

LIST OF AMENDMENTS TO THE CALIFORNIA RULES OF COURT

Adjusted by the Administrative Director of the Courts on March 29, 2007, and adopted by the Judicial Council on February 23, 2007 and April 27, 2007, effective on January 1, February 23, and July 1, 2007

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Rule 5.664. Indian Child Welfare Act (25 U.S.C. § 1901 et seq.)

(a)–(e) * * *

(f) Notice; 25 U.S.C. § 1912

~~The parent or legal guardian and Indian custodian of an Indian child, and the Indian child's tribe, must be notified of the pending petition and the right of the tribe to intervene in the proceedings, and proof of such notice, including copies of notices sent and all return receipts and responses received, must be filed with the juvenile court. If at any time after the filing of the petition the court knows or has reason to know that the child is or may be an Indian child, the following notice procedures must be followed: If there is reason to know that an Indian child is involved, the social worker or probation officer must send *Notice of Involuntary Child Custody Proceedings for an Indian Child (Juvenile Court)* (form JV-135) to the parent or legal guardian and Indian custodian of an Indian child, and the Indian child's tribe, in accordance with Welfare and Institutions Code section 224.2.~~

- ~~(1) *Notice of Involuntary Child Custody Proceedings for an Indian Child (Juvenile Court)* (form JV-135) must be sent, with a copy of the petition, by registered or certified mail with return receipt requested, and additional notice by first class mail is recommended;~~
- ~~(2) Notice to the tribe must be to the tribal chairperson unless the tribe has designated another agent for service;~~
- ~~(3) Notice must be sent to all tribes of which the child may be a member or may be eligible for membership;~~
- ~~(4) If the identity or location of the parent or Indian custodian or the tribe cannot be determined, notice must be sent to the specified office of the Secretary of the Interior, which has 15 days to provide notice as required;~~
- ~~(5) Notice must be sent whenever there is reason to believe the child may be an Indian child, and for every hearing thereafter unless and until it is determined that the act does not apply to the case;~~
- ~~(6) If, after a reasonable time following the sending of notice under this rule—but in no event less than 60 days—no determinative response to the notice is received, the court may determine that the act does not apply to the case unless further evidence of the applicability of the act is later received; and~~

Adopted by the Judicial Council on February 23, 2007, effective February 23, 2007:

~~(7) If an Indian child's tribe has exercised its right of intervention in the proceedings after receiving form JV 135, subsequent notices may be sent in the form provided to all other parties. All other provisions of this section continue to apply.~~

(Subd (f) amended effective February 23, 2007; adopted as subd (e) effective January 1, 1995; relettered effective January 1, 1997; previously amended effective January 1, 2005, and January 1, 2007.)

(g)-(p) * * *

Rule 5.664 amended effective February 23, 2007; adopted as rule 1439 effective January 1, 1995; amended and renumbered effective January 1, 2007; previously amended effective January 1, 1997, January 1, 1999, January 1, 2001, and January 1, 2005.

Advisory Committee Comment

As of January 1, 2004, only the Washoe Tribe of Nevada and California is authorized under the act to exercise exclusive jurisdiction. An updated list of tribes authorized to exercise exclusive jurisdiction can be found on the Web site of the Administrative Office of the Courts, Center for Families, Children & the Courts at www.courtinfo.ca.gov/programs/cfcc.

Adjusted by the Administrative Director of the Courts on March 29, 2007,
effective January 1, 2007:

Appendix B

Liability Limits of a Parent or Guardian Having Custody and Control of a Minor for the Torts of a Minor (Civil Code, § 1714.1)

Formula

Pursuant to Civil Code section 1714.1, the joint and several liability limit of a parent or guardian having custody and control of a minor under subdivisions (a) and (b) for each tort of the minor shall be computed and adjusted as follows:

$$\text{Adjusted limit} = \left[\frac{\text{Current CCPI-January 1, 1995, CCPI}}{\text{January 1, 1995, CCPI}} + 1 \right] \times \text{January 1, 1995, limit}$$

Definition

“CCPI” means the California Consumer Price Index, as established by the California Department of Industrial Relations.

