to rule 3.865 to address that complaint or inquiry.

(Subd (b) amended effective January 1, 2011; previously amended effective January 1, 2007.)

Rule 3.860 amended effective January 1, 2011; adopted as rule 1621 effective January 1, 2006; previously amended and renumbered effective January 1, 2007.

Article 3. Requirements for Addressing Complaints About Court-Program Mediators

Division 8, Alternative Dispute Resolution—Chapter 3, General Rules Relating to Mediation of Civil Cases—Article 3, Requirements for Addressing Complaints About Court-Program Mediators; adopted effective July 1, 2009, effective date extended to January 1, 2010.

Rule 3.871. Confidentiality of complaint proceedings, information, and records
Rule 3.872. Disqualification from subsequently serving as an adjudicator

Former rule 3.865. Renumbered effective January 1, 2010
Rule 3.865 renumbered as rule 3.868.

Rule 3.865. Application and purpose

(a) Application

The rules in this article apply to each superior court that makes a list of mediators available to litigants in general civil cases or that recommends, selects, appoints, or compensates a mediator to mediate any general civil case pending in that court. A court that approves the parties' agreement to use a mediator who is selected by the parties and who is not on the court's list of mediators or that memorializes the parties' agreement in a court order has not thereby recommended, selected, or appointed that mediator within the meaning of this rule.

(Subd (a) amended and lettered effective January 1, 2010; previously adopted as part of unlettered subd effective July 1, 2009; effective date extended to January 1, 2010.)

(b) Purpose

These rules are intended to promote the resolution of complaints that mediators in court-connected mediation programs for civil cases may have violated a provision of the rules of conduct for such mediators in article 2. They are intended to help courts promptly resolve any such complaints in a manner that is respectful and fair to the complainant and the mediator and consistent with the California mediation confidentiality statutes.

(Subd (b) lettered effective January 1, 2010; previously adopted as part of unlettered subd effective July 1, 2009; effective date extended to January 1, 2010.)

Rule 3.865 amended effective January 1, 2010; adopted effective July 1, 2009, effective date extended to January 1, 2010.

Advisory Committee Comment

As used in this article, complaint means a written communication presented to a court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct for mediators in article 2.

Complaints about mediators are relatively rare. To ensure the quality of court mediation panels and public confidence in the mediation process and the courts, it is, nevertheless, important to ensure that any complaints that do arise are resolved through procedures that are consistent with California mediation confidentiality statutes (Evid. Code, §§ 703.5 and 1115 et seq.), as well as fair and respectful to the interested parties.

The requirements and procedures in this article do not abrogate or limit a court's inherent or other authority, in its sole and absolute discretion, to determine who may be included on or removed from a court list of mediators; to approve or revoke a mediator's eligibility to be recommended, selected, appointed, or compensated by the court; or to follow other procedures or take other actions to ensure the quality of mediators who serve in the court's mediation program in contexts other than when addressing a complaint. The failure to follow a requirement or procedure in this article will not invalidate any action taken by the court in addressing a complaint.

Former rule 3.866. Renumbered effective January 2010
Rule 3.866 renumbered as rule 3.867.

Rule 3.866. Definitions

As used in this article, unless the context or subject matter requires otherwise:

(1) "The rules of conduct" means rules 3.850–3.860 of the California Rules of Court in article 2.

(2) "Court-program mediator" means a person subject to the rules of conduct under rule 3.851.

(3) "Inquiry" means an unwritten communication presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.

(4) "Complaint" means a written communication presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.

(5) "Complainant" means the person who makes or presents a complaint.

(6) "Complaint coordinator" means the person designated by the presiding judge under rule 3.867(a) to receive complaints and inquiries about the conduct of mediators.

(7) "Complaint committee" means a committee designated or appointed to investigate and make recommendations concerning complaints under rule 3.869(d)(2).

(8) "Complaint procedure" means a procedure for presenting, receiving, reviewing, responding to, investigating, and acting on any inquiry or complaint.

(9) "Complaint proceeding" means all of the proceedings that take place as part of a complaint procedure concerning a specific inquiry or complaint.

(10) "Mediation communication" means any statement that is made or any writing that is prepared for the purpose of, in the course of, or pursuant to a mediation or a mediation consultation, as defined in Evidence Code section 1115, and includes any communications, negotiations, and settlement discussions between participants in the course of a mediation or a mediation consultation.

Rule 3.866 adopted effective July 1, 2009, effective date extended to January 1, 2010.

Advisory Committee Comment

Paragraph (2). Under rule 3.851, the rules of conduct apply when a mediator, or a firm with which a mediator is affiliated, has agreed to be included on a superior court's list or panel of mediators for general civil cases and is notified by the court or the parties that he or she has been selected to mediate a case within that court's mediation program or when a mediator has agreed to mediate a general civil case after being notified that he or she was recommended, selected, or appointed by a court, or will be compensated by a court, to mediate a case within a court's mediation program.

Paragraphs (3) and (4). The distinction between "inquiries" and "complaints" is significant because some provisions of this article apply only to complaints (i.e., written communications presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct) and not to inquiries.

Former rule 3.867. Renumbered effective January 1, 2010

Rule 3.867 renumbered as rule 3.871.

Rule 3.867. Complaint coordinator

(a) Designation of the complaint coordinator

The presiding judge must designate a person who is knowledgeable about mediation to serve as the complaint coordinator.

(Subd (a) amended and lettered effective July 1, 2009, effective date extended to January 1, 2010; adopted as unlettered subd effective January 1, 2006.)

(b) Identification of the complaint coordinator

The court must make the complaint coordinator's identity and contact information readily accessible to litigants and the public.

(Subd (b) adopted effective July 1, 2009, effective date extended to January 1, 2010.)

Rule 3.867 amended and renumbered effective July 1, 2009, effective date extended to January 1, 2010; adopted as rule 1622.1 effective January 1, 2006; previously amended and renumbered as rule 3.866 effective January 1, 2007.

Advisory Committee Comment

The alternative dispute resolution program administrator appointed under rule 10.783(a) may also be appointed as the complaint coordinator if that person is knowledgeable about mediation.

Former rule 3.868. Renumbered effective January 1, 2010

Rule 3.868 renumbered as rule 3.872.

Rule 3.868. Complaint procedure required

Each court to which this article applies under rule 3.865 must establish a complaint procedure by local rule of court that is consistent with this article.

Rule 3.868 amended and renumbered effective July 1, 2009, effective date extended to January 1, 2010; adopted as rule 1622 effective January 1, 2003; previously amended effective January 1, 2006; previously amended and renumbered as rule 3.865 effective January 1, 2007.

Rule 3.869. General requirements for complaint procedures and complaint proceedings

(a) Submission and referral of inquiries and complaints to the complaint coordinator

All inquiries and complaints should be submitted or referred to the complaint coordinator.

(b) Acknowledgment of complaint

The complaint coordinator must send the complainant a written acknowledgment that the court has received the complaint.

(c) Preliminary review and disposition of complaints

The complaint coordinator must conduct a preliminary review of all complaints to determine whether the complaint can be informally resolved or closed, or whether the complaint warrants investigation.

(d) Procedure for complaints not resolved through the preliminary review

The following procedures are required only if a complaint is not resolved or closed through the preliminary review.

(1) *Mediator's notice and opportunity to respond*

The mediator must be given notice of the complaint and an opportunity to respond.

(2) *Investigation and recommendation*

(A) Except as provided in (B), the complaint must be investigated and a recommendation concerning court action on the complaint must be made by either an individual who has experience as a mediator and who is familiar with the rules of conduct stated in article 2 or a complaint committee that has at least one such individual as a member.

(B) A court with eight or fewer authorized judges may waive the requirement in (A) for participation by an individual who has experience as a mediator in conducting the investigation and making the recommendation if the court

cannot find a suitable qualified individual to perform the functions described in (A) or for other grounds of hardship.

(3) *Final decision*

The final decision on the complaint must be made by the presiding judge or his or her designee, who must not be the complaint coordinator or an individual who investigated the complaint before its submission for final decision.

(e) Notice of final action

(1) The court must send the complainant notice of the final action taken by the court on the complaint.

(2) If the complaint was not closed during the preliminary review, the court must send notice of the final action to the mediator.

(f) Promptness

The court must process complaints promptly at all stages.

(g) Records of complaints

The court should maintain sufficient information about each complaint and its disposition to identify any history or patterns of complaints submitted under these rules.

Rule 3.869 adopted effective July 1, 2009, effective date extended to January 1, 2010.

Advisory Committee Comment

The Administrative Office of the Courts has developed model local rules that satisfy the requirements of this rule. These model local rules were developed with input from judicial officers, court administrators, alternative dispute resolution (ADR) program administrators, court-program mediators, and public commentators and are designed so that they can be readily adapted to the circumstances of individual courts and specific complaints. Courts are encouraged to adopt rules that follow the model rules, to the extent feasible. Courts can obtain copies of these model rules from civil ADR program staff at the Administrative Office of the Courts.

Subdivision (a). Coordination of inquiries and complaints by a person knowledgeable about mediation is important to help ensure that the requirements of this article are followed and that mediation confidentiality is preserved.

Subdivision (c). Courts are encouraged to resolve inquiries and complaints about mediators using the simplest, least formal procedures that are appropriate under the circumstances, provided that they meet the requirements stated in this article.

Most complaints can be appropriately resolved during the preliminary review stage of the complaint process, through informal discussions between or among the complaint coordinator, the complainant, and

the mediator. Although complaint coordinators are not required to communicate with the mediator during the preliminary review, they are encouraged to consider doing so. For example, some complaints may arise from a misunderstanding of the mediator's role or from behavior that would not violate the standards of conduct. These types of complaints might appropriately be addressed by providing the complainant with additional information or by informing the mediator that certain behavior was upsetting to a mediation participant.

The circumstances under which a complaint coordinator might informally resolve or close a complaint include, for example, when (1) the complaint is withdrawn; (2) no violation of the rules of conduct appears to have occurred; (3) the alleged violation of the rules of conduct is very minor and the mediator has provided an acceptable explanation or response; and (4) the complainant, the mediator, and the complaint coordinator have agreed on a resolution. In determining whether to close a complaint, the complaint coordinator might also consider whether there are or have been other complaints about the mediator.

Subdivision (d). At the investigation and recommendation stage, all courts are encouraged to consider using a complaint committee comprised of members with a variety of backgrounds, including at least one person with experience as a mediator, to investigate and make recommendations concerning those rare complaints that are not resolved during the preliminary review.

Courts are also encouraged to have a judicial officer who is knowledgeable about mediation, or a committee that includes another person who is knowledgeable about mediation, make the final decision on complaints that are not resolved through the preliminary review.

Rule 3.870. Permissible court actions on complaints

After an investigation has been conducted, the presiding judge or his or her designee may do one or more of the following:

(1) Direct that no action be taken on the complaint;

(2) Counsel, admonish, or reprimand the mediator;

(3) Impose additional training requirements as a condition of the mediator remaining on the court's panel or list;

(4) Suspend the mediator from the court's panel or list or otherwise temporarily prohibit the mediator from receiving future mediation referrals from the court; or

(5) Remove the mediator from the court's panel or list or otherwise prohibit the mediator from receiving future mediation referrals from the court.

Rule 3.870 adopted effective July 1, 2009, effective date extended to January 1, 2010.

Advisory Committee Comment

This rule does not abrogate or limit any existing legal right or duty of the court to take other actions, including interim suspension of a mediator pending final action by the court on a complaint.

Rule 3.871. Confidentiality of complaint proceedings, information, and records

(a) Intent

This rule is intended to:

(1) Preserve the confidentiality of mediation communications as required by Evidence Code sections 1115–1128;

(2) Promote cooperation in the reporting, investigation, and resolution of complaints about court-program mediators; and

(3) Protect mediators against damage to their reputations that might result from the disclosure of unfounded complaints against them.

(Subd (a) amended effective July 1, 2009, effective date extended to January 1, 2010; previously amended effective January 1, 2007.)

(b) Preserving the confidentiality of mediation communications

All complaint procedures and complaint proceedings must be designed and conducted in a manner that preserves the confidentiality of mediation communications, including but not limited to the confidentiality of any communications between the mediator and individual mediation participants or subgroups of mediation participants.

(Subd (b) amended effective July 1, 2009, effective date extended to January 1, 2010.)

(c) Confidentiality of complaint proceedings

All complaint proceedings must occur in private and must be kept confidential. No information or records concerning the receipt, investigation, or resolution of an inquiry or a complaint may be open to the public or disclosed outside the course of the complaint proceeding except as provided in (d) or as otherwise required by law.

(Subd (c) amended effective July 1, 2009, effective date extended to January 1, 2010; previously amended effective January 1, 2007.)

(d) Authorized disclosures

After the decision on a complaint, the presiding judge, or a person whom the presiding judge designates to do so, may authorize the public disclosure of information or records concerning the complaint proceeding that do not reveal any mediation communications. The disclosures that may be authorized under this subdivision include the name of a mediator against whom action has been taken under rule 3.870, the action taken, and the general basis on which the action was taken. In determining whether to authorize the disclosure of information or records under this subdivision, the presiding judge or the

designee should consider the purposes of the confidentiality of complaint proceedings stated in (a)(2) and (a)(3).

(Subd (d) amended effective July 1, 2009, effective date extended to January 1, 2010; previously amended effective January 1, 2007.)

(e) Disclosures required by law

In determining whether the disclosure of information or records concerning a complaint proceeding is required by law, courts should consider the purposes of the confidentiality of complaint proceedings stated in (a). If it appears that the disclosure of information or records concerning a complaint proceeding that would reveal mediation communications is required by law, before the information or records are disclosed, notice should be given to any person whose mediation communications may thereby be revealed.

(Subd (e) amended effective July 1, 2009, effective date extended to January 1, 2010; previously amended effective January 1, 2007.)

Rule 3.871 amended and renumbered effective July 1, 2009, effective date extended to January 1, 2010; adopted as rule 1622.2 effective January 1, 2006; previously amended and renumbered as rule 3.867 effective January 1, 2007.

Advisory Committee Comment

Under rule 3.866(9), the complaint proceedings covered by this rule include proceedings to address inquiries as well as complaints (i.e., to unwritten as well as written communications indicating that a mediator may have violated a provision of the rules of conduct).

Subdivision (a). See Evidence Code sections 1115 and 1119 concerning the scope and types of mediation communications protected by mediation confidentiality. Rule 3.871 is intended to supplement the confidentiality of mediation communications established by the Evidence Code by ensuring that disclosure of information or records about a complaint proceeding does not reveal confidential mediation communications. Rule 3.871 is not intended to supersede or abrogate the confidentiality of mediation communications established by the Evidence Code.

Subdivision (b). Private meetings, or "caucuses," between a mediator and subgroups of participants are common in court-connected mediations, and it is frequently understood that these communications will not be disclosed to other participants in the mediation. (See Cal. Rules of Court, rule 3.854(c).) It is important to protect the confidentiality of these communications in complaint proceedings so that one participant in the mediation does not learn what another participant discussed in confidence with the mediator without the consent of the participants in the caucus communication.

Subdivisions (c)–(e). The provisions of (c)–(e) that authorize the disclosure of information and records related to complaint proceedings do not create any new exceptions to mediation confidentiality. Although public disclosure of information and records about complaint proceedings that do not reveal mediation communications may be authorized under (d), information and records that *would* reveal mediation communications may be publicly disclosed only as required by law (e.g., in response to a subpoena or court order) and consistent with the statutes and case law governing mediation confidentiality. A person

who is knowledgeable about California's mediation confidentiality laws should determine whether the disclosure of mediation communications is required by law.

Evidence Code sections 915 and 1040 establish procedures and criteria for deciding whether information acquired in confidence by a public employee in the course of his or her duty is subject to disclosure. These sections may be applicable or helpful in determining whether the disclosure of information or records acquired by judicial officers, court staff, and other persons in the course of a complaint proceeding is required by law or should be authorized in the discretion of the presiding judge.

Rule 3.872. Disqualification from subsequently serving as an adjudicator

A person who has participated in a complaint proceeding or otherwise received information about the substance of a complaint, other than information that is publicly disclosed under rule 3.871(d), must not subsequently hear or determine any contested issue of law, fact, or procedure concerning the dispute that was the subject of the underlying mediation or any other dispute that arises from the mediation as a judge, an arbitrator, a referee, or a juror, or in any other adjudicative capacity, in any court action or proceeding.

Rule 3.872 amended and renumbered effective July 1, 2009, effective date extended to January 1, 2010; adopted as rule 1622.3 effective January 1, 2006; previously amended and renumbered as rule 3.868 effective January 1, 2007.

Advisory Committee Comment

Persons who participated in a complaint proceeding are prohibited from subsequently adjudicating the dispute that was the subject of the underlying mediation or any other dispute that arises from the mediation because they may have learned of confidential mediation communications that were disclosed in the complaint proceeding or may have been influenced by what transpired in that proceeding. Because the information that can be disclosed publicly under rule 3.871(d) is limited and excludes mediation communications, it is unnecessary to disqualify persons who received only publicly disclosed information from subsequently adjudicating the dispute.

Chapter 4. Civil Action Mediation Program Rules

Rule 3.890. Application

The rules in this chapter implement the Civil Action Mediation Act, Code of Civil Procedure section 1775 et seq. Under section 1775.2, they apply in the Superior Court of California, County of Los Angeles and in other courts that elect to apply the act.

Rule 3.890 renumbered effective July 1, 2009; adopted as rule 1630 effective March 1, 1994; previously amended and renumbered as rule 3.870 effective January 1, 2007.

Rule 3.891. Actions subject to mediation

(a) Actions that may be submitted to mediation

The following actions may be submitted to mediation under these provisions:

(1) *By court order*

Any action in which the amount in controversy, independent of the merits of liability, defenses, or comparative negligence, does not exceed $50,000 for each plaintiff. The court must determine the amount in controversy under Code of Civil Procedure section 1775.5. Determinations to send a case to mediation must be made by the court after consideration of the expressed views of the parties on the amenability of the case to mediation. The court must not require the parties or their counsel to personally appear in court for a conference held solely to determine whether to send their case to mediation.

(2) *By stipulation*

Any other action, regardless of the amount of controversy, in which all parties stipulate to such mediation. The stipulation must be filed not later than 90 days before trial unless the court permits a later time.

(Subd (a) amended effective January 1, 2007.)

(b) Case-by-case determination

Amenability of a particular action for mediation must be determined on a case-by-case basis, rather than categorically.

(Subd (b) amended effective January 1, 2007.)

Rule 3.891 renumbered effective July 1, 2009; adopted as rule 1631 effective March 1, 1994; previously amended and renumbered as rule 3.871 effective January 1, 2007.

Rule 3.892. Panels of mediators

Each court, in consultation with local bar associations, ADR providers, and associations of providers, must identify persons who may be appointed as mediators. The court must consider the criteria in standard 10.72 of the Standards of Judicial Administration and California Code of Regulations, title 16, section 3622, relating to the Dispute Resolution Program Act.

Rule 3.892 renumbered effective July 1, 2009; adopted as rule 1632 effective March 1, 1994; previously amended and renumbered as rule 3.872 effective January 1, 2007.

Rule 3.893. Selection of mediators

The parties may stipulate to any mediator, whether or not the person selected is among those identified under rule 3.892, within 15 days of the date an action is submitted to mediation. If the parties do not stipulate to a mediator, the court must promptly assign a mediator to the action from those identified under rule 3.892.

Rule 3.893 amended effective January 1, 2011; adopted as rule 1633 effective March 1, 1994; previously amended and renumbered as rule 3.873 effective January 1, 2007; previously renumbered effective July 1, 2009.

Rule 3.894. Attendance, participant lists, and mediation statements

(a) Attendance

(1) All parties and attorneys of record must attend all mediation sessions in person unless excused or permitted to attend by telephone as provided in (3). If a party is not a natural person, a representative of that party with authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or a legislative body, a representative with authority to recommend such agreement, must attend all mediation sessions in person, unless excused or permitted to attend by telephone as provided in (3).

(2) If any party is insured under a policy of insurance that provides or may provide coverage for a claim that is a subject of the action, a representative of the insurer with authority to settle or recommend settlement of the claim must attend all mediation sessions in person, unless excused or permitted to attend by telephone as provided in (3).

(3) The mediator may excuse a party, attorney, or representative from the requirement to attend a mediation session under (1) or (2) or permit attendance by telephone. The party, attorney, or representative who is excused or permitted to attend by telephone must promptly send a letter or an electronic communication to the mediator and to all parties confirming the excuse or permission.

(4) Each party may have counsel present at all mediation sessions that concern the party.

(Subd (a) amended effective January 1, 2007; adopted as untitled subd effective March 1, 1994.)

