

**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. Dennis M. Perluss, Chair
Complex Litigation and Case Management Subcommittee
Hon. Brian R. Van Camp, Chair
Susan R. McMullan, Subcommittee Counsel, 415-865-7990

DATE: August 3, 2009

SUBJECT: Statement of Decision (amend Cal. Rules of Court, rule 3.1590) (Action Required)

Issue Statement

Rule 3.1590, which governs the statement of decision following a bench trial, includes time deadlines that are unnecessarily complicated and difficult to follow. The proposed amendment simplifies them.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2010, amend rule 3.1590 to make it clearer and easier to follow.

The proposed text of amended rule 3.1590 is attached at pages 5–8.

Rationale for Recommendation

Rule 3.1590 currently has a complicated timeline, which shifts depending on, for example, whether one party or the other does or does not file a document, such as a request or a proposed statement of decision. The *California Judges Benchbook: Civil Proceedings-Trial* has two sections devoted to the current rule and includes a special worksheet to show the calculations. (*Cal. Judges Benchbook: Civil Proceedings-Trial* (CJER 1997) §§ 212 and 218.) Time deadlines in the rule are dependent on and calculated from different types of events. They are variously determined by calculating a certain—and different—number of days after the following:

- After a request (subdivision (d));
- The expiration of a time period (subdivision (e) etc.);
- Notice (subdivision (e));
- Service (subdivision (f) and (g));
- Notification (subdivision (g)); and
- Hearing (subdivision (h)).

One provision, rule 3.1590(e), permits action after failure of service, but it does not impose any time deadline. It provides: “If the proposed statement of decision and judgment are not served and submitted within [15 days after the expiration of the time for filing proposals as to the content of the statement, or within 15 days after notice, whichever is later], any other party who appeared at the trial may: (1) prepare, serve and submit to the court a proposed statement of decision and judgment”

This proposal simplifies the rule by having most deadlines for action calculated from the date of the announcement or service of the tentative decision or the most recent action. For example, a new subdivision (d) provides that a party may request a statement of decision within 10 days after announcement or service of the tentative decision. Within 10 days after that, any other party may make proposals concerning the content of the statement of decision, under amended subdivision (e). If no party requests or is ordered to prepare a statement of decision and a written judgment is required, the court must prepare a proposed judgment within 20 days after announcement or service of the tentative decision. (Cal. Rules of Court, rule 3.1590(h).)

The proposal makes other changes in the timing of certain actions and in how the time is calculated. None of the changes reduce the time the court has to prepare a statement of decision or judgment. The provision that applies to a trial that was completed within one day (subdivision (n)) has been amended to more accurately state the requirements of Code of Civil Procedure section 632. In the circumstances of a one-day trial, a request for a statement of decision must be made before the matter is submitted for decision and the statement of decision may be made orally. In addition, references in the rule to “controverted issues” have been modified to add “principal” before “controverted issues” to mirror the language in the first part of Code of Civil Procedure section 632.

Alternative Actions Considered

The advisory committee considered setting different time periods for certain actions, discussed including a provision that would address whether objections were necessary, and discussed eliminating the words “if a written judgment is required.” For clarity and consistency, the committee decided to use the time periods and method of calculating time that are in the proposed amended rule. The committee decided not to address the necessity of objections because of the risk of unintentionally affecting rights to appeal and decided to retain the language “if a written judgment is required” to address the

situation of a bifurcated trial on equitable issues in which a written judgment would not be required at the end of the first phase of trial.

Comments From Interested Parties

The proposal circulated for public comment during the spring comment cycle. Seven entities or individuals submitted comments. Commentators included four superior courts, a county bar association, the State Bar of California Committee on Administration of Justice (CAJ), and a San Francisco judge. All either agreed with the proposal or agreed if it were modified. A chart summarizing the comments and the advisory committee's responses is attached at pages 9–21.