January 1, ~~2005~~ 2007, calculation and adjustment

The joint and several liability of a parent or guardian having custody and control of a minor under Civil Code section 1714.1, subdivision (a) or (b), effective January 1, ~~2005~~ 2007, shall not exceed ~~\$32,200~~ \$34,700 for each tort. The calculation is as follows:

$$\text{\$32,244 } ~~\text{\$32,200}~~ \text{\$34,735} = \left[\frac{\text{195.4 } ~~\text{210.5}~~ \text{210.5} - \text{151.5}}{\text{151.5}} + 1 \right] \times \text{25,000}$$

Under section 1714.1, subdivision (c), the adjusted limit is rounded to the nearest hundred dollars.

Rule 1.6. Definitions and use of terms

As used in the California Rules of Court, unless the context or subject matter otherwise requires:

(1)–(21) * * *

(22) “Recycled” as applied to paper means ~~“recycled paper product”~~ “recycled printing and writing paper” as defined by section ~~42202~~ 12209 of the Public Resources Contract Code.

(23) * * *

Rule 1.6 amended effective July 1, 2007; adopted as rule 200.1 effective January 1, 2003; previously amended and renumbered effective January 1, 2007.

Rule 3.110. Time for service of complaint, cross-complaint, and response

(a) Application

This rule applies to the service of pleadings in civil cases except for collections cases under rule 3.740(a), unlawful detainer actions, proceedings under the Family Code, and other proceedings for which different service requirements are prescribed by law.

(Subd (a) amended effective July 1, 2007; previously amended effective January 1, 2007.)

(b)–(i) * * *

Rule 3.110 amended effective July 1, 2007; adopted as rule 201.7 effective July 1, 2002; previously amended and renumbered effective January 1, 2007.

Rule 3.712. Application and exceptions

(a) Application

The rules in this chapter apply to all general civil cases filed in the trial courts except those specified in (b), ~~and (c)~~, and (d).

(Subd (a) amended effective July 1, 2007; previously amended effective January 1, 1994, July 1, 2002, and January 1, 2007.)

(b)–(c) * * *

(d) Collections cases

The rules in this chapter do not apply to a collections case, as defined in rule 3.740(a), unless a defendant files a responsive pleading.

(Subd (d) adopted effective July 1, 2007.)

Rule 3.712 amended effective July 1, 2007; adopted as rule 2103 effective July 1, 1991; previously amended and renumbered as rule 207 effective July 1, 2002, and amended and renumbered effective January 1, 2007; previously amended effective January 1, 1994.

Rule 3.721. Case management review

In every general civil case except complex cases and cases exempted under rules 3.712(b)–(e)(d), 3.714(c)–(d), 3.735(b), ~~and~~ 2.573(e), and 3.740(c), the court must review the case no later than 180 days after the filing of the initial complaint

Rule 3.721 amended effective July 1, 2007; adopted effective January 1, 2007.

Rule 3.740. Collections cases

(a) Definition

“Collections case” means an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking any of the following:

- (1) Tort damages;
- (2) Punitive damages;
- (3) Recovery of real property;
- (4) Recovery of personal property; or
- (5) A prejudgment writ of attachment.

(b) Civil Case Cover Sheet

If a case meets the definition in (a), a plaintiff must check the case type box on the Civil Case Cover Sheet (form CM–010) to indicate that the case is a collections case under rule 3.740.

(c) Exemption from general time-for-service requirement and case management rules

A collections case is exempt from:

- (1) The time-for-service requirement of rule 3.110(b); and
- (2) The case management rules that apply to all general civil cases under rules 3.712–3.715 and 3.721–3.730, unless a defendant files a responsive pleading.

(d) Time for service

The complaint in a collections case must be served on all named defendants, and proofs of service on those defendants must be filed, or the plaintiff must obtain an order for publication of the summons, within 180 days after the filing of the complaint.

(e) Effect of failure to serve within required time

If proofs of service on all defendants are not filed or the plaintiff has not obtained an order for publication of the summons within 180 days after the filing of the complaint, the court may issue an order to show cause why reasonable monetary sanctions should not be imposed. If proofs of service on all defendants are filed or an order for publication of the summons is filed at least 10 court days before the order to show cause hearing, the court must continue the hearing to 360 days after the filing of the complaint.