(b) Participant lists and mediation statements

(1) At least five court days before the first mediation session, each party must serve a list of its mediation participants on the mediator and all other parties. The list must include the names of all parties, attorneys, representatives of a party that is not a natural person, insurance representatives, and other persons who will attend the mediation with or on behalf of that party. A party must promptly serve a supplemental list if the party subsequently determines that other persons will attend the mediation with or on behalf of the party.

(2) The mediator may request that each party submit a short mediation statement providing information about the issues in dispute and possible resolutions of those issues and other information or documents that may appear helpful to resolve the dispute.

(Subd (b) adopted effective January 1, 2007.)

Rule 3.894 renumbered effective July 1, 2009; adopted as rule 1634 effective March 1, 1994; previously amended and renumbered as rule 3.874 effective January 1, 2007; previously amended effective January 1, 2007.

Rule 3.895. Filing of *Statement of Agreement or Nonagreement* by mediator

Within 10 days after conclusion of the mediation, or by another date set by the court, the mediator must complete, serve on all parties, and file a *Statement of Agreement or Nonagreement* (form ADR-100). If the mediation has not ended when the report is filed, the mediator must file a supplemental form ADR-100 within 10 days after the mediation is concluded or by another date set by the court. The completed form ADR-100 must not disclose the terms of any agreement or any other communications or conduct that occurred in the course of the mediation, except as allowed in Evidence Code sections 1115–1128.

Rule 3.895 amended effective July 1, 2012; adopted as rule 1635 effective March 1, 1994; previously amended and renumbered as rule 3.875 effective January 1, 2007; previously renumbered effective July 1, 2009.

Rule 3.896. Coordination with Trial Court Delay Reduction Act

(a) Effect of mediation on time standards

Submission of an action to mediation under the rules in this chapter does not affect time periods specified in the Trial Court Delay Reduction Act (Gov. Code, § 68600 et seq.), except as provided in this rule.

(Subd (a) amended effective January 1, 2007.)

(b) Exception to delay reduction time standards

On written stipulation of the parties filed with the court, the court may order an exception of up to 90 days to the delay reduction time standards to permit mediation of an action. The court must coordinate the timing of the exception period with its delay reduction calendar.

(Subd (b) amended effective January 1, 2007.)

(c) Time for completion of mediation

Mediation must be completed within 60 days of a reference to a mediator, but that period may be extended by the court for up to 30 days on a showing of good cause.

(Subd (c) amended and lettered effective January 1, 2007; adopted as part of subd (b) effective March 1, 1994.)

(d) Restraint in discovery

The parties should exercise restraint in discovery while a case is in mediation. In appropriate cases to accommodate that objective, the court may issue a protective order under Code of Civil Procedure section 2017(c) and related provisions.

(Subd (d) amended and lettered effective January 1, 2007; adopted as part of subd (b) effective March 1, 1994.)

Rule 3.896 renumbered effective July 1, 2009; adopted as rule 1637 effective March 1, 1994; previously amended and renumbered as rule 3.876 effective January 1, 2007.

Rule 3.897. Statistical information [Repealed]

Rule 3.897 repealed effective July 1, 2012; adopted as rule 1638 effective March 1, 1994; previously amended effective February 9, 1999; previously amended and renumbered as rule 3.877 effective January 1, 2007; previously renumbered effective July 1, 2009.

Rule 3.898. Educational material

Each court must make available educational material, adopted by the Judicial Council, or from other sources, describing available ADR processes in the community.

Rule 3.898 renumbered effective July 1, 2009; adopted as rule 1639 effective March 1, 1994; previously amended and renumbered as rule 3.878 effective January 1, 2007.

Division 9. References

Chapter 1. Reference by Agreement of the Parties Under Code of Civil Procedure Section 638

Rule 3.900. Purposes of reference

A court must not use the reference procedure under Code of Civil Procedure section 638 to appoint a person to conduct a mediation.

Rule 3.900 adopted effective January 1, 2007.

Advisory Committee Comment

Rule 3.900 is not intended to prohibit a court from appointing a referee to conduct a mandatory settlement conference or, following the conclusion of a reference, from appointing a person who previously served as a referee to conduct a mediation.

Rule 3.901. Application for order appointing referee

(a) Stipulation or motion for appointment

A written stipulation or motion for an order appointing a referee under Code of Civil Procedure section 638 must be presented to the judge to whom the case is assigned, or to the presiding judge or law and motion department if the case has not been assigned.

(b) Contents of application

The stipulation or motion for the appointment of a referee under section 638 must:

(1) Clearly state whether the scope of the requested reference includes all issues or is limited to specified issues;

(2) State whether the referee will be privately compensated;

(3) If authorization to use court facilities or court personnel is requested, describe the use requested and state the reasons that this would further the interests of justice;

(4) If the applicant is requesting or the parties have stipulated to the appointment of a particular referee, be accompanied by the proposed referee's certification as required by rule 3.904(a); and

(5) Be accompanied by a proposed order that includes the matters specified in rule 3.902.

Rule 3.901 adopted effective January 1, 2007.

Rule 3.902. Order appointing referee

An order appointing a referee under Code of Civil Procedure section 638 must be filed with the clerk or entered in the minutes and must specify:

(1) The name, business address, and telephone number of the referee and, if he or she is a member of the State Bar, the referee's State Bar number;

(2) Whether the scope of the reference covers all issues or is limited to specified issues;

(3) Whether the referee will be privately compensated; and

(4) Whether the use of court facilities and court personnel is authorized.

Rule 3.902 amended effective January 1, 2010; adopted effective January 1, 2007.

Rule 3.903. Selection and qualifications of referee

The court must appoint the referee or referees as provided in the Code of Civil Procedure section 640. If the proposed referee is a former judicial officer, he or she must be an active or an inactive member of the State Bar.

Rule 3.903 adopted effective January 1, 2007.

Rule 3.904. Certification and disclosure by referee

(a) Certification by referee

Before a referee begins to serve:

(1) The referee must certify in writing that he or she consents to serve as provided in the order of appointment and is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and with the California Rules of Court; and

(2) The referee's certification must be filed with the court.

(b) Disclosure by referee

In addition to any other disclosure required by law, no later than five days before the deadline for parties to file a motion for disqualification of the referee under Code of Civil Procedure section 170.6 or, if the referee is not aware of his or her appointment or of a matter subject to disclosure at that time, as soon as practicable thereafter, a referee must disclose to the parties:

(1) Any matter subject to disclosure under either canon 6D(5)(a) or 6D(5)(b) of the Code of Judicial Ethics; and

(2) Any significant personal or professional relationship the referee has or has had with a party, attorney, or law firm in the current case, including the number and nature of any other proceedings in the past 24 months in which the referee has been privately compensated by a party, attorney, law firm, or insurance company in the current case for any services. The disclosure must include privately compensated service as an attorney, expert witness, or consultant or as a judge, referee, arbitrator, mediator, settlement facilitator, or other alternative dispute resolution neutral.

Rule 3.904 adopted effective January 1, 2007.

Rule 3.905. Objections to the appointment

A stipulation or an agreement for an order appointing a referee does not constitute a waiver of grounds for objection to the appointment of a particular person as referee under Code of Civil Procedure section 641. Any objection to the appointment of a person as a referee must be made with reasonable diligence and in writing. The objection must be served on all parties and the referee and filed with the court. The objection must be heard by the judge to whom the case is assigned or by the presiding judge or law and motion judge if the case has not been assigned.

Rule 3.905 adopted effective January 1, 2007.

Rule 3.906. Motion to withdraw stipulation

(a) Good cause requirement

A motion to withdraw a stipulation for the appointment of a referee must be supported by a declaration of facts establishing good cause for permitting the party to withdraw the stipulation. The following do not constitute good cause for withdrawing a stipulation:

(1) A declaration that a ruling is based on an error of fact or law.

(2) The issuance of an order for an appropriate hearing site under rule 3.910.

(b) Service, filing and hearing of motion

Notice of the motion must be served on all parties and the referee and filed with the court. The motion must be heard by the judge to whom the case is assigned or by the presiding

judge or law and motion judge. If the motion is granted, the case must be transferred to the trial court docket.

Rule 3.906 adopted effective January 1, 2007.

Former rule 3.907. Motion or application to seal records [Repealed]
Rule 3.907 repealed effective January 1, 2010; adopted effective January 1, 2007.

Rule 3.907. Use of court facilities and court personnel

A party who has elected to use the services of a referee appointed under Code of Civil Procedure section 638 is deemed to have elected to proceed outside court facilities. Court facilities, court personnel, and summoned jurors may not be used in proceedings pending before such a referee except on a finding by the presiding judge or his or her designee that their use would further the interests of justice.

Rule 3.907 amended and renumbered effective January 1, 2010; adopted as rule 3.909 effective January 1, 2007.

Rule 3.908. Motion for leave to file complaint for intervention [Repealed]
Rule 3.908 repealed effective January 1, 2010; adopted effective January 1, 2007.

Rule 3.909. Renumbered effective January 1, 2010
Rule 3.909 renumbered as rule 3.907.

Rule 3.910. Request and order for appropriate and accessible hearing site [Repealed]
Rule 3.910 repealed effective January 1, 2010; adopted effective January 1, 2007.

Chapter 2. Court-Ordered Reference Under Code of Civil Procedure Section 639

Rule 3.920. Purposes and conditions for appointment of referee

(a) Purposes prescribed by statute

A court may order the appointment of a referee under Code of Civil Procedure section 639 only for the purposes specified in that section.

(b) No references for mediation

A court must not use the reference procedure under Code of Civil Procedure section 639 to appoint a person to conduct a mediation.

(c) Conditions for appointment of discovery referee

A discovery referee must not be appointed under Code of Civil Procedure section 639(a)(5) unless the exceptional circumstances of the particular case require the appointment.

Rule 3.920 adopted effective January 1, 2007.

Advisory Committee Comment

Rule 3.920(b) is not intended to prohibit a court from appointing a referee to conduct a mandatory settlement conference in a complex case or, following the conclusion of a reference, from appointing a person who previously served as a referee to conduct a mediation.

Rule 3.921. Motion for appointment of a referee

(a) Filing and contents

A motion by a party for the appointment of a referee under Code of Civil Procedure section 639 must be served and filed. The motion must specify the matter or matters to be included in the requested reference. If the applicant is requesting the appointment of a particular referee, the motion must be accompanied by the proposed referee's certification as required by rule 3.924(a).

(b) Hearing

The motion must be heard by the judge to whom the case is assigned, or by the presiding judge or law and motion judge if the case has not been assigned.

Rule 3.921 adopted effective January 1, 2007.

Rule 3.922. Form and contents of order appointing referee

(a) Written order required

An order appointing a referee under Code of Civil Procedure section 639, on the motion of a party or on the court's own motion, must be in writing and must address the matters set forth in (b) through (g).

(Subd (a) amended effective January 1, 2010.)

(b) Referee information

The order must state the name, business address, and telephone number of the referee and, if he or she is a member of the State Bar, the referee's State Bar number.

(c) Basis for reference

The order must specify whether the referee is appointed under paragraph (1), (2), (3), (4), or (5) of subdivision (a) of section 639 and:

(1) If the referee is appointed under section 639(a)(1)–(a)(4), the order must state the reason the referee is being appointed.

(2) If the referee is appointed under section 639(a)(5) to hear and determine discovery motions and disputes relevant to discovery, the order must state the exceptional circumstances of the particular case that require the reference.

(d) Subject matter and scope of reference

(1) The order must specify the subject matter or matters included in the reference.

(2) If the referee is appointed under section 639(a)(5) to hear and determine discovery motions and disputes relevant to discovery, the order must state whether the discovery referee is appointed for all purposes or only for limited purposes.

(e) Authority of discovery referee

If the referee is appointed under section 639(a)(5) to hear and determine discovery motions and disputes relevant to discovery, the order must state that the referee is authorized to set the date, time, and place for all hearings determined by the referee to be necessary; direct the issuance of subpoenas; preside over hearings; take evidence; and rule on objections, motions, and other requests made during the course of the hearing.

(f) Referee fees; apportionment

If the referee will be appointed at a cost to the parties, the order must:

(1) Specify the maximum hourly rate the referee may charge and, if any party so requests, the maximum number of hours for which the referee may charge;

(2) Include a finding that either:

(A) No party has established an economic inability to pay a pro rata share of the referee's fee; or

(B) One or more parties has established an economic inability to pay a pro rata share of the referee's fees and another party has agreed voluntarily to pay that additional share of the referee's fees.

(3) When the issue of economic hardship is raised before the referee begins performing services, the court must determine a fair and reasonable apportionment of reference costs. The court may modify its apportionment order and may consider a recommendation by the referee as a factor in determining any modification.

(g) Use of court facilities and court personnel

The order must specify the extent, if any, to which court facilities and court personnel may be used in connection with the reference.

Rule 3.922 amended effective January 1, 2010; adopted effective January 1, 2007.

Rule 3.923. Selection and qualification of referee

The court must appoint the referee or referees as provided in Code of Civil Procedure section 640. If the referee is a former California judicial officer, he or she must be an active or inactive member of the State Bar.

Rule 3.923 adopted effective January 1, 2007.

Rule 3.924. Certification and disclosure by referee

(a) Certification by referee

Before a referee begins to serve:

(1) The referee must certify in writing that he or she consents to serve as provided in the order of appointment and is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and with the California Rules of Court; and

(2) The referee's certification must be filed with the court.

(b) Disclosure by referee

In addition to any other disclosure required by law, no later than five days before the deadline for parties to file a motion for disqualification of the referee under Code of Civil Procedure section 170.6 or, if the referee is not aware of his or her appointment or of a matter subject to disclosure at that time, as soon as practicable thereafter, a referee must disclose to the parties:

(1) Any matter subject to disclosure under subdivisions (D)(5)(a) and (D)(5)(b) of canon 6 of the Code of Judicial Ethics; and

(2) Any significant personal or professional relationship the referee has or has had with a party, attorney, or law firm in the current case, including the number and nature of any other proceedings in the past 24 months in which the referee has been privately compensated by a party, attorney, law firm, or insurance company in the current case for any services. The disclosure must include privately compensated service as an attorney, expert witness, or consultant or as a judge, referee, arbitrator, mediator, settlement facilitator, or other alternative dispute resolution neutral.

(Subd (b) amended effective January 1, 2008.)

Rule 3.924 amended effective January 1, 2008; adopted effective January 1, 2007.

Rule 3.925. Objection to reference

The filing of a motion for an order appointing a referee does not constitute a waiver of grounds for objection to the appointment of a particular person as referee under Code of Civil Procedure section 641, or objection to the rate or apportionment of compensation of the referee. Any objection to the appointment of a particular person as a referee must be made with reasonable diligence and in writing. The objection must be heard by the judge to whom the case is assigned, or by the presiding judge or the law and motion judge.

Rule 3.925 adopted effective January 1, 2007.

Rule 3.926. Use of court facilities

A reference ordered under Code of Civil Procedure section 639 entitles the parties to the use of court facilities and court personnel to the extent provided in the order of reference. The proceedings may be held in a private facility, but, if so, the private facility must be open to the public as provided in rule 3.931.

Rule 3.926 amended effective January 1, 2010; adopted effective January 1, 2007.

Rule 3.927. Circumstances required for appointment of discovery referee [Repealed]

Rule 3.927 repealed effective January 1, 2010; adopted effective January 1, 2007.

Chapter 3. Rules Applicable to References Under Code of Civil Procedure Section 638 or 639

Title 3, Civil Rules—Division 9, References—Chapter 3, Rules Applicable to References Under Code of Civil Procedure Section 638 or 639; adopted effective January 1, 2010.

Rule 3.930. Documents and exhibits
Rule 3.931. Open proceedings, notice of proceedings, and order for hearing site
Rule 3.932. Motions or applications to be heard by the court

Rule 3.930. Documents and exhibits

All referees and parties in proceedings before a referee appointed under Code of Civil Procedure section 638 or 639 must comply with the applicable requirements of rule 2.400 concerning the filing and handling of documents and exhibits.

Rule 3.930 adopted effective January 1, 2010.

Rule 3.931. Open proceedings, notice of proceedings, and order for hearing site

(a) Open proceedings

All proceedings before a referee that would be open to the public if held before a judge must be open to the public, regardless of whether they are held in a court facility or in another location.

(b) Notice regarding proceedings before referee

(1) In each case in which he or she is appointed, a referee must file a statement that provides the name, telephone number, and mailing address of a person who may be contacted to obtain information about the date, time, location, and general nature of all hearings scheduled in matters pending before the referee that would be open to the public if held before a judge. This statement must be filed at the same time as the referee's certification under rule 3.904(a) or 3.924(a). If there is any change in this contact information, the referee must promptly file a revised statement with the court.

(2) In addition to providing the information required under (1), the statement filed by a referee may also provide the address of a publicly accessible Web site at which the referee will maintain a current calendar setting forth the date, time, location, and general nature of any hearings scheduled in the matter that would be open to the public if held before a judge.

(3) The clerk must post the information from the statement filed by the referee in the court facility.

(c) Appropriate hearing site

(1) The presiding judge or his or her designee, on application of any person or on the judge's own motion, may order that a case before a referee must be heard at a site easily accessible to the public and appropriate for seating those who have made known their plan to attend hearings. The application must state facts showing good cause for granting the application, must be served on all parties and the referee, and filed with the court. The proceedings are not stayed while the application is pending unless the presiding judge or his or her designee orders that they be stayed. The issuance of an order for an accessible and appropriate hearing site is not grounds for withdrawal of a stipulation for the appointment of a referee.

(2) If a court staff mediator or evaluator is required to attend a hearing before a referee, unless otherwise ordered by the presiding judge or his or her designee, that hearing must take place at a location requiring no more than 15 minutes' travel time from the mediator's or evaluator's work site.

Rule 3.931 adopted effective January 1, 2010.

Rule 3.932. Motions or applications to be heard by the court

(a) Motion or application to seal records

A motion or application to seal records in a case pending before a referee must be filed with the court and served on all parties that have appeared in the case and the referee. The motion or application must be heard by the trial court judge to whom the case is assigned or, if the case has not been assigned, by the presiding judge or his or her designee. Rules 2.550 and 2.551 apply to the motion or application to seal the records.

(b) Motion for leave to file complaint for intervention

A motion for leave to file a complaint for intervention in a case pending before a referee must be filed with the court and served on all parties and the referee. The motion must be heard by the trial court judge to whom the case is assigned or, if the case has not been assigned, by the presiding judge or his or her designee. If intervention is allowed, the case must be returned to the trial court docket unless all parties stipulate in the manner prescribed in rule 3.901 to proceed before the referee.

Rule 3.932 adopted effective January 1, 2010.

Division 10. Discovery

Chapter 1. Format of Discovery

Rule 3.1000. Format of supplemental and further discovery

Rule 3.1000. Format of supplemental and further discovery

(a) Supplemental interrogatories and responses, etc.

In each set of supplemental interrogatories, supplemental responses to interrogatories, amended answers to interrogatories, and further responses to interrogatories, inspection demands, and admission requests, the following must appear in the first paragraph immediately below the title of the case:

(1) The identity of the propounding, demanding, or requesting party;

(2) The identity of the responding party;

(3) The set number being propounded or responded to; and

(4) The nature of the paper.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1986, and July 1, 1987.)

(b) Identification of responses

Each supplemental or further response and each amended answer must be identified by the same number or letter and be in the same sequence as the corresponding interrogatory, inspection demand, or admission request, but the text of the interrogatory, demand, or request need not be repeated.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1986, and July 1, 1987.)

Rule 3.1000 amended and renumbered effective January 1, 2007; adopted as rule 331 effective January 1, 1984; previously amended effective January 1, 1986, and January 1, 1987.

Chapter 2. Conduct of Discovery

Rule 3.1010. Oral depositions by telephone, videoconference, or other remote electronic means

(a) Taking depositions

Any party may take an oral deposition by telephone, videoconference, or other remote electronic means, provided:

(1) Notice is served with the notice of deposition or the subpoena;

(2) That party makes all arrangements for any other party to participate in the deposition in an equivalent manner. However, each party so appearing must pay all expenses incurred by it or properly allocated to it;

(3) Any party may be personally present at the deposition without giving prior notice.

(b) Appearing and participating in depositions

Any party may appear and participate in an oral deposition by telephone, videoconference, or other remote electronic means, provided:

(1) Written notice of such appearance is served by personal delivery or fax at least three court days before the deposition;

(2) The party so appearing makes all arrangements and pays all expenses incurred for the appearance.

(Subd (b) amended effective January 1, 2007.)

(c) Party deponent's appearance

A party deponent must appear at his or her deposition in person and be in the presence of the deposition officer.