The Orange County Bar Association suggested that rule 3.1590(c) be modified by changing “may” to “must.” This would require the court to take one of four actions: to (1) state that the tentative decision is the statement of decision subject to objections, (2) indicate the court will prepare a statement of decision, (3) order a party to prepare one, or (4) direct that the tentative decision will become the statement of decision unless a party specifies controverted issues or makes a proposal not included in the tentative decision. When the proposed amendment was drafted, the word “may” was retained so that a court would not be required to take one of these actions, each of which results in a statement of decision. The committee recommends this approach, in which no statement of decision might be prepared and, if the matter were appealed, there would be no tentative decision or statement of decision to be reviewed, resulting in a presumption in favor of a general verdict for the prevailing party. In addition, the committee believes it is appropriate to require a party to request a statement of decision if the party is not satisfied with the language or scope of the tentative decision.

CAJ suggested that subdivision (c) retain language in the current rule that would allow a party to specify controverted issues or make proposals not covered in the tentative decision. The proposed amendment would have limited a party to addressing controverted issues not included in the tentative decision. CAJ commented that with this change, a party would appear to be precluded from addressing a controverted issue that *is* covered by the tentative decision. In response to this comment, the committee has modified the rule to allow a party to specify controverted issues *or* make proposals not included in the tentative decision.

In two rule provisions in which the court is required to prepare and mail a document, such as the proposed statement of decision or judgment, CAJ suggested that the word “serve” be substituted for “mail.” This would update and clarify the meaning of the rule. The committee agreed with this suggestion and has modified the rule.

CAJ suggested several other changes, such as adding “whichever is later” to provisions that specify time running from more than one action and substituting “within 10 days

after” for “within 10 days of.” The committee agreed with these suggestions and has made the changes.

The Superior Court of Orange County suggested that rule 3.1590(h) be modified so that the time period for preparing and filing of a written judgment when a statement of decision is not prepared be 30 rather than 20 days. The committee believes that the time to prepare a written judgment should be less than the time to prepare a statement of decision. The time has not been shortened from the time in the existing rule. Therefore, the committee does not recommend that this change be made.

Judge Curtis E. A. Karnow, a former member of the advisory committee who initially recommended amending rule 3.1590, provided several comments. He questioned why a tentative decision must be entered in the minutes and whether subdivision (b)—which states that the tentative decision does not constitute a judgment and is not binding on the court and any modification to it must be served—is necessary. Judge Karnow also questioned the required timing of the court’s statement of decision and judgment. He proposed several modifications to the first five subdivisions of the rule and to those addressing the final judgment, setting a hearing on objections, and the date the matter is deemed submitted. The committee declined to make the changes to the first five rule subdivisions because it thought it necessary to maintain subdivision (b) (tentative decision not binding), to make the preparation of a statement of decision discretionary unless a party requests it (subdivision (c)), and to allow parties to respond to another party’s request for a statement of decision. The committee thought that the provisions in the rule that circulated for comment addressing preparation of the final judgment and hearings on objections did not need modification. Finally the committee thought it unnecessary to specify when the matter is deemed submitted as this is determined in the same way as other matters.

The remaining commentators agreed with the proposal without providing specific comments.

Implementation Requirements and Costs

The proposal does not impose any additional burdens or duties on the court and is not expected to have any implementation costs.

Attachments

Rule 3.1590 of the California Rules of Court is amended by the Judicial Council, effective January 1, 2010, to read:

1 **Rule 3.1590. Announcement of tentative decision, statement of decision, and**
2 **judgment**

3
4 **(a) Announcement and service of tentative decision**

5
6 On the trial of a question of fact by the court, the court must announce its
7 tentative decision by an oral statement, entered in the minutes, or by a
8 written statement filed with the clerk. Unless the announcement is made in
9 open court in the presence of all parties ~~who~~ that appeared at the trial, the
10 clerk must immediately ~~mail to~~ serve on all parties that appeared at the trial a
11 copy of the minute entry or written tentative decision.
12

13 **(b) Tentative decision not binding**

14
15 The tentative decision does not constitute a judgment and is not binding on
16 the court. If the court subsequently modifies or changes its announced
17 tentative decision, the clerk must ~~mail~~ serve a copy of the modification or
18 change ~~to~~ on all parties that appeared at the trial.
19