(f) Effect of failure to obtain default judgment within required time

If proofs of service of the complaint are filed or service by publication is made and defendants do not file responsive pleadings, the plaintiff must obtain a default judgment within 360 days after the filing of the complaint. If the plaintiff has not obtained a default judgment by that time, the court must issue an order to show cause why reasonable monetary sanctions should not be imposed. The order to show cause must be vacated if the plaintiff obtains a default judgment at least 10 court days before the order to show cause hearing.

Rule 3.740 adopted effective July 1, 2007.

Rule 3.741. Settlement of collections case

If the plaintiff or other party seeking affirmative relief in a case meeting the definition of “collections case” in rule 3.740(a) files a notice of settlement under rule 3.1385, including

Adopted by the Judicial Council on April 27, 2007, effective on July 1, 2007:

a conditional settlement, the court must vacate all hearing, case management conference, and trial dates.

Rule 3.741 adopted effective July 1, 2007.

Rule 3.851. Application

(a) ***

(b) **Application to listed fees firms**

(Subd (b) amended effective July 1, 2007; previously amended effective January 1, 2007.)

(c)–(e) ***

Rule 3.851 amended effective July 1, 2007; adopted as rule 1620.1 effective January 1, 2003; previously amended and renumbered effective January 1, 2007.

Rule 3.1700. Prejudgment costs

(a) **Claiming costs**

(1) ***

(2) *Costs on default*

A party seeking a default judgment who claims costs must request costs on the *Request for Entry of Default (Application to Enter Default)* (form ~~982(a)(6)~~ CIV-100) at the time of applying for the judgment.

(Subd (a) amended effective July 1, 2007; previously amended effective January 1, 2007.)

(b) ***

Rule 3.1700 amended effective July 1, 2007; adopted as rule 870 effective January 1, 1987; previously amended and renumbered effective January 1, 2007.

Rule 3.1800. Default judgments

(a) **Documents to be submitted**

A party seeking a default judgment on declarations must use mandatory *Request for Entry of Default (Application to Enter Default)* (form ~~982(a)(6)~~ CIV-100). In an unlawful detainer case, a party may, in addition, use optional *Declaration for Default*

Adopted by the Judicial Council on April 27, 2007, effective on July 1, 2007:

Judgment by Court (form UD-116) when seeking a court judgment based on declarations. The following must be included in the documents filed with the clerk:

(1)–(9) ***

(Subd (a) amended effective July 1, 2007; previously amended effective January 1, 2005, and January 1, 2007.)

(b) ***

Rule 3.1800 amended effective July 1, 2007; adopted as rule 388 effective July 1, 2000; previously amended effective January 1, 2005; previously amended and renumbered effective January 1, 2007.

Rule 5.71. Application to be relieved as counsel on completion of limited scope representation

(a) **Applicability of this rule**

Notwithstanding rule ~~376~~ 3.1362, an attorney who has completed the tasks specified in the *Notice of Limited Scope Representation* (form FL-950) may use the procedure in this rule to request that the attorney be relieved as counsel in cases in which the attorney has appeared before the court as attorney of record and the client has not signed a *Substitution of Attorney—Civil* (form MC-050).

(Subd (a) amended effective July 1, 2007.)

(b)–(f) ***

Rule 5.71 amended effective July 1, 2007; adopted as rule 5.171 effective July 1, 2003; previously renumbered effective January 1, 2004; previously amended effective January 1, 2007.

Rule 5.560. General provisions

(a) ***

(b) **Subsequent petitions (§§ 297, 342, 360(b), 364)**

All procedures and hearings required for an original petition are required for a subsequent petition. Petitioner must file a subsequent petition if:

(1)–(2) ***

(3) The family is unwilling or unable to cooperate with services previously ordered under section ~~330~~301.

Adopted by the Judicial Council on April 27, 2007, effective on July 1, 2007:

(Subd (b) amended effective July 1, 2007; previously amended effective January 1, 2001, January 1, 2006, and January 1, 2007.)