(d) Nonparty deponent's appearance

A nonparty deponent may appear at his or her deposition by telephone, videoconference, or other remote electronic means with court approval upon a finding of good cause and no prejudice to any party. The deponent must be sworn in the presence of the deposition officer or by any other means stipulated to by the parties or ordered by the court. Any party may be personally present at the deposition.

(e) Court orders

On motion by any person, the court in a specific action may make such other orders as it deems appropriate.

(Subd (e) amended effective January 1, 2007.)

Rule 3.1010 amended and renumbered effective January 1, 2007; adopted as rule 333 effective January 1, 2003.

Rule 3.1015. Discovery in action pending outside of California [Repealed]
Rule 3.1015 repealed on its own provisions effective January 1, 2010; adopted effective March 13, 2009.

Division 11. Law and Motion

Chapter 1. General Provisions

Rule 3.1100. Application

The rules in this division apply to proceedings in civil law and motion, as defined in rule 3.1103, and to discovery proceedings in family law and probate.

Rule 3.1100 amended and renumbered effective January 1, 2007; adopted as rule 301 effective January 1, 1984; previously amended effective July 1, 1984, July 1, 1997, and January 1, 2002.

Rule 3.1103. Definitions and construction

(a) Law and motion defined

"Law and motion" includes any proceedings:

(1) On application before trial for an order, except for causes arising under the Welfare and Institutions Code, the Probate Code, the Family Code, or Code of Civil Procedure sections 527.6, 527.7, 527.8, and 527.85; or

(2) On application for an order regarding the enforcement of judgment, attachment of property, appointment of a receiver, obtaining or setting aside a judgment by default, writs of review, mandate and prohibition, a petition to compel arbitration, and enforcement of an award by arbitration.

(Subd (a) amended effective January 1, 2011; previously amended effective July 1, 1997.)

(b) Application of rules on extending or shortening time

Rules 1.10(c) and 2.20 on extending or shortening time apply to proceedings under this division.

(Subd (b) amended effective January 1, 2007.)

(c) Application to demurrers

Unless the context or subject matter otherwise requires, the rules in this division apply to demurrers.

(Subd (c) amended effective January 1, 2007.)

Rule 3.1103 amended effective January 1, 2011; adopted as rule 303 effective January 1, 1984; previously amended effective July 1, 1984; previously amended and renumbered effective January 1, 2007.

Rule 3.1109. Notice of determination of submitted matters

(a) Notice by clerk

When the court rules on a motion or makes an order or renders a judgment in a matter it has taken under submission, the clerk must immediately notify the parties of the ruling, order, or judgment. The notification, which must specifically identify the matter ruled on, may be given by mailing the parties a copy of the ruling, order, or judgment, and it constitutes service of notice only if the clerk is required to give notice under Code of Civil Procedure section 664.5.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1984.)

(b) Notice in a case involving more than two parties

In a case involving more than two parties, a clerk's notification made under this rule, or any notice of a ruling or order served by a party, must name the moving party, and the party against whom relief was requested, and specifically identify the particular motion or other matter ruled upon.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1984.)

(c) Time not extended by failure of clerk to give notice

The failure of the clerk to give the notice required by this rule does not extend the time provided by law for performing any act except as provided in rules 8.104(a) or 8.824(a).

(Subd (c) adopted effective January 1, 2007.)

Rule 3.1109 amended and renumbered effective January 1, 2007; adopted as rule 309 effective January 1, 1984.

Chapter 2. Format of Motion Papers

Rule 3.1110. General format

(a) Notice of motion

A notice of motion must state in the opening paragraph the nature of the order being sought and the grounds for issuance of the order.

(Subd (a) amended effective January 1, 2007.)

(b) Date of hearing and other information

The first page of each paper must specify immediately below the number of the case:

(1) The date, time, and location, if ascertainable, of any scheduled hearing and the name of the hearing judge, if ascertainable;

(2) The nature or title of any attached document other than an exhibit;

(3) The date of filing of the action; and

(4) The trial date, if set.

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 1997.)

(c) Pagination of documents

Documents bound together must be consecutively paginated.

(Subd (c) amended and lettered effective January 1, 2007; adopted as part of subd (b).

(d) Reference to previously filed papers

Any paper previously filed must be referred to by date of execution and title.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (c.)

(e) Binding

All pages of each document and exhibit must be attached together at the top by a method that permits pages to be easily turned and the entire content of each page to be read.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (d) effective July 1, 1997.)

(f) Format of exhibits

Each exhibit must be separated by a hard 8½ x 11 sheet with hard paper or plastic tabs extending below the bottom of the page, bearing the exhibit designation. An index to exhibits must be provided. Pages from a single deposition and associated exhibits must be designated as a single exhibit.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (e) effective July 1, 1997.)

(g) Translation of exhibits

Exhibits written in a foreign language must be accompanied by an English translation, certified under oath by a qualified interpreter.

(Subd (g) amended and lettered effective January 1, 2007; adopted as part of subd (e) effective July 1, 1997.)

Rule 3.1110 amended and renumbered effective January 1, 2007; adopted as rule 311 effective January 1, 1984; previously amended effective July 1, 1997.

Rule 3.1112. Motions—and other pleadings

(a) Motions required papers

Unless otherwise provided by the rules in this division, the papers filed in support of a motion must consist of at least the following:

(1) A notice of hearing on the motion;

(2) The motion itself; and

(3) A memorandum in support of the motion or demurrer.

(Subd (a) amended effective January 1, 2007.)

(b) Other papers

Other papers may be filed in support of a motion, including declarations, exhibits, appendices, and other documents or pleadings.

(Subd (b) adopted effective January 1, 2007.)

(c) Form of motion papers

The papers filed under (a) and (b) may either be filed as separate documents or combined in one or more documents if the party filing a combined pleading specifies these items separately in the caption of the combined pleading.

(Subd (c) amended and lettered effective January 1, 2007 adopted as part of subd (a).)

(d) Motion—required elements

A motion must:

(1) Identify the party or parties bringing the motion;

(2) Name the parties to whom it is addressed;

(3) Briefly state the basis for the motion and the relief sought; and

(4) If a pleading is challenged, state the specific portion challenged.

(Subd (d) amended and relettered effective January 1, 2007; adopted as subd (b).)

(e) Additional requirements for motions

In addition to the requirements of this rule, a motion relating to the subjects specified in chapter 6 of this division must comply with any additional requirements in that chapter.

(Subd (e) amended effective July 1, 2008; previously amended effective January 1, 2007.)

(f) Motion in limine

Notwithstanding (a), a motion in limine filed before or during trial need not be accompanied by a notice of hearing. The timing and place of the filing and service of the motion are at the discretion of the trial judge.

(Subd (f) adopted effective January 1, 2007.)

Rule 3.1112 amended effective July 1, 2008; adopted as rule 312 effective July 1, 1997; previously amended and renumbered effective January 1, 2007.

Rule 3.1113. Memorandum

(a) Memorandum in support of motion

A party filing a motion, except for a motion listed in rule 3.1114, must serve and file a supporting memorandum. The court may construe the absence of a memorandum as an admission that the motion or special demurrer is not meritorious and cause for its denial and, in the case of a demurrer, as a waiver of all grounds not supported.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2004.)

(b) Contents of memorandum

The memorandum must contain a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the statutes, cases, and textbooks cited in support of the position advanced.

(Subd (b) amended effective January 1, 2004.)

(c) Case citation format

A case citation must include the official report volume and page number and year of decision. The court must not require any other form of citation.

(Subd (c) amended effective January 1, 2007; previously amended effective July 1, 1984, January 1, 1992, and January 1, 2004.)

(d) Length of memorandum

Except in a summary judgment or summary adjudication motion, no opening or responding memorandum may exceed 15 pages. In a summary judgment or summary adjudication motion, no opening or responding memorandum may exceed 20 pages. No reply or closing memorandum may exceed 10 pages. The page limit does not include exhibits, declarations, attachments, the table of contents, the table of authorities, or the proof of service.

(Subd (d) amended effective January 1, 2004; adopted as part of a longer subd (d); previously amended effective July 1, 1984, and January 1, 1992.)

(e) Application to file longer memorandum

A party may apply to the court ex parte but with written notice of the application to the other parties, at least 24 hours before the memorandum is due, for permission to file a longer memorandum. The application must state reasons why the argument cannot be made within the stated limit.

(Subd (e) amended and relettered effective January 1, 2004; adopted as part of subd (d).)

(f) Format of longer memorandum

A memorandum that exceeds 10 pages must include a table of contents and a table of authorities. A memorandum that exceeds 15 pages must also include an opening summary of argument.

(Subd (f) amended and lettered effective January 1, 2007; adopted as part of subd (d); subd (d) previously amended and relettered as subd (e) effective January 1, 2004)

(g) Effect of filing an oversized memorandum

A memorandum that exceeds the page limits of these rules must be filed and considered in the same manner as a late-filed paper.

(Subd (g) amended and lettered effective January 1, 2007; adopted as part of subd (d); previously amended and relettered as subd (e) effective January 1, 2004.)

(h) Pagination of memorandum

Notwithstanding any other rule, a memorandum that includes a table of contents and a table of authorities must be paginated as follows:

(1) The caption page or pages must not be numbered;

(2) The pages of the tables must be numbered consecutively using lower-case roman numerals starting on the first page of the tables; and

(3) The pages of the text must be numbered consecutively using Arabic numerals starting on the first page of the text.

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (e) effective July 1, 2000; previously amended and relettered as subd (f) effective January 1, 2004.)

(i) Copies of authorities

(1) A judge may require that if any authority other than California cases, statutes, constitutional provisions, or state or local rules is cited, a copy of the authority must be lodged with the papers that cite the authority and tabbed as required by rule 3.1110(f).

(2) If a California case is cited before the time it is published in the advance sheets of the Official Reports, the party must include the title, case number, date of decision, and, if from the Court of Appeal, district of the Court of Appeal in which the case was decided. A judge may require that a copy of that case must be lodged and tabbed as required by rule 3.1110(f).

(3) Upon the request of a party to the action, any party citing any authority other than California cases, statutes, constitutional provisions, or state or local rules must promptly provide a copy of such authority to the requesting party.

(Subd (i) amended effective July 1, 2011; adopted as part of subd (e) effective January 1, 1992; previously amended effective July 1, 1997; previously amended and relettered as subd (h) effective January 1, 2004, and as subd (j) effective January 1, 2007; previously relettered as part of subd (f) effective July 1, 2000, and as subd. (i) effective January 1, 2008.)

(j) Attachments

To the extent practicable, all supporting memorandums and declarations must be attached to the notice of motion.

(Subd (j) relettered effective January 1, 2008; adopted as subd (f) effective July 1, 1997; previously relettered as subd (g) effective July 1, 2000; previously amended and relettered as subd (i) effective January 1, 2004, and as subd (k) effective January 1, 2007.)

(k) Exhibit references

All references to exhibits or declarations in supporting or opposing papers must reference the number or letter of the exhibit, the specific page, and, if applicable, the paragraph or line number.

*(Subd (k) relettered effective January 1, 2008; adopted as subd (g) effective July 1, 1997; previously relettered as subd (h) effective July 1, 2000, and as subd (*l*) effective January 1, 2007; previously amended and relettered as subd (j) effective January 1, 2004.)*

(*l*) Requests for judicial notice

Any request for judicial notice must be made in a separate document listing the specific items for which notice is requested and must comply with rule 3.1306(c).

*(Subd (*l*) relettered effective January 1, 2008; adopted as subd (h) effective July 1, 1997; relettered as subd (i) effective July 1, 2000; previously amended effective January 1, 2003; previously amended and relettered as subd (k) effective January 1, 2004, and as subd (m) effective January 1, 2007.)*

(m) Proposed orders or judgments

If a proposed order or judgment is submitted, it must be lodged and served with the moving papers but must not be attached to them.

*(Subd (m) relettered effective January 1, 2008; adopted as subd (i) effective July 1, 1997; previously relettered as subd (j) effective July 1, 2000, and as subd (n) effective January 1, 2007; previously amended and relettered as subd (*l*) effective January 1, 2004.)*

Rule 3.1113 amended effective July 1, 2011; adopted as rule 313 effective January 1, 1984; previously amended and renumbered effective January 1, 2007; previously amended effective July 1, 1984, January 1, 1992, July 1, 1997, July 1, 2000, January 1, 2003, January 1, 2004, and January 1, 2008.

Advisory Committee Comment

See also rule 1.200 concerning the format of citations.

Rule 3.1114. Applications, motions, and petitions not requiring a memorandum

(a) Memorandum not required

Civil motions, applications, and petitions filed on Judicial Council forms that do not require a memorandum include the following:

(1) Application for appointment of guardian ad litem in a civil case;

(2) Application for an order extending time to serve pleading;

(3) Motion to be relieved as counsel;

(4) Motion filed in small claims case;

(5) Petition for change of name or gender;

(6) Petition for declaration of emancipation of minor;

(7) Petition for injunction prohibiting harassment;

(8) Petition for protective order to prevent elder or dependent adult abuse;

(9) Petition for order to prevent postsecondary school violence;

(10) Petition of employer for injunction prohibiting workplace violence;

(11) Petition for order prohibiting abuse (transitional housing);

(12) Petition to approve compromise of claim of a minor or a person with a disability; and

(13) Petition for withdrawal of funds from blocked account.

(Subd (a) amended effective January 1, 2011; previously amended effective January 1, 2007.)

(b) Submission of a memorandum

Notwithstanding (a), if it would further the interests of justice, a party may submit, or the court may order the submission of, a memorandum in support of any motion, application, or petition. The memorandum must comply with rule 3.1113.

(Subd (b) amended effective January 1, 2007.)

Rule 3.1114 amended effective January 1, 2011; adopted as rule 314 effective January 1, 2004; previously amended and renumbered effective January 1, 2007.

Rule 3.1115. Declarations

The caption of a declaration must state the name of the declarant and must specifically identify the motion or other proceeding that it supports or opposes.

Rule 3.1115 amended and renumbered effective January 1, 2007; adopted as rule 315 effective January 1, 1984.

Rule 3.1116. Deposition testimony as an exhibit

(a) Title page

The first page of any deposition used as an exhibit must state the name of the deponent and the date of the deposition.

(Subd (a) amended effective January 1, 2007.)

(b) Deposition pages

Other than the title page, the exhibit must contain only the relevant pages of the transcript. The original page number of any deposition page must be clearly visible.

(Subd (b) amended effective January 1, 2007.)

(c) Highlighting of testimony

The relevant portion of any testimony in the deposition must be marked in a manner that calls attention to the testimony.

(Subd (c) amended effective January 1, 2007.)

Rule 3.1116 amended and renumbered effective January 1, 2007; adopted as rule 316 effective January 1, 1992.

Chapter 3. Provisional and Injunctive Relief

Article 1. General Provisions

Rule 3.1130. Bonds and undertakings

Rule 3.1130. Bonds and undertakings

(a) Prerequisites to acceptance of corporate sureties

A corporation must not be accepted or approved as surety on a bond or undertaking unless the following conditions are met:

(1) The Insurance Commissioner has certified the corporation as being admitted to do business in the state as a surety insurer;

(2) There is filed in the office of the clerk a copy, duly certified by the proper authority, of the transcript or record of appointment entitling or authorizing the person or persons purporting to execute the bond or undertaking for and in behalf of the corporation to act in the premises; and

(3) The bond or undertaking has been executed under penalty of perjury as provided in Code of Civil Procedure section 995.630, or the fact of execution of the bond or

undertaking by the officer or agent of the corporation purporting to become surety has been duly acknowledged before an officer of this state authorized to take and certify acknowledgements.

(Subd (a) amended effective January 1, 2007.)

(b) Certain persons not eligible to act as sureties

An officer of the court or member of the State Bar may not act as a surety.

(Subd (b) amended effective January 1, 2007.)

(c) Withdrawal of bonds and undertakings

An original bond or undertaking may be withdrawn from the files and delivered to the party by whom it was filed on order of the court only if all parties interested in the obligation so stipulate, or upon a showing that the purpose for which it was filed has been abandoned without any liability having been incurred.

Rule 3.1130 amended and renumbered effective January 1, 2007; adopted as rule 381 effective January 1, 1984.

Article 2. Writs

Rule 3.1140. Lodging of record in administrative mandate cases

The party intending to use a part of the administrative record in a case brought under Code of Civil Procedure section 1094.5 must lodge that part of the record at least five days before the hearing.

Rule 3.1140 amended and renumbered effective January 1, 2007; adopted as rule 347 effective January 1, 1984.

Rule 3.1142. Stay of driving license suspension

A request for a stay of a suspension of a driving license must be accompanied by a copy of the petitioner's driving record from the Department of Motor Vehicles.

Rule 3.1142 amended and renumbered effective January 1, 2007; adopted as rule 355 effective January 1, 1984.

Article 3. Injunctions

Rule 3.1150. Preliminary injunctions and bonds

(a) Manner of application and service

A party requesting a preliminary injunction may give notice of the request to the opposing or responding party either by serving a noticed motion under Code of Civil Procedure section 1005 or by obtaining and serving an order to show cause (OSC). An OSC must be used when a temporary restraining order (TRO) is sought, or if the party against whom the preliminary injunction is sought has not appeared in the action. If the responding party has not appeared, the OSC must be served in the same manner as a summons and complaint.

(Subd (a) amended effective January 1, 2007; adopted effective July 1, 1997; previously amended effective July 1, 1999.)

(b) Filing of complaint or obtaining of court file

If the action is initiated the same day a TRO or an OSC is sought, the complaint must be filed first. The moving party must provide a file-stamped copy of the complaint to the judge who will hear the application. If an application for a TRO or an OSC is made in an existing case, the moving party must request that the court file be made available to the judge hearing the application.

(Subd (b) amended effective January 1, 2007; adopted effective July 1, 1997; previously amended effective July 1, 1999.)

(c) Form of OSC and TRO

The OSC and TRO must be stated separately, with the OSC stated first. The restraining language sought in an OSC and a TRO must be separately stated in the OSC and the TRO and may not be incorporated by reference. The OSC must describe the injunction to be sought at the hearing. The TRO must describe the activities to be enjoined pending the hearing. A proposed OSC must contain blank spaces for the time and manner of service on responding parties, the date on which the proof of service must be delivered to the court hearing the OSC, a briefing schedule, and, if applicable, the expiration date of the TRO.

(Subd (c) amended effective January 1, 2007; adopted effective July 1, 1997; previously amended effective July 1, 1999.)

(d) Personal attendance

The moving party or counsel for the moving party must be personally present when the request for a TRO is made.

(Subd (d) amended effective January 1, 2007; adopted as subd (e) effective July 1, 1997; amended as [Proof of service] effective July 1, 1999; previously relettered effective July 1, 1999.)

(e) Previous applications

An application for a TRO or an OSC must state whether there has been any previous application for similar relief and, if so, the result of the application.

(Subd (e) amended effective January 1, 2007; adopted as subd (f) effective July 1, 1997; previously amended and relettered effective July 1, 1999.)

(f) Undertaking

Notwithstanding rule 3.1312, whenever an application for a preliminary injunction is granted, a proposed order must be presented to the judge for signature, with an undertaking in the amount ordered, within one court day after the granting of the application or within the time ordered. Unless otherwise ordered, any restraining order previously granted remains in effect during the time allowed for presentation for signature of the order of injunction and undertaking. If the proposed order and the undertaking required are not presented within the time allowed, the TRO may be vacated without notice. All bonds and undertakings must comply with rule 3.1130.

(Subd (f) amended effective January 1, 2007; previously amended and relettered effective July 1, 1997.)

(g) Ex parte temporary restraining orders

Applications for ex parte temporary restraining orders are governed by the ex parte rules in chapter 4 of this division.

(Subd (g) amended effective January 1, 2007; adopted effective July 1, 1999.)

Rule 3.1150 amended and renumbered effective January 1, 2007; adopted as rule 359 effective January 1, 1984; previously amended effective July 1, 1997, and July 1, 1999.

Rule 3.1151. Requirements for injunction in certain cases

A petition for an injunction to limit picketing, restrain real property encroachments, or protect easements must depict by drawings, plot plans, photographs, or other appropriate means, or must describe in detail the premises involved, including, if applicable, the length and width of the

frontage on a street or alley, the width of sidewalks, and the number, size, and location of entrances.

Rule 3.1151 amended and renumbered effective January 1, 2007; adopted as rule 361 effective January 1, 1984.

Rule 3.1152. Requests for protective orders to prevent civil harassment, workplace violence, private postsecondary school violence, and elder or dependent adult abuse

(a) Application

This rule applies to requests for protective orders under Code of Civil Procedure sections 527.6, 527.8, and 527.85, and Welfare and Institutions Code section 15657.03.