20 **(c) Provisions in tentative decision**

21
22 The court in its tentative decision may ~~(1) state whether a statement of~~
23 ~~decision, if requested, will be prepared by the court or by a designated party,~~
24 ~~and (2) direct that the tentative decision will be the statement of decision~~
25 ~~unless within 10 days either party specifies controverted issues or makes~~
26 ~~proposals not covered in the tentative decision.~~
27

- 28 (1) State that it is the court's proposed statement of decision, subject to a
29 party's objection under (g);
30
31 (2) Indicate that the court will prepare a statement of decision;
32
33 (3) Order a party to prepare a statement of decision; or
34
35 (4) Direct that the tentative decision will become the statement of
36 decision unless, within 10 days after announcement or service of the
37 tentative decision, a party specifies those principal controverted
38 issues as to which the party is requesting a statement of decision or
39 makes proposals not included in the tentative decision.
40

1 **(d) Request for statement of decision**

2
3 Within 10 days after announcement or service of the tentative decision,
4 whichever is later, any party that appeared at trial may request a statement of
5 decision to address the principal controverted issues. The principal
6 controverted issues must be specified in the request.

7
8 **(d)(e) Proposals following Other party's response to request for statement of**
9 **decision (Code Civ. Proc., § 632)**

10
11 Any proposals as to the content of the statement of decision must be made If
12 a party requests a statement of decision under (d), any other party may make
13 proposals as to the content of the statement of decision within 10 days of
14 after the date of request for a statement of decision.

15
16 **(e)(f) Preparation and service of proposed statement of decision and judgment**

17
18 If a party requests a statement of decision is requested under (d), the court
19 must, within 15 30 days after the expiration of the time for proposals as to
20 the content of the statement of decision of announcement or service of the
21 tentative decision, prepare and mail serve a proposed statement of decision
22 and a proposed judgment to on all parties that appeared at the trial, unless the
23 court has designated a party to prepare the statement as provided by
24 subdivision (e) or has, within 5 days after the request, notified ordered a
25 party to prepare the statement. A party who that has been designated or
26 notified ordered to prepare the statement must within 15 30 days after the
27 expiration of the time for filing proposals as to the content of the statement,
28 or within 15 days after notice, whichever is later, prepare, announcement or
29 service of the tentative decision, serve, and submit to the court a proposed
30 statement of decision and a proposed judgment. If the proposed statement of
31 decision and judgment are not served and submitted within that time, any
32 other party who that appeared at the trial may within 10 days thereafter: (1)
33 prepare, serve, and submit to the court a proposed statement of decision and
34 judgment; or (2) serve on all other parties and file a notice of motion for an
35 order that a statement of decision be deemed waived.

36
37 **(f)(g) Objections to proposed statement of decision**

38
39 Any party affected by the judgment may, within 15 days after the proposed
40 statement of decision and judgment have been served, serve and file
41 objections to the proposed statement of decision or judgment.

1 ~~(g)~~**(h) Preparation and filing of written judgment when statement of decision**
2 **not requested prepared**

3
4 If no party requests or is ordered to prepare a statement of decision ~~is not~~
5 ~~requested or has been waived~~ and a written judgment is required, the court
6 must prepare and ~~mail~~ serve a proposed judgment ~~to~~ on all parties ~~who~~ that
7 appeared at the trial within 10 20 days after expiration of the time for
8 requesting a statement of decision or time of waiver ~~the announcement or~~
9 service of the tentative decision- ~~or~~ the court may ~~notify~~ order a party to
10 prepare, serve, and submit the proposed judgment to the court within 10 days
11 after the date of the order. ~~Any party affected by the judgment may, within~~
12 ~~10 days after service of the proposed judgment, serve and file objections~~
13 ~~thereto.~~

14
15 **(i) Preparation and filing of written judgment when statement of decision**
16 **deemed waived**

17
18 If the court orders that the statement of decision is deemed waived and a
19 written judgment is required, the court must, within 10 days of the order
20 deeming the statement of decision waived, either prepare and serve a
21 proposed judgment on all parties that appeared at the trial or order a party to
22 prepare, serve, and submit the proposed judgment to the court within 10
23 days.

