



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-014

For business meeting on October 24, 2025

Title

Civil Practice and Procedure: Deadlines for Filings for Class Certification Motions

Report Type

Action Required

Effective Date

January 1, 2026

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rule 3.764

Date of Report

September 25, 2025

Recommended by

Civil and Small Claims Advisory Committee
Hon. Samantha P. Jessner, Chair

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Executive Summary

The Civil and Small Claims Advisory Committee recommends amending California Rules of Court, rule 3.764 to lengthen the deadlines for filings related to class certification motions to ensure courts have sufficient time to review the papers in advance of the hearing. The proposed deadlines offered in this report would address that concern and coordinate the deadlines for opposition and reply filings for these motions with the corresponding deadlines applicable to filings for motions for summary judgment.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2026, amend California Rules of Court, rule 3.764 to adjust the deadlines for filings related to class certification motions. As amended, the motion, opposition, and reply would be due 34 days, 20 days, and 11 days before the hearing, respectively.

The text of the recommended rule amendments is attached at page 5.

Relevant Previous Council Action

The Judicial Council adopted rule 1854, effective January 1, 2002, as part of a broader rule proposal to provide uniform statewide rules for class actions.¹ Rule 1854 contained requirements pertaining to motions to certify or decertify a class or to amend or modify a certification order. Rule 1854 specified deadlines for such filings, which have not changed since they were originally adopted. In 2007 the Judicial Council made minor nonsubstantive amendments to the rule and renumbered it to rule 3.764.²

Analysis/Rationale

This proposal would extend by six calendar days each of the deadlines in rule 3.764(c)(1) for filing motions, oppositions, and replies regarding the certification and decertification of a class. The deadline for motions would change from 28 to 34 calendar days before the hearing; the deadline for oppositions would change from 14 to 20 calendar days before the hearing; and, the deadline for replies would change from 5 to 11 calendar days before the hearing. Although the identified concern that this proposal aims to address is limited to replies, the committee proposes adding six days to the deadline for each filing to retain the number of days between the deadlines. Amending only the timing to file a reply but leaving the other deadlines unchanged would reduce the amount of time available for a moving party to prepare and file a reply.

As circulated, the proposal would have adjusted each of the deadlines by five calendar days. In a comment on the proposal Judge Harold W. Hopp of the Superior Court of Riverside County suggested coordinating these deadlines with deadlines applicable to filings for motions for summary judgment. Judge Hopp noted that, as originally proposed, the deadlines for opposition and reply filings were close, but not quite the same, as those filing deadlines for motions for summary judgment.³ The committee has incorporated Judge Hopp's suggestion into the proposal to maintain consistency in the timing for these filings.⁴

Policy implications

The committee recommends amending rule 3.764 to ensure courts have adequate time to review filings related to class certification motions in advance of the hearing. This change will improve the quality of justice and facilitate efficient court hearings.

As indicated above, the amendment would also coordinate the deadlines for opposition and reply filings for class certification motions with the analogous filings for motions for summary

¹ Judicial Council of Cal., Advisory Com. Rep., *Uniform Statewide Rules for Class Actions* (Sept. 12, 2001); Judicial Council of Cal., mins. (Oct. 26, 2001), item D8, pp. 34–35.

² Judicial Council of Cal., Staff Rep., *Reorganization of the California Rules of Court* (June 15, 2006); Judicial Council of Cal., mins. (June 30, 2006), item 5, p. 10.

³ See Code Civ. Proc., § 437c(b)(2), (4), https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=437c&lawCode=CCP.

⁴ The proposal also includes minor changes to the rule to promote consistency of style and to remove archaic terminology.

judgment. This coordination will help avoid potential confusion or inadvertent error that could arise from slightly different filing deadlines.

Comments

The committee solicited public comments on this proposal from April 14 to May 23, 2025, as part of the council's regular spring invitation-to-comment cycle. The proposal received five comments; two were from courts, one was from a superior court judge, one was from a county bar association, and one was from the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. All the comments were either supportive of the proposal or informational; none of the comments expressed opposition to the proposal. The only commenter who suggested a change to the proposal was Judge Hopp. As indicated above, Judge Hopp's suggested change to align the deadlines for opposition and reply filings in this proposal with the deadlines applicable to such filings for motions for summary judgment has been incorporated into the proposal.

A chart of comments and the committee's responses is attached at pages 6–7.

Alternatives considered

The committee considered the option of taking no action but ultimately determined that the proposal was warranted because of the benefits it would provide to courts and court users by ensuring that the court would have sufficient time to review all the filings in advance of the hearing.

The committee considered several other options to address the concerns identified. One such option was increasing the number of days prior to the hearing that the reply—but not the other briefs—is due. The committee chose not to recommend such a narrow amendment because it would effectively shorten the time available to prepare and file a reply.

Another option was to change the deadlines in rule 3.764 from calendar days to court days. The committee determined that such amendments would amount to a broader change than necessary.