(Subd (a) adopted effective January 1, 2012.)

(b) No memorandum required

Unless ordered by the court, no memorandum is required in support of or in opposition to a request for a protective order.

(Subd (b) amended effective January 1, 2012; previously amended effective July 1, 1995, January 1, 2002, and January 1, 2007.)

(c) Service of requests, notices, and orders

The request for a protective order, notice of hearing, and any temporary restraining order, must be personally served on the respondent at least five days before the hearing, unless the court for good cause orders a shorter time. Service must be made in the manner provided by law for personal service of summons in civil actions.

(Subd (c) amended effective January 1, 2012; previously amended effective January 1, 1993, and January 1, 2007.)

(d) Response

The response to a request for a protective order may be written or oral, or both. If a written response is served on the petitioner or, if the petitioner is represented, on the petitioner's attorney at least two days before the hearing, the petitioner is not entitled to a continuance on account of the response.

(Subd (d) amended effective January 1, 2012; previously amended effective January 1, 2007.)

(e) Continuance

A respondent may request continuance of the hearing upon a showing of good cause. If the court in its discretion grants the continuance, any temporary restraining order that has been

granted remains in effect until the end of the continued hearing unless otherwise ordered by the court.

(Subd (e) adopted effective January 1, 2012.)

Rule 3.1152 amended effective January 1, 2012; adopted as rule 363 effective January 1, 1984; previously amended effective January 1, 1993, July 1, 1995, January 1, 2000, and January 1, 2002; previously amended and renumbered effective January 1, 2007.

Rule 3.1153. Minors may appear without counsel to seek specified restraining orders [Repealed]

Rule 3.1153 repealed effective January 1, 2012; adopted as rule 364 effective July 1, 1995; previously amended and renumbered effective January 1, 2007.

Article 4. Receiverships

Rule 3.1175. Ex parte application for appointment of receiver

(a) Application

In addition to any other matters supporting an application for the ex parte appointment of a receiver, the applicant must show in detail by verified complaint or declaration:

(1) The nature of the emergency and the reasons irreparable injury would be suffered by the applicant during the time necessary for a hearing on notice;

(2) The names, addresses, and telephone numbers of the persons in actual possession of the property for which a receiver is requested, or of the president, manager, or principal agent of any corporation in possession of the property;

(3) The use being made of the property by the persons in possession; and

(4) If the property is a part of the plant, equipment, or stock in trade of any business, the nature and approximate size or extent of the business and facts sufficient to show

whether the taking of the property by a receiver would stop or seriously interfere with the operation of the business.

If any of the matters listed above are unknown to the applicant and cannot be ascertained by the exercise of due diligence, the applicant's declaration or verified complaint must fully state the matters unknown and the efforts made to acquire the information.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2002.)

Rule 3.1175 amended and renumbered effective January 1, 2007; adopted as rule 349 effective January 1, 1984; previously amended and renumbered as rule 1900 effective January 1, 2002.

Rule 3.1176. Confirmation of ex parte appointment of receiver

(a) Order to show cause

Whenever a receiver is appointed without notice, the matter must be made returnable upon an order to show cause why the appointment should not be confirmed. The order to show cause must be made returnable on the earliest date that the business of the court will admit, but not later than 15 days or, if good cause appears to the court, 22 days from the date the order is issued.

(Subd (a) amended effective January 1, 2002.)

(b) Service of complaint, order to show cause, declarations, and memorandum

The applicant must serve on each of the adverse parties:

(1) A copy of the complaint if not previously served;

(2) The order to show cause stating the date, time, and place of the hearing;

(3) Any declarations supporting the application; and

(4) A memorandum supporting the application.

Service must be made as soon as reasonably practical, but no later than 5 days after the date on which the order to show cause is issued, unless the court orders another time for service.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2002.)

(c) Failure to proceed or serve adverse party

When the matter first comes on for hearing, the party that obtained the appointment must be ready to proceed. If that party is not ready to proceed or has failed to exercise diligence

to effect service upon the adverse parties as provided in (b), the court may discharge the receiver.

(Subd (c) amended effective January 1, 2007; previously amended effective January 1, 2002.)

(d) Continuance

The adverse parties are entitled to one continuance to enable them to oppose the confirmation. If a continuance is granted under this subdivision, the order to show cause remains in effect until the date of the continued hearing.

(Subd (d) amended effective January 1, 2002.)

Rule 3.1176 amended and renumbered effective January 1, 2007; adopted as rule 351 effective January 1, 1984; previously amended and renumbered as rule 1901 effective January 1, 2002.

Rule 3.1177. Nomination of receivers

At the hearing of an application for appointment of a receiver on notice or at the hearing for confirmation of an ex parte appointment, each party appearing may, at the time of the hearing, suggest in writing one or more persons for appointment or substitution as receiver, stating the reasons. A party's suggestion is without prejudice to its objection to the appointment or confirmation of a receiver.

Rule 3.1177 renumbered effective January 1, 2007; adopted as rule 353 effective January 1, 1984; previously amended and renumbered as rule 1902 effective January 1, 2002.

Rule 3.1178. Amount of undertakings

At the hearing of an application for appointment of a receiver on notice or ex parte, the applicant must, and other parties may, propose and state the reasons for the specific amounts of the undertakings required from (1) the applicant by Code of Civil Procedure section 529, (2) the applicant by Code of Civil Procedure section 566(b), and (3) the receiver by Code of Civil Procedure section 567(b), for any injunction that is ordered in or with the order appointing a receiver.

Rule 3.1178 amended and renumbered effective January 1, 2007; adopted as rule 1902.5 effective January 1, 2004.

Rule 3.1179. The receiver

(a) Agent of the court

The receiver is the agent of the court and not of any party, and as such:

(1) Is neutral;

(2) Acts for the benefit of all who may have an interest in the receivership property; and

(3) Holds assets for the court and not for the plaintiff or the defendant.

(b) Prohibited contracts, agreements, arrangements, and understandings

The party seeking the appointment of the receiver may not, directly or indirectly, require any contract, agreement, arrangement, or understanding with any receiver whom it intends to nominate or recommend to the court, and the receiver may not enter into any such contract, arrangement, agreement, or understanding concerning:

(1) The role of the receiver with respect to the property following a trustee's sale or termination of a receivership, without specific court permission;

(2) How the receiver will administer the receivership or how much the receiver will charge for services or pay for services to appropriate or approved third parties hired to provide services;

(3) Who the receiver will hire, or seek approval to hire, to perform necessary services; or

(4) What capital expenditures will be made on the property.

Rule 3.1179 renumbered effective January 1, 2007; adopted as rule 1903 effective January 1, 2002.

Rule 3.1180. Employment of attorney

A receiver must not employ an attorney without the approval of the court. The application for approval to employ an attorney must be in writing and must state:

(1) The necessity for the employment;

(2) The name of the attorney whom the receiver proposes to employ; and

(3) That the attorney is not the attorney for, associated with, nor employed by an attorney for any party.

Rule 3.1180 amended and renumbered effective January 1, 2007; adopted as rule 1904 effective January 1, 2002.

Rule 3.1181. Receiver's inventory

(a) Filing of inventory

A receiver must, within 30 days after appointment, or within such other time as the court may order, file an inventory containing a complete and detailed list of all property of which the receiver has taken possession by virtue of the appointment.

(Subd (a) lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 2002.)

(b) Supplemental inventory

The receiver must promptly file a supplementary inventory of all subsequently obtained property.

(Subd (b) lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 2002.)

Rule 3.1181 amended and renumbered effective January 1, 2007; adopted as rule 1905 effective January 1, 2002.

Rule 3.1182. Monthly reports

(a) Content of reports

The receiver must provide monthly reports to the parties and, if requested, to nonparty client lien holders. These reports must include:

(1) A narrative report of events;

(2) A financial report; and

(3) A statement of all fees paid to the receiver, employees, and professionals showing:

(A) Itemized services;

(B) A breakdown of the services by 1/10 hour increments;

(C) If the fees are hourly, the hourly fees; and

(D) If the fees are on another basis, that basis.

(Subd (a) amended effective January 1, 2007.)

(b) Reports not to be filed

The monthly reports are not to be filed with the court unless the court so orders.

Rule 3.1182 amended effective January 1, 2007; adopted as rule 1906 effective January 1, 2002; previously renumbered effective January 1, 2007.

Rule 3.1183. Interim fees and objections

(a) Interim fees

Interim fees are subject to final review and approval by the court. The court retains jurisdiction to award a greater or lesser amount as the full, fair, and final value of the services received.

(b) Objections to interim accounts and reports

Unless good cause is shown, objections to a receiver's interim report and accounting must be made within 10 days of notice of the report and accounting, must be specific, and must be delivered to the receiver and all parties entitled to service of the interim report and accounting.

Rule 3.1183 renumbered effective January 1, 2007; adopted as rule 1907 effective January 1, 2002.

Rule 3.1184. Receiver's final account and report

(a) Motion or stipulation

A receiver must present by noticed motion or stipulation of all parties:

(1) A final account and report;

(2) A request for the discharge; and

(3) A request for exoneration of the receiver's surety.

(Subd (a) amended and relettered effective January 1, 2004; adopted as part of unlettered subd.)

(b) No memorandum required

No memorandum needs to be submitted in support of the motion or stipulation served and filed under (a) unless the court so orders.

(Subd (b) adopted effective January 1, 2004.)

(c) Notice

Notice of the motion or of the stipulation must be given to every person or entity known to the receiver to have a substantial, unsatisfied claim that will be affected by the order or stipulation, whether or not the person or entity is a party to the action or has appeared in it.

(Subd (c) adopted effective January 1, 2004.)

(d) Claim for compensation for receiver or attorney

If any allowance of compensation for the receiver or for an attorney employed by the receiver is claimed in an account, it must state in detail what services have been performed by the receiver or the attorney and whether previous allowances have been made to the receiver or attorney and the amounts.

(Subd (d) amended and relettered effective January 1, 2004; adopted as part of unlettered subd; amended and lettered effective January 1, 2004.)

Rule 3.1184 amended and renumbered effective January 1, 2007; adopted as rule 1908 effective January 1, 2002; previously amended effective January 1, 2004.

Chapter 4. Ex Parte Applications

Rule 3.1200. Application

The rules in this chapter govern ex parte applications and orders in civil cases, unless otherwise provided by a statute or a rule. These rules may be referred to as "the ex parte rules."

Rule 3.1200 adopted effective January 1, 2007.

Rule 3.1201. Required documents

A request for ex parte relief must be in writing and must include all of the following:

(1) An application containing the case caption and stating the relief requested;

(2) A declaration in support of the application making the factual showing required under rule 3.1202(c);

(3) A declaration based on personal knowledge of the notice given under rule 3.1204;

(4) A memorandum; and

(5) A proposed order.

Rule 3.1201 adopted effective January 1, 2007.

Rule 3.1202. Contents of application

(a) Identification of attorney or party

An ex parte application must state the name, address, and telephone number of any attorney known to the applicant to be an attorney for any party or, if no such attorney is known, the name, address, and telephone number of the party if known to the applicant.

(b) Disclosure of previous applications

If an ex parte application has been refused in whole or in part, any subsequent application of the same character or for the same relief, although made upon an alleged different state of facts, must include a full disclosure of all previous applications and of the court's actions.

(c) Affirmative factual showing required

An applicant must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting relief ex parte.

(Subd (c) amended effective January 1, 2007.)

Rule 3.202 amended effective January 1, 2007; adopted effective January 1, 2007.

Rule 3.1203. Time of notice to other parties

(a) Time of notice

A party seeking an ex parte order must notify all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice.

(Subd (a) amended effective January 1, 2008.)

(b) Time of notice in unlawful detainer proceedings

A party seeking an ex parte order in an unlawful detainer proceeding may provide shorter notice than required under (a) provided that the notice given is reasonable.

Rule 3.1203 amended effective January 1, 2008; adopted effective January 1, 2007.

Rule 3.1204. Contents of notice and declaration regarding notice

(a) Contents of notice

When notice of an ex parte application is given, the person giving notice must:

(1) State with specificity the nature of the relief to be requested and the date, time, and place for the presentation of the application; and

(2) Attempt to determine whether the opposing party will appear to oppose the application.

(b) Declaration regarding notice

An ex parte application must be accompanied by a declaration regarding notice stating:

(1) The notice given, including the date, time, manner, and name of the party informed, the relief sought, any response, and whether opposition is expected and that, within the applicable time under rule 3.1203, the applicant informed the opposing party where and when the application would be made;

(2) That the applicant in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party; or

(3) That, for reasons specified, the applicant should not be required to inform the opposing party.

(c) Explanation for shorter notice

If notice was provided later than 10:00 a.m. the court day before the ex parte appearance, the declaration regarding notice must explain:

(1) The exceptional circumstances that justify the shorter notice; or

(2) In unlawful detainer proceedings, why the notice given is reasonable.

Rule 3.1204 adopted effective January 1, 2007.

Rule 3.1205. Filing and presentation of the ex parte application

Notwithstanding the failure of an applicant to comply with the requirements of rule 3.1203, the clerk must not reject an ex parte application for filing and must promptly present the application to the appropriate judicial officer for consideration.

Rule 3.1205 adopted effective January 1, 2007.

Rule 3.1206. Service of papers

Parties appearing at the ex parte hearing must serve the ex parte application or any written opposition on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing may be conducted unless such service has been made.

Rule 3.1206 adopted effective January 1, 2007.

Rule 3.1207. Personal appearance requirements

An ex parte application will be considered without a personal appearance of the applicant in the following cases only:

(1) Applications to file a memorandum in excess of the applicable page limit;

(2) Applications for extensions of time to serve pleadings;

(3) Setting of hearing dates on alternative writs and orders to show cause; and

(4) Stipulations by the parties for an order.

Rule 3.1207 amended effective January 1, 2008; adopted effective January 1, 2007.

Chapter 5. Noticed Motions

Rule 3.1300. Time for filing and service of motion papers

(a) In general

Unless otherwise ordered or specifically provided by law, all moving and supporting papers must be served and filed in accordance with Code of Civil Procedure section 1005.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2000.)

(b) Order shortening time

The court, on its own motion or on application for an order shortening time supported by a declaration showing good cause, may prescribe shorter times for the filing and service of papers than the times specified in Code of Civil Procedure section 1005.

(Subd (b) adopted effective January 1, 2000.)

(c) Time for filing proof of service

Proof of service of the moving papers must be filed no later than five court days before the time appointed for the hearing.

(Subd (c) amended effective January 1, 2007; adopted as subd (b); previously relettered effective January 1, 2000.)

(d) Filing of late papers

No paper may be rejected for filing on the ground that it was untimely submitted for filing. If the court, in its discretion, refuses to consider a late filed paper, the minutes or order must so indicate.

(Subd (d) amended effective January 1, 2007; adopted as subd (c) effective January 1, 1992; previously amended and relettered effective January 1, 2000.)

(e) Computation of time

A paper submitted before the close of the clerk's office to the public on the day the paper is due is deemed timely filed.

(Subd (e) relettered effective January 1, 2000; adopted as subd (d) effective January 1, 1992.)

Rule 3.1300 amended and renumbered effective January 1, 2007; adopted as rule 317 effective January 1, 1984; previously amended effective January 1, 1992, and January 1, 2000.

Rule 3.1302. Place and manner of filing

(a) Papers filed in clerk's office

Unless otherwise provided by local rule, all papers relating to a law and motion proceeding must be filed in the clerk's office.

(Subd (a) amended effective January 1, 2007.)

(b) Requirements for lodged material

Material lodged with the clerk must be accompanied by an addressed envelope with sufficient postage for mailing the material. After determination of the matter, the clerk may mail the material to the party lodging it.

(Subd (b) amended effective January 1, 2007.)

Rule 3.1302 renumbered effective January 1, 2007; adopted as rule 319 effective January 1, 1984.

Rule 3.1304. Time of hearing

(a) General schedule

The clerk must post a general schedule showing the days and departments for holding each type of law and motion hearing.

(Subd (a) amended effective January 1, 2003.)

(b) Duty to notify if matter not to be heard

The moving party must immediately notify the court if a matter will not be heard on the scheduled date.

(Subd (b) amended effective January 1, 2003.)

(c) Notice of nonappearance

A party may give notice that he or she will not appear at a law and motion hearing and submit the matter without an appearance unless the court orders otherwise. The court must rule on the motion as if the party had appeared.

(Subd (c) amended effective January 1, 2003; previously amended effective January 1, 1992.)

(d) Action if no party appears

If a party fails to appear at a law and motion hearing without having given notice under (c), the court may take the matter off calendar, to be reset only upon motion, or may rule on the matter.

(Subd (d) amended effective January 1, 2003; previously amended and relettered effective January 1, 1992.)

Rule 3.1304 amended and renumbered effective January 1, 2007; adopted as rule 321 effective January 1, 1984; previously amended effective January 1, 1992, and January 1, 2003.

Rule 3.1306. Evidence at hearing

(a) Restrictions on oral testimony

Evidence received at a law and motion hearing must be by declaration or request for judicial notice without testimony or cross-examination, unless the court orders otherwise for good cause shown.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2003.)

(b) Request to present oral testimony

A party seeking permission to introduce oral evidence, except for oral evidence in rebuttal to oral evidence presented by the other party, must file, no later than three court days before the hearing, a written statement stating the nature and extent of the evidence proposed to be introduced and a reasonable time estimate for the hearing. When the statement is filed less than five court days before the hearing, the filing party must serve a copy on the other parties in a manner to assure delivery to the other parties no later than two days before the hearing.

(Subd (b) amended and relettered effective January 1, 2003; adopted as part of subd (a).)

(c) Judicial notice

A party requesting judicial notice of material under Evidence Code sections 452 or 453 must provide the court and each party with a copy of the material. If the material is part of a file in the court in which the matter is being heard, the party must:

(1) Specify in writing the part of the court file sought to be judicially noticed; and

(2) Make arrangements with the clerk to have the file in the courtroom at the time of the hearing.

(Subd (c) amended effective January 1, 2007; adopted as subd (b); previously amended and relettered effective January 1, 2003.)

Rule 3.1306 amended and renumbered effective January 1, 2007; adopted as rule 323 effective January 1, 1984; previously amended effective January 1, 2003.

Rule 3.1308. Tentative rulings

(a) Tentative ruling procedures

A trial court that offers a tentative ruling procedure in civil law and motion matters must follow one of the following procedures:

(1) *Notice of intent to appear required*

The court must make its tentative ruling available by telephone and also, at the option of the court, by any other method designated by the court, by no later than 3:00 p.m. the court day before the scheduled hearing. If the court desires oral argument, the tentative ruling must so direct. The tentative ruling may also note any issues on which the court wishes the parties to provide further argument. If the court has not directed argument, oral argument must be permitted only if a party notifies all other parties and the court by 4:00 p.m. on the court day before the hearing of the party's intention to appear. A party must notify all other parties by telephone or in person. The court must accept notice by telephone and, at its discretion, may also designate

alternative methods by which a party may notify the court of the party's intention to appear. The tentative ruling will become the ruling of the court if the court has not directed oral argument by its tentative ruling and notice of intent to appear has not been given.

(2) *No notice of intent to appear required*

The court must make its tentative ruling available by telephone and also, at the option of the court, by any other method designated by the court, by a specified time before the hearing. The tentative ruling may note any issues on which the court wishes the parties to provide further argument at the hearing. This procedure must not require the parties to give notice of intent to appear, and the tentative ruling will not automatically become the ruling of the court if such notice is not given. The tentative ruling, or such other ruling as the court may render, will not become the final ruling of the court until the hearing.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 2000.)

(b) No other procedures permitted

Other than following one of the tentative ruling procedures authorized in (a), courts must not issue tentative rulings except:

(1) By posting a calendar note containing tentative rulings on the day of the hearing; or

(2) By announcing the tentative ruling at the time of oral argument.

(Subd (b) amended effective January 1, 2007; previously repealed and adopted effective July 1, 2000.)

(c) Notice of procedure

A court that follows one of the procedures described in (a) must so state in its local rules. The local rule must specify the telephone number for obtaining the tentative rulings and the time by which the rulings will be available.

(Subd (c) amended effective January 1, 2007; previously amended effective July 1, 2000.)

(d) Uniform procedure within court or branch

If a court or a branch of a court adopts a tentative ruling procedure, that procedure must be used by all judges in the court or branch who issue tentative rulings.

(Subd (d) amended and lettered effective January 1, 2007; adopted as part of Subd (c) effective July 1, 1992.)

(e) Tentative rulings not required

This rule does not require any judge to issue tentative rulings.

(Subd (e) amended and lettered effective January 1, 2007; adopted as part of Subd (c) effective July 1, 1992.)

