



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	Agenda Item Type
Alternative Dispute Resolution: Case Management Statement	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise <i>Case Management Statement</i> (form CM-110)	July 1, 2011
Recommended by	Date of Report
Civil and Small Claims Advisory Committee Hon. Dennis M. Perluss, Chair	October 12, 2010
	Contact
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Executive Summary

The Civil and Small Claims Advisory Committee recommends revising the portion of the *Case Management Statement* (form CM-110) relating to alternative dispute resolution (ADR) to clarify and supplement the information currently requested about the parties' past use of ADR and current agreements to use ADR. These revisions are designed to provide judicial officers with more complete information and to make the ADR portion of the form easier for parties to complete and for judicial officers to read and understand.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective July 1, 2011, revise the *Case Management Statement* (form CM-110) to clarify and supplement the information about the parties' past use of alternative dispute resolution and current agreements to use ADR and to provide more information about eligibility for referral to civil action mediation.

The revised form is attached at pages 6–10.

Previous Council Action

In December 2001, as part of a comprehensive revision to the case management rules and procedures, the Judicial Council adopted the *Case Management Statement* (form CM-110) for mandatory use effective July 1, 2002. As adopted, CM-100 contained several questions concerning eligibility for judicial arbitration and the parties' use of and willingness to use ADR. These questions have remained unchanged since the adoption of the form.

Rationale for Recommendation

On the current *Case Management Statement* (form CM-110), items 10 and 11 address the parties' agreements to use ADR, their past use of ADR, their willingness to use ADR, and their eligibility for referral to judicial arbitration. Item 10.b. provides a box to indicate if all parties have agreed to ADR, but does not ask what process has been agreed to or what the status of that process is. Item 10.c. similarly includes a box that can be checked to indicate that "[t]he case has gone to an ADR process," but it does not ask what ADR process is being used. Item 10.d. addresses the parties' willingness to use ADR and includes a list of ADR processes that makes it easy for parties to indicate the type of ADR in which they are willing to participate. However, this list currently does not include a settlement conference; the parties' willingness to participate in such a conference is separately addressed in item 11. Items 10.e.–g. address eligibility of the case for referral to judicial arbitration.

This proposal would revise form CM-110 to obtain clearer and more complete information about the parties' use of and willingness to use ADR by laying out the ADR questions in the form of a table. The proposed table in item 10.c. lists the most common ADR processes, including settlement conferences, and provides spaces the parties can use to identify which of these processes they are willing to participate in, have agreed to participate in, or have completed. This table format should allow parties to more quickly provide the requested information and help judicial officers to more quickly see the parties' responses.

This proposal would also:

- Revise item 10.a. to:
 - Add a note indicating that parties should read the ADR information package provided by the particular court under rule 3.221 to determine what ADR processes are available in their case;¹ and

¹ Rule 3.221(a) provides, in relevant part: "Each court must make available to the plaintiff, at the time the complaint is filed in all general civil cases, an alternative dispute resolution (ADR) information package that includes, at a minimum, all of the following:

"(1) General information about the potential advantages and disadvantages of ADR and descriptions of the principal ADR processes. . . .

"(2) Information about the ADR programs available in that court, including citations to any applicable local court rules and directions for contacting any court staff responsible for providing parties with assistance regarding ADR.

- Add new check boxes that self-represented litigants can use to indicate whether they have reviewed the ADR information package; and
- Renumber items 10.e.–g., relating to eligibility for judicial arbitration, as item 10.b. and revise the language to also encompass eligibility for referral to civil action mediation.

Comments, Alternatives Considered, and Policy Implications

The proposed revisions to form CM-110 were circulated for public comment between April 19 and June 18, 2010, as part of the regular spring comment cycle. Ten individuals or organizations submitted comments on this proposal. Three commentators agreed with the proposal, six agreed with the proposal if modified, and one did not agree with the proposal. The full text of the comments received and the committee’s responses are set out in the attached comment chart at pages 11–20, and the significant substantive comments are discussed below.

Item 10.a.—ADR information package

Item 10.a. on form CM-110 currently asks:

Counsel has has not provided the ADR information package identified in rule 3.221 to the client and has reviewed ADR options with the client.