(c)–(f) ***

Rule 5.560 amended effective July 1, 2007; adopted as rule 1430 effective January 1, 1991; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2001, and January 1, 2006.

Rule 5.661. Representation of the child on appeal

(a) Definition

For purposes of this rule, “guardian ad litem” means a person designated as the child’s Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem as defined in rule 5.662.

(b) Child as appellant

A notice of appeal on behalf of the child must be filed by the child’s trial counsel, guardian ad litem, or the child if the child is seeking appellate relief from the trial court’s judgment or order.

(c) Recommendation from child’s trial counsel or guardian ad litem

(1) In any juvenile dependency proceeding in which a party other than the child files a notice of appeal, if the child’s trial counsel or guardian ad litem concludes that, for purposes of the appeal, the child’s best interests cannot be protected without the appointment of separate counsel on appeal, the child’s trial counsel or guardian ad litem must file a recommendation in the Court of Appeal requesting appointment of separate counsel.

(2) A child’s trial counsel or guardian ad litem who recommends appointment of appellate counsel for a child who is not an appellant must follow the procedures outlined in (d)–(g).

(d) Time for trial counsel or guardian ad litem to file the recommendation with the Court of Appeal

A recommendation from the child’s trial counsel or guardian ad litem may be filed at any time after a notice of appeal has been filed, but absent good cause, must be filed

Adopted by the Judicial Council on April 27, 2007, effective on July 1, 2007:

in the Court of Appeal no later than 20 calendar days after the filing of the last appellant's opening brief.

(e) Service of recommendation

Child's trial counsel or guardian ad litem must serve a copy of the recommendation filed in the Court of Appeal on the district appellate project.

(f) Factors to be considered

The following are factors to be considered by a child's trial counsel or guardian ad litem in making a recommendation to the Court of Appeal:

- (1) An actual or potential conflict exists between the interests of the child and the interests of any respondent;
- (2) The child did not have an attorney serving as his or her guardian ad litem in the trial court;
- (3) The child is of a sufficient age or development such that he or she is able to understand the nature of the proceedings and,
 - (A) The child expresses a desire to participate in the appeal, or
 - (B) The child's wishes differ from his or her trial counsel's position;
- (4) The child took a legal position in the trial court adverse to that of one of his or her siblings, and an issue has been raised in an appellant's opening brief regarding the siblings' adverse positions;
- (5) The appeal involves a legal issue regarding a determination of parentage, the child's inheritance rights, educational rights, privileges identified in division 8 of the Evidence Code, consent to treatment, or tribal membership;
- (6) Postjudgment evidence completely undermines the legal underpinnings of the juvenile court's judgment under review, and all parties recognize this and express a willingness to stipulate to reversal of the juvenile court's judgment;
- (7) The child's trial counsel or guardian ad litem, after reviewing the appellate briefs, believes that the legal arguments contained in the respondents' briefs do not adequately represent or protect the best interests of the child; and
- (8) The existence of any other factors relevant to the child's best interests.

(g) Form of recommendation

The child's trial counsel, the guardian ad litem, or the child may use Recommendation for Appointment of Appellate Attorney for Child (form JV-810). Any recommendation for an appellate attorney for the child must state a factual basis for the recommendation, include the information provided on form JV-810, and be signed under penalty of perjury.

Advisory Committee Comment

Generally, separate counsel for a nonappealing child will not be appointed for the purpose of introducing postjudgment evidence. See California Code Civ. Proc., § 909; *In re Zeth S.* (2003) 31 Cal.4th 396; *In re Josiah Z.* (2005) 36 Cal.4th 664. For further discussion, see *In re Mary C.* (1995) 41 Cal.App.4th 71.

Rule 5.661 adopted effective July 1, 2007.

Rule 5.720. Eighteen-month review hearing

(a)–(b) ***

(c) Conduct of hearing (§ 366.22)

At the hearing the court must state on the record that the court has read and considered the report of petitioner, the report of any CASA volunteer, the case plan submitted for this hearing, any report submitted by the child's caregiver under section 366.21(d), and any other evidence, and must proceed as follows:

(1)–(13) ***

(14) Within 24 hours of the review hearing, the clerk of the court must provide notice by first-class mail to the last known address of any party who is not present when the court orders the hearing under section 366.26. The notice must include the advisement required by ~~(b)(11)~~ (c)(13).