Rule 3.1308 amended and renumbered effective January 1, 2007; adopted as rule 324 effective July 1, 1992; previously amended effective July 1, 2000.

Rule 3.1310. Reporting of proceedings on motions

A court that does not regularly provide for reporting or electronic recording of hearings on motions must so state in its local rules. The rules must also provide a procedure by which a party may obtain a reporter or a recording of the proceedings in order to provide an official verbatim transcript.

Rule 3.1310 amended and renumbered effective January 1, 2007; adopted as rule 324.5 effective January 1, 1992.

Rule 3.1312. Preparation and submission of proposed order

(a) Prevailing party to prepare

Unless the parties waive notice or the court orders otherwise, the party prevailing on any motion must, within five days of the ruling, serve by any means authorized by law and reasonably calculated to ensure delivery to the other party or parties no later than the close of the next business day a proposed order for approval as conforming to the court's order. Within five days after service, the other party or parties must notify the prevailing party as to whether or not the proposed order is so approved. The opposing party or parties must state any reasons for disapproval. Failure to notify the prevailing party within the time required shall be deemed an approval. The extensions of time based on a method of service provided under any statute or rule do not apply to this rule.

(Subd (a) amended effective January 1, 2011; previously amended effective July 1, 2000, and January 1, 2007.)

(b) Submission of proposed order to court

The prevailing party must, upon expiration of the five-day period provided for approval, promptly transmit the proposed order to the court together with a summary of any responses of the other parties or a statement that no responses were received.

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 2000.)

(c) Submission of proposed order by electronic means

If a proposed order is submitted to the court electronically in a case in which the parties are electronically filing documents under rules 2.250–2.261, two versions of the proposed order must be submitted:

(1) A version of the proposed order must be attached to a completed *Proposed Order (Cover Sheet)* (form EFS-020), and the combined document in Portable Document Format (PDF) must be filed electronically; and

(2) A version of the proposed order in an editable word-processing format must also be sent electronically to the court, with a copy of the e-mail and proposed order also being sent to all parties in the action.

Each court that provides for electronic filing must provide an electronic address or addresses to which the editable versions of proposed orders are to be sent and must specify any particular requirements regarding the editable word-processing format for proposed orders.

(Subd (c) adopted effective January 1, 2011.)

(d) Failure of prevailing party to prepare proposed order

If the prevailing party fails to prepare and submit a proposed order as required by (a) and (b) above, any other party may do so.

(Subd (d) amended and relettered effective January 1, 2011; adopted as subd (c); previously amended effective July 1, 2000.)

(e) Motion unopposed

This rule does not apply if the motion was unopposed and a proposed order was submitted with the moving papers, unless otherwise ordered by the court.

(Subd (e) relettered effective January 1, 2011; adopted as subd (d) effective July 1, 2000; previously amended effective January 1, 2007.)

Rule 3.1312 amended effective January 1, 2011; adopted as rule 391 effective July 1, 1992; previously amended effective July 1, 2000; previously amended and renumbered effective January 1, 2007.

Chapter 6. Particular Motions

Article 1. Pleading and Venue Motions

Rule 3.1326. Motions for change of venue
Rule 3.1327. Motions to quash or to stay action in summary proceeding involving possession of real property

Rule 3.1320. Demurrers

(a) Grounds separately stated

Each ground of demurrer must be in a separate paragraph and must state whether it applies to the entire complaint, cross-complaint, or answer, or to specified causes of action or defenses.

(Subd (a) amended effective January 1, 2007.)

(b) Demurrer not directed to all causes of action

A demurrer to a cause of action may be filed without answering other causes of action.

(Subd (b) adopted effective January 1,2007.)

(c) Notice of hearing

A party filing a demurrer must serve and file therewith a notice of hearing that must specify a hearing date in accordance with the provisions of Code of Civil Procedure section 1005.

(Subd (c) amended and relettered effective January 1, 2007; adopted as subd (b); previously amended effective July 1, 2000.)

(d) Date of hearing

Demurrers must be set for hearing not more than 35 days following the filing of the demurrer or on the first date available to the court thereafter. For good cause shown, the court may order the hearing held on an earlier or later day on notice prescribed by the court.

(Subd (d) amended and lettered effective January 1, 2007; adopted as part of subd (b).)

(e) Caption

A demurrer must state, on the first page immediately below the number of the case, the name of the party filing the demurrer and the name of the party whose pleading is the subject of the demurrer.

(Subd (e) amended and relettered effective January 1, 2007; adopted as subd (c).)

(f) Failure to appear at hearing

When a demurrer is regularly called for hearing and one of the parties does not appear, the demurrer must be disposed of on the merits at the request of the party appearing unless for good cause the hearing is continued. Failure to appear in support of a special demurrer may be construed by the court as an admission that the demurrer is not meritorious and as a waiver of all grounds thereof. If neither party appears, the demurrer may be disposed of on its merits or dropped from the calendar, to be restored on notice or on terms as the court may deem proper, or the hearing may be continued to such time as the court orders.

(Subd (f) amended and relettered effective January 1, 2007; adopted as subd (d).)

(g) Leave to answer or amend

Following a ruling on a demurrer, unless otherwise ordered, leave to answer or amend within 10 days is deemed granted, except for actions in forcible entry, forcible detainer, or unlawful detainer in which case 5 calendar days is deemed granted.

(Subd (g) amended and relettered effective January 1, 2007; adopted as subd (e).)

(h) Ex parte application to dismiss following failure to amend

A motion to dismiss the entire action and for entry of judgment after expiration of the time to amend following the sustaining of a demurrer may be made by ex parte application to the court under Code of Civil Procedure section 581(f)(2).

(Subd (h) amended and relettered effective January 1, 2007; adopted as subd (f); previously amended effective July 1, 1995.)

(i) Motion to strike late-filed amended pleading

If an amended pleading is filed after the time allowed, an order striking the amended pleading must be obtained by noticed motion under Code of Civil Procedure section 1010.

(Subd (i) amended effective January 1, 2009; adopted as part of subd (f); previously amended effective July 1, 1995; previously amended and lettered effective January 1, 2007.)

(j) Time to respond after demurrer

Unless otherwise ordered, defendant has 10 days to answer or otherwise plead to the complaint or the remaining causes of action following:

(1) The overruling of the demurrer;

(2) The expiration of the time to amend if the demurrer was sustained with leave to amend; or

(3) The sustaining of the demurrer if the demurrer was sustained without leave to amend.

(Subd (j) amended effective January 1, 2011; adopted as subd (g) effective July 1, 1984; previously amended and relettered effective January 1, 2007.)

Rule 3.1320 amended effective January 1, 2011; adopted as rule 325 effective January 1, 1984; previously amended and renumbered effective January 1, 2007; previously amended effective July 1, 1984, July 1, 1995, July 1, 2000, and January 1, 2009.

Rule 3.1322. Motions to strike

(a) Contents of notice

A notice of motion to strike a portion of a pleading must quote in full the portions sought to be stricken except where the motion is to strike an entire paragraph, cause of action, count, or defense. Specifications in a notice must be numbered consecutively.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1984.)

(b) Timing

A notice of motion to strike must be given within the time allowed to plead, and if a demurrer is interposed, concurrently therewith, and must be noticed for hearing and heard at the same time as the demurrer.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of untitled Subd effective January 1, 1984.)

Rule 3.1322 amended and renumbered effective January 1, 2007; adopted as rule 329 effective January 1, 1984.

Rule 3.1324. Amended pleadings and amendments to pleadings

(a) Contents of motion

A motion to amend a pleading before trial must:

(1) Include a copy of the proposed amendment or amended pleading, which must be serially numbered to differentiate it from previous pleadings or amendments;

(2) State what allegations in the previous pleading are proposed to be deleted, if any, and where, by page, paragraph, and line number, the deleted allegations are located; and

(3) State what allegations are proposed to be added to the previous pleading, if any, and where, by page, paragraph, and line number, the additional allegations are located.

(Subd (a) amended effective January 1, 2002.)

(b) Supporting declaration

A separate declaration must accompany the motion and must specify:

(1) The effect of the amendment;

(2) Why the amendment is necessary and proper;

(3) When the facts giving rise to the amended allegations were discovered; and

(4) The reasons why the request for amendment was not made earlier.

(Subd (b) adopted effective January 1, 2002.)

(c) Form of amendment

The court may deem a motion to file an amendment to a pleading to be a motion to file an amended pleading and require the filing of the entire previous pleading with the approved amendments incorporated into it.

(Subd (c) adopted effective January 1, 2002.)

(d) Requirements for amendment to a pleading

An amendment to a pleading must not be made by alterations on the face of a pleading except by permission of the court. All alterations must be initialed by the court or the clerk.

(Subd (d) amended and relettered effective January 1, 2002; adopted as subd (b).)

Rule 3.1324 renumbered effective January 1, 2007; adopted as rule 327 effective January 1, 1984; previously amended effective January 1, 2002.

Rule 3.1326. Motions for change of venue

Following denial of a motion to transfer under Code of Civil Procedure section 396b, unless otherwise ordered, 30 calendar days are deemed granted defendant to move to strike, demur, or otherwise plead if the defendant has not previously filed a response. If a motion to transfer is granted, 30 calendar days are deemed granted from the date the receiving court mails notice of receipt of the case and its new case number.

Rule 3.1326 amended and renumbered effective January 1, 2007; adopted as rule 326 effective January 1, 1984; previously amended effective July 1, 1984.

Rule 3.1327. Motions to quash or to stay action in summary proceeding involving possession of real property

(a) Notice

In an unlawful detainer action or other action brought under chapter 4 of title 3 of part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a motion to quash service of summons on the ground of lack of jurisdiction or to stay or dismiss the action on the ground of inconvenient forum must be given in compliance with Code of Civil Procedure sections 1013 and 1167.4.

(b) Opposition and reply at hearing

Any opposition to the motion and any reply to an opposition may be made orally at the time of hearing or in writing as set forth in (c).

(c) Written opposition in advance of hearing

If a party seeks to have a written opposition considered in advance of the hearing, the written opposition must be filed and served on or before the court day before the hearing. Service must be by personal delivery, facsimile transmission, express mail, or other means consistent with Code of Civil Procedure sections 1010, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties no later than the close of business on the court day before the hearing. The court, in its discretion, may consider written opposition filed later.

Rule 3.1327 adopted effective January 1, 2009.

Article 2. Procedural Motions

Rule 3.1330. Motion concerning arbitration

A petition to compel arbitration or to stay proceedings pursuant to Code of Civil Procedure sections 1281.2 and 1281.4 must state, in addition to other required allegations, the provisions of the written agreement and the paragraph that provides for arbitration. The provisions must be stated verbatim or a copy must be attached to the petition and incorporated by reference.

Rule 3.1330 amended and renumbered effective January 1, 2007; adopted as rule 371 effective January 1, 1984.

Rule 3.1332. Motion or application for continuance of trial

(a) Trial dates are firm

To ensure the prompt disposition of civil cases, the dates assigned for a trial are firm. All parties and their counsel must regard the date set for trial as certain.

(Subd (a) repealed and adopted effective January 1, 2004; amended effective January 1, 1995.)

(b) Motion or application

A party seeking a continuance of the date set for trial, whether contested or uncontested or stipulated to by the parties, must make the request for a continuance by a noticed motion or an ex parte application under the rules in chapter 4 of this division, with supporting declarations. The party must make the motion or application as soon as reasonably practical once the necessity for the continuance is discovered.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1995.)

(c) Grounds for continuance

Although continuances of trials are disfavored, each request for a continuance must be considered on its own merits. The court may grant a continuance only on an affirmative showing of good cause requiring the continuance. Circumstances that may indicate good cause include:

(1) The unavailability of an essential lay or expert witness because of death, illness, or other excusable circumstances;

(2) The unavailability of a party because of death, illness, or other excusable circumstances;

(3) The unavailability of trial counsel because of death, illness, or other excusable circumstances;

(4) The substitution of trial counsel, but only where there is an affirmative showing that the substitution is required in the interests of justice;

(5) The addition of a new party if:

(A) The new party has not had a reasonable opportunity to conduct discovery and prepare for trial; or

(B) The other parties have not had a reasonable opportunity to conduct discovery and prepare for trial in regard to the new party's involvement in the case;

(6) A party's excused inability to obtain essential testimony, documents, or other material evidence despite diligent efforts; or

(7) A significant, unanticipated change in the status of the case as a result of which the case is not ready for trial.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 2004.)

(d) Other factors to be considered

In ruling on a motion or application for continuance, the court must consider all the facts and circumstances that are relevant to the determination. These may include:

(1) The proximity of the trial date;

(2) Whether there was any previous continuance, extension of time, or delay of trial due to any party;

(3) The length of the continuance requested;

(4) The availability of alternative means to address the problem that gave rise to the motion or application for a continuance;

(5) The prejudice that parties or witnesses will suffer as a result of the continuance;

(6) If the case is entitled to a preferential trial setting, the reasons for that status and whether the need for a continuance outweighs the need to avoid delay;

(7) The court's calendar and the impact of granting a continuance on other pending trials;

(8) Whether trial counsel is engaged in another trial;

(9) Whether all parties have stipulated to a continuance;

(10) Whether the interests of justice are best served by a continuance, by the trial of the matter, or by imposing conditions on the continuance; and

(11) Any other fact or circumstance relevant to the fair determination of the motion or application.

(Subd (d) adopted effective January 1, 2004.)

Rule 3.1332 amended and renumbered effective January 1, 2007; adopted as rule 375 effective January 1, 1984; previously amended effective January 1, 1985, January 1, 1995, and January 1, 2004.

Rule 3.1335. Motion or application to advance, specially set, or reset trial date

(a) Noticed motion or application required

A party seeking to advance, specially set, or reset a case for trial must make this request by noticed motion or ex parte application under the rules in chapter 4 of this division.

(Subd (a) amended effective January 1, 2007.)

(b) Grounds for motion or application

The request may be granted only upon an affirmative showing by the moving party of good cause based on a declaration served and filed with the motion or application.

Rule 3.1335 amended and renumbered effective January 1, 2007; adopted as rule 375.1 effective January 1, 2004.

Article 3. Motions to Dismiss

Rule 3.1340. Motion for discretionary dismissal after two years for delay in prosecution

(a) Discretionary dismissal two years after filing

The court on its own motion or on motion of the defendant may dismiss an action under Code of Civil Procedure sections 583.410–583.430 for delay in prosecution if the action has not been brought to trial or conditionally settled within two years after the action was commenced against the defendant.

(Subd (a) amended effective January 1, 2007.)

(b) Notice of court's intention to dismiss

If the court intends to dismiss an action on its own motion, the clerk must set a hearing on the dismissal and mail notice to all parties at least 20 days before the hearing date.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of Subd (a) effective January 1, 1990.)

(c) Definition of "conditionally settled"

"Conditionally settled" means:

(1) A settlement agreement conditions dismissal on the satisfactory completion of specified terms that are not to be fully performed within two years after the filing of the case; and

(2) Notice of the settlement is filed with the court as provided in rule 3.1385.

(Subd (c) amended and lettered effective January 1, 2007; adopted as part of Subd (a) effective January 1, 1990.)

Rule 3.1340 amended and renumbered effective January 1, 2007; adopted as rule 372 effective January 1, 1990.

Rule 3.1342. Motion to dismiss for delay in prosecution

(a) Notice of motion

A party seeking dismissal of a case under Code of Civil Procedure sections 583.410–583.430 must serve and file a notice of motion at least 45 days before the date set for hearing of the motion. The party may, with the memorandum, serve and file a declaration stating facts in support of the motion. The filing of the notice of motion must not preclude the opposing party from further prosecution of the case to bring it to trial.

(Subd (a) amended effective January 1, 2009; previously amended effective January 1, 1986, and January 1, 2007.)

(b) Written opposition

Within 15 days after service of the notice of motion, the opposing party may serve and file a written opposition. The failure of the opposing party to serve and file a written opposition may be construed by the court as an admission that the motion is meritorious, and the court may grant the motion without a hearing on the merits.

(Subd (b) amended effective January 1, 2007.)

(c) Response to opposition

Within 15 days after service of the written opposition, if any, the moving party may serve and file a response.

(Subd (c) amended effective January 1, 2007.)

(d) Reply

Within five days after service of the response, if any, the opposing party may serve and file a reply.

(e) Relevant matters

In ruling on the motion, the court must consider all matters relevant to a proper determination of the motion, including:

(1) The court's file in the case and the declarations and supporting data submitted by the parties and, where applicable, the availability of the moving party and other essential parties for service of process;

(2) The diligence in seeking to effect service of process;

(3) The extent to which the parties engaged in any settlement negotiations or discussions;

(4) The diligence of the parties in pursuing discovery or other pretrial proceedings, including any extraordinary relief sought by either party;

(5) The nature and complexity of the case;

(6) The law applicable to the case, including the pendency of other litigation under a common set of facts or determinative of the legal or factual issues in the case;

(7) The nature of any extensions of time or other delay attributable to either party;

(8) The condition of the court's calendar and the availability of an earlier trial date if the matter was ready for trial;

(9) Whether the interests of justice are best served by dismissal or trial of the case; and

(10) Any other fact or circumstance relevant to a fair determination of the issue.

The court must be guided by the policies set forth in Code of Civil Procedure section 583.130.

(Subd (e) amended effective January 1, 2007; previously amended effective January 1, 1986.)

(f) Court action

The court may grant or deny the motion or, where the facts warrant, the court may continue or defer its ruling on the matter pending performance by either party of any conditions relating to trial or dismissal of the case that may be required by the court to effectuate substantial justice.

Rule 3.1342 amended effective January 1, 2009; adopted as rule 373 effective January 1, 1984; previously amended effective January 1, 1986; previously amended and renumbered effective January 1, 2007.

Article 4. Discovery Motions

Title 3, Civil Rules—Division 11, Law and Motion—Chapter 6, Particular Motions—Article 4, Discovery Motions adopted effective January 1, 2009.

Rule 3.1345. Format of discovery motions

(a) Separate statement required

Any motion involving the content of a discovery request or the responses to such a request must be accompanied by a separate statement. The motions that require a separate statement include a motion:

(1) To compel further responses to requests for admission;

(2) To compel further responses to interrogatories;

(3) To compel further responses to a demand for inspection of documents or tangible things;

(4) To compel answers at a deposition;

(5) To compel or to quash the production of documents or tangible things at a deposition;

(6) For medical examination over objection; and

(7) For issue or evidentiary sanctions.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 1987, January 1, 1992, January 1, 1997, and July 1, 2001.)

(b) Separate statement not required

A separate statement is not required when no response has been provided to the request for discovery.

(Subd (b) adopted effective July 1, 2001.)

(c) Contents of separate statement

A separate statement is a separate document filed and served with the discovery motion that provides all the information necessary to understand each discovery request and all the responses to it that are at issue. The separate statement must be full and complete so that no person is required to review any other document in order to determine the full request and the full response. Material must not be incorporated into the separate statement by reference. The separate statement must include—for each discovery request (e.g., each interrogatory, request for admission, deposition question, or inspection demand) to which a further response, answer, or production is requested—the following:

(1) The text of the request, interrogatory, question, or inspection demand;

(2) The text of each response, answer, or objection, and any further responses or answers;

(3) A statement of the factual and legal reasons for compelling further responses, answers, or production as to each matter in dispute;

(4) If necessary, the text of all definitions, instructions, and other matters required to understand each discovery request and the responses to it;

(5) If the response to a particular discovery request is dependent on the response given to another discovery request, or if the reasons a further response to a particular discovery request is deemed necessary are based on the response to some other discovery request, the other request and the response to it must be set forth; and

(6) If the pleadings, other documents in the file, or other items of discovery are relevant to the motion, the party relying on them must summarize each relevant document.

(Subd (c) amended effective January 1, 2007; previously repealed and adopted effective July 1, 2001.)

(d) Identification of interrogatories, demands, or requests

A motion concerning interrogatories, inspection demands, or admission requests must identify the interrogatories, demands, or requests by set and number.

(Subd (d) amended effective January 1, 2007; adopted as subd (b); previously amended effective July 1, 1987; previously relettered effective July 1, 2001.)

Rule 3.1345 renumbered effective January 1, 2009; adopted as rule 335 effective January 1, 1984; previously amended effective July 1, 1987, January 1, 1992, January 1, 1997, and July 1, 2001; previously amended and renumbered as rule 3.1020 effective January 1, 2007.

Rule 3.1346. Service of motion papers on nonparty deponent

A written notice and all moving papers supporting a motion to compel an answer to a deposition question or to compel production of a document or tangible thing from a nonparty deponent must be personally served on the nonparty deponent unless the nonparty deponent agrees to accept service by mail at an address specified on the deposition record.