24
25 **(i) Objection to proposed judgment**

26
27 Any party may, within 10 days after service of the proposed judgment, serve
28 and file objections thereto.

29
30 **~~(i)~~**(k) Hearing****

31
32 The court may order a hearing on proposals or objections to a proposed
33 statement of decision or the proposed judgment ~~if a statement of decision is~~
34 ~~not required.~~

35
36 **~~(h)~~**(l) Signature and filing of judgment****

37
38 If a written judgment is required, the court must, within 10 days after
39 expiration of the time for filing objections to the proposed judgment or, if a
40 hearing is held, within 10 days after the hearing, sign and file its the
41 judgment within 50 days after the announcement or service of the tentative
42 decision, whichever is later, or, if a hearing was held under (k), within 10

1 days after the hearing. The judgment so ~~filed~~ constitutes the decision on
2 which judgment is to be entered under Code of Civil Procedure section 664.

3
4 **(j)(m) Extension of time; relief from noncompliance**

5
6 The court may, by written order, extend any of the times prescribed by this
7 rule and at any time before the entry of judgment may, for good cause shown
8 and on such terms as may be just, excuse a noncompliance with the time
9 limits prescribed for doing any act required by this rule.

10
11 **(k)(n) ~~Not applicable to~~ Trial within one day**

12
13 ~~This rule does not apply if~~ When the a trial was is completed within one day
14 or in less than eight hours over more than one day, a request for statement of
15 decision must be made before the matter is submitted for decision and the
16 statement of decision may be made orally on the record in the presence of the
17 parties.

SPR09-17

Statement of Decision (amend Cal. Rules of Court, rule 3.1590)

All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Committee Response |
|----|---|-----------------|---|---|
| 1. | Hon. Curtis Karnow Superior Court of San Francisco County 400 McAllister Street San Francisco | AM | <p>Why does a tentative have to be entered on the minutes (a long as there's a record of the tentative)?</p> <p>Re: (b) – do we really need this?</p> <p>Re: (d) – et seq. – the phrase ‘issues not included’ perhaps should be ‘issues not addressed’</p> <p>Re: (e) – the cite to subsection (c) perhaps should be to (d)</p> <p>Re: (f) – same comment as just above</p> <p>Re: (f) – last insert of “within 10 days” [p.3 line 32] = within 10 days of what event?</p> <p>Re: (h) – et seq. – is a written [judgment] ever not required? Can we delete this phrase?</p> | <p>The existing rule requires either an oral statement entered in the minutes of a written statement filed with the clerk. The committee did not propose any change.</p> <p>This explains the significance of the tentative decision and requires the clerk to serve any modification. The committee believed the latter sentence was unnecessary and deleted it in the rule that circulated for comment, but has restored it in response to a comment from the State Bar Committee on Administration of Justice. (See comment 3, below.)</p> <p>The rule does not contain this language.</p> <p>The committee agrees and this change has been made.</p> <p>Same response.</p> <p>This provision has been modified by the addition of “thereafter” after “within 10 days.”</p> <p>The committee retained this language for a situation such as a bifurcated trial on equitable issues in which a written judgment would not be required at the end of the first phase of trial.</p> |

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| | | | <p>Proposal regarding Statement of Decision rule</p> <p>The proposed rule is a great improvement on the current rule, for exactly the reasons stated in the request for comment. However, it remains far more complex than required by CCP § 632, and its “one size fits all” approach does not account for the more complex case. I do understand that the timetable of the rule can be modified by the court, but why not simply allow the court to set the timetable in the first place?</p> <p>Further it is not clear why statements of decision must be accomplished within 50 days of the tentative when generally speaking other judicial decisions must be accomplished within 90 days. I agree that speed is beneficial, but because the court can issue the tentative any time the current and proposed rules do not necessarily improve on the 90 day rule.</p> <p>This last note raises another issue: The relationship between the 90 day rule and the timetable. My suggestion is that because the court does not have all the positions of the parties until after objections and requests for content are received, that reception triggers the 90 day period. My proposal below includes that.</p> | <p>This proposal does not shorten the time in the existing rule. The amendments attempt to simplify the process and make it easier to calculate when an act must take place.</p> <p>The committee agrees.</p> |