The proposal that was circulated for public comment revised this provision to add a second set of check boxes allowing counsel to separately indicate that he or she has reviewed ADR options with the client. The Superior Court of Ventura County suggested that a new provision be added so that a self-represented party can indicate that he or she has reviewed the ADR information package.

The committee agreed with the Superior Court of Ventura County’s suggestion and revised its proposal to incorporate this change. However, because of concerns raised by members of the council’s Rules and Projects Committee, the committee is not recommending the change to item 10.a. that was originally circulated for public comment—adding the second set of check boxes to the current item regarding counsel review of ADR options with the client. Instead, the committee will consider this further during an upcoming committee year.

Item 10.b.—Eligibility for civil action mediation

Items 10.e., f., and g. on form CM-110 currently address eligibility of the case for judicial arbitration. The proposal that was circulated for public comment moved these items to proposed new item 10.b. under the heading “Referral to judicial arbitration” but did not include any substantive changes to these provisions. The Superior Court of San Diego County suggested that

“(3) In counties that are participating in the Dispute Resolution Programs Act (DRPA), information about the availability of local dispute resolution programs funded under the DRPA. This information may take the form of a list of the applicable programs or directions for contacting the county’s DRPA coordinator.

“(4) An ADR stipulation form that parties may use to stipulate to the use of an ADR process.”

a new provision be added to the form with equivalent questions concerning the case's eligibility for referral to civil action mediation as specified by Code of Civil Procedure section 1775 et seq.

The committee agreed with this suggestion. However, since under Code of Civil Procedure section 1775.3, eligibility for mandatory referral to civil action mediation is primarily based on whether the case is eligible for referral to judicial arbitration,² rather than adding a whole new provision the committee revised item 10.b. to incorporate specific references to civil action mediation. Because not all courts have civil action mediation programs,³ or even judicial arbitration programs, the committee added the parenthetical note “if available” to this section.

Item 10.c.—Willingness and agreements to use ADR

Currently, questions 10 and 11 on form CM-110 address the parties' agreements to use ADR, their past use of ADR, and their willingness to use ADR. The proposal that was circulated for public comment was designed to obtain clearer, more complete information by laying out these ADR questions in the form of a table. The proposed table included spaces to allow parties to separately provide information about private mediation, court-connected and private neutral evaluation, voluntary and mandatory settlement conferences, and judicial arbitration with different discovery deadlines. The proposed table also included spaces the parties could use to identify which of these ADR processes they were willing to participate in, had agreed to participate in, or had completed. The majority of comments received addressed this table.

List of ADR processes. Most of the commentators who approved of the proposal if amended suggested that the proposed table in item 10.c. was too complex and should be made shorter and simpler. Several commentators pointed out that some of the ADR processes listed in the proposed table—such as voluntary settlement conferences—are not available in all courts. They also suggested that the distinctions between the processes listed, particularly between court-connected and private processes, were not clear.

In response to these comments, the committee revised its proposal to simplify this table by making the following changes to the list of ADR processes:

- Reducing the ADR processes that are listed to the five that are most commonly used (mediation, settlement conference, neutral evaluation, judicial arbitration, and private arbitration) and an “other” category;
- Eliminating the separate listings for private and court-connected processes; and
- Eliminating the reference to “voluntary” settlement conferences.

² Section 1775.3 provides, in relevant part: “In the courts of the County of Los Angeles and in other courts that elect to apply this title, all at-issue civil actions in which arbitration is otherwise required pursuant to Section 1141.11, whether or not the action includes a prayer for equitable relief, may be submitted to mediation by the presiding judge or the judge designated under this title as an alternative to judicial arbitration”

³ Based on a review of local rules, grant applications, and other materials, staff believes that 11 superior courts, including the Superior Court of Los Angeles County, currently have civil action mediation programs.

In response to the concern that some courts do not offer all of the listed ADR processes, the committee added a note at the beginning of item 10 indicating that parties should read the ADR information package provided by the court under rule 3.221 to determine what ADR processes are available in their case. This note should be helpful to litigants not only in completing item 10.c. but also in understanding the importance of reviewing this information package as addressed in item 10.a. and in responding to item 10.b.

Status of ADR process.