Finally, the committee considered amending the rule to add a different number of calendar days to each deadline, such as two, five, or seven, but after consideration of public comment, concluded that six additional calendar days was an appropriate balance. With this change, the deadlines would provide sufficient time for court review, ensure the deadlines are not too far away from the hearing, and coordinate the deadlines for the opposition and reply filings for these motions with the deadlines for such filings for motions for summary judgment.

Fiscal and Operational Impacts

The committee anticipates that this proposal will provide an operational benefit to courts that hear motions to certify or decertify a class by ensuring that the courts have adequate time to review the filings before the hearing. The commenters generally indicated that the proposal would provide this benefit.

This proposal could have very minor fiscal or operational impacts to courts related to notification of affected staff and updates to reference materials addressing these filings. A comment from the Superior Court of San Bernardino County noted that “minimal change will be required.”

Attachments and Links

1. Cal. Rules of Court, rule 3.764, at page 5
2. Chart of comments, at pages 6–7
3. Link A: Code Civ. Proc., § 437c,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=437c

Rule 3.764 of the California Rules of Court is amended, effective January 1, 2026, to read:

Rule 3.764. Motion to certify or decertify a class or amend or modify an order certifying a class

(a)–(b) * * *

(c) Format and filing of motion

(1) *Time for service of papers*

Notice of a motion to certify or decertify a class or to amend or modify a certification order must be ~~filed and~~ served on all parties to the action and filed at least ~~28~~ 34 calendar days before the date ~~appointed~~ set for hearing. Any opposition to the motion must be served and filed at least ~~14~~ 20 calendar days before the noticed or continued hearing, unless the court for good cause orders otherwise. Any reply to the opposition must be served and filed at least ~~5~~ 11 calendar days before the noticed or continued date of the hearing, unless the court for good cause orders otherwise. The provisions of Code of Civil Procedure section 1005 otherwise apply.

(2)–(4) * * *

(d)–(e) * * *

SPR25-05

Civil Practice and Procedure: Deadlines for Motions to Certify or Decertify a Class (Amend Cal. Rules of Court, rule 3.764)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Judge Harold W. Hopp Superior Court of California, County of Riverside	AM	The Legislature recently amended the deadlines for summary judgment motions. The opposition and reply deadlines are close, but not quite the same, as the deadlines in this proposal. It might avoid some confusion if we used the same deadlines as for opposition and reply papers on MSJs (20 calendar days for opposition, 11 calendar days for reply papers). If we want to keep the 14-day space between the moving and opposition papers, we could make the motion due 34 days before the hearing. But other than this tweak, I support the proposed rule change. I have a complex civil case assignment and hear most of our court's class action cases. The additional time to review the papers would be most helpful.	The committee appreciates the suggestion and sees the benefit of harmonizing the deadlines for these filings. For this reason, the committee recommends adjusting the deadlines in rule 3.764 so that the opposition is due 20 calendar days prior to the hearing and the reply is due 11 calendar days prior to the hearing. The committee also recommends adjusting the proposed motion deadline (to 34 calendar days) to preserve the time intervals between the filing deadlines.
2.	Orange County Bar Association by Mei Tsang, President	A	Yes, the proposal accomplishes its purpose of allowing courts extra time to consider the reply papers without giving the parties extra time to brief the issues.	The committee appreciates the comment.
3.	Superior Court of California, County of Los Angeles by Stephanie Kuo	A	The following comments are representative of the Superior Court of California, County of Los Angeles (Court), and do not represent or promote the viewpoint of any particular judicial officer or employee.	No response needed.
			In response to the Judicial Council of California's ITC, "Civil Practice and Procedure: Deadlines for Motions to Certify or Decertify a Class," the Court agrees with the proposal and has no other comments.	The committee appreciates the comment.
4.	Superior Court of California, County of San Bernardino	NI	Does the proposal appropriately address the stated purpose?	The committee appreciates the comment.
			Yes, the proposal appropriately addresses the stated purpose.	
			Would the proposal provide cost savings? If so, please quantify	The committee appreciates the comment.
			No cost savings	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR25-05**Civil Practice and Procedure: Deadlines for Motions to Certify or Decertify a Class** (Amend Cal. Rules of Court, rule 3.764)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
			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? Minimal change will be required. Clerk's Office, Judicial Assistants, and Judges would need to be informed of the change/amended rule. This can be done by email. No additional training required. Possibly brief revising needed for clerk's office procedures manual. (2 days) No changes in the case management system would be needed.	The committee appreciates the comment and the information on implementation requirements.
			Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.	The committee appreciates the comment.
			How well would this proposal work in courts of different sizes? This will work well in any size court.	The committee appreciates the comment.
5.	Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) (TCPJAC/CEAC Joint Rules Subcommittee (JRS))	A	The JRS notes that the proposal should be implemented because it will give the court more time to review all filings related to class certification.	The committee appreciates the comment.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.