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| | | | <p>A review of the statute and the practicalities generally suggest:</p> <ul style="list-style-type: none">• There's no need to enter the tentative into the minutes (as long as there's a record);• A(i) request for content, (ii) request that controverted issues be addressed, and (iii) objections [all these notions are variously found in the current AND proposed rule] are in practice the same sort of thing;• A written judgment is always done (is it not?) so we can leave out that notion. <p>For all these reasons, and because shorter, less complex rules are usually preferred to the opposite, I suggest something along these lines:</p> <ol style="list-style-type: none">1. On the trial of a question of fact by the court, the court must announce its tentative decision either by oral statement on the record or in writing served on all parties.2. The tentative decision is the proposed statement of decision | <p>The committee retained this language for a situation such as a bifurcated trial on equitable issues in which a written judgment would not be required at the end of the first phase of trial.</p> <p>The committee declined to model the rule as in the commentator's example, because it believes certain additional and currently existing provisions are necessary.</p> |

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| | | | <p>unless it:</p> <ul style="list-style-type: none">a. requires a party to draft a proposed statement of decision and proposed judgment by a date certain, orb. announces that the court will draft a proposed statement of decision <p>3. Within ten days of the service of any proposed statement of decision any party may make objections to it or make other request as to the [content] of the statement of decision.</p> <p>4. After the expiration of the period set in (3) the court must either:</p> <ul style="list-style-type: none">a. file and serve the statement of decision, and file and serve the judgment or instruct a party to draft the judgment by a date certain; orb. set a hearing on objections or other requests as to the content of the statement of decision. <p>5. The matter is deemed submitted on the date certain or the date of the hearing set in (4).</p> <p>While non-mandatory language is normally a very bad idea in a rule, we could add</p> | <p>The committee declined to make this change.</p> |

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| | | | something at the end which urges courts to try to get through the process within e.g. 50 days. | |
| 2. | Orange County Bar Association By Michael G. Yoder, President PO Box 6130 Newport Beach | AM | <p>Recommend Rule 3.1590(c) be modified by changing the word “may” to “must” so that the rule would read, “The court in its tentative decision must...”</p> <p>Recommend Rule 3.1590(e) be modified to change “makes a request for” to “requests” and change the reference to “(c)” to “(d)” so that the rule would read, “if a party requests a statement of decision under (d)...”</p> <p>Recommend Rule 3.1590(f) be modified to change the reference to “(c)” to “(d)” so that the rule would read, “if a party requests a statement of decision under (d)...”</p> | <p>The committee notes that the existing rule uses “may.” The commentator’s proposed modification would <i>require</i> the court to do one of the four things listed. With the suggested modification, the court could not decline to have a statement of decision. The committee decided not to make this change because it does not believe a statement of decision is always necessary.</p> <p>The committee agrees and this change has been made.</p> <p>This was an oversight. The committee agrees and this change has been made.</p> |
| 3. | State Bar of California Committee on Administration of Justice 180 Howard Street San Francisco | AM | <p>CAJ supports the effort to clarify and modify rule 3.1590, subject to the comments below.</p> <p><u>Subdivision (a) - Announcement and service of tentative decision</u></p> <p>CAJ supports.</p> <p><u>Subdivision (b) - Tentative decision not</u></p> | |