As circulated for comment, the column in item 10.c. regarding ADR processes that the parties had agreed to asked parties to indicate the status of the agreed-to process or processes. The options in the proposal circulated for comment were: (1) Not yet started; (2) Currently under way; and (3) Agreed completion date. As circulated, the form also included a separate column for ADR processes that the parties had already completed. Two commentators—the Superior Court of Riverside County and the Superior Court of San Diego County—suggested that these status options were unclear. In response to these comments, the committee replaced them with the following options for each of the listed ADR processes: (1) not yet scheduled; (2) scheduled for (*date*); (3) agreed to complete by (*date*); and (4) completed on (*date*). The committee believes that these options are clearer and will provide helpful information to judicial officers who are conducting case management conferences. In addition, adding the “completed” category to these status options further simplified the form by eliminating the separate column for completed ADR processes.

Implementation Requirements, Costs, and Operational Impacts

It may take some additional time for litigants to complete the revised ADR section on form CM-110. However, providing the judicial officers who conduct case management conferences with this additional information should make it easier to address ADR at those conferences or to determine that the conference should be postponed pending completion of an ADR process.

Relevant Strategic Plan Goals and Operational Plan Objectives

Because this proposal recommends revision of a Judicial Council form to improve practices and procedures, it supports the policy of promoting innovative and effective practices for processing cases underlying Goal III, Modernization of Management and Administration (Goal III. B., Policies 1 and 2).

Attachments

1. *Case Management Statement* (form CM-110), at pages 6–10
2. Chart of comments, at pages 11–20

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. The trial has been set for *(date)*:

b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

a. days *(specify number)*:

b. hours (short causes) *(specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

f. Fax number:

e. E-mail address:

g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative dispute resolution (ADR)**

a. **ADR information package.** Please note that different ADR processes are available in different courts and communities; read the ADR information package provided by the court under rule 3.221 for information about the processes available through the court and community programs in this case.

(1) For parties represented by counsel: Counsel has has not provided the ADR information package identified in rule 3.221 to the client and reviewed ADR options with the client.

(2) For self-represented parties: Party has has not reviewed the ADR information package identified in rule 3.221.

b. **Referral to judicial arbitration or civil action mediation** (if available).

(1) This matter is subject to mandatory judicial arbitration under Code of Civil Procedure section 1141.11 or to civil action mediation under Code of Civil Procedure section 1775.3 because the amount in controversy does not exceed the statutory limit.

(2) Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.

(3) This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court or from civil action mediation under Code of Civil Procedure section 1775 et seq. *(specify exemption)*:

PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	CASE NUMBER: _____
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*):

	The party or parties completing this form are willing to participate in the following ADR processes (<i>check all that apply</i>):	If the party or parties completing this form in the case have agreed to participate in or have already completed an ADR process or processes, indicate the status of the processes (<i>attach a copy of the parties' ADR stipulation</i>):
(1) Mediation	<input type="checkbox"/>	<input type="checkbox"/> Mediation session not yet scheduled <input type="checkbox"/> Mediation session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete mediation by (<i>date</i>): <input type="checkbox"/> Mediation completed on (<i>date</i>):
(2) Settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Settlement conference not yet scheduled <input type="checkbox"/> Settlement conference scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete settlement conference by (<i>date</i>): <input type="checkbox"/> Settlement conference completed on (<i>date</i>):
(3) Neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Neutral evaluation not yet scheduled <input type="checkbox"/> Neutral evaluation scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete neutral evaluation by (<i>date</i>): <input type="checkbox"/> Neutral evaluation completed on (<i>date</i>):
(4) Nonbinding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Judicial arbitration not yet scheduled <input type="checkbox"/> Judicial arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete judicial arbitration by (<i>date</i>): <input type="checkbox"/> Judicial arbitration completed on (<i>date</i>):
(5) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Private arbitration not yet scheduled <input type="checkbox"/> Private arbitration scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete private arbitration by (<i>date</i>): <input type="checkbox"/> Private arbitration completed on (<i>date</i>):
(6) Other (<i>specify</i>):	<input type="checkbox"/>	<input type="checkbox"/> ADR session not yet scheduled <input type="checkbox"/> ADR session scheduled for (<i>date</i>): <input type="checkbox"/> Agreed to complete ADR session by (<i>date</i>): <input type="checkbox"/> ADR completed on (<i>date</i>):

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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11. Insurance

- a. Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (*explain*):

12. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy Other (*specify*):

