

**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: Civil and Small Claims Advisory Committee  
Hon. Elihu M. Berle, Chair  
Hon. Dennis M. Perluss, Chair, Complex Litigation Subcommittee  
Susan R. Goins, Counsel, Complex Litigation Subcommittee,  
415-865-7990, susan.goins@jud.ca.gov

DATE: August 18, 2006

SUBJECT: Complex Civil Cases: Coordinating the Timing of Motion Papers  
(amend Cal. Rules of Court, rules 3.513, 3.521, 3.522, 3.523,  
3.525, and 3.526) (Action Required)<sup>1</sup>

Issue Statement

Rules 3.501–3.550 of the California Rules of Court concern the coordination of complex civil actions. Rule 3.513 governs motion papers in complex coordination proceedings generally, including papers in support of or opposition to a petition for coordination. It requires that response or opposition papers be served and submitted at least nine calendar days before the hearing. Rules 3.521, 3.522, and 3.523 use calendar days in addressing the time for opposition to a petition for coordination and submission of notice of the petition. Rules 3.525 and 3.526 use calendar days in setting the time for serving and filing papers in opposition to and in support of a petition for coordination, respectively.

The use of calendar rather than court days in these rules is different from Code of Civil Procedure section 1005, which establishes the time for serving and filing most civil motions, papers in opposition, and reply papers. Under section 1005, the time for filing

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<sup>1</sup> At the June 30, 2006, meeting, the Judicial Council approved the reorganization and renumbering of the California Rules of Court and Standards of Judicial Administration, effective January 1, 2007. Under the reorganization, the coordination rules that were numbered 1500–1550 have been renumbered as rules 3.500–3.550 and new format conventions have been adopted. Hence, the rule amendments are shown throughout this proposal using the new rule numbers that will become effective January 1, 2007. The rules in this proposal were renumbered as follows: rule 3.513 is former rule 1512; rule 3.521 is former rule 1321; rule 3.522 is former rule 1522; rule 3.523 is former rule 1523; rule 3.525 is former rule 1525; and rule 3.526 is former rule 1526.

papers in opposition to a motion is at least nine *court* days, rather than *calendar* days, before the hearing.<sup>2</sup>

### Rationale for Recommendation

Amending rules 3.513, 3.525, and 3.526 to provide that all opposition papers (unless otherwise provided for in the rules for coordination of complex civil cases) and all papers in support of a petition for coordination be served and submitted at least nine court days before the hearing would bring consistency with Code of Civil Procedure provisions governing most motions. Although the Judicial Council has authority under Code of Civil Procedure section 404.7 to adopt rules for coordination of civil actions

“[n]otwithstanding any other provision of law,” and while some of the practices and procedures established by such rules are unique to coordination proceedings, it would assist practitioners and courts if the timing for most papers in coordination proceedings were the same as in civil actions generally.

If rules 3.525 and 3.526 are amended as proposed, rule 3.522(a)(4) must be amended accordingly to specify the correct time in the notice for serving and submitting any opposition to a petition for coordination. Amending rule 3.521(b), rule 3.522(b), and rule 3.523 to require submission of proof of filing the notice of submission of petition within five court days would allow practitioners more time to accomplish this task and would bring consistency to the manner in which most short-term deadlines are specified in the coordination rules.

### Alternative Actions Considered

Rules 3.513, 3.525, and 3.526 could remain unchanged, but they would differ from the rules governing motion papers in other civil actions. Rule 3.521(b), rule 3.522(b), and rule 3.523 could remain unchanged, but the time periods in those rules would not be consistent with most short-term deadlines in the other coordination rules.

### Comments From Interested Parties

The proposal was circulated for public comment during the Spring 2006 comment cycle, from April 24 to June 23, 2006. Twelve commentators submitted comments.

Commentators included an appellate justice, a court executive officer, court managers, court research attorneys, the State Bar of California Committee on Administration of Justice, and local bar associations. All but one commentator agreed with the proposal with no modifications. Administrative Presiding Justice Roger W. Boren suggested that rule 1512 use “memoranda” rather than “memorandums.” However, the style for California Rules of Court is to use “memorandums.” A chart summarizing the comments and the committee’s responses is attached at pages 6–8.

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<sup>2</sup> Code of Civil Procedure section 1005 was amended effective January 1, 2005, to use court rather than calendar days by Assembly Bill 3078 [Stats. 2004, c. 171].

### Implementation Requirements and Costs

There are no significant implementation requirements or costs.

### Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2007, amend certain coordination rules as follows:

1. Rule 3.513 to change the time for service and submission of papers in support of or opposition to motions from nine calendar days to nine court days before any hearing;
2. Rule 3.521(b) to require that proof of filing the notice of submission of petition for coordination be submitted within five court days;
3. Rule 3.522(a)(4) to require that the statement concerning written opposition to a petition specify that opposition must be served and submitted at least nine court days before the hearing;
4. Rule 3.522(b) and rule 3.523 to provide that notice of submission of petition must be submitted within five court days of submitting the petition;
5. Rule 3.525 to change the time for service and filing of an opposition to a petition for coordination from nine calendar days to nine court days before the hearing;  
and
6. Rule 3.526 to change the time for service and filing of a response in support of a petition for coordination from nine calendar days to nine court days.

The text of the proposed rule amendments is attached at pages 4–5.

