



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 29, 2010

Title

Civil Case Coordination: Submission of Assignment Order

Agenda Item Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rule 3.540

Effective Date

January 1, 2011

Recommended by

Civil and Small Claims Advisory Committee
Hon. Dennis M. Perluss, Chair

Date of Report

August 13, 2010

Contact

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Executive Summary

The Civil and Small Claims Advisory Committee recommends that the Judicial Council amend rule 3.540 to require that a petitioner seeking coordination of complex actions submit to the Chair of the Judicial Council the assignment order assigning a coordination trial judge when the assignment is made by the presiding judge. Currently, rule 3.540 does not address submission of the assignment order in these circumstances.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council amend rule 3.540 of the California Rules of Court to require that a petitioner submit to the Chair of the Judicial Council an assignment order assigning a coordination trial judge.

The text of the proposed rule amendment is attached at page 4.

Previous Council Action

Rule 3.540 was adopted by the council as rule 1540 effective January 1, 1974. Rule 1540(c) (now rule 3.540 (c)) was amended effective January 1, 2005, to provide that the Chair of the Judicial Council may *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 a judicial officer of the court in the same manner as assignments are made in other civil cases. Before the amendment, the rule did not provide for the Chair to authorize a presiding judge to assign a coordination trial judge. Effective January 1, 2007, the rule was amended and renumbered as part of the overall reorganization of the California Rules of Court.

Rationale for Recommendation

Under the direction of the Chair of the Judicial Council, the Administrative Office of the Courts (AOC) provides administrative functions necessary for processing coordination petitions. (Cal. Rules of Court, rule 3.550(a).) In carrying out these duties, AOC staff receive, process, and file various papers submitted to the Chair. Among the papers that must be submitted to the Chair is an order assigning a coordination trial judge, if made by a presiding judge. (Cal. Rules of Court, rule 3.511(a)(4).) The rules do not specify who is responsible for submitting this order, and on occasion, an order by a presiding judge assigning the coordination trial judge is not submitted to the Chair and, consequently, the file for the proceeding is incomplete.

Amending rule 3.540(c) to provide that a petitioner must submit this order would help to solve this problem and make the rule parallel to rule 3.529, which requires the petitioner, when a petition for coordination is granted or denied, to promptly file the order in each action, serve it on each party in each action, and submit it to the Chair of the Judicial Council. The proposed amendment would fill a gap in the rules and ensure that necessary information about the assignment is submitted to the Chair.

Comments, Alternatives Considered, and Policy Implications

This proposal was circulated for comment as part of the spring 2010 invitation-to-comment cycle. Five individuals or organizations submitted comments.¹ All commentators who indicated a position supported the proposal.² One commentator stated the amendment makes sense and while it would impose “a miniscule” burden on the petitioner’s counsel, it would reduce an administrative burden.

The rule could remain unchanged. The proposal would assist coordination staff in carrying out their duties of performing all necessary administrative functions and maintaining and providing

¹ A chart providing the full text of the comments and the committee responses is attached at page 5.

² One commentator did not indicate a position or provide comments and one stated that it supported the proposal but did not indicate a position.

to the public up-to-date information concerning coordination proceedings, as required under rule 3.550.

Implementation Requirements, Costs, and Operational Impacts

There are no implementation requirements. There would be minimal additional costs to petitioners in submitting orders to the Chair of the Judicial Council.

Attachments

1. Cal. Rules of Court, rule 3.540, at page 4
2. Chart of comments, at page 5

Rule 3.540 of the California Rules of Court is amended, effective January 1, 2011, to read:

1 **Rule 3.540. Order assigning coordination trial judge**

2

3 **(a)–(b) * * ***

4

5 **(c) Filing and service of copies of assignment order**

6

7 The petitioner must file the assignment order in each coordinated action and serve it

8 on each party appearing in each action, and, if the assignment was made by the

9 presiding judge, submit it to the Chair of the Judicial Council. Every paper filed in a

10 coordinated action must be accompanied by proof of submission of a copy of the

11 paper to the coordination trial judge at the designated address. A copy of the

12 assignment order must be included in any subsequent service of process on any

13 defendant in the action.

14

SPR10-14**Civil Case Coordination: Submission of Assignment Order and Termination of Proceeding** (amend Cal. Rules of Court 3.540 and 3.541 and adopt rule 3.546)

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

	Commentator	Position	Comment	Committee Response
1.	California Judges Association Jordon O. Posamentier Legislative Counsel San Francisco	NI	We support the amendments to Rule 3.540, which place the burden on the counsel for petitioning party to submit the order assigning a coordination trial judge to the Chair of the Judicial Council. The amendment makes sense because the counsel for the petitioning party already needs to serve the other orders signed by the presiding judge of a court. This would add a miniscule burden to that counsel's obligation, and in turn, would relieve a minor administrative burden that is most likely currently handled by the courts.	The committee notes the support.
2.	Legal Research Staff Superior Court of San Bernardino County	NI	No comment.	No response required.
3.	Orange County Bar Association Lei Lei Wang Ekvall President Newport Beach	AM	The title of this item refers to amending Cal Rules of Court 3.540 and 3.541 and adopting Rule 3.546, but the materials attached only refer to a Rule 3.540 amendment. Our approval only relates therefore to the attached Rule 3.540 amendment.	This proposal concerns only rule 3.540. Reference to other rules in the title was inadvertent.
4.	State Bar of California Committee on Administration of Justice Saul Bercovitch Legislative Counsel San Francisco	A	CAJ supports this proposal.	The committee notes the support.
5.	Superior Court of San Diego County Michael M. Roddy Court Executive Officer	A	No specific comments.	No response required.