



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-074

For business meeting on January 21, 2022

Title

Civil Practice and Procedure: Technical
Changes to Civil Rules

Agenda Item Type

Action Required

Effective Date

January 21, 2022

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rules 3.722,
3.1207, and 3.2226

Date of Report

January 4, 2022

Recommended by

Judicial Council staff
Anne M. Ronan, Supervising Attorney
Legal Services

Contact

Anne M. Ronan, 415-856-8933
anne.ronan@jud.ca.gov

Executive Summary

Judicial Council staff recommend amending rules 3.722, 3.1207, and 3.2226 of the California Rules of Court, effective January 21, 2022, to provide for appearances “remotely” rather than just “by telephone” and to change references to rule 3.670 to new rule 3.672. The amendments would make the rules consistent with recently adopted rule 3.672 and avoid confusion among court users, court staff, and judicial officers about which rule applies to civil remote appearances.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective January 21, 2022, amend California Rules of Court, rules 3.722, 3.1207, and 3.2226, to replace references to “by telephone” and rule 3.670 with references to “remotely” and rule 3.672, respectively.

The proposed amended rules are attached at pages 4–5.

Relevant Previous Council Action

The Judicial Council recently adopted rule 3.672¹ to implement Code of Civil Procedure section 367.75,² a new statute that authorizes courts to conduct civil proceedings and parties to appear via remote technology, not limited to telephone. The new rule and several rule amendments—including the suspension of most of the procedures in rule 3.670, the rule regarding telephone appearances—went into effect January 1, 2022, via circulating order, coinciding with the effective date of the new statute.

Analysis/Rationale

The rules proposed to be amended each require parties and/or their counsel to appear in person or “by telephone” at a particular civil proceeding: a case management conference (rule 3.722), an ex parte application determination (rule 3.1207), and an initial case management conference in a case under the California Environmental Quality Act that is receiving expedited review (rule 3.2226). Because, under new section 367.75, remote appearances in civil proceedings are not limited to telephone appearances but may be handled by videoconference as well, these rules are inconsistent with statute as of January 1, 2022. Amending the phrase “by telephone” with the broader term “remotely” will ensure that the rules conform to the new law. The notice provisions in new rule 3.672, along with recently adopted Remote Appearance forms, will apply to these proceedings.

In addition, rules 3.722 and 3.1207 each expressly refer to rule 3.670, the current telephone appearance rule. However, the subdivisions in that rule setting out procedures for notifying the court and other parties of the intent to appear remotely have been suspended, with new rule 3.672 governing in their place. Also, the form referenced in rule 3.670 has been revoked. Changing the references in rule 3.722 and 3.1207 will conform these rules with current law and avoid confusion among parties, court staff, and judicial officers.

Policy implications

Amending the rules to update the references to appearances via remote technology to reflect the recent change in the law furthers the council’s mission to improve the administration of justice and to increase access to justice.

Comments

This proposal was not circulated for public comment because the changes are minor substantive changes that are unlikely to create controversy and are therefore within the Judicial Council’s purview to adopt without circulation. (See rule 10.22(d)(2).)

¹ This and all further rule references are to the California Rules of Court.

² See Link A. All further statutory references are to the Code of Civil Procedure.

Alternatives considered

Because the changes are needed to ensure that the rules are consistent with the new statute and new and amended rules, no alternatives were considered.

Fiscal and Operational Impacts

Any costs and operational impacts resulting from revising these rules to reflect the application of section 367.75 as of January 1, 2022 (e.g., costs for training court staff and judicial officers) would be the result of the statute and not of this proposed rule amendment. Amending these rules is unlikely to have any direct fiscal or operational impacts.

Attachments and Links

1. Cal. Rules of Court, rules 3.722, 3.1207, and 3.2226, at pages 4–5
2. Link A: Code Civ. Proc., § 367.75:
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=CCP§ionNum=367.75

Rules 3.722, 3.1207, and 3.2226 of the California Rules of Court are amended, effective January 21, 2022, to read:

Title 3. Civil

Division 7. Civil Case Management

Chapter 3. Case Management

Rule 3.722. Case management conference

(a)–(b) * * *

(c) Preparation for the conference

At the conference, counsel for each party and each self-represented party must appear ~~by telephone or personally~~ in person or remotely as provided in rule ~~3.670~~ 3.672; must be familiar with the case; and must be prepared to discuss and commit to the party's position on the issues listed in rules 3.724 and 3.727.

(d)–(e) * * *

Division 11. Law and Motion

Chapter 4. Ex Parte Applications

Rule 3.1207. Appearance requirements

An applicant for an ex parte order must appear, either in person or ~~by telephone~~ remotely under rule ~~3.670~~ 3.672, except in the following cases:

- (1) Applications to file a memorandum in excess of the applicable page limit;
- (2) Applications for extensions of time to serve pleadings;
- (3) Setting of hearing dates on alternative writs and orders to show cause; and
- (4) Stipulations by the parties for an order.

Division 22. Petitions Under the California Environmental Quality Act

**Chapter 2. California Environmental Quality Act Proceedings Under Public
Resources Code Sections 21168.6, 21178–21189.3, and 21189.50–21189.57**

Rule 3.2226. Initial case management conference

(a)–(d) * * *

(e) Preparation for the conference

At the conference, lead counsel for each party and each self-represented party must appear ~~by telephone or personally~~ in person or remotely, must be familiar with the case, and must be prepared to discuss and commit to the party's position on the issues listed in (c).