

Invitation to Comment

Title	Civil Case Management (amend Cal. Rules of Court, rule 3.1385)
Summary	<p>The current procedures for notice of settlement sometimes pose practical problems (1) in cases with minors’ compromises, and (2) in situations where a party has filed and served a notice of settlement, but is unable to dismiss the action within 45 days. The proposed amendments to California Rules of Court, rule 3.1385 address these problems by providing additional time, under certain circumstances, for completing a settlement after notice of settlement has been provided to the court.</p>
Source	<p>Civil and Small Claims Advisory Committee Hon. Lee Smalley Edmon, Chair</p>
Staff	<p>Patrick O’Donnell, Committee Counsel, 415-865-7665, patrick.o’donnell@jud.ca.gov</p>
Discussion	<p>Attorneys who have worked with rule 3.1385 on notice of settlements have identified some practical problems in implementing the rule under certain circumstances. This proposal would add two new subdivisions to the rule to address these problems.</p> <p>First, a new subdivision (d) would be added relating to settlements involving minors and persons with disabilities. There is currently no exception in the notice provisions of the rule for those situations. New subdivision (d) would provide that, if the settlement of a case involves the compromise of the claim of a minor or person with a disability, the court must not hold an order to show cause hearing before the court has held a hearing to approve the settlement, provided the parties have filed appropriate papers to seek court approval of the settlement.</p> <p>Second, a new subdivision (e) would be added providing for additional time to complete settlements in certain circumstances. Specifically, if a party who has filed a notice of settlement under rule 3.1385(a) determines that there is good cause why the case cannot be dismissed within 45 days, the party must notify the court and other parties of its inability to dismiss the case within the prescribed time, show good cause in writing for its inability to do so, and identify an alternative time period for dismissal. The notice and supporting declaration must be served and filed at least five court days before the time for requesting dismissal has elapsed. If good cause is shown, the court must continue the matter to allow additional time to complete the settlement. Under new subdivision (e), the court would be authorized</p>

to take such other actions as may be appropriate for the proper management and disposition of the case.

Attachment

Rule 3.1385 of the California Rules of Court would be amended by the Judicial Council, effective January 1, 2009, to read:

1 **Rule 3.1385. Duty to notify court and others of settlement of entire case**

2
3 (a) * * *

4
5 (b) **Dismissal of case**

6 Except as provided in (c) or (d) each plaintiff or other party seeking affirmative
7 relief must serve and file a request for dismissal of the entire case within 45 days
8 after the date of settlement of the case. If the plaintiff or other party required to
9 serve and file the request for dismissal does not do so, the court must dismiss the
10 entire case 45 days after it receives notice of settlement unless good cause is shown
11 why the case should not be dismissed.

12
13 (c) * * *

14
15 (d) **Compromise of claims of a minor or disabled person**

16 If the settlement of the case involves the compromise of the claim of a minor or
17 person with disability, the court must not hold an order to show cause hearing under
18 (b) before the court has held a hearing to approve the settlement, provided the
19 parties have filed appropriate papers to seek court approval of the settlement.

20
21 (e) **Request for additional time to complete settlement**

22 If a party who has served and filed a notice of settlement under (a) determines that
23 the case cannot be dismissed within 45 days, that party must notify the court and the
24 other parties of that party's inability to dismiss the case within the prescribed time
25 and show good cause in writing for its inability to do so, and propose an alternative
26 date for dismissal. The notice and a supporting declaration must be served and filed
27 at least 5 court days before the time for requesting dismissal has elapsed. If good
28 cause is shown, the court must continue the matter to allow additional time to
29 complete the settlement. The court may take such other actions as may be
30 appropriate for the proper management and disposition of the case.

Item SPR08-24 Response Form

Title: Civil: Case Management (amend Cal. Rules of Court, rule 3.1385)

- 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: _____

To Submit Comments

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

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Email: invitations@jud.ca.gov

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San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008

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