

Invitation to Comment

<p>Title</p>	<p>Rules Applicable to All Courts: Construction of Rules When There Are Applicable Statutory Requirements and Format of Citations (adopt Cal. Rules of Court, rule 1.200 and amend rules 1.5 and 3.1113)</p>
<p>Summary</p>	<p>This proposal would make two changes to the rules applicable to all courts: (1) add a new provision and advisory committee comment addressing the construction of rules where there are statutes that establish requirements different from those in the rules; and (2) add a new rule regarding the required format of citations to cases and other authorities in all papers filed in the courts.</p>
<p>Source</p>	<p>Appellate Advisory Committee Hon. Kathryn Doi Todd, Chair Civil and Small Claims Advisory Committee Hon. Lee Edmon, Chair</p>
<p>Staff</p>	<p>Heather Anderson, Appellate Advisory Committee Counsel, 415-865-7691, heather.anderson@jud.ca.gov Patrick O'Donnell, Civil & Small Claims Advisory Committee Counsel, 415-865-7665, Patrick.o'donnell@jud.ca.gov</p>
<p>Discussion</p>	<p><u>Construction of Rules When There Are Statutory Requirements</u> Article VI, section 6 of the California Constitution authorizes the Judicial Council of California to adopt rules for court administration, practice, and procedure and further provides that these rules “shall not be inconsistent with statute.” Under this authority, the Judicial Council has adopted most of the provisions in the California Rules of Court. These rules establish many of the procedural requirements and deadlines for proceedings in both the trial and appellate courts. There are, however, some statutes that establish specific procedures, deadlines, or other requirements that are different from those in the rules of court for particular proceedings. For example, Public Resources Code section 21167.6 establishes different deadlines for the preparation of a clerk’s transcript in appeals in certain cases as well as different limits on extensions of briefing time in these cases.</p> <p>This proposal would add a new provision to rule 1.5, regarding construction of the California Rules of Court, and an advisory committee comment to this rule to clarify that, consistent with Article VI, section 6 of the California Constitution, the rules apply where their application would not be inconsistent with an applicable statutory provision. The committees would particularly appreciate comments regarding whether the proposed amendment to rule 1.5 is necessary or whether the proposed advisory committee comment is sufficient</p>

address this issue.

Format of Citations

Rule 3.1113 of the California Rules of Court, which addresses memoranda filed in law and motion matters in civil cases in the superior courts, currently includes a provision addressing the format of citations in these memoranda. Subdivision (i) of this rule requires that citations be in the style prescribed by either the *California Style Manual* or *The Bluebook: A Uniform System of Citation*, at the option of the party filing the memorandum.

The Appellate Advisory Committee received a suggestion that a similar requirement be incorporated into rule 8.204, which addresses briefs in civil cases. The Committee supports the concept that such a requirement should apply to citations in briefs but believes that it would be more appropriate to adopt a general requirement applicable to citations in all documents filed in both trial and appellate the courts. The Appellate Advisory Committee and the Civil and Small Claims Advisory Committee therefore propose that a new rule establishing this requirement be adopted as part of Title One of the California Rules of Court, which contains the rules that are applicable in all courts. Proposed new rule 1.200 would require that all citations in documents filed in the courts, both trial and appellate, be in the style established by either the *California Style Manual* or *The Bluebook: A Uniform System of Citation*, at the option of the party filing the document. The committees would particularly appreciate comments concerning whether or not this rule should allow citations in the style established by *The Bluebook*, or only permit citation in style established by the *California Style Manual*.

Attachment

Rule 1.200 of the California Rules of Court would be adopted and rules 1.5 and 3.1113 would be amended effective January 1, 2008, to read:

1 **Rule 1.5. Construction of rules and standards**

2
3 **(a) Construction**

4
5 (1) The rules and standards of the California Rules of Court must be liberally
6 construed to ensure the just and speedy determination of the proceedings that
7 they govern.

8
9 (2) Consistent with Article VI, section 6 of the California Constitution, these rules
10 apply unless their application would be inconsistent with statute.

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12
13 **(b)–(d) * * ***

14
15 **Advisory Committee Comment**

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17 Subdivision (a) Some statutes contain provisions relating to court administration, practice, or
18 procedure in certain proceedings that are different from these rules. For example, Public Resources Code
19 section 21167.6 establishes different deadlines for the preparation of a clerk’s transcript in appeals in
20 certain cases as well as different limits on extensions of briefing time in these cases. Consistent with
21 Article VI, section 6 of the California Constitution, these rules apply where their application would not be
22 inconsistent with such a statutory provision.

23
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25 **Chapter 7 – Form and Format of Papers**

26
27 **Rule 1.200. Format of Citations**

28
29 Citations to cases and other authorities in all documents filed in the courts must be
30 in the style established by either the *California Style Manual* or *The Bluebook: A*
31 *Uniform System of Citation*, at the option of the party filing the document. The same
32 style must be used consistently throughout the document.

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34
35 **Rule 3.1113. Memorandum**

36
37 **(a)–(h) * * ***

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39 **~~(i) Use of *California Style Manual*~~**

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41 ~~A memorandum must follow the style prescribed by either the *California Style*~~
42 ~~*Manual* or *The Bluebook: Uniform System of Citation*, at the option of the party~~

1 filing the document. The same style must be used consistently throughout the
2 memorandum.

3
4 ~~(j)~~**(i)** Copies of non-California authorities

5
6 ~~(k)~~**(j)** Attachments

7
8 ~~(A)~~**(k)** Exhibit references

9
10 ~~(m)~~**(L)** Requests for judicial notice

11
12 ~~(n)~~**(m)** Proposed orders or judgments

13

Item SPR07-08 Response Form

Title: Rules Applicable to All Courts: Construction of Rules When There Are Applicable Statutory Requirements and Format of Citations (adopt Cal. Rules of Court, rule 1.200 and amend rules 1.5 and 3.1113)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Camilla Kieliger,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Camilla Kieliger
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 20, 2007
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council,
the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.
All comments will become part of the public record of the council's action.*