



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: September 24, 2019

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**Title**

Civil Practice and Procedure: Case  
Management Rules

**Agenda Item Type**

Action Required

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rule 3.720

**Effective Date**

January 1, 2020

**Recommended by**

Civil and Small Claims Advisory Committee  
Hon. Ann I. Jones, Chair

**Date of Report**

August 13, 2019

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### Executive Summary

The Civil and Small Claims Advisory Committee recommends that the discretionary exemption to the statewide case management rules be made permanent to allow flexibility in case management where courts so desire. In 2013, the Judicial Council amended the statewide rules of court on civil case management to give courts the discretion to exempt certain types or categories of general civil cases from the mandatory case management rules. The amendments were intended as an emergency measure, to help courts to better address the state's fiscal crisis by decreasing the time spent by court staff and judicial officers in filing case management statements, setting and holding individual case management conferences, and performing other actions required by the case management rules. In 2018, the Commission on the Future of California's Court System recommended that the emergency exemption be made permanent and the advisory committee is furthering that recommendation by this proposal.

### Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council amend California Rules of Court, rule 3.720, effective January 1, 2020, to make the emergency provisions allowing exceptions to the rule permanent.

The amended rule is attached at page 5.

## Relevant Previous Council Action

The council approved the provision allowing courts to take a temporary exemption from the statewide rules regarding case management in 2013.<sup>1</sup> The initial request to amend the case management rules came from the Superior Court of Los Angeles County in December 2012 and was reiterated by the Superior Court of Sacramento County shortly thereafter. The courts sought relief from the current case management rules applicable to general civil cases.

The Superior Court of Los Angeles County particularly wanted the rules relaxed because of its plan—now in place—to remove all personal injury cases, of which it then had over 16,000 pending, from its individual calendar courts (in which general civil cases are assigned to a single judge for all purposes) to three master calendars.<sup>2</sup> The court sought relief from the mandatory case management rules because it had concluded that, with its then very limited resources, it could not continue to provide all general civil cases with the type of individualized case supervision and management envisioned by the rules of court.

While some commentators opposed the exemption in 2013, most were in favor, at least on a temporary basis. The council adopted the proposal at that time and three years later extended it, so that under rule 3.720,<sup>3</sup> a court currently may, by local rule, exempt types or categories of general civil cases from the mandatory case management rules. As the rule currently stands, this exemption applies only to cases filed before January 1, 2020.

## Analysis/Rationale

Most courts throughout the state have not implemented a local exemption from the case management rules authorized by rule 3.720, and continue to provide the supervision and management of general civil cases through case management conferences as provided for in the state rules of court. At least six courts, however, have implemented local exemptions and suspended the mandated case management procedures for some or all of the general civil cases in their courts for at least part of the time when the exemption has been in effect:

- Superior Court of Los Angeles County currently exempts all limited cases from the case management procedures and all personal injury cases, and instead issues individual trial setting orders in each case. (Super. Ct. L.A. County, Local Rules, rule 3.23.)<sup>4</sup>

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<sup>1</sup> The background of the prior action is set out in detail in Judicial Council of Cal., Advisory Com. Rep., *Civil Cases: Temporary Suspension of Case Management Rules* (Feb. 26, 2013), which may be found at <http://www.courts.ca.gov/documents/jc-20130226-itemC.pdf>.

<sup>2</sup> The court had concluded that these cases typically require fewer appearances and less direct case management than other types of general civil cases.

<sup>3</sup> Unless otherwise noted, all references to rules herein are to the California Rules of Court.

<sup>4</sup> This court reported to the advisory committee that the court finds the exemption of all personal injury cases from the case management rules particularly helpful in the court's efficient processing of those cases, now handled out of five master calendar departments.

