

Judicial Council of California

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INVITATION TO COMMENT

SPR15-10

Title Subject	Action Requested
Civil Cases: Continued Suspension of Case Management Rules	Review and submit comments by June 17, 2015
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 3.720	January 1, 2016
Proposed by	Contact
Civil and Small Claims Advisory Committee Hon. Patricia M. Lucas, chair	Anne Ronan, 415-865-8933 anne.ronan@jud.ca.gov

Executive Summary and Origin

In 2013, the Judicial Council amended the statewide rules of court on civil case management to give courts the discretion to exempt certain types or categories of general civil cases from the mandatory case management rules. The amendments were an emergency measure, intended to help courts to better address the state's fiscal crisis by decreasing the time spent by court staff and judicial officers in filing case management statements, setting and holding individual case management conferences, and performing other actions required by the case management rules.

The exemption provided in the rule was intended to be temporary, and by the terms of the amended rule applies only to cases filed before January 1, 2016. The Civil and Small Claims Advisory Committee is recommending that the exemption be extended in light of the continuing fiscal crisis.

Background

The council approved the temporary exemption from the statewide rules regarding case management in 2013.¹ The initial request to amend the case management rules came from the Superior Court of Los Angeles County in December 2012, and was reiterated by the Superior Court of Sacramento County shortly thereafter. The courts sought relief from the current case management rules applicable to general civil cases.

¹ The background of the prior action is set out in detail in the Report to the Council, *Civil Cases: Temporary Suspension of Case Management Rules*, dated February 26, 2013. The report may be found at <http://www.courts.ca.gov/documents/jc-20130226-itemC.pdf>.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

The Superior Court of Los Angeles County particularly wanted the rules relaxed because of its plan—now in place—to remove all personal injury cases, of which it then had over 16,000 pending, from its individual calendar courts (in which general civil cases are assigned to a single judge for all purposes) to two master calendars.² The court sought relief from the mandatory case management rules because it had concluded that, with its then very limited resources, it could not continue to provide all general civil cases with the type of individualized case supervision and management envisioned by the rules of court.

As can be seen in the 2013 report, while some commentators opposed the exemption in 2013, most were in favor, at least on a temporary basis. The council adopted the proposal and, under rule 3.720, a court currently may, by local rule, exempt types or categories of general civil cases from the mandatory case management rules. As the rule currently stands, this exemption applies only to cases filed before January 1, 2016.

Most courts throughout the state have not implemented the local exemption from the case management rules authorized by rule 3.720, and continue to provide the supervision and management of general civil cases provided for in the case management rules. At least six courts, however, have implemented local exemptions and suspended the mandated case management procedures for some or all of the general civil cases in their courts:

- Superior Courts of Los Angeles County exempts all limited cases and all personal injury cases. (Sup. Ct. of Los Angeles County, Local Rules, rule 3.23.)³
- Superior Court of Monterey County exempts all civil cases, instead holding a Case Progress Conference, with a statement from plaintiff only, 180 days after the filing of the complaint. (See Alternative to Civil Case Management, policy adopted June 26, 2013.)⁴
- Superior Court of Sacramento County exempts all limited cases and short cause civil cases (Sup. Ct. of Sacramento County, Local Rules, rule 2.21 and 2.52.)
- Superior Court of San Bernardino County exempts all general civil cases (all cases the case management rules apply to) and complex cases, holding a trial setting conference in place of a case management conference in those cases. (Sup. Ct. of San Bernardino, Local Rules, rule 411.)
- Superior Court of San Joaquin exempts all limited cases from the case management rules. (Sup. Ct. of San Joaquin County, Local Rules, rule 3-102.A.6.)

² The court had determined that these cases typically require fewer appearances and less direct case management than other types of general civil cases.

³ This court reported to the advisory committee that the court finds the exemption of all personal injury cases from the case management rules particularly helpful in the court's efficient processing of those cases, now handled out of only two departments. The court representative stated that the court hoped very much that the amendments continue in effect.

⁴ The policy is posted on the court's website and can be found at www.monterey.courts.ca.gov/Documents/Civil/2013-Alternative-to-Civil-Case-Management.pdf. While this court has been considering how to best change back to the standardized case management of the civil cases should the current rule sunset, the civil judges apparently would prefer that the exemption remain in effect.

- Superior Court of Shasta County exempts all limited and unlimited cases. (Sup. Ct. of Shasta County, Local Rules, rule 3.02.)⁵

The Proposal

In light of the fact that the courts are continuing to face a fiscal crisis, the Civil and Small Claims Advisory Committee proposes that California Rules of Court, rule 3.720(b) be amended, to provide that the emergency suspension of the case management rules currently set to sunset in 2016, not sunset until 2020. Specifically, the amendment would permit any court's local suspension of the case management rules to apply to cases filed before January 1, 2020. This proposal would permit those courts that have already made use of this exemption to continue to do so and would permit additional courts to invoke the exemption if they so choose.

The amended rule is attached at page 5.

Alternatives Considered

The committee considered not recommending that the exemptions be extended, but concluded that, since several courts were using the exemptions to deal with the fiscal crisis and wanted to continue doing so, the authority for the voluntary exemptions should be continued.

The committee also considered for what length of time the rule should be continued, and concluded that four years was appropriate, providing the courts sufficient time to work under the emergency rules (noting that one court just started using the exemption this past January) and the committee sufficient time to consider whether further changes should be recommended regarding the case management rules on an on-going basis.

Implementation Requirements, Costs, and Operational Impacts

This proposal should not raise any costs or place any operational impacts on the courts. The ability to exempt cases from the case management rules would remain discretionary, and only used if a court determined that it would be of some financial benefit to the court.

⁵ Superior Court of Shasta County reported that the existence of this statutory exemption made it possible for that court to combine their two civil departments into one. Previously, each of the departments had a weekly CMC calendar, which the court realized would not be possible to continue when a single department was handling all aspects of all civil cases.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee [or other proponent] is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Is four years a appropriate period for extending the emergency exemption?

The advisory committee [or other proponent] also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments

1. Amended Cal. Rule of Court, rule 3.720

California Rules of Court, rule 3.720 would be amended, effective January 1, 2016, as follows:

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Chapter 3. Case Management

Rule 3.720. Application

(a) General application

The rules in this chapter prescribe the procedures for the management of all applicable court cases. These rules may be referred to as “the case management rules.”

(b) Emergency suspension of rules

A court by local rule may exempt specified types or categories of general civil cases filed before January 1, ~~2016~~2020, from the case management rules in this chapter, provided that the court has in place alternative procedures for case processing and trial setting for such actions, including, without limitation, compliance with Code of Civil Procedure sections 1141.10 et seq. and 1775 et seq. The court must post the alternative procedures on its website.

(c) Rules when case management conference set

In any case in which a court sets an initial case management conference, the rules in this chapter apply.

Advisory Committee Comment

Subdivision (b) of this rule is an emergency measure in response to the limited fiscal resources available to the courts as a result of the current fiscal crisis and is not intended as a permanent change in the case management rules.