Rule 3.1346 renumbered effective January 1, 2009; adopted as rule 337 effective January 1, 1984; previously amended effective July 1, 1987; previously amended and renumbered as rule 3.1025 effective January 1, 2007.

Rule 3.1347. Discovery motions in summary proceeding involving possession of real property

(a) Notice

In an unlawful detainer action or other action brought under chapter 4 of title 3 of part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a discovery motion must be given in compliance with Code of Civil Procedure sections 1013 and 1170.8.

(b) Opposition and reply at hearing

Any opposition to the motion and any reply to an opposition may be made orally at the time of hearing or in writing as set forth in (c).

(c) Written opposition in advance of hearing

If a party seeks to have a written opposition considered in advance of the hearing, the written opposition must be served and filed on or before the court day before the hearing. Service must be by personal delivery, facsimile transmission, express mail, or other means consistent with Code of Civil Procedure sections 1010, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties no later than the close of business on the court day before the hearing. The court, in its discretion, may consider written opposition filed later.

Rule 3.1347 adopted effective January 1, 2009.

Rule 3.1348. Sanctions for failure to provide discovery

(a) Sanctions despite no opposition

The court may award sanctions under the Discovery Act in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed, or opposition to the motion was withdrawn, or the requested discovery was provided to the moving party after the motion was filed.

(b) Failure to oppose not an admission

The failure to file a written opposition or to appear at a hearing or the voluntary provision of discovery shall not be deemed an admission that the motion was proper or that sanctions should be awarded.

Rule 3.1348 renumbered effective January 1, 2009; adopted as rule 341 effective July 1, 2001; previously renumbered as rule 3.1030 effective January 1, 2007.

Article 5. Summary Judgment Motions

Title 3, Civil Rules—Division 11, Law and Motion—Chapter 6, Particular Motions—Article 5, Summary Judgment Motions renumbered effective January 1, 2009; adopted as article 4 effective January 1, 2007.

Rule 3.1350. Motion for summary judgment or summary adjudication

(a) Motion

As used in this rule, "motion" refers to either a motion for summary judgment or a motion for summary adjudication.

(b) Motion for summary adjudication

If made in the alternative, a motion for summary adjudication may make reference to and depend on the same evidence submitted in support of the summary judgment motion. If summary adjudication is sought, whether separately or as an alternative to the motion for summary judgment, the specific cause of action, affirmative defense, claims for damages, or issues of duty must be stated specifically in the notice of motion and be repeated, verbatim, in the separate statement of undisputed material facts.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2002.)

(c) Documents in support of motion

Except as provided in Code of Civil Procedure section 437c(r) and rule 3.1351, the motion must contain and be supported by the following documents:

(1) Notice of motion by *[moving party]* for summary judgment or summary adjudication or both;

(2) Separate statement of undisputed material facts in support of [*moving party's*] motion for summary judgment or summary adjudication or both;

(3) Memorandum in support of [*moving party's*] motion for summary judgment or summary adjudication or both;

(4) Evidence in support of [*moving party's*] motion for summary judgment or summary adjudication or both; and

(5) Request for judicial notice in support of [*moving party's*] motion for summary judgment or summary adjudication or both (if appropriate).

(Subd (c) amended effective January 1, 2009; previously amended effective January 1, 2002, and January 1, 2007.)

(d) Separate statement in support of motion

The Separate Statement of Undisputed Material Facts in support of a motion must separately identify each cause of action, claim, issue of duty, or affirmative defense, and each supporting material fact claimed to be without dispute with respect to the cause of action, claim, issue of duty, or affirmative defense. In a two-column format, the statement must state in numerical sequence the undisputed material facts in the first column followed by the evidence that establishes those undisputed facts in that same column. Citation to the evidence in support of each material fact must include reference to the exhibit, title, page, and line numbers.

(Subd (d) amended effective January 1, 2008; previously amended effective January 1, 2002, and January 1, 2007.)

(e) Documents in opposition to motion

Except as provided in Code of Civil Procedure section 437c(r) and rule 3.1351, the opposition to a motion must consist of the following documents, separately stapled and titled as shown:

(1) [*Opposing party's*] memorandum in opposition to [*moving party's*] motion for summary judgment or summary adjudication or both;

(2) [*Opposing party's*] separate statement of undisputed material facts in opposition to [*moving party's*] motion for summary judgment or summary adjudication or both;

(3) [*Opposing party's*] evidence in opposition to [*moving party's*] motion for summary judgment or summary adjudication or both (if appropriate); and

(4) [*Opposing party's*] request for judicial notice in opposition to [*moving party's*] motion for summary judgment or summary adjudication or both (if appropriate).

(Subd (e) amended effective January 1, 2009; previously amended effective January 1, 2002, and January 1, 2007.)

(f) Opposition to motion; content of separate statement

Each material fact claimed by the moving party to be undisputed must be set out verbatim on the left side of the page, below which must be set out the evidence said by the moving party to establish that fact, complete with the moving party's references to exhibits. On the right side of the page, directly opposite the recitation of the moving party's statement of material facts and supporting evidence, the response must unequivocally state whether that fact is "disputed" or "undisputed." An opposing party who contends that a fact is disputed must state, on the right side of the page directly opposite the fact in dispute, the nature of the dispute and describe the evidence that supports the position that the fact is controverted. That evidence must be supported by citation to exhibit, title, page, and line numbers in the evidence submitted.

(Subd (f) amended effective January 1, 2002.)

(g) Documentary evidence

If evidence in support of or in opposition to a motion exceeds 25 pages, the evidence must be separately bound and must include a table of contents.

(Subd (g) amended effective January 1, 2007; previously amended effective January 1, 2002.)

(h) Format for separate statements

Supporting and opposing separate statements in a motion for summary judgment must follow this format:

Supporting statement:

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
1. Plaintiff and defendant entered into a written contract for the sale of widgets. Jackson declaration, 2:17-21; contract, Ex. A to Jackson declaration.	
2. No widgets were ever received. Jackson declaration, 3:7-21.	

Opposing statement:

Moving Party's Undisputed Material Facts and Alleged Supporting Evidence:	Opposing Party's Response and Evidence:
1. Plaintiff and defendant entered into a written contract for the sale of widgets. Jackson declaration, 2:17-21; contract, Ex. A to Jackson declaration.	Undisputed.
2. No widgets were ever received. Jackson declaration, 3:7-21.	Disputed. The widgets were received in New Zealand on August 31, 2001. Baygi declaration, 7:2-5.

Supporting and opposing separate statements in a motion for summary adjudication must follow this format:

Supporting statement:

ISSUE 1—THE FIRST CAUSE OF ACTION FOR NEGLIGENCE IS BARRED BECAUSE PLAINTIFF EXPRESSLY ASSUMED THE RISK OF INJURY

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:
1. Plaintiff was injured while mountain climbing on a trip with Any Company USA. Plaintiff's deposition, 12:3-4.	
2. Before leaving on the mountain climbing trip, plaintiff signed a waiver of liability for acts of negligence. Smith declaration, 5:4-5; waiver of liability, Ex. A to Smith declaration.	

Opposing statement:

ISSUE 1—THE FIRST CAUSE OF ACTION FOR NEGLIGENCE IS BARRED BECAUSE PLAINTIFF EXPRESSLY ASSUMED THE RISK OF INJURY

Moving Party's Undisputed Material Facts and Alleged Supporting Evidence:	Opposing Party's Response and Evidence:
1. Plaintiff was injured while mountain	Undisputed.

climbing on a trip with Any Company USA. Plaintiff's deposition, 12:3-4.	
2. Before leaving on the mountain climbing trip, plaintiff signed a waiver of liability for acts of negligence. Smith declaration, 5:4-5; waiver of liability, Ex. A to Smith declaration. .	Disputed. Plaintiff did not sign the waiver of liability; the signature on the waiver is forged. Jones declaration, 3:6-7.

(Subd (h) amended effective July 1, 2008; previously amended effective January 1, 1999, January 1, 2002, and January 1, 2008.)

(i) Request for electronic version of separate statement

On request, a party must within three days provide to any other party or the court an electronic version of its separate statement. The electronic version may be provided in any form on which the parties agree. If the parties are unable to agree on the form, the responding party must provide to the requesting party the electronic version of the separate statement that it used to prepare the document filed with the court. Under this subdivision, a party is not required to create an electronic version or any new version of any document for the purpose of transmission to the requesting party.

(Subd (i) amended effective January 1, 2007; adopted effective January 1, 2002.)

Rule 3.1350 amended effective January 1, 2009; adopted as rule 342 effective July 1, 1997; previously amended effective January 1, 1999, January 1, 2002, January 1, 2008, and July 1, 2008; previously amended and renumbered effective January 1, 2007.

Rule 3.1351. Motions for summary judgment in summary proceeding involving possession of real property

(a) Notice

In an unlawful detainer action or other action brought under chapter 4 of title 3 of part 3 of the Code of Civil Procedure (commencing with section 1159), notice of a motion for summary judgment must be given in compliance with Code of Civil Procedure sections 1013 and 1170.7.

(b) Opposition and reply at hearing

Any opposition to the motion and any reply to an opposition may be made orally at the time of hearing or in writing as set forth in (c).

(c) Written opposition in advance of hearing

If a party seeks to have a written opposition considered in advance of the hearing, the written opposition must be filed and served on or before the court day before the hearing. Service must be by personal delivery, facsimile transmission, express mail, or other means consistent with Code of Civil Procedure sections 1010, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties no later than the close of business on the court day before the hearing. The court, in its discretion, may consider written opposition filed later.

Rule 3.1351 adopted effective January 1, 2009.

Rule 3.1352. Objections to evidence

A party desiring to make objections to evidence in the papers on a motion for summary judgment must either:

(1) Submit objections in writing under rule 3.1354; or

(2) Make arrangements for a court reporter to be present at the hearing.

Rule 3.1352 amended and renumbered effective January 1, 2007; adopted as rule 343 effective January 1, 1984; previously amended effective January 1, 2002.

Rule 3.1354. Written objections to evidence

(a) Time for filing and service of objections

Unless otherwise excused by the court on a showing of good cause, all written objections to evidence in support of or in opposition to a motion for summary judgment or summary adjudication must be served and filed at the same time as the objecting party's opposition or reply papers are served and filed.

(Subd (a) amended and relettered effective January 1, 2007; adopted as untitled subd; previously amended and lettered subd (b) effective January 1, 2007.)

(b) Format of objections

All written objections to evidence must be served and filed separately from the other papers in support of or in opposition to the motion. Objections on specific evidence may be referenced by the objection number in the right column of a separate statement in opposition or reply to a motion, but the objections must not be restated or reargued in the separate statement. Each written objection must be numbered consecutively and must:

(1) Identify the name of the document in which the specific material objected to is located;

(2) State the exhibit, title, page, and line number of the material objected to;

(3) Quote or set forth the objectionable statement or material; and

(4) State the grounds for each objection to that statement or material.

Written objections to evidence must follow one of the following two formats:

(First Format):

Objections to Jackson Declaration

Objection Number 1

"Johnson told me that no widgets were ever received." (Jackson declaration, page 3, lines 7–8.)

Grounds for Objection 1: Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).

Objection Number 2

"A lot of people find widgets to be very useful." (Jackson declaration, page 17, line 5.)

Grounds for Objection 2: Irrelevant (Evid. Code, §§ 210, 350–351).

(Second Format):

Objections to Jackson Declaration

Material Objected to:	**Grounds for Objection:**
1. Jackson declaration, page 3, lines 7–8: "Johnson told me that no widgets were ever received." 2.	Hearsay (Evid. Code, §1200); lack of personal knowledge (Evid. Code, § 702(a)).
3. Jackson declaration, page 17, line 5: "A lot of people find widgets to be very useful." 4.	Irrelevant (Evid. Code, §§ 210, 350–351).

(Subd (b) adopted effective January 1, 2007.)

(c) Proposed order

A party submitting written objections to evidence must submit with the objections a proposed order. The proposed order must include places for the court to indicate whether it has sustained or overruled each objection. It must also include a place for the signature of the judge. The proposed order must be in one of the following two formats:

(First Format):

Objections to Jackson Declaration

Objection Number 1

"Johnson told me that no widgets were ever received." (Jackson declaration, page 3, lines 7–8.)

Grounds for Objection 1: Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).

Court's Ruling on Objection 1:	Sustained: _____ Overruled:_____

Objection Number 2

"A lot of people find widgets to be very useful." (Jackson declaration, page 17, line 5.)

Grounds for Objection 2: Irrelevant (Evid. Code, §§ 210, 350–351).

Court's Ruling on Objection 2:	Sustained: _____ Overruled:_____

(Second Format):

Objections to Jackson Declaration

Material Objected to:	**Grounds for Objection:**	**Ruling on the Objection**
1. Jackson declaration, page 3, lines 7–8: "Johnson told me that no widgets were ever received."	Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).	Sustained: _____ Overruled:_____
2. Jackson declaration, page 17, line 5: "A lot of people find widgets to be very useful."	Irrelevant (Evid. Code, §§210, 350–351).	Sustained: _____ Overruled:_____
Date:	_____	_____ Judge

(Subd (c) adopted effective January 1, 2007.)

Rule 3.1354 amended effective January 1, 2007; adopted as rule 345 effective January 1, 1984; previously amended effective January 1, 2002; previously amended and renumbered effective January 1, 2007.

Article 6. Miscellaneous Motions

Title 3, Civil Rules—Division 11, Law and Motion—Chapter 6, Particular Motions—Article 6, Miscellaneous Motions renumbered effective January 1, 2009; adopted as article 5 effective January 1, 2007.

Rule 3.1360. Motion to grant lien on cause of action

A motion that a lien be granted on a cause of action, right to relief, or judgment must be accompanied by an authenticated record of the judgment on which the judgment creditor relies and a declaration as to the identity of the party involved and the amount due.

Rule 3.1360 amended and renumbered effective January 1, 2007; adopted as rule 369 effective January 1, 1984.

Rule 3.1362. Motion to be relieved as counsel

(a) Notice

A notice of motion and motion to be relieved as counsel under Code of Civil Procedure section 284(2) must be directed to the client and must be made on the *Notice of Motion and Motion to Be Relieved as Counsel—Civil* (form MC-051).

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 2000.)

(b) Memorandum

Notwithstanding any other rule of court, no memorandum is required to be filed or served with a motion to be relieved as counsel.

(Subd (b) amended effective January 1, 2007; adopted effective July 1, 2000.)

(c) Declaration

The motion to be relieved as counsel must be accompanied by a declaration on the *Declaration in Support of Attorney's Motion to Be Relieved as Counsel—Civil* (form MC-052). The declaration must state in general terms and without compromising the confidentiality of the attorney-client relationship why a motion under Code of Civil Procedure section 284(2) is brought instead of filing a consent under Code of Civil Procedure section 284(1).

(Subd (c) amended effective January 1, 2007; adopted as subd (b); previously relettered and amended effective July 1, 2000.)

(d) Service

The notice of motion and motion, the declaration, and the proposed order must be served on the client and on all other parties who have appeared in the case. The notice may be by personal service or mail. If the notice is served on the client by mail under Code of Civil Procedure section 1013, it must be accompanied by a declaration stating facts showing that either:

(1) The service address is the current residence or business address of the client; or

(2) The service address is the last known residence or business address of the client and the attorney has been unable to locate a more current address after making reasonable efforts to do so within 30 days before the filing of the motion to be relieved.

As used in this rule, "current" means that the address was confirmed within 30 days before the filing of the motion to be relieved. Merely demonstrating that the notice was sent to the client's last known address and was not returned is not, by itself, sufficient to demonstrate that the address is current. If the service is by mail, Code of Civil Procedure section 1011(b) applies.

(Subd (d) amended effective January 1, 2009; adopted as subd (c); previously amended effective July 1, 1991, January 1, 1996, and January 1, 2007; previously relettered and amended effective July 1, 2000.)

(e) Order

The proposed order relieving counsel must be prepared on the *Order Granting Attorney's Motion to Be Relieved as Counsel—Civil* (form MC-053) and must be lodged with the court with the moving papers. The order must specify all hearing dates scheduled in the action or proceeding, including the date of trial, if known. If no hearing date is presently scheduled, the court may set one and specify the date in the order. After the order is signed, a copy of the signed order must be served on the client and on all parties that have appeared in the case. The court may delay the effective date of the order relieving counsel until proof of service of a copy of the signed order on the client has been filed with the court.

(Subd (e) amended effective January 1, 2009; adopted as subd (d); previously amended effective January 1, 1996, and January 1, 2007; previously amended and relettered effective July 1, 2000.)

Rule 3.1362 amended effective January 1, 2009; adopted as rule 376 effective July 1, 1984; previously amended effective July 1, 1991, January 1, 1996, and July 1, 2000; previously amended and renumbered effective January 1, 2007.

Chapter 7. Petitions Under the California Environmental Quality Act

Title 3, Civil Rules—Division 11, Law and Motion—Chapter 7, Petitions Under the California Environmental Quality Act; adopted effective January 1, 2010.

Rule 3.1365. Form and format of administrative record lodged in a CEQA proceeding

(a) Organization

(1) *Order of documents*

Except as permitted in (a)(3), the administrative record must be organized in the following order, as applicable:

(A) The Notice of Determination;

(B) The resolutions or ordinances adopted by the lead agency approving the project;

(C) The findings required by Public Resources Code section 21081, including any statement of overriding considerations;

(D) The final environmental impact report, including the draft environmental impact report or a revision of the draft, all other matters included in the final environmental impact report, and other types of environmental impact documents prepared under the California Environmental Quality Act, such as a negative declaration, mitigated negative declaration, or addenda;

(E) The initial study;

(F) Staff reports prepared for the administrative bodies providing subordinate approvals or recommendations to the lead agency, in chronological order;

(G) Transcripts and minutes of hearings, in chronological order; and

(H) The remainder of the administrative record, in chronological order.

(2) *List not limiting*

The list of documents in (1) is not intended to limit the content of the administrative record, which is prescribed in Public Resources Code section 21167.6(e).

(3) *Different order permissible*

The documents may be organized in a different order from that set out in (1) if the court so orders on:

(A) A party's motion;

(B) The parties' stipulation; or

(C) The court's own motion.

(4) *Oversized documents*

Oversized documents included in the record must be presented in a manner that allows them to be easily unfolded and viewed.

(5) *Use of tabs or electronic bookmarks*

The administrative record must be separated by tabs or marked with electronic bookmarks that identify each part of the record listed above.

(b) Index

A detailed index must be placed at the beginning of the administrative record. The index must list each document in the administrative record in the order presented, or in chronological order if ordered by the court, including title, date of the document, brief description, and the volume and page where it begins. The index must list any included exhibits or appendixes and must list each document contained in the exhibit or appendix (including environmental impact report appendixes) and the volume and page where each document begins. A copy of the index must be filed in the court at the time the administrative record is lodged with the court.

(c) Appendix of excerpts

A court may require each party filing a brief to prepare and lodge an appendix of excerpts that contains the documents or pages of the record cited in that party's brief.

Rule 3.1365 adopted effective January 1, 2010.

Rule 3.1366. Lodging and service

The party preparing the administrative record must lodge it with the court and serve it on each party. A record in electronic format must comply with rule 3.1367. A record in paper format

must comply with rule 3.1368. If the party preparing the administrative record elects or is ordered to prepare an electronic version of the record, (1) a court may require the party to lodge one copy of the record in paper format, and (2) a party may request the record in paper format and pay the reasonable cost or show good cause for a court order requiring the party preparing the administrative record to serve the requesting party with one copy of the record in paper format.

Rule 3.1366 adopted effective January 1, 2010.

Rule 3.1367. Electronic format

(a) Requirements

The electronic version of the administrative record lodged in the court in a proceeding brought under the California Environmental Quality Act must be:

(1) In compliance with rule 3.1365;

(2) Created in portable document format (PDF) or other format for which the software for creating and reading documents is in the public domain or generally available at a reasonable cost;

(3) Divided into a series of electronic files and include electronic bookmarks that identify each part of the record and clearly state the volume and page numbers contained in each part of the record;

(4) Contained on a CD-ROM, DVD, or other medium in a manner that cannot be altered; and

(5) Capable of full text searching.

The electronic version of the index required under rule 3.1365(b) may include hyperlinks to the indexed documents.

(b) Documents not included

Any document that is part of the administrative record and for which it is not feasible to create an electronic version may be provided in paper format only. Not feasible means that it would be reduced in size or otherwise altered to such an extent that it would not be easily readable.

Rule 3.1367 adopted effective January 1, 2010.

