

**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. Lee Smalley Edmon, Chair
Uniform Rules Subcommittee
Hon. Brian R. Van Camp, Chair
Patrick O'Donnell, Committee Counsel, 415-865-7665,
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DATE: October 9, 2007

SUBJECT: Rules Modernization: Updating Antiquated References to "Attachés"
(amend Cal. Rules of Court, rules 2.400, 3.58, and 3.60) (Action
Required)

Issue Statement

Rules 2.400, 3.58, and 3.60 of the California Rules of Court contain references to "attaché" and "attachés." To be clearer and in plain language, these terms should be replaced with "authorized court personnel."

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2008, amend rules 2.400, 3.58, and 3.60 of the California Rules of Court to replace the terms "attaché" or "attachés" with "authorized court personnel."

The text of amended rules 2.400, 3.58, and 3.60 is attached at page 3.

Rationale for Recommendation

Rule 2.400 of the California Rules of Court regarding the handling of court records, and rules 3.58 and 3.60 relating to fee waiver applications, refer to a court "attaché" or "attachés" when identifying those persons who may have access certain court business. "Attaché" is a French term for a person who is assigned to the administrative staff of a higher placed person and is now used primarily to refer to diplomatic staff. Because the term is both undefined in the rules and relatively arcane, it may create unnecessary confusion. Consistent with the move

toward plainer language in the rules, rules 2.400, 3.58, and 3.60 should be amended, effective January 1, 2008, to replace “attaché” and “attachés” with the clearer term “authorized court personnel.”

Alternative Actions Considered

Because there is no alternative to replacing the outmoded terms with clearer, more contemporary language, the committee did not consider alternatives.

Comments From Interested Parties

This proposal was circulated in spring 2007. Seven comments were received on this proposal. The commentators included court administrators, a small claims advisor, and the president of a local bar association. All the commentators supported the proposed amendments. A chart summarizing the public comments and the committee’s responses is attached at pages 4–5.

Implementation Requirements and Costs

The proposed amendments will not require any implementation nor impose any additional costs on the courts.

Attachments

Rules 2.400, 3.58, and 3.60 of the California Rules of Court are amended, effective January 1, 2008, to read as follows:

1 **Rule 2.400. Court records**

2
3 **(a) Removal of papers**

4
5 Only the clerk may remove and replace papers in the court's files. Unless
6 otherwise ordered by the court, filed papers may only be inspected by the
7 public in the office of the clerk and released to a court officer or attaché
8 authorized court personnel for use in a court facility. No original papers filed
9 with the clerk may be used in any location other than a court facility, unless
10 so ordered by the presiding judge.

11
12 **(b)–(c) *****

13
14 **Rule 3.58. Hearing on application**

15
16 **(a) *****

17
18 **(b) Confidentiality of hearing**

19
20 To ensure confidentiality of the applicant's financial information, the hearing
21 must be held in private and the court must exclude all persons except
22 authorized court attachés personnel, the applicant, those present with the
23 applicant's consent, and any witness being examined.

24
25 **Rule 3.60. Confidentiality**

26
27 No person may have access to an application to proceed in forma pauperis except
28 the court and authorized attachés court personnel, persons authorized to verify the
29 information under rules 3.53 and 3.59(c) and under Government Code section
30 68511.3, and any person authorized by the applicant. No person may reveal any
31 information contained in the application except as authorized by law.

SPR07-16**Rules Modernization: Updating Antiquated References to “Attachés” in the California Rules of Court
(amend California Rules of Court, rules 2.400, 3.58 and 3.60)**

	Commentator	Position	Comment on behalf of group?	Comment	Committee’s Response
1.	Stephen A. Bouch Executive Officer Superior Court of California, County of Napa Napa, CA	A	N	No specific comments.	No response required.
2.	Joseph L. Chairez President Orange County Bar Association Irvine, CA	A	Y	No specific comments.	No response required.
3.	Superior Court of California, County of Los Angeles Los Angeles, CA	A	Y	No specific comments.	No response required.
4.	Pam Moraida Program Manager Superior Court of California, County of Solano Fairfield, CA	A	N	No specific comments.	No response required.
5.	Andrea Nelson Director of Operations Superior Court of California, County of Butte Oroville, CA	A	N	No specific comments.	No response required.
6.	Michael M. Roddy Executive Officer Superior Court of California, County of San Diego San Diego, CA	A	Y	No specific comments.	No response required.
7.	Gloria M. Sanchez Small Claims/Civil Advisor Superior Court of California,	A	N	No specific comments.	No response required.

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	Commentator	Position	Comment on behalf of group?	Comment	Committee’s Response
	County of Contra Costa Martinez, CA				