Status:

13. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status:
- Additional cases are described in Attachment 13a.
- b. A motion to consolidate coordinate will be filed by (*name party*):

14. Bifurcation

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

15. Other motions

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

16. Discovery

- a. The party or parties have completed all discovery.
 - b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):
- | <u>Party</u> | <u>Description</u> | <u>Date</u> |
|--------------|--------------------|-------------|
|--------------|--------------------|-------------|

- c. The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

PLAINTIFF/PETITIONER: _____	CASE NUMBER:
DEFENDANT/RESPONDENT: _____	

17. **Economic litigation**

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

18. **Other issues**

- The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

19. **Meet and confer**

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

20. Total number of pages attached (*if any*): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and alternative dispute resolution, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

▶ _____
(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

SPR10-01**Alternative Dispute Resolution: Case Management Statement** (revise form CM-110)

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

	Commentator	Position	Comment	Proposed Committee Response
1.	ADR Committee State Bar of California by James R. Madison, Chair	AM	The ADR Committee generally supports the proposed revisions to the Case Management Statement – Form CM-110. Some members of the ADR Committee are concerned that some of the options (1) through (10) on page 4 of the form are unclear. References to the statutory or Rule of Court definitions or a description of the various processes would eliminate the potential for misunderstanding and facilitate more effective consideration of the options and completion of the form. Some members of the ADR Committee also believe that this part of the form could be streamlined and simplified.	Based on these and other comments, the committee has revised the proposal to simplify the proposed table on page 3 by reducing the ADR processes that are specifically listed to the five most commonly used processes (mediation, settlement conferences, neutral evaluation, judicial arbitration, and private arbitration), eliminating the separate listings for private and court-connected processes, eliminating the separate column regarding completed processes, and adding “completed” to the status options in the column for processes that parties already agreed to use. Parties who are willing or agree to use other process not specifically listed on the form can indicate this in the space provided for “other” ADR processes. Because the specific ADR processes offered through the court vary, the committee did not revise the form to include statutory references or descriptions of ADR processes. However, the committee did add a note to item 10.a. indicating that different ADR processes are available in different courts and communities and that parties should read the ADR information package provided by the particular court under rule 3.221 to determine what ADR processes are available in their case.
2.	Arlene Borick Commissioner Superior Court of San Francisco County	A		No response required.

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	Commentator	Position	Comment	Proposed Committee Response
3.	Robert Maize Attorney Santa Rosa	AM	Add to the selection of alternatives listed in 10.c. "collaborative process", to take in to consideration of the fact that "collaborative process" is currently actively being used -- and you might want to refer to the UNIFORM COLLABORATIVE LAW ACT.	The committee considered but decided not to make this change. Based on other comments, the committee has revised the proposal to reduce the ADR processes that are separately identified on page 3 to the the five most commonly used processes (mediation, settlement conferences, neutral evaluation, judicial arbitration, and private arbitration). Parties who who are willing or agree to use a collaborative process or other process not specifically listed on the form can indicate this in the space provided for "other" ADR processes.
4.	Orange County Bar Association by Lei Lei Wang Ekvall	N	The proposed revisions to this form are not likely to lead to increased discussion or use of ADR processes. The proposed additions would only become a distraction, resulting in the unwarranted consumption of time.	The committee has revised the proposal to simplify the proposed table on page 3. With these changes, the committee believes that it should be simpler and easier for attorneys to provide the requested information about ADR use. The committee believes that this information will be helpful to judicial officers who are conducting case management conferneces.
5.	Elizabeth Strickland Attorney-Mediator Superior Court of Santa Clara County	AM	1. It would be tremendously helpful to me to receive this level of information on CMC Statements. This level of detail would make my job immeasurably easier, and I would be able to better serve parties and more quickly process each case. However, I think attorneys will fight strenuously against the additional requirement. 2. The distinction between court-connected	Based on these and other comments, the committee has revised the proposal to simplify the proposed table on page 3 by reducing the ADR processes that are specifically listed to the five most commonly used processes (mediation, settlement conferences, neutral evaluation, judicial arbitration, and private arbitration), eliminating the separate options for private and court-connected ADR processes, eliminating the reference to "voluntary" settlement conferences,