(15)–(16) ***

(Subd (c) amended effective July 1, 2007; repealed and adopted as subd (b) effective January 1, 1990; previously amended and relettered effective January 1, 2005; previously amended effective July 1, 1991, January 1, 1992, January 1, 1993, January 1, 1995, July 1, 1995, January 1, 1999, July 1, 1999, January 1, 2006, July 1, 2006, and January 1, 2007.)

(d) ***

Adopted by the Judicial Council on April 27, 2007, effective on July 1, 2007:

Rule 5.720 amended effective July 1, 2007; repealed and adopted as rule 1462 effective January 1, 1990; previously amended and renumbered effective January 1, 2007; previously amended effective July 1, 1991, January 1, 1992, January 1, 1993, January 1, 1994, January 1, 1995, July 1, 1995, July 1, 1997, January 1, 1999, July 1, 1999, January 1, 2001, January 1, 2005, January 1, 2006, and July 1, 2006.

Rule 8.304. Filing the appeal; certificate of probable cause

(a) ***

(b) **Appeal after plea of guilty or nolo contendere or after admission of probation violation**

(1) Except as provided in (4), to appeal from a superior court judgment after a plea of guilty or nolo contendere or after an admission of probation violation, the defendant must file in that superior court—~~in addition to~~ with the notice of appeal required by (a)—the statement required by Penal Code section 1237.5 for issuance of a certificate of probable cause.

(2)–(5) ***

(Subd (b) amended effective July 1, 2007; previously amended effective January 1, 2007.)

(c) ***

Rule 8.304 amended effective July 1, 2007; repealed and adopted as rule 30 effective January 1, 2004; previously amended and renumbered effective January 1, 2007.

Rule 8.308. Time to appeal

(a) **Normal time**

Except as provided in (b) or as otherwise provided by law, a notice of appeal and any statement required by Penal Code section 1237.5 must be filed within 60 days after the rendition of the judgment or the making of the order being appealed. Except as provided in rule 8.66, no court may extend the time to file a notice of appeal.

(Subd (a) amended effective July 1, 2007; previously amended effective January 1, 2005, and January 1, 2007.)

(b)–(e) * * *

Rule 8.308 amended effective July 1, 2007; adopted as rule 30.1 effective January 1, 2004; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2005.

Rule 8.412. Briefs by parties and amici curiae

(a)–(d) ***

(e) Additional service requirements

(1) A copy of each brief must be served on the superior court clerk for delivery to the superior court judge.

(2) A copy of each brief must be served on the child’s trial counsel, or, if the child is not represented by trial counsel, on the child’s guardian ad litem appointed under rule 5.662.

~~(2)~~(3) If the Court of Appeal has appointed counsel for any party:

(A) The county child welfare department and the People must serve two copies of their briefs on that counsel; and

(B) Each party must serve a copy of its brief on the district appellate project.

~~(3)~~(4) In delinquency cases the parties must serve copies of their briefs on the Attorney General and the district attorney. In all other cases the parties must not serve copies of their briefs on the Attorney General or the district attorney unless that office represents a party.

~~(4)~~(5) The parties must not serve copies of their briefs on the Supreme Court under rule 8.44(b)(1).

(Subd (e) amended effective July 1, 2007; adopted as subd (d) effective January 1, 2005; previously amended and relettered effective January 1, 2007.)

Rule 8.412 amended effective July 1, 2007; adopted as rule 37.3 effective January 1, 2005; previously amended and renumbered effective January 1, 2007.

Rule E.

~~Notwithstanding any provision of rules 1 through 191, the date of September 11, 2001 is excluded from the time allowed or required for the doing of any act related to commencing, pursuing, or deciding any proceeding in any reviewing court.~~

Rule E repealed effective July 1, 2007; adopted effective September 11, 2001.

