

Invitation to Comment

Title	Civil Case Coordination: Submission of Assignment Order (amend Cal. Rules of Court, rule 3.540).
Summary	This proposal would require the petitioner to submit the order assigning a coordination trial judge to the Chair of the Judicial Council if the assignment was not made by the Chair.
Source	Civil and Small Claims Advisory Committee Hon. Dennis M. Perluss, Chair
Staff	Susan R. McMullan, Counsel, 415-865-7990, susan.mcmullan@jud.ca.gov

Under Code of Civil Procedure section 404, two or more complex civil actions that share common questions of fact or law that are pending in different counties may be ordered joined in one court in a coordination proceeding. Most commonly, the process begins when a party to one of the actions submits to the Chair of the Judicial Council (Chair) a petition for coordination.¹ The Chair assigns a coordination motion judge, or authorizes the presiding judge of a court to assign a judge of that court to serve as the coordination motion judge, to determine whether coordination is appropriate. (Code Civ. Proc., § 404, Cal. Rules of Court, rule 3.524(a).) If the coordination motion judge grants the petition for coordination, the Chair of the Judicial Council either assigns a coordination trial judge or, more commonly, authorizes the presiding judge of one court to assign a judge of that court to serve as coordination trial judge. (Code Civ. Proc., § 404, Cal. Rules of Court, rule 3.540(a).)

When a presiding judge, under authority from the Chair, assigns a judge of his or her court to serve as the coordination trial judge, the party that petitioned for coordination is required to file the order assigning the coordination trial judge in each coordinated action and serve it on each party appearing in each action. There is no rule, however, that requires the petitioner to submit to the Chair an assignment order made by a presiding judge. Although rule 3.511(a)(4) lists the order assigning the coordination trial judge among the papers that must be submitted to the Chair of the Judicial Council, neither that rule nor any other specifies who must submit the order. This proposal would amend rule 3.540(c), the rule governing assignment of the coordination trial judge, to require the petitioner to do so. The amendment would fill a gap in the rules, clarify that it is the petitioner’s responsibility to submit to the Chair an assignment order made by a presiding judge, and ensure that necessary information about the assignment is submitted to the Chair.

¹ A presiding judge of a court in which one of the actions is pending is also authorized to submit a petition. (Code Civ. Proc., § 404.)

Rule 3.540 of the California Rules of Court would be amended by the Judicial Council effective January 1, 2011, to read:

1 **Rule 3.540. Order assigning coordination trial judge**

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3 **(a)–(b) * * ***

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5 **(c) Filing and service of copies of assignment order**

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7 The petitioner must file the assignment order in each coordinated action and serve it
8 on each party appearing in each action, and, if the assignment was made by the
9 presiding judge, submit it to the Chair of the Judicial Council. Every paper filed in a
10 coordinated action must be accompanied by proof of submission of a copy of the
11 paper to the coordination trial judge at the designated address. A copy of the
12 assignment order must be included in any subsequent service of process on any
13 defendant in the action.

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Item SPR10-14 Response Form

Title: **Civil Case Coordination: Submission of Assignment Order and Termination of Proceeding** (amend Cal. Rules of Court 3.540 and 3.541 and adopt rule 3.546)

- 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 submitted online, written on this form, or prepared in a letter format. 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. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

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DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 18, 2010

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.