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	Commentator	Position	Comment	Proposed Committee Response
			<p>mediation/ENE and private mediation/ENE is nonexistent in some counties, and that wording would lead to confusion and misstatement. I would support some other phrasing of those concepts.</p> <p>I would also suggest some way to allow counties to modify or adjust the form to show only the program available in that county.</p> <p>Ex.: let counties that don't offer voluntarily settlement conferences take that option off. It would be misleading to "offer" that option on the form, and aggravating for people who chose it on the form to then be told it isn't available.</p>	<p>eliminating the separate column regarding completed processes, and adding "completed" to the status options in the column for processes that parties already agreed to use. The committee has also added a note to item 10.a. indicating that different processes are available in different courts and communities and that parties should read the ADR information package provided by the particular court under rule 3.221 to determine what ADR processes are available in their case. Judicial officers conducting case management conferences may have to follow-up on the information provided on this form if they want more specifics about the ADR process(es) parties are willing or have agreed to use.</p>
6.	Superior Court of Kern County Kelly A. Lazerson Legal Research Attorney/ADR Administrator	A	The Court ADR Committee discussed the changes today. The consensus was the change is supported but not necessarily useful for this court.	No response required.
7.	Superior Court of Riverside County by Barrie Roberts ADR Director	AM	<p>I agree the CMS should be modified but disagree with proposed changes:</p> <p>1. The term "Court-connected mediation" would apply to several different programs in the County of Riverside e.g., court-ordered mediation; voluntary mediation with a member of the court's Civil Mediation Panel; the Court Mediation Day program; the Master Calendar Settlement program.</p>	Based on these and other comments, the committee has revised the proposal to simplify the proposed table on page 3 by reducing the ADR processes that are specifically listed to the five most commonly used processes (mediation, settlement conferences, neutral evaluation, judicial arbitration, and private arbitration), eliminating the separate options for private and court-connected ADR processes, eliminating the reference to "voluntary" settlement conferences eliminating the separate column regarding

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	Commentator	Position	Comment	Proposed Committee Response
			<p>2. The term "Private Mediation" could apply to both voluntary mediation with a member of the court's panel or with a mediator from another source.</p> <p>3. In Riverside, "Voluntary settlement conferences" may or may not be available and "Neutral evaluation" is not generally available. Listing these as options would be confusing to litigants and to the bench.</p> <p>4. In Riverside, Mandatory Settlement Conferences are ordered at the Trial Setting Conference. Listing MSCs as an ADR option to be considered at the CMC would be confusing to litigants.</p> <p>5. The chart conflicts with or duplicates the information requested on the required Stipulation for ADR that is attached to Riverside's ADR Information Package. Further:</p> <p>a. The chart is too long and detailed for use by busy civil judges and is probably overwhelming for most civil attorneys and self-represented parties.</p> <p>b. The chart asks about the status of ADR processes ("not yet started," "under way," or "completed.") In Riverside, it would be rare to receive an answer other than "not yet started" at the CMC stage. Thus, asking bench officers</p>	<p>completed processes, and adding "completed" to the status options in the column for processes that parties already agreed to use. The committee has also added a note to item 10.a. indicating that different ADR processes are available in different courts and communities and that parties should read the ADR information package provided by the particular court under rule 3.221 to determine what ADR processes are available in their case. Judicial officers conducting case management conferences may have to follow-up on the information provided on this form if they want more specifics about the ADR process(es) parties are willing/have agreed to use.</p> <p>The committee considered but decided against eliminating all requested information about the status of ADR processes that the parties have agreed to use. While information this information may not be helpful in the Superior</p>