Rule 3.1368. Paper format

(a) Requirements

In the paper format of the administrative record lodged in the court in a proceeding brought under the California Environmental Quality Act:

(1) The paper must be recycled;

(2) Both sides of each page must be used;

(3) The paper must be opaque, unglazed, white or unbleached, 8 ½ by 11 inches, and of standard quality no less than 20-pound weight, except that maps, charts, and other demonstrative materials may be larger; and

(4) Each page must be numbered consecutively at the bottom.

(b) Binding and cover

The paper format of the administrative record must be bound on the left margin or contained in three-ring binders. Bound volumes must contain no more than 300 pages, and binders must contain no more than 400 pages. If bound, each page must have an adequate margin to allow unimpaired readability. The cover of each volume must contain the information required in rule 2.111, be prominently entitled "ADMINISTRATIVE RECORD," and state the volume number and the page numbers included in the volume.

Rule 3.1368 adopted effective January 1, 2010.

Chapter 8. Other Civil Petitions

Title 3, Civil Rules—Division 11, Law and Motion—Chapter 8, Other Civil Petitions; renumbered effective January 1, 2010; adopted as Chapter 7 effective January 1, 2007.

Rule 3.1370. Emancipation of minors

A petition for declaration of the emancipation of a minor must comply with rule 5.605.

Rule 3.1370 amended and renumbered effective January 1, 2007; adopted as rule 270 effective July 1, 1994.

Rule 3.1372. Petitions for relief from financial obligations during military service

(a) Application

This rule applies to petitions for relief from financial obligations made by a servicemember under Military and Veterans Code section 409.3.

(b) Service of petition

Service of the petition for relief and all supporting papers must be made in the manner provided by law for service of summons in civil actions.

(c) No memorandum required

Unless ordered by the court, no memorandum is required in support of or opposition to a petition for relief.

Rule 3.1372 adopted effective January 1, 2012.

Division 12. Settlement

Rule 3.1380. Mandatory settlement conferences

(a) Setting conferences

On the court's own motion or at the request of any party, the court may set one or more mandatory settlement conferences.

(Subd (a) amended effective January 1, 2008; previously amended effective January 1, 1995, and July 1, 2002.)

(b) Persons attending

Trial counsel, parties, and persons with full authority to settle the case must personally attend the conference, unless excused by the court for good cause. If any consent to settle is required for any reason, the party with that consensual authority must be personally present at the conference.

(Subd (b) amended and relettered effective July 1, 2002; adopted as subd (c); previously amended effective January 1, 1995.)

(c) Settlement conference statement

No later than five court days before the initial date set for the settlement conference, each party must submit to the court and serve on each party a mandatory settlement conference statement containing:

(1) A good faith settlement demand;

(2) An itemization of economic and noneconomic damages by each plaintiff;

(3) A good faith offer of settlement by each defendant; and

(4) A statement identifying and discussing in detail all facts and law pertinent to the issues of liability and damages involved in the case as to that party.

The settlement conference statement must comply with any additional requirement imposed by local rule.

(Subd (c) amended effective January 1, 2008; adopted as subd (d); previously amended effective January 1, 1995, and January 1, 2007; previously amended and relettered effective July 1, 2002.)

(d) Restrictions on appointments

A court must not:

(1) Appoint a person to conduct a settlement conference under this rule at the same time as that person is serving as a mediator in the same action; or

(2) Appoint a person to conduct a mediation under this rule.

(Subd (d) adopted effective January 1, 2008.)

Rule 3.1380 amended effective January 1, 2008; adopted as rule 222 effective January 1, 1985; previously amended effective January 1, 1995, July 1, 2001, and July 1, 2002; previously amended and renumbered effective January 1, 2007.

Advisory Committee Comment

Subdivision (d) This provision is not intended to discourage settlement conferences or mediations. However, problems have arisen in several cases, such as *Jeld-Wen v. Superior Court of San Diego County* (2007) 146 Cal.App.4th 536, when distinctions between different ADR processes have been blurred. To prevent confusion about the confidentiality of the proceedings, it is important to clearly distinguish between settlement conferences held under this rule and mediations. The special confidentiality requirements for mediations established by Evidence Code sections 1115–1128 expressly do not apply to settlement conferences under this rule. This provision is not intended to prohibit a court from appointing a person who has previously served as a mediator in a case to conduct a settlement conference in that case following the conclusion of the mediation.

Rule 3.1382. Good faith settlement and dismissal

A motion or application for determination of good faith settlement may include a request to dismiss a pleading or a portion of a pleading. The notice of motion or application for determination of good faith settlement must list each party and pleading or portion of pleading affected by the settlement and the date on which the affected pleading was filed.

Rule 3.1382 amended and renumbered effective January 1, 2007; adopted as rule 330 effective July 1, 1999.

Rule 3.1384. Petition for approval of the compromise of a claim of a minor or a person with a disability; order for deposit of funds; and petition for withdrawal

(a) Petition for approval of the compromise of a claim

A petition for court approval of a compromise or covenant not to sue under Code of Civil Procedure section 372 must comply with rules 7.950, 7.951, and 7.952.

(b) Order for the deposit of funds and petition for withdrawal

An order for the deposit of funds of a minor or a person with a disability, and a petition for the withdrawal of such funds, must comply with rules 7.953 and 7.954.

(Subd (b) amended effective January 1, 2007.)

Rule 3.1384 amended and renumbered effective January 1, 2007; adopted as rule 378 effective January 1, 2002.

Rule 3.1385. Duty to notify court and others of settlement of entire case

(a) Notice of settlement

(1) *Court and other persons to be notified*

If an entire case is settled or otherwise disposed of, each plaintiff or other party seeking affirmative relief must immediately file written notice of the settlement or other disposition with the court and serve the notice on all parties and any arbitrator or other court-connected alternative dispute resolution (ADR) neutral involved in the case. Each plaintiff or other party seeking affirmative relief must also immediately give oral notice to all of the above if a hearing, conference, or trial is scheduled to take place within 10 days.

(2) *Compensation for failure to provide notice*

If the plaintiff or other party seeking affirmative relief does not notify an arbitrator or other court-connected ADR neutral involved in the case of a settlement at least 2 days before the scheduled hearing or session with that arbitrator or neutral, the court may order the party to compensate the arbitrator or other neutral for the scheduled hearing time. The amount of compensation ordered by the court must not exceed the

maximum amount of compensation the arbitrator would be entitled to receive for service as an arbitrator under Code of Civil Procedure section 1141.18(b) or that the neutral would have been entitled to receive for service as a neutral at the scheduled hearing or session.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 1989, July 1, 2001, July 1, 2002, January 1, 2004, and January 1, 2006.)

(b) Dismissal of case

Except as provided in (c) or (d), each plaintiff or other party seeking affirmative relief must serve and file a request for dismissal of the entire case within 45 days after the date of settlement of the case. If the plaintiff or other party required to serve and file the request for dismissal does not do so, the court must dismiss the entire case 45 days after it receives notice of settlement unless good cause is shown why the case should not be dismissed.

(Subd (b) amended effective January 1, 2009; adopted effective January 1, 1989; previously amended effective July 1, 2002, January 1, 2004, and January 1, 2006.)

(c) Conditional settlement

(1) *Notice*

If the settlement agreement conditions dismissal of the entire case on the satisfactory completion of specified terms that are not to be performed within 45 days of the settlement, including payment in installment payments, the notice of conditional settlement served and filed by each plaintiff or other party seeking affirmative relief must specify the date by which the dismissal is to be filed.

(2) *Dismissal*

If the plaintiff or other party required to serve and file a request for dismissal within 45 days after the dismissal date specified in the notice does not do so, the court must dismiss the entire case unless good cause is shown why the case should not be dismissed.

(3) *Hearings vacated*

(A) Except as provided in (B), on the filing of the notice of conditional settlement, the court must vacate all hearings and other proceedings requiring the appearance of a party and may not set any hearing or other proceeding requiring the appearance of a party earlier than 45 days after the dismissal date specified in the notice, unless requested by a party.

(B) The court need not vacate a hearing on an order to show cause or other proceeding relating to sanctions, or for determination of good faith settlement at the request of a party under Code of Civil Procedure section 877.6.

(4) *Case disposition time*

Under standard 2.2(n)(1)(A), the filing of a notice of conditional settlement removes the case from the computation of time used to determine case disposition time.

(Subd (c) amended effective July 1, 2013; adopted effective January 1, 1989; previously amended effective July 1, 2002, January 1, 2004, and January 1, 2006.)

(d) Compromise of claims of a minor or disabled person

If the settlement of the case involves the compromise of the claim of a minor or person with a disability, the court must not hold an order to show cause hearing under (b) before the court has held a hearing to approve the settlement, provided the parties have filed appropriate papers to seek court approval of the settlement.

(Subd (d) adopted effective January 1, 2009.)

(e) Request for additional time to complete settlement

If a party who has served and filed a notice of settlement under (a) determines that the case cannot be dismissed within the prescribed 45 days, that party must serve and file a notice and a supporting declaration advising the court of that party's inability to dismiss the case within the prescribed time, showing good cause for its inability to do so, and proposing an alternative date for dismissal. The notice and a supporting declaration must be served and filed at least 5 court days before the time for requesting dismissal has elapsed. If good cause is shown, the court must continue the matter to allow additional time to complete the settlement. The court may take such other actions as may be appropriate for the proper management and disposition of the case.

(Subd (e) adopted effective January 1, 2009.)

Rule 3.1385 amended effective July 1, 2013; adopted as rule 225 effective January 1, 1985; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 1989, January 1, 1992, July 1, 2001, July 1, 2002, January 1, 2004, January 1, 2006, and January 1, 2009.

Division 13. Dismissal of Actions

Rule 3.1390. Service and filing of notice of entry of dismissal

Rule 3.1390. Service and filing of notice of entry of dismissal

A party that requests dismissal of an action must serve on all parties and file notice of entry of the dismissal.

Rule 3.1390 amended and renumbered effective January 1, 2007; adopted as rule 383 effective January 1, 1984.

Division 14. Pretrial [Reserved]

Division 15. Trial

Chapter 1. General Provisions [Reserved]

Chapter 2. Consolidation or Bifurcation of Cases for Trial [Reserved]

Chapter 3. Nonjury Trials [Reserved]

Chapter 4. Jury Trials

Rule 3.1540. Examination of prospective jurors in civil cases

(a) Application

This rule applies to all civil jury trials.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1949.)

(b) Examination of jurors by the trial judge

In examining prospective jurors in civil cases, the judge should consider the policies and recommendations in standard 3.25 of the Standards of Judicial Administration.

(Subd (b) amended effective January 1, 2013; adopted as part of untitled subd effective January 1, 1949; previously amended and lettered as subd (b) effective January 1, 2007.)

(c) Additional questions and examination by counsel

On completion of the initial examination, the trial judge must permit counsel for each party that so requests to submit additional questions that the judge will put to the jurors.

(Subd (c) amended effective January 1, 2013; adopted as part of untitled subd effective January 1, 1949; previously amended and lettered as subd (c) effective January 1, 2007.)

Rule 3.1540 amended effective January 1, 2013; adopted as rule 228 effective January 1, 1949; previously amended effective January 1, 1972, January 1, 1974, January 1, 1975, January 1, 1988,

January 1, 1990, June 6, 1990, and July 1, 1993; previously amended and renumbered as rule 3.1540 effective January 1, 2007.

Chapter 4.5. Expedited Jury Trials

Division 15, Trial—Chapter 4.5, Expedited Jury Trials, adopted effective January 1, 2011.

Rule 3.1545. Expedited jury trials

(a) Application

The rules in this chapter apply to civil actions in which the parties agree to an expedited jury trial under chapter 4.5 (commencing with section 630.01) of title 8 of part 2 of the Code of Civil Procedure.

(b) Definitions

As used in this chapter, unless the context or subject matter otherwise requires:

(1) "Consent order" means the consent order granting an expedited jury trial described in Code of Civil Procedure section 630.03.

(2) "Expedited jury trial," "high/low agreement," and "posttrial motions" have the same meanings as stated in Code of Civil Procedure section 630.01.

(c) Other programs

This chapter does not limit the adoption or use of other expedited trial or alternative dispute resolution programs or procedures.

Rule 3.1545 adopted effective January 1, 2011.

Rule 3.1546. Assignment of judicial officers

The presiding judge is responsible for the assignment of a judicial officer to conduct an expedited jury trial. The presiding judge may assign a temporary judge appointed by the court under rules 2.810–2.819 to conduct an expedited jury trial. A temporary judge requested by the

parties under rules 2.830–2.835, whether or not privately compensated, may not be appointed to conduct an expedited jury trial.

Rule 3.1546 adopted effective January 1, 2011.

Rule 3.1547. Consent order

(a) Submitting proposed consent order to the court

(1) Unless the court otherwise allows, to be eligible to participate in an expedited jury trial, the parties must submit to the court, no later than 30 days before any assigned trial date, a proposed consent order granting an expedited jury trial.

(2) The parties may enter into written stipulations regarding any high/low agreements or other matters. Only in the following circumstances may a high/low agreement be submitted to the court with the proposed consent order or disclosed later in the action:

(A) Upon agreement of the parties;

(B) In any case involving either

(i) A self-represented litigant, or

(ii) A minor, an incompetent person, or a person for whom a conservator has been appointed; or

(C) If necessary for entry or enforcement of the judgment.

(b) Optional content of proposed consent order

In addition to complying with the provisions of Code of Civil Procedure section 630.03(e), the proposed consent order may include other agreements of the parties, including the following:

(1) Modifications of the timelines for pretrial submissions required by rule 3.1548;

(2) Limitations on the number of witnesses per party, including expert witnesses;

(3) Modification of statutory or rule provisions regarding exchange of expert witness information and presentation of testimony by such witnesses;

(4) Allocation of the time periods stated in rule 3.1550, including how arguments and cross-examination may be used by each party in the three-hour time frame;

(5) Any evidentiary matters agreed to by the parties, including any stipulations or admissions regarding factual matters;

(6) Any agreements about what constitutes necessary or relevant evidence for a particular factual determination;

(7) Agreements about admissibility of particular exhibits or demonstrative evidence that are presented without the legally required authentication or foundation;

(8) Agreements about admissibility of video or written depositions and declarations;

(9) Agreements about any other evidentiary issues or the application of any of the rules of evidence;

(10) Agreements to use photographs, diagrams, slides, electronic presentations, overhead projections, notebooks of exhibits, or other methods for presenting information to the jury;

(11) Agreements concerning the time frame for filing and serving motions in limine; and

(12) Agreements concerning numbers of jurors required for jury verdicts in cases with fewer than eight jurors.

Rule 3.1547 adopted effective January 1, 2011.

Rule 3.1548. Pretrial submissions

(a) Service

Service under this rule must be by a means consistent with Code of Civil Procedure sections 1010.6, 1011, 1012, and 1013 or rule 2.251 and be reasonably calculated to assure delivery to the other party or parties no later than the close of business on the last allowable day for service as specified below.

(b) Pretrial exchange

No later than 25 days before trial, each party must serve on all other parties the following:

(1) Copies of any documentary evidence that the party intends to introduce at trial (except for documentary evidence to be used solely for impeachment or rebuttal), including, but not limited to, medical bills, medical records, and lost income records;

(2) A list of all witnesses whom the party intends to call at trial, except for witnesses to be used solely for impeachment or rebuttal, and designation of whether the testimony will be in person, by video, or by deposition transcript;

(3) A list of depositions that the party intends to use at trial, except for depositions to be used solely for impeachment or rebuttal;

(4) A copy of any audiotapes, videotapes, digital video discs (DVDs), compact discs (CDs), or other similar recorded materials that the party intends to use at trial for evidentiary purposes, except recorded materials to be used solely for impeachment or rebuttal and recorded material intended to be used solely in closing argument;

(5) A copy of any proposed jury questionnaires (parties are encouraged to agree in advance on a questionnaire);

(6) A list of proposed approved introductory instructions, preinstructions, and instructions to be read by the judge to the jury;

(7) A copy of any proposed special jury instructions in the form and format described in rule 2.1055;

(8) Any proposed verdict forms;

(9) A special glossary, if the case involves technical or unusual vocabulary; and

(10) Motions in limine.

(c) Supplemental exchange

No later than 20 days before trial, a party may serve on any other party any additional documentary evidence and a list of any additional witnesses whom the party intends to use at trial in light of the exchange of information under subdivision (b).

(d) Submissions to court

No later than 20 days before trial, each party must file all motions in limine and must lodge with the court any items served under (b)(2)–(9) and (c).

(e) Preclusionary effect

Unless good cause is shown for any omission, failure to serve documentary evidence as required under this rule will be grounds for preclusion of the evidence at the time of trial.

(f) Pretrial conference

No later than 15 days before trial, unless that period is modified by the consent order, the judicial officer assigned to the case must conduct a pretrial conference, at which time objections to any documentary evidence previously submitted will be ruled on. If there are no objections at that time, counsel must stipulate in writing to the admissibility of the evidence. Matters to be addressed at the pretrial conference, in addition to the evidentiary objections, include the following:

(1) Any evidentiary matters agreed to by the parties, including any stipulations or admissions regarding factual matters;

(2) Any agreement of the parties regarding limitations on necessary or relevant evidence, including any limitations on expert witness testimony;

(3) Any agreements of the parties to use photographs, diagrams, slides, electronic presentations, overhead projections, notebooks of exhibits, or other methods of presenting information to the jury;

(4) Admissibility of any exhibits or demonstrative evidence without legally required authentication or foundation;

(5) Admissibility of video or written depositions and declarations and objections to any portions of them;

(6) Objections to and admissibility of any recorded materials that a party has designated for use at trial;

(7) Jury questionnaires;

(8) Jury instructions;

(9) Special verdict forms;

(10) Allocation of time for each party's case; and

(11) Motions in limine filed before the pretrial conference.

(g) Expert witness documents

Any documents produced at the deposition of an expert witness are deemed to have been timely exchanged for the purpose of (c) above.

Rule 3.1548 adopted effective January 1, 2011.

Rule 3.1549. Voir dire

Approximately one hour will be devoted to voir dire, with 15 minutes allotted to the judicial officer and 15 minutes to each side. Parties are encouraged to submit a joint form questionnaire to be used with prospective jurors to help expedite the voir dire process.

Rule 3.1549 adopted effective January 1, 2011.

Rule 3.1550. Time limits

Excluding jury selection, each side will be allowed three hours to present its case, including opening statements and closing arguments, unless the court, upon a finding of good cause, allows additional time. The amount of time allotted for each side includes the time that the side spends on cross-examination. The parties are encouraged to streamline the trial process by limiting the number of live witnesses. The goal is to complete an expedited jury trial within one full trial day.

Rule 3.1550 adopted effective January 1, 2011.

Rule 3.1551. Case presentation

(a) Methods of presentation

Upon agreement of the parties and with the approval of the judicial officer, the parties may present summaries and may use photographs, diagrams, slides, electronic presentations, overhead projections, individual notebooks of exhibits for submission to the jurors, or other innovative methods of presentation approved at the pretrial conference.

(b) Exchange of items

Anything to be submitted to the jury as part of the evidentiary presentation of the case in chief must be exchanged 20 days in advance of the trial, unless that period is modified by the consent order. This rule does not apply to items to be used solely for closing argument.

(c) Stipulations regarding facts

The parties should stipulate to factual and evidentiary matters to the greatest extent possible.

Rule 3.1551 adopted effective January 1, 2011.

Rule 3.1552. Presentation of evidence

(a) Stipulations regarding rules of evidence

The parties may offer such evidence as is relevant and material to the dispute. An agreement to modify the rules of evidence for the trial made pursuant to the expedited jury trial statutes commencing with Code of Civil Procedure section 630.01 may be included in the consent order. To the extent feasible, the parties should stipulate to modes and methods of presentation that will expedite the process, either in the consent order or at the pretrial conference.

(b) Objections

Objections to evidence and motions to exclude evidence must be submitted in a timely manner. Except as provided in rule 3.1548(f), failure to raise an objection before trial does not preclude making an objection or motion to exclude at trial.

Rule 3.1552 adopted effective January 1, 2011.

Chapter 5. Testimony and Evidence [Reserved]

Chapter 6. Expert Witness Testimony [Reserved]

Chapter 7. Jury Instructions

Rule 3.1560. Application

Rule 3.1560. Application

The rules on jury instructions in chapter 4 of division 8 of title 2 of these rules apply to civil cases.

Rule 3.1560 adopted effective January 1, 2007.

Chapter 8. Special Verdicts

Rule 3.1580. Request for special findings by jury

Rule 3.1580. Request for special findings by jury

Whenever a party desires special findings by a jury, the party must, before argument, unless otherwise ordered, present to the judge in writing the issues or questions of fact on which the findings are requested, in proper form for submission to the jury, and serve copies on all other parties.