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| | | | <p><u>binding</u></p> <p>CAJ recommends against deleting the second sentence in the current rule, providing: “If the court subsequently modifies or changes its announced tentative decision, the clerk must mail a copy of the modification or change to all parties that appeared at the trial.” This sentence gives guidance to the court in the event a modification to the tentative decision is made and assures that the parties receive notice of that modification.</p> <p><u>Subdivision (c) - Provisions in tentative decision</u></p> <p>CAJ recommends that paragraph (4) retain the language in the current rule that allows a party to specify controverted issues <u>or</u> make proposals not covered in the tentative decision. Without that language, paragraph (4) would limit a party to addressing controverted issues specified by the party <u>and</u> not included in the tentative decision. The change in language appears to preclude a party from addressing a controverted issue that <u>is</u> covered by the tentative decision. The current rule is not limited in that manner, nor is Code of Civil Procedure Section 632, which allows a party to make proposals as to the contents of a statement of decision. CAJ recommends that</p> | <p>The committee initially believed the language was unnecessary, but has restored it in response to this comment.</p> <p>The committee agrees and this change has been made.</p> |

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| | | | <p>paragraph (4) be amended to track the language of the current rule, and that “within 10 days of” be changed to “within 10 days after,” consistent with other rules and proposed changes. With those changes, paragraph (4) would read as follows: “Direct that the tentative decision will become the statement of decision unless, within 10 days of <u>after</u> announcement or service of the tentative decision, a party requests a statement of decision to address controverted issues specified by the party and not included in the tentative decision <u>specifies controverted issues or makes proposals not covered in the tentative decision.</u>”</p> <p><u>Subdivision (d) - Request for statement of decision</u></p> <p>CAJ recommends that this subdivision be amended to read as follows: “Within 10 days of <u>after</u> announcement or service of the tentative decision, <u>whichever is later</u>, any party that appeared at trial may request a statement of decision to address controverted issues not included in the tentative decision. The controverted issues must be specified in the request.”</p> <p>The addition of “whichever is later” would clarify the triggering date in the event a tentative decision is both announced and</p> | <p>The committee agrees and this change has been made.</p> |

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| | | | <p>served, but on different days. Deletion of “not included in the tentative decision” would permit a party to raise a controverted issue that <u>is</u> covered by the tentative decision, as discussed above in connection with subdivision (c).</p> <p><u>Subdivision (e) - Other party’s response to request for statement of decision</u></p> <p>CAJ recommends that the rule be amended to provide that any other party may make proposals as to the content of the statement of decision within 10 days of after “announcement or service of the request, whichever is later” instead of within 10 days after the “date of request.” This would avoid potential ambiguity regarding the “date of request” and parallels the proposed change that CAJ has suggested in connection with subdivision (d).</p> <p>CAJ also notes a minor typographical error. The reference to subdivision (c) should be to subdivision (d).</p> <p><u>Subdivision (f) - Preparation and service of proposed statement of decision and judgment</u></p> <p>CAJ recommends that the first sentence be modified to require the court to “prepare and mail <u>serve</u> a proposed statement of</p> | <p>The committee believes that the date of service of a request, which is made by a party, would not be ambiguous.</p> <p>This change has been made.</p> <p>The committee agrees and this change has been made.</p> |

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| | | | <p>decision and a proposed judgment to <u>on</u> all parties...” CAJ also notes that the reference to subdivision (c) in the first sentence should be to should be to subdivision (d).</p> <p>CAJ recommends that in the last sentence, prior to the colon, the word “thereafter” be inserted after “within 10 days.”</p> <p><u>Subdivision (g) - Objections</u></p> <p>CAJ opposes shortening the time to object from 15 days to 10 days, and recommends that the time to object remain at 15 days.</p> <p><u>Subdivision (h) - Preparation and filing of written judgment when statement of decision not prepared</u></p> <p>CAJ agrees with the proposed changes, but suggests that the first sentence be modified to require the court to “prepare and mail <u>serve</u> a proposed judgment to <u>on</u> all parties...”</p> <p><u>Subdivision (i) - Preparation and filing of written judgment when statement of decision deemed waived</u></p> <p>CAJ supports.</p> <p><u>Subdivision (j) - Objection to proposed judgment</u></p> | <p>This change has been made.</p> <p>The committee agrees.</p> <p>The committee agrees and this change has been made.</p> |