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	Commentator	Position	Comment	Proposed Committee Response
			<p>and parties to wade through the other two options for each process for each civil case would be a burdensome and time consuming task and a further tax on court resources.</p> <p>c. The court does not need ADR information at this level of specificity at the CMC stage.</p> <p>A chart that such as the one proposed is overly inclusive and will not be helpful as each county has different programs tailored to meet the needs of the county. Perhaps, a revised chart designed as an addendum to the CMC would to reflect each county's unique ADR programs would be more helpful to the parties as they consider their ADR alternatives during the meet and confer process.</p>	<p>Court of Riverside County, it is information that is helpful to other courts. The committee did not believe that it would be burdensome for the judicial officer conducting a case management conference if there were two check off options that were not typically used in a particular court. Based on other comments and further discussion, the committee did, however, modify the first two options concerning the status to focus on whether an ADR session is scheduled and, if so, for what date.</p>
8.	Superior Court of Sacramento County	NI	The court has reviewed the proposed change but does not have any comments to submit.	No response required.
9.	Superior Court of San Bernadino County	NI	The court has reviewed the proposed change but does not have any comments to submit.	No response required.
10.	Superior Court of San Diego County Michael M. Roddy Court Executive Officer	AM	<p>Section 10 of form CM-110 should be modified as follows:</p> <p>c. Civil Action Mediation pursuant to Code of Civil Procedure section 1775 et seq. (1) <input type="checkbox"/> This matter may be subject to civil action mediation pursuant to CCP 1775 et seq. because the amount of controversy does not exceed the statutory limit.</p>	<p>The committee agrees that requesting this information would be helpful to courts that have Civil Action Mediation Programs. Because eligibility for referral to Civil Action Mediation is generally based on eligibility for referral to judicial arbitration, however, rather than adding</p>

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	Commentator	Position	Comment	Proposed Committee Response
			<p>(2) <input type="checkbox"/> This matter is exempt from civil action mediation pursuant to CCP 1775 et seq. (specify exemption):</p> <p>d. Other ADR.</p> <p>(1) <input type="checkbox"/> Some or all of the parties have previously engaged in an ADR process. Check ONE– if the parties have engaged in more than one ADR process, please indicate the most recent process:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Mediation (court-connected). <input type="checkbox"/> Mediation (private) <input type="checkbox"/> Non-binding judicial arbitration (discovery until 30 days before trial) <input type="checkbox"/> Non-binding judicial arbitration (discovery until 15 days before arbitration) <input type="checkbox"/> Mandatory settlement conference <input type="checkbox"/> Voluntary settlement conference <input type="checkbox"/> Neutral evaluation (court-connected) <input type="checkbox"/> Binding judicial arbitration <input type="checkbox"/> Neutral evaluation (private) <input type="checkbox"/> Non-binding private arbitration <input type="checkbox"/> Binding private arbitration <input type="checkbox"/> Other (specify): <hr/> <p>Status:</p> <p><input type="checkbox"/> Continuing Estimated number of additional days needed for completion:</p> <p>_____</p> <p><input type="checkbox"/> Completed Date Completed:</p> <p>_____</p>	<p>completely separate questions concerning eligiibity for referral to Civil Action Mediation, the committee revised the existing questions concerning judicial arbitration to also address Civil Action Mediation.</p> <p>Based on other comments, the committee has revised the proposal to simplify the proposed table on page 3 by reducing the ADR processes that are specifically listed to the five most commonly used processes (mediation, settlement conferences, neutral evaluation, judicial arbitration, and private arbitration). The committee has also added a note to item 10.a. indicating that different ADR processes are available in different courts and communities and that parties should read the ADR information package provided by the particular court under rule 3.221 to determine what ADR processes are availabe in their case. Judicial officers conducting case management conferences may have to follow-up on the information provided on this form if they want more specifics about the ADR process(es) parties are willing/have agreed to use.</p> <p>Based on this and other comments, the committee revised the first status options under column 3 of the table so that they are clearer and focus on whether an ADR session has been scheduled and, if so, the date of that scheduled session. The committee also eliminated the separte column regarding completed ADR</p>

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Alternative Dispute Resolution: Case Management Statement (revise form CM-110)

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			<p>If ADR process has been completed, indicate result:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Partially settled (as to some parties or issues) <input type="checkbox"/> Did not settle as to any issues or parties. <p>(2) <input type="checkbox"/> The party or parties completing this form are willing to participate in ADR if available.</p> <p>Check ALL the ADR processes in which the party or parties completing this form are willing to participate:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Mediation (court-connected). <input type="checkbox"/> Non-binding judicial arbitration (discovery until 30 days before trial) <input type="checkbox"/> Non-binding judicial arbitration (discovery until 15 days before arbitration) <input type="checkbox"/> Mediation (private) <input type="checkbox"/> Mandatory settlement conference <input type="checkbox"/> Voluntary settlement conference <input type="checkbox"/> Neutral evaluation (court-connected) <input type="checkbox"/> Binding judicial arbitration <input type="checkbox"/> Neutral evaluation (private) 	<p>processes and instead added a “completed” category to the status options in the column for processes that parties already agreed to use . The committee believes that these status options will provide judicial officers with helpful information.</p> <p>The committee considered but decided not to include information about the outcome of ADR processes on this form. In comments on a separate proposal, concerns were raised about requesting this type of information about the outcome in mediation because of statutory confidentiality requirements.</p> <p>The committee decided to retain the table format because it believes it will be easier for litigants and judicial officers to use and because it enables parties to provide helpful information about their willingness/agreements to use multiple ADR processes.</p>