~~Rule 10.15. Interim Court Facilities Panel~~

~~(a) Intent~~

~~The Trial Court Facilities Act of 2002 and the related laws involving appellate court facilities placed new responsibilities on the Judicial Council, the Administrative Office of the Courts, and the courts concerning court facilities. The Interim Court Facilities Panel must assist the council, on an interim basis, in fulfilling its responsibilities for court facilities. The council intends that, as of July 1, 2007, these responsibilities will be exercised by the council's Executive and Planning Committee.~~

~~(b) Responsibility~~

~~The Interim Court Facilities Panel must review and consult with the Administrative Office of the Courts on matters concerning court facilities and must review proposals involving such matters before they are considered by the Judicial Council. These matters include:~~

- ~~(1) Policies, procedures, and guidelines concerning court facilities;~~
- ~~(2) Annual proposals for operations and maintenance of appellate and trial court facilities;~~
- ~~(3) Annual capital outlay proposals for appellate and trial court facilities;~~
- ~~(4) Modifications to the facilities master plans and the Five Year Capital Infrastructure Plan;~~
- ~~(5) Site selection for any new court facility;~~
- ~~(6) Preliminary plans, including cost estimates and schedules, for any new court facility; and~~
- ~~(7) Requests to augment the budget for any major capital outlay court construction project (i.e., new construction or renovation over \$400,000) when the total increase exceeds 20 percent of the project budget amount.~~

~~(c) Long-term governance structure~~

~~Before June 30, 2007, the panel must recommend to the Judicial Council, after consultation with the Court Facilities Transitional Task Force and the Administrative~~

Rules repealed by their own provisions effective June 30, 2007:

~~Office of the Courts, an appropriate long term structure for court facilities governance.~~

~~(d) Membership~~

~~The Interim Court Facilities Panel consists of at least two trial court judges, one appellate court justice, and two court administrators, each appointed by the Chief Justice from the members of the Judicial Council. The panel members must include at least one member from each of the council's other internal committees.~~

~~(e) Application of rule 10.10~~

~~Except as otherwise specifically provided in this rule, rule 10.10 applies to this panel.~~

~~(f) Repeal~~

~~This rule is repealed effective June 30, 2007.~~

Rule 10.15 repealed by its own provision effective June 30, 2007; adopted as rule 6.15 effective June 23, 2004; previously amended and renumbered effective January 1, 2007.

~~Rule 10.71. Court Facilities Transitional Task Force~~

~~(a) Purpose~~

~~The task force provides the Administrative Office of the Courts with advice and recommendations on issues related to appellate and trial court facilities, including:~~

- ~~(1) Acquisition, space programming, construction, and design of appellate and trial court facilities;~~
- ~~(2) Maintenance and operation of appellate and trial court facilities;~~
- ~~(3) Transfer of responsibility for trial court facilities from the counties to the state;
and~~
- ~~(4) Policies and procedures involving court facilities.~~

~~(b) Membership~~

- ~~(1) The task force must include at least one member from each of the following categories, appointed by the Chief Justice for a term expiring June 30, 2007:~~

Rules repealed by their own provisions effective June 30, 2007:

- ~~(A) — Appellate court justice;~~
 - ~~(B) — Trial court judicial officer;~~
 - ~~(C) — Appellate court administrator;~~
 - ~~(D) — Trial court administrator from a large, metropolitan county;~~
 - ~~(E) — Trial court administrator from other than a large, metropolitan county; and~~
 - ~~(F) — Member of the State Bar of California.~~
- ~~(2) — The task force may also include one or more of the following, appointed by the Chief Justice for a term expiring June 30, 2007:~~
- ~~(A) — A member of the public;~~
 - ~~(B) — An architect; and~~
 - ~~(C) — An engineering or construction industry professional.~~
- ~~(3) — The Administrative Director of the Courts may appoint one or more nonvoting, advisory members to the task force.~~
- ~~(4) — The Chief Justice may fill any vacancies in the voting membership of the task force.~~
- ~~(5) — The provisions of rule 10.32 apply to the nominations and appointments to the task force.~~

~~(c) — **Repeal date**~~

~~This rule is repealed effective June 30, 2007.~~

Rule 10.71 repealed by its own provision effective June 30, 2007; adopted as rule 6.60 effective June 23, 2004; previously amended and renumbered effective January 1, 2007.