- Superior Court of Monterey County exempted all civil cases for a period beginning in June 2013, instead holding a Case Progress Conference, with a statement required from the plaintiff only, 180 days after the filing of the complaint. That court is currently back to having the case management rules apply to all cases.
- Superior Court of Sacramento County currently exempts all limited cases and provides alternative procedures on the court’s webpage for requesting trial setting and arbitration or mediation. (Super. Ct. Sacramento County, Local Rules, rule 2.21 and 2.52.)
- Superior Court of San Bernardino County previously exempted all general civil cases (all cases the case management rules apply to), but now exempts all unlimited and complex cases, holding a trial setting conference in place of a case management conference in those cases. (Super. Ct. San Bernardino County, Local Rules, rule 411.)<sup>5</sup>
- Superior Court of San Joaquin County currently exempts all limited cases from the case management rules. (Super. Ct. San Joaquin County, Local Rules, rule 3-102.A.6.)
- Superior Court of Shasta County exempts all limited and unlimited cases, and provides dates for settlement conference and trial, along with the assignment of a judicial officer, at the time of filing. (Super. Ct. Shasta County, Local Rules, rule 3.02.)<sup>6</sup>

The Commission on the Future of California’s Court System considered the case management rules in making its recommendations to streamline civil litigation. Looking at how courts were making use of the emergency exemption, the commission recommended keeping the exemption in rule 3.720(b) in place permanently. In its *Report to the Chief Justice* (Futures Commission Report) the commission stated:

Robust case management conferences, held early in the case, are useful tools for expediting the litigation process. [fn] However, resource and budget constraints can limit a court’s ability to provide such conferences. Therefore, this recommendation retains existing case management rules. For limited cases, this approach allows judicial review of the case management conference statements without requiring the parties to attend a conference. (California Rules of Court, rule 3.720(e).)[<sup>7</sup>] In intermediate or unlimited cases, conferences should generally be held, unless the court decides not to do so. [fn: This approach would conform

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<sup>5</sup> This court reports that it would like to continue using this alternate procedure for managing its civil cases.

<sup>6</sup> The Superior Court of Shasta County reported that the existence of this statutory exemption made it possible for that court to combine their two civil departments into one. Previously, each of the departments had a weekly CMC calendar, which the court realized would not be possible to continue when a single department was handling all aspects of all civil cases.

<sup>7</sup> The advisory committee notes that several courts apply this rule to all limited cases, providing by local rule that no case management *conferences* are held in such cases, although case management statements generally need to be filed. See, e.g., Super. Ct. Mendocino County, Local Rules, rule 2.1; and Super. Ct. Stanislaus County, Local Rules, rule 3.02.C.

to the current rule allowing for emergency exemptions from mandatory case management conferences. (See California Rules of Court, rule 3.720(b).)[<sup>8</sup>]

In light of this recommendation from the Futures Commission Report, and the directive from the Chief Justice to attempt to further those recommendations, the Civil and Small Claims Advisory Committee recommends that California Rules of Court, rule 3.720(b) be amended, to provide that the emergency suspension of the case management rules currently set to sunset in 2020 be made permanent. Specifically, the amendment will permit any court's local suspension of the case management rules to apply so long as the suspension, and the alternative procedures for trial setting, etc., are made clear in the local rules. This proposal will permit those courts that have already made use of this exemption to continue to do so and will permit additional courts to invoke the exemption if they so choose.

### **Comments**

Four comments were received, all in favor of allowing the emergency exemptions to the rule to become permanent. Commenters were the Committee on the Administration of Justice of the California Lawyers Association, the Orange County Bar Association, and the Superior Courts of Los Angeles and San Diego Counties. The Los Angeles court noted that it was making use of the exemption in its court.

A chart containing all the comments received, and proposed committee responses, is attached at pages 6–8.

### **Alternatives considered**

The committee considered not recommending that the exemptions be made permanent but concluded that, in light of the recommendation in the Futures Commission Report and because several courts are currently using the exemptions as a way to manage cases and want to continue doing so, the authority for the voluntary exemptions should be continued.

### **Fiscal and Operational Impacts**

This proposal should not raise any costs or place any operational impacts on the courts. The ability to exempt cases from the case management rules would remain discretionary, and only be used if a court determined that it would be of some financial benefit to the court.

### **Attachments**

1. Cal. Rules of Court, rule 3.720, at page 5
2. Chart of comments, at pages 6–8

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<sup>8</sup> Futures Commission Report, p. 25. The report may be viewed in its entirety at <https://www.courts.ca.gov/documents/futures-commission-final-report.pdf>.

Rule 3.720 of the California Rules of Court is amended, effective January 1, 2020, to read:

1 **Chapter 3. Case Management**

2  
3 **Rule 3.720. Application**

4  
5 **(a) General application**

6  
7 The rules in this chapter prescribe the procedures for the management of all  
8 applicable court cases. These rules may be referred to as “the case management  
9 rules.”