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	Commentator	Position	Comment	Proposed Committee Response
			<p> <input type="checkbox"/> Non-binding private arbitration <input type="checkbox"/> Binding private arbitration <input type="checkbox"/> Other (specify): <hr/> Reasoning/Notes: 1. New Section 10 c. of the form should include a section relative to Civil Action Mediation pursuant to CCP § 1775 et seq. for courts electing to participate. Proposed language parallels that in section 10 b. of the form. 2. New Section 10 d. should be utilized in lieu of the proposed Section 10 c. as it provides more useful information in a more simplified and understandable format. In addition, using the new Section 10 d. format would shorten the form significantly while providing sufficiently specific ADR information to parties and courts alike. 3. The options for status in the proposed form are inaccurate and/or ambiguous. A party could check “not yet started” for an ADR process that has been scheduled for the following day as well as in the circumstance where parties have merely agreed on a neutral. Similarly, “currently underway” could potentially include ADR processes in which parties have agreed on a neutral, scheduled a session, as well as those in which one mediation session has concluded and a second mediation session is scheduled. “Agreed completion date” is also ambiguous and </p>	

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			<p>unnecessarily limiting as parties can perceive this to mean the scheduled date for the ADR process, but that does not necessarily mean that the ADR process will be completed on that date (e.g., second mediation is scheduled; mediator facilitates final settlement after general agreements reached at mediation session, etc.).</p> <p>4. New status options (continuing or completed) are simpler and unambiguous as they relate to an ADR process in which the parties have “previously engaged.” Also, the “estimated number of additional days needed for completion” provides the court with information that can easily be used when setting trial dates, etc. while allowing for the inherent variability for different ADR processes (e.g., a private binding arbitration that has been scheduled and has a specific timeline for the issuance of an award versus a situation where the parties have merely scheduled an initial mediation session but already anticipate a series of sessions).</p> <p>5. New result checkboxes if previous ADR process has been completed serve to gather significant ADR information without potentially seeking information protected by mediation confidentiality.</p> <p>6. Although Section 10.d (2) relates to ADR processes in which the parties are willing to participate, mandatory settlement conference is included as an option since a party may ultimately be willing to participate</p>	

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			in an MSC while a party unwilling to participate in an MSC may provide information to a judge that can be considered when determining whether or not an MSC would be productive.	
11.	Superior Court of Ventura County by Julie Camacho Program Manager	AM	<p>The proposed modification to item “10a” on the Case Management Statement form only allows for an indication if counsel has provided the ADR information package to and reviewed the ADR options with his/her client.</p> <p>A box by which self-represented litigants could respond to and provide this information to the court is necessary.</p> <p>Suggest that an item 10a1 be added as follows:</p> <p>A1. Plaintiff is self-represented and <input type="checkbox"/> has <input type="checkbox"/> has not reviewed the ADR information package identified in Rule 3.221.</p>	The committee agrees with this suggestion and has revised the proposal as suggested by the commentator. However, because of concerns raised by members of the council’s Rules and Projects Committee, the committee is not recommending the change to item 10.a. that was originally circulated for public comment— adding the second set of check boxes to the current item regarding counsel review of ADR options with the client. Instead, the committee will consider this further during an upcoming committee year.
12.	Nancy Yeend Los Altos	A	<p>I think that the changes are very good, and make things much clearer by providing information in one place.</p> <p>You may wish to consider providing a list of other ADR processes, or request that each court consider listing their local ADR options.</p>	<p>No response required.</p> <p>Based on this and other comments, the committee added a noteto item 10.a. indicating that different ADR processes are available in different courts and communities and that parties should read the ADR information package provided by the particular court under rule 3.221 to determine what ADR processes are available in their case.</p>