

**JUDICIAL COUNCIL OF CALIFORNIA**  
**ADMINISTRATIVE OFFICE OF THE COURTS**  
455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Mary M. Roberts, General Counsel  
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Office of the General Counsel

DATE: March 18, 2009

SUBJECT: Alternative Dispute Resolution: Extend Effective Date of New and Amended Rules on Requirements for Addressing Complaints About Court-Program Mediators (Cal. Rules of Court, rules 3.865–3.872) (Action Required)

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Issue Statement

New and amended rules 3.865–3.872 of the California Rules of Court, which will take effect July 1, 2009, establish requirements concerning superior court procedures for addressing complaints about court-program mediators in general civil cases, including a requirement that courts adopt local complaint procedures by local rule of court. Staff from several courts have requested that the deadline for adopting local complaint procedure rules be extended to January 1, 2010.

Recommendation

The Administrative Office of the Courts, Office of the General Counsel recommends that the Judicial Council extend the effective date of new and amended rules 3.865–3.872 from July 1, 2009, to January 1, 2010.

Rationale for Recommendation

At its October 24, 2008 meeting, the Judicial Council approved amending and adopting rules 3.865–3.872 of the California Rules of Court concerning superior court procedures for addressing complaints about court-program mediators in general civil cases. Among other things, these new and amended rules require those courts that must have complaint procedures to adopt these local complaint procedures by local rules of court. These new and amended rules, including the requirement that courts have local complaint procedure rules, take effect July 1, 2009.

Staff from several courts that would be required to have local complaint procedure rules in place by July 1, 2009 have requested that the deadline for adopting these local rules be extended to January 1, 2010. These staff have indicated that, given the lead time for developing, circulating, adopting, and submitting local rules, their courts will not be able to meet the current July 1, 2009 deadline. Extending the effective date of new and amended rules 3.865–3.872 would give those courts sufficient time to develop, circulate, adopt, and submit the necessary local complaint procedure rules. This extension would not prevent courts that are already in the process of adopting local complaint procedure rules from doing so. It would also not be detrimental to anyone who wants to make a complaint about a court-program mediator, since existing rule 3.865 already requires courts to have procedures for handling complaints about their mediators.<sup>1</sup> It would simply delay the requirement that these local complaint procedures be placed in the courts’ local rules and that they meet other new procedural requirements established by rules 3.865–3.872.

#### Alternative Actions Considered

Staff considered leaving the July 1, 2009 deadline in place, in which case some courts would be unable to comply with the new rule requirements. Staff concluded, however, that it would be preferable to provide courts with additional time to comply with these requirements.

#### Comments From Interested Parties

This proposal was not circulated for public comment.

#### Implementation Requirements and Costs

There will be minimal costs associated with informing courts and rule publishers of the changed effective date of these rules.

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<sup>1</sup> Rule 3.865 requires any 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 the court to establish procedures for receiving, investigating, and resolving complaints about those mediators.