10  
11 **(b) ~~Emergency s~~ Suspension of rules**

12  
13 A court by local rule may exempt specified types or categories of general civil  
14 cases ~~filed before January 1, 2020,~~ from the case management rules in this chapter,  
15 provided that the court has in place alternative procedures for case processing and  
16 trial setting for such actions, including, without limitation, compliance with Code  
17 of Civil Procedure sections 1141.10 et seq. and 1775 et seq. The court must ~~post~~  
18 include the alternative procedures on in its website local rules.

19  
20 **(c) Rules when case management conference set**

21  
22 In any case in which a court sets an initial case management conference, the rules  
23 in this chapter apply.

24  
25 **~~Advisory Committee Comment~~**

26 ~~Subdivision (b) of this rule is an emergency measure in response to the limited fiscal resources~~  
27 ~~available to the courts as a result of the current fiscal crisis and is not intended as a permanent~~  
28 ~~change in the case management rules.~~

## SPR19-12

### Civil Practice and Procedure: Case Management Rules (Amend Cal. Rules of Court, rule 3.720)

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

|    | <b>Commenter</b>   | <b>Position</b> | <b>Comment</b>   | <b>Committee Response</b>              |
|----|--|-----------------|--|--|
| 1. | Committee on Administration of Justice (CAJ) of the Litigation Section of the California Lawyers Association<br>by Jordanna G. Thigpen, Chair, and Saul Bercovitch<br>Director of Governmental Affairs<br>California Lawyers Association | A               | CAJ agrees with this proposal.<br><br>Letting courts decide whether certain categories or types of civil cases should be exempted from case management rules promotes efficiency and may be more cost-effective to litigants. While uniformity in practice may be desirable as a general proposition, the fact that courts in only six counties (of 58 in California) have utilized the existing temporary suspension since 2013 should allay any concerns that a cumbersome patchwork of county-dependent rules would necessarily result if the proposal is approved. | The committee appreciates the comment. |
| 2. | Orange County Bar Association<br>by Deirdre Kelly<br>President   | A               | No specific comments.  | The committee appreciates the comment. |
| 3. | Superior Court of Los Angeles County   | A               | <b>Request for Specific Comments</b><br><b>Does the proposal appropriately address the stated purpose?</b><br>Yes, the proposal addresses the stated purpose.<br><br>The advisory committee seeks comments from courts on the following cost and implementation matters:<br><br><b>Would the proposal provide cost savings?</b><br><b>If so please quantify.</b>   | The committee appreciates the comment. |

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

**SPR19-12**

**Civil Practice and Procedure: Case Management Rules** (Amend Cal. Rules of Court, rule 3.720)

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

|    | Commenter  | Position | Comment   | Committee Response                            |
|----|--|----------|---|---|
|    |  |          | <p>No, as the exemptions are already in place in Los Angeles.</p> <p><b>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.</b><br/>N/A</p> <p><b>Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</b><br/>N/A</p> <p><b>How well would this proposal work in courts of different sizes?</b><br/>Courts will have the ability to effectively manage their case load and decrease the amount of time clerical and judicial staff spend on processing cases.</p> | <p>The committee appreciates the comment.</p> |
| 4. | Superior Court of San Diego County<br>by Mike Roddy<br>Executive Officer | A        | <p>Q: Does the proposal appropriately address the stated purpose?<br/><b>Yes.</b></p> <p>Q: Would the proposal provide cost savings? If so, please quantify.</p>  | <p>The committee appreciates the comment.</p> |

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

**SPR19-12**

**Civil Practice and Procedure: Case Management Rules** (Amend Cal. Rules of Court, rule 3.720)

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

|  | Commenter | Position | Comment  | Committee Response   |
|--|-----------|----------|--|--|
|  |           |          | <p>Yes, for those courts that elect to exempt certain case types or categories from mandatory case management conferences. There would be no cost savings for courts that do not exercise an exemption.</p> <p>Q: What would the implementation requirements for the revised forms 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?</p> <p>There would be no implementation impact for San Diego, as there would be no change to its current practice.</p> <p>Q: Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementing the revised forms?</p> <p>Yes.</p> <p>Q: How well would this proposal work in courts of different sizes?</p> <p>It appears that the proposal would work for courts of all sizes.</p> <p>No additional comments.</p> | <p>The committee appreciates the responses to the questions.</p> |

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