Rule 3.1580 amended and renumbered effective January 1, 2007; adopted as rule 230 effective January 1, 1949.

Chapter 9. Statement of Decision

Rule 3.1590. Announcement of tentative decision, statement of decision,and judgment
Rule 3.1591. Statement of decision, judgment, and motion for new trial following bifurcated trial

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

(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.

(Subd (a) amended effective January 1, 2010; previously amended effective January 1, 1969, July 1, 1973, January 1, 1982, January 1, 1983, and January 1, 2007.)

(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.

(Subd (b) amended effective January 1, 2010; adopted as part of subd (a); previously amended and lettered effective January 1, 2007; previously amended effective January 1, 2007.)

(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.

(Subd (c) amended effective January 1, 2010; adopted as part of subd (a); previously amended and lettered effective January 1, 2007.)

(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.

(Subd (d) adopted effective January 1, 2010.)

(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.

(Subd (e) amended and relettered effective January 1, 2010; adopted as subd (b); previously amended effective January 1, 1969, and January 1, 1982; previously amended and relettered as subd (d) effective January 1, 2007.)

(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.

(Subd (f) amended and relettered effective January 1, 2010; adopted as subd (c); previously amended effective January 1, 1969, July 1, 1973, and January 1, 1982; previously amended and relettered as subd (e)effective January 1, 2007.)

(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.

(Subd (g) amended and relettered effective January 1, 2010; adopted as subd (d); previously amended effective January 1, 1969, and January 1, 1982; previously relettered as subd (f) effective January 1, 2007.)

(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.

(Subd (h) amended and relettered effective January 1, 2010; previously amended effective January 1, 1969; previously amended and relettered as subd (e) effective January 1, 1982, and as subd (g) effective January 1, 2007.)

(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.

(Subd (i) adopted effective January 1, 2010.)

(j) Objection to proposed judgment

Any party may, within 10 days after service of the proposed judgment, serve and file objections thereto.

(Subd (j) adopted effective January 1, 2010.)

(k) Hearing

The court may order a hearing on proposals or objections to a proposed statement of decision or the proposed judgment.

(Subd (k) amended and relettered effective January 1, 2010; adopted as subd (f) effective January 1, 1982; previously relettered as subd (i) effective January, 2007.)

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

*(Subd (*l*) amended and relettered effective January 1, 2010; adopted as part of subd (e); previously amended and lettered as subd (h) effective January 1, 2007.)*

(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.

(Subd (m) relettered effective January 1, 2010; previously amended effective January 1, 1969, and July 1, 1973; previously amended and relettered as subd (g) effective January 1, 1982, and as subd (j) effective January 1, 2007.)

(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.

(Subd (n) amended and relettered effective January 1, 2010; adopted as subd (h) effective January 1, 1983; previously amended and relettered as subd (k) effective January 1, 2007.)

Rule 3.1590 amended effective January 1, 2010; adopted as rule 232 effective January 1, 1949; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 1969, July 1, 1973, January 1, 1982, January 1, 1983, and January 1, 2007.

Rule 3.1591. Statement of decision, judgment, and motion for new trial following bifurcated trial

(a) Separate trial of an issue

When a factual issue raised by the pleadings is tried by the court separately and before the trial of other issues, the judge conducting the separate trial must announce the tentative decision on the issue so tried and must, when requested under Code of Civil Procedure section 632, issue a statement of decision as prescribed in rule 3.1590; but the court must not prepare any proposed judgment until the other issues are tried, except when an interlocutory judgment or a separate judgment may otherwise be properly entered at that time.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of untitled subd.)

(b) Trial of issues by a different judge

If the other issues are tried by a different judge or judges, each judge must perform all acts required by rule 3.1590 as to the issues tried by that judge and the judge trying the final issue must prepare the proposed judgment.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of untitled subd.)

(c) Trial of subsequent issues before issuance of statement of decision

A judge may proceed with the trial of subsequent issues before the issuance of a statement of decision on previously tried issues. Any motion for a new trial following a bifurcated trial must be made after all the issues are tried and, if the issues were tried by different judges, each judge must hear and determine the motion as to the issues tried by that judge.

(Subd (c) amended and lettered effective January 1, 2007; adopted as part of untitled subd.)

Rule 3.1591 amended and renumbered effective January 1, 2007; adopted as rule 232.5 effective January 1, 1975; previously amended effective January 1, 1982, and January 1, 1985.

Division 16. Post-trial

Rule 3.1600. Notice of intention to move for new trial

(a) Time for service of memorandum

Within 10 days after filing notice of intention to move for a new trial in a civil case, the moving party must serve and file a memorandum in support of the motion, and within 10 days thereafter any adverse party may serve and file a memorandum in reply.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1949.)

(b) Effect of failure to serve memorandum

If the moving party fails to serve and file a memorandum within the time prescribed in (a), the court may deny the motion for a new trial without a hearing on the merits.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1949.)

Rule 3.1600 amended and renumbered effective January 1, 2007; adopted as rule 203 effective January 1, 1949; previously amended effective April 1, 1962, January 1, 1971, January 1, 1984, and January 1, 1987; previously amended and renumbered as rule 236.5 effective January 1, 2003.

Rule 3.1602. Hearing of motion to vacate judgment

A motion to vacate judgment under Code of Civil Procedure section 663 must be heard and determined by the judge who presided at the trial; provided, however, that in case of the inability or death of such judge or if at the time noticed for the hearing thereon he is absent from the county where the trial was had, the motion may be heard and determined by another judge of the same court.

Rule 3.1602 amended and renumbered effective January 1, 2007; adopted as rule 236 effective January 1, 1949.

Division 17. Attorney's Fees and Costs

Rule 3.1700. Prejudgment costs

(a) Claiming costs

(1) *Trial costs*

A prevailing party who claims costs must serve and file a memorandum of costs within 15 days after the date of mailing of the notice of entry of judgment or dismissal by the clerk under Code of Civil Procedure section 664.5 or the date of service of written notice of entry of judgment or dismissal, or within 180 days after entry of judgment, whichever is first. The memorandum of costs must be verified by a statement of the party, attorney, or agent that to the best of his or her knowledge the items of cost are correct and were necessarily incurred in the case.

(2) *Costs on default*

A party seeking a default judgment who claims costs must request costs on the *Request for Entry of Default (Application to Enter Default)* (form CIV-100) at the time of applying for the judgment.

(Subd (a) amended effective July 1, 2007; previously amended effective January 1, 2007.)

(b) Contesting costs

(1) *Striking and taxing costs*

Any notice of motion to strike or to tax costs must be served and filed 15 days after service of the cost memorandum. If the cost memorandum was served by mail, the period is extended as provided in Code of Civil Procedure section 1013.

(2) *Form of motion*

Unless objection is made to the entire cost memorandum, the motion to strike or tax costs must refer to each item objected to by the same number and appear in the same order as the corresponding cost item claimed on the memorandum of costs and must state why the item is objectionable.

(3) *Extensions of time*

The party claiming costs and the party contesting costs may agree to extend the time for serving and filing the cost memorandum and a motion to strike or tax costs. This agreement must be confirmed in writing, specify the extended date for service, and be filed with the clerk. In the absence of an agreement, the court may extend the

times for serving and filing the cost memorandum or the notice of motion to strike or tax costs for a period not to exceed 30 days.

(4) *Entry of costs*

After the time has passed for a motion to strike or tax costs or for determination of that motion, the clerk must immediately enter the costs on the judgment.

(Subd (b) amended effective January 1, 2007.)

Rule 3.1700 amended effective July 1, 2007; adopted as rule 870 effective January 1, 1987; previously amended and renumbered effective January 1, 2007.

Rule 3.1702. Claiming attorney's fees

(a) Application

Except as otherwise provided by statute, this rule applies in civil cases to claims for statutory attorney's fees and claims for attorney's fees provided for in a contract. Subdivisions (b) and (c) apply when the court determines entitlement to the fees, the amount of the fees, or both, whether the court makes that determination because the statute or contract refers to "reasonable" fees, because it requires a determination of the prevailing party, or for other reasons.

(Subd (a) amended effective January 1, 2007.)

(b) Attorney's fees before trial court judgment

(1) *Time for motion*
A notice of motion to claim attorney's fees for services up to and including the rendition of judgment in the trial court—including attorney's fees on an appeal before the rendition of judgment in the trial court—must be served and filed within the time for filing a notice of appeal under rules 8.104 and 8.108 in an unlimited civil case or under rules 8.822 and 8.823 in a limited civil case.

(2) *Stipulation for extension of time*
The parties may, by stipulation filed before the expiration of the time allowed under (b)(1), extend the time for filing a motion for attorney's fees:

(A) Until 60 days after the expiration of the time for filing a notice of appeal in an unlimited civil case or 30 days after the expiration of the time in a limited civil case; or

(B) If a notice of appeal is filed, until the time within which a memorandum of costs must be served and filed under rule 8.278(c) in an unlimited civil case or under rule 8.891(c)(1) in a limited civil case.

(Subd (b) amended effective July 1, 2013; previously amended effective January 1, 1999, January 1, 2006, January 1, 2007, January 1, 2009, and January 1, 2011.)

(c) Attorney's fees on appeal

(1) *Time for motion*
A notice of motion to claim attorney's fees on appeal—other than the attorney's fees on appeal claimed under (b)—under a statute or contract requiring the court to determine entitlement to the fees, the amount of the fees, or both, must be served and filed within the time for serving and filing the memorandum of costs under rule 8.278(c)(1) in an unlimited civil case or under rule 8.891(c)(1) in a limited civil case.

(2) *Stipulation for extension of time*
The parties may by stipulation filed before the expiration of the time allowed under (c)(1) extend the time for filing the motion up to an additional 60 days in an unlimited civil case or 30 days in a limited civil case.

(Subd (c) amended effective January 1, 2010; previously amended effective January 1, 1999, January 1, 2006, January 1, 2007, and July 1, 2008.)

(d) Extensions

For good cause, the trial judge may extend the time for filing a motion for attorney's fees in the absence of a stipulation or for a longer period than allowed by stipulation.

(Subd (d) amended effective January 1, 2007; adopted effective January 1, 1999.)

(e) Attorney's fees fixed by formula

If a party is entitled to statutory or contractual attorney's fees that are fixed without the necessity of a court determination, the fees must be claimed in the memorandum of costs.

(Subd (e) amended effective January 1, 2007; adopted as subd (d); previously relettered effective January 1, 1999.)

Rule 3.1702 amended effective July 1, 2013; adopted as rule 870.2 effective January 1, 1994; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 1999, January 1, 2006, July 1, 2008, January 1, 2009, and January 1, 2011.

Division 18. Judgments

Rule 3.1800. Default judgments

(a) Documents to be submitted

A party seeking a default judgment on declarations must use mandatory *Request for Entry of Default (Application to Enter Default)* (form CIV-100). In an unlawful detainer case, a party may, in addition, use optional *Declaration for Default Judgment by Court* (form UD-116) when seeking a court judgment based on declarations. The following must be included in the documents filed with the clerk:

(1) Except in unlawful detainer cases, a brief summary of the case identifying the parties and the nature of plaintiff's claim;

(2) Declarations or other admissible evidence in support of the judgment requested;

(3) Interest computations as necessary;

(4) A memorandum of costs and disbursements;

(5) A declaration of nonmilitary status for each defendant against whom judgment is sought;

(6) A proposed form of judgment;

(7) A dismissal of all parties against whom judgment is not sought or an application for separate judgment against specified parties under Code of Civil Procedure section 579, supported by a showing of grounds for each judgment;

(8) Exhibits as necessary; and

(9) A request for attorney fees if allowed by statute or by the agreement of the parties.

(Subd (a) amended effective July 1, 2007; previously amended effective January 1, 2005, and January 1, 2007.)

(b) Fee schedule

A court may by local rule establish a schedule of attorney's fees to be used by that court in determining the reasonable amount of attorney's fees to be allowed in the case of a default judgment.

(Subd (b) amended effective January 1, 2007.)

Rule 3.1800 amended effective July 1, 2007; adopted as rule 388 effective July 1, 2000; previously amended effective January 1, 2005; previously amended and renumbered effective January 1, 2007.

Rule 3.1802. Inclusion of interest in judgment

The clerk must include in the judgment any interest awarded by the court and the interest accrued since the entry of the verdict.

Rule 3.1802 amended and renumbered effective January 1, 2007; adopted as rule 875 effective January 1, 1987.

Rule 3.1804. Periodic payment of judgments against public entities

(a) Notice of election or hearing

A public entity electing to pay a judgment against it by periodic payments under Government Code section 984 must serve and file a notice of election stipulating to the terms of such payments, or a notice of hearing on such terms, by the earlier of:

(1) 30 days after the clerk sends, or a party serves, notice of entry of judgment; or

(2) 60 days after entry of judgment.

(b) Time for hearing

Notwithstanding any contrary local rule or practice, a hearing under (a) must be held within 30 days after service of the notice. The court must make an order for periodic payments at the hearing.

(Subd (b) amended effective January 1, 2007.)

Rule 3.1804 amended and renumbered effective January 1, 2007; adopted as rule 389 effective January 1, 2002.

Rule 3.1806. Notation on written instrument of rendition of judgment

In all cases in which judgment is rendered upon a written obligation to pay money, the clerk must, at the time of entry of judgment, unless otherwise ordered, note over the clerk's official signature and across the face of the writing the fact of rendition of judgment with the date of the judgment and the title of the court and the case.

Rule 3.1806 amended and renumbered effective January 1, 2007; adopted as rule 234 effective January 1, 1949.

Division 19. Postjudgment and Enforcement of Judgments

Rule 3.1900. Notice of renewal of judgment

Rule 3.1900. Notice of renewal of judgment

A copy of the application for renewal of judgment must be attached to the notice of renewal of judgment required by Code of Civil Procedure section 683.160.

Rule 3.1900 amended and renumbered effective January 1, 2007; adopted as rule 986 effective July 1, 1983.

Division 20. Unlawful Detainers

Rule 3.2000. Unlawful detainer—supplemental costs

Rule 3.2000. Unlawful detainer—supplemental costs

(a) Time for filing supplemental cost memorandum

In unlawful detainer proceedings, the plaintiff who has complied with Code of Civil Procedure section 1034.5 may, no later than 10 days after being advised by the sheriff or marshal of the exact amount necessarily used and expended to effect the eviction, file a supplemental cost memorandum claiming the additional costs and specifying the items paid and the amount.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1987.)

(b) Motion to tax costs

The defendant may move to tax those costs within 10 days after service of the supplemental cost memorandum.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1987.)

(c) Entry of judgment for costs and enforcement

After costs have been fixed by the court, or on failure of the defendant to file a timely notice of motion to tax costs, the clerk must immediately enter judgment for the costs. The judgment may be enforced in the same manner as a money judgment.

(Subd (c) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1987.)

Rule 3.2000 amended and renumbered effective January 1, 2007; adopted as part of rule 870.4 effective January 1, 1987.

Division 21. Rules for Small Claims Actions

Chapter 1. Trial Rules

Rule 3.2100. Compliance with fictitious business name laws

(a) Filing of declaration of compliance

A claimant who is required to file a declaration of compliance with the fictitious business name laws under Code of Civil Procedure section 116.430 must file the declaration in each case filed.

(Subd (a) amended and lettered effective January 1, 2007; adopted as untitled subd effective January 1, 1986.)

(b) Available methods

The clerk must make the declaration of compliance available to the claimant in any one of the following ways:

(1) The declaration of compliance may be placed on a separate form approved by the Judicial Council;

(2) The approved Judicial Council form may be placed on the reverse of the Plaintiff's Statement to the Clerk or on the back of any Judicial Council small claims form with only one side; or

(3) The precise language of the declaration of compliance that appears on the approved Judicial Council form may be incorporated into the Plaintiff's Statement to the Clerk.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective January 1, 1986.)

Rule 3.2100 amended and renumbered effective January 1, 2007; adopted as rule 1701 effective January 1, 1986; previously amended effective July 1, 1991.

Rule 3.2102. Substituted service

If substituted service is authorized by Code of Civil Procedure section 116.340 or other provisions of law, no due diligence is required in a small claims court action.

Rule 3.2102 renumbered effective January 1, 2007; adopted as rule 1702 effective July 1, 1991.

Rule 3.2104. Defendant's claim

A defendant may file a claim against the plaintiff even if the claim does not relate to the same subject or event as the plaintiff's claim, so long as the claim is within the jurisdictional limit of the small claims court.

Rule 3.2104 renumbered effective January 1, 2007; adopted as rule 1703 effective July 1, 1991.

Rule 3.2106. Venue challenge

A defendant may challenge venue by writing to the court. The defendant is not required to personally appear at the hearing on the venue challenge. If the court denies the challenge and the defendant is not present, the hearing must be continued to another appropriate date. The parties must be given notice of the venue determination and hearing date.

Rule 3.2106 amended and renumbered effective January 1, 2007; adopted as rule 1704 effective July 1, 1991.

Rule 3.2107. Request for court order

(a) Request before trial

If a party files a written request for a court order before the hearing on the claim, the requesting party must mail or personally deliver a copy to all other parties in the case. The other parties must be given an opportunity to answer or respond to the request before or at the hearing. This subdivision does not apply to a request to postpone the hearing date if the plaintiff's claim has not been served.

(b) Request after trial

If a party files a written request for a court order after notice of entry of judgment, the clerk must mail a copy of the request to all other parties in the action. A party has 10 calendar days from the date on which the clerk mailed the request to file a response before the court makes an order. The court may schedule a hearing on the request, except that if the request is to vacate the judgment for lack of appearance by the plaintiff, the court must hold a hearing. The court may give notice of any scheduled hearing with notice of the request, but the hearing must be scheduled at least 11 calendar days after the clerk has mailed the request.

Rule 3.2107 adopted effective January 1, 2007.

Rule 3.2108. Form of judgment

The court may give judgment for damages, equitable relief, or both, and may make other orders as the court deems just and equitable for the resolution of the dispute. If specific property is referred to in the judgment, whether it be personal or real, tangible or intangible, the property must be identified with sufficient detail to permit efficient implementation or enforcement of the judgment.

Rule 3.2108 amended and renumbered effective January 1, 2007; adopted as rule 1705 effective July 1, 1991.

Rule 3.2110. Role of clerk in assisting small claims litigants

(a) Provision of forms and pamphlets

The clerk must provide forms and pamphlets from the Judicial Council.

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective July 1, 1991.)

(b) Provision of Department of Consumer Affairs materials

The clerk must provide materials from the Department of Consumer Affairs when available.

(Subd (b) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective July 1, 1991.)

(c) Information about small claims advisory service

The clerk must inform litigants of the small claims advisory service.

(Subd (c) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective July 1, 1991.)

(d) Answering questions

The clerk may answer questions relative to filing and service of the claim, designation of the parties, scheduling of hearings, and similar matters**.**

(Subd (d) amended and lettered effective January 1, 2007; adopted as part of untitled subd effective July 1, 1991.)

Rule 3.2110 amended and renumbered effective January 1, 2007; adopted as rule 1706 effective July 1, 1991.

Chapter 2. Small Claims Advisors

Rule 3.2120. Advisor assistance

Rule 3.2120. Advisor assistance

(a) Notice to parties

The clerk must inform the parties, orally or in writing, about:

(1) The availability of advisors to assist small claims litigants at no additional charge as provided in Code of Civil Procedure sections 116.260 and 116.940~~,~~; and

(2) The provisions of Government Code section 818.9.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 1991.)

(b) Training

All small claims advisors must receive training sufficient to ensure competence in the areas of:

(1) Small claims court practice and procedure;

(2) Alternative dispute resolution programs;

(3) Consumer sales;

(4) Vehicular sales, leasing, and repairs;

(5) Credit and financing transactions;

(6) Professional and occupational licensing;

(7) Landlord-tenant law; and

(8) Contract, warranty, tort, and negotiable instruments law.

It is the intent of this rule that the county must provide this training.

(Subd (b) amended effective January 1, 2007; previously repealed and adopted effective July 1, 1991.)

(c) Qualifications

In addition to the training required in subdivision (b), each county may establish additional qualifications for small claims advisors.

(Subd (c) adopted effective July 1, 1991.)

(d) Conflict of interest

A small claims advisor must disclose any known direct or indirect relationship the advisor may have with any party or witness in the action. An advisor must not disclose information obtained in the course of the advisor's duties or use the information for financial or other advantage.

(Subd (d) amended effective January 1, 2007; adopted as subd (c); previously relettered effective July 1, 1991.)

Rule 3.2120 amended and renumbered effective January 1, 2007; adopted as rule 1725 effective January 1, 1986; previously amended effective July 1, 1991.