Attachments

Rules 3.513, 3.521, 3.522, 3.523, 3.525, and 3.526 of the California Rules of Court are amended, effective January 1, 2007, to read:<sup>3</sup>

1 **Rule 3.513. Service of memorandums and declarations**

2  
3 Unless otherwise provided in the rules in this chapter or directed by the assigned  
4 judge, all memorandums and declarations in support of or opposition to any  
5 petition, motion, or application must be served and submitted at least nine ~~calendar~~  
6 court days before any hearing on the matter at issue.  
7  
8

9 **Rule 3.521. Petition for coordination**

10  
11 (a) \*\*\*

12  
13 (b) **Submit proof of filing and service**

14  
15 Within five ~~calendar~~ court days of submitting the petition for coordination,  
16 the petitioner must submit to the Chair of the Judicial Council proof of filing  
17 of the notice of submission of petition required by rule 3.522, and proof of  
18 service of the notice of submission of petition and of the petition required by  
19 rule 3.523.  
20

21 (c)–(d) \*\*\*

22  
23  
24 **Rule 3.522. Notice of submission of petition for coordination**

25  
26 (a) **Contents of notice of submission**

27  
28 In each included action, the petitioner must file a “Notice of Submission of  
29 Petition for Coordination” and the petition for coordination. Each notice  
30 must bear the title of the court in which the notice is to be filed and the title  
31 and case number of each included action that is pending in that court. Each  
32 notice must include:  
33

34 (1)–(3) \*\*\*

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<sup>3</sup> These recommended amendments have been made to the version of this rule adopted by the Judicial Council at its June 30, 2006, business meeting and reflect the text that will be in effect on January 1, 2007. Any amendments adopted as part of this proposal will be incorporated into the text of the rule that goes into effect on January 1, 2007.

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

5 **(b) Copies of notice**  
6

7 The petitioner must submit the notice and proof of filing in each included  
8 action to the Chair of the Judicial Council within five ~~calendar~~ court days of  
9 submitting the petition for coordination.  
10

11  
12 **Rule 3.523. Service of notice of submission on party**  
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14 The petitioner must serve the notice of submission of petition for  
15 coordination that was filed in each included action, the petition for  
16 coordination, and supporting documents on each party appearing in each  
17 included action and submit the notice to the Chair of the Judicial Council  
18 within five ~~calendar~~ court days of submitting the petition for coordination.  
19  
20

21 **Rule 3.525. Response in opposition to petition for coordination**  
22

23 Any party to an included action that opposes coordination may serve and submit a  
24 memorandum and declarations in opposition to the petition. Any response in  
25 opposition must be served and filed at least nine ~~calendar~~ court days before the  
26 date set for hearing.  
27  
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29 **Rule 3.526. Response in support of petition for coordination**  
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31 Any party to an included action that supports coordination may serve and submit a  
32 written statement in support of the petition. Any response in support must be  
33 served and filed at least nine ~~calendar~~ court days before the date set for hearing. If  
34 a party that supports coordination does not support the particular site or sites  
35 requested by the petitioner for the hearing on the petition for coordination, that  
36 party may request that a different site or sites be selected and include in his or her  
37 response the facts relied on in support thereof.

**SPR06-39**

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(amend Cal. Rules of Court, rules 3.513 [formerly 1512], 3.521 [formerly 1521], 3.522 [formerly 1522],  
3.523 [formerly 1523], 3.525 [formerly 1525], and 3.526 [formerly 1526])**

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Ms. Debra J. Albin-Riley Chair, Los Angeles Co. Bar Ass'n. P.O. Box 55020 Los Angeles, CA 90055-2020	A	Y	No specific comment.	No response required.
2.	Justice Roger W. Boren Administrative Presiding Justice Court of Appeal, Second Appellate District 300 South Spring Street Los Angeles, CA 90013	AM	N	Rule 3.513 (formerly rule 1512). Service of memoranda <u>ums</u> and declarations  Unless otherwise provided in the rules in this chapter or directed by the assigned judge, all memoranda <u>ums</u> and declarations in support of or opposition to any petition, motion, or application must be served and submitted at least nine <del>calendar</del> <u>court</u> days before any hearing on the matter at issue.	Disagree because rule style is to use "memorandums." (The change to "court" days is part of the rule proposal.)
3.	Ms. Janet Garcia Manager, Planning & Research Unit Superior Court of Los Angeles County 111 North Hill Street Los Angeles, CA 90012	A	Y	No specific comment.	No response required.
4.	Mr. Thomas M. Holsinger Research Attorney Superior Court of Stanislaus County 800 11th Street Modesto, CA 95353	A	N	No specific comment.	No response required.

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
5.	Ms. Cheryl Kanatzar Deputy Executive Officer Superior Court of Ventura County 800 South Victoria Avenue Ventura, CA 93009	A	Y	No specific comment.	No response required.
6.	Ms. Tressa M. Kentner Chief Executive Officer Superior Court of San Bernardino County 172 W. 3rd Street, 2nd Floor San Bernardino, CA 92415-0302	A	N	No specific comment.	No response required.
7.	Mr. Wayne Maire President California Defense Counsel 925 L Street, Suite 1250 Sacramento, CA 95814	A	Y	No specific comment.	No response required.
8.	Ms. Julie M. McCoy President, Orange County Bar Ass'n. P.O. Box 17777 Irvine, CA 92623-7777	A	Y	No specific comment.	No response required.

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Committee Response</b>
9.	Ms. Debra Meyers Chief of Staff Counsel Services Superior Court of San Bernardino County 172 W. 3rd Street, 2nd Floor San Bernardino, CA 92415-0302	A	N	No specific comment.	No response required.
10.	Ms. Pam Moraida Civil/Small Claims Program Manager Superior Court of Solano County 600 Union Avenue Fairfield, CA 94533-5000	A	N	No specific comment.	No response required.
11.	Ms. Kimberly Ringer Research Attorney Superior Court of Stanislaus County 800 11th Street Modesto, CA 95353	A	N	No specific comment.	No response required.
12.	State Bar of California Committee on Administration of Justice 180 Howard Street San Francisco, CA 94105-1639	A	Y	No specific comment.	No response required.