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| | | | <p>CAJ supports.</p> <p><u>Subdivision (k) - Signature and filing of judgment</u></p> <p>CAJ recommends that the rule be amended to require the court to sign and file the judgment “within 50 days after the announcement <u>or service</u> of the tentative decision <u>whichever is later</u> ...” This would be consistent with the language of the other rules (and CAJ’s proposed addition of “whichever is later” to those rules). CAJ also recommends that this subdivision be placed after proposed subdivision (l) dealing with the hearing. The events described in this subdivision may not take place until after the hearing is held, and reversing the order of subdivisions (k) and (l) would be consistent with a chronological sequencing of events. In the event the order of the two subdivisions is reversed, CAJ also recommends that this subdivision refer to 50 days after a “hearing was held <u>under (k)</u>...”</p> <p><u>Subdivision (l) - Hearing</u></p> <p>As noted above, CAJ recommends that the order of subdivisions (k) and (l) be reversed.</p> <p><u>Subdivision (m) - Extension of time; relief</u></p> | <p>The committee agrees and this change has been made.</p> <p>The committee agrees and this change has been made.</p> <p>This change has been made.</p> |

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| | Commentator | Position | Comment | Committee Response |
|--|--------------------|-----------------|--|--|
| | | | <p><u>from noncompliance</u></p> <p>CAJ supports.</p> <p><u>Subdivision (n) - Not applicable to trial within one day</u></p> <p>Subdivision (n) provides that rule 3.1590 does not apply if the trial was completed within one day or in less than eight hours. Under Code of Civil Procedure Section 632, a party is entitled to a statement of decision in such cases, but (1) it must be requested prior to the submission of the matter for decision, and (2) it may be made orally on the record. Completely exempting such short trials from rule 3.1590 leaves parties and courts with no rules at all (and might even lead a reader of the rule to conclude that one is not entitled to a statement of decision at all in such cases). Many provisions of rule 3.1590 could apply to a short trial, and CAJ suspects that the rule has provided guidance to trial courts and parties for such short trials, notwithstanding current subdivision (n). CAJ recommends, however, that as long as this rule is being re-examined, consideration be given to creating alternative rules that would govern a statement of decision where the trial is completed within one day or in less than eight hours. At a minimum, either the rule or a comment to the rule should specifically</p> | <p>The committee agrees and this provision has been modified to provide that in these circumstances the statement of decision may be made orally on the record in the presence of the parties.</p> |

SPR09-17**Statement of Decision** (amend Cal. Rules of Court, rule 3.1590)

All comments are verbatim unless indicated by an asterisk (*).

| | Commentator | Position | Comment | Committee Response |
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| | | | acknowledge the entitlement to a statement of decision in such cases, possibly by referencing Code of Civil Procedure Section 632. | |
| 4. | Superior Court of Kern County By Christina Rodriguez Assistant Court Supervisor 1215 Truxtun Avenue Bakersfield | A | No specific comment. | No response necessary. |
| 5. | Superior Court of Los Angeles County 111 N. Hill Street Los Angeles | A | No specific comment. | No response necessary. |
| 6. | Superior Court of Orange County By Meri Fischer, Family Court Analyst 700 Civic Center Drive West Santa Ana | AM | Rule 3.1590(h), California Rules of Court, preparation and filing of written judgment when Statement of Decision not prepared, at line 7: The time frame for the court to prepare and mail a proposed judgment should be 30 days, consistent with subsection (f) which provides the court with 30 days to prepare and mail a proposed Statement of Decision. Rule 3.1590(k), California Rules of Court, at line 35: Insert “on objections” between the words hearing and was held. | The committee intended the time to be less (20 rather than 30 days) in this situation, in which no party requests or is ordered to prepare a statement of decision. The committee declines to make this change because a hearing could be held on proposals as well as objections and it is not necessary to specify the purpose of the hearing. |
| 7. | Superior Court of San Diego County By Michael M. Roddy, Executive Officer | A | No additional comments. | No response necessary. |

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| | Commentator | Position | Comment | Committee Response |
|--|--|-----------------|----------------|---------------------------|
| | County Courthouse, 220 West Broadway San Diego | | | |