



Judicial Council of California

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Subject Text

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File #: 16-207, Version: 1

Title

Rules: Miscellaneous Technical Changes (Action Required)

Summary

Various Judicial Council advisory committees, members of the public, and Judicial Council staff have identified errors in rules resulting from typographical errors, and changes resulting from legislation and previous rule amendments. The staff to the Judicial Council recommends making the necessary corrections to avoid confusing court users, clerks, and judicial officers.

Recommendation

The staff to the Judicial Council recommends that the council, effective January 1, 2017:

1. Effective January 1, 2013, the Judicial Council adopted rule 5.24. Joinder of Persons Claiming Interest, as part of the restructured and reorganized title V of the California Rules of Court. The council consolidated a series of joinder rules (rules 5.150, 5.152, 5.154, 5.156, 5.158, 5.160) under rule 5.24 and subsequently repealed them when rule 5.24 took effect. The Family and Juvenile Law Advisory Committee recently became aware of an error in the construction of subdivision (e)(1)(A) in rule 5.24. As currently written, subdivision (e)(1)(A) is an incomplete sentence, which has caused confusion about when a court must join a person as a party to the proceeding. The committee recommends that subdivision (e)(1)(A) be clarified as provided in the attached.
2. Amend rules 5.340 and 10.701 of the California Rules of Court, which set forth the minimum education requirements of child support commissioners and of subordinate judicial officers respectively. The rules contain outdated references to rule 10.501. Rule 10.501, which replaced the former rule 970, effective June 30, 2006, as part of the council's reorganization of the rules, was repealed on October 20, 2006. At the August 31, 2007, and October 26, 2007, council meetings, a number of rules were adopted, amended, and/or renumbered to, among other things, address the minimum training requirements of subordinate judicial officers as laid out in the former rule 10.501. This included the adoption of rule 10.462, which contains the provisions previously addressed in former rule 10.501. The current rule 10.501, effective January 1, 2010, addresses the maintenance of budget and management information. Consequently, as rules 5.340 and 10.701 currently stand, they refer to an unrelated rule, which leads to confusion. As such, the references in rules 5.340 and 10.701 to rule 10.501 should be changed to reference rule 10.462.
3. Amend the advisory committee comment to rule 8.304 to correct a reference from "(rule 8.700 et seq.)" to "(rule 8.800 et seq.)"; and
4. Amend rule 8.528, which addresses disposition of a matter by the Supreme Court after grant of review. Prior to July 1, 2016, California Rules of Court, rule 8.1105(e) provided that when the Supreme Court granted review of a published Court of Appeal opinion, that opinion was automatically depublished: "Unless otherwise ordered . . . an opinion is no longer considered published if the Supreme Court grants review." Effective July 1, 2016, the Supreme Court amended rule 8.1105 to eliminate this automatic depublication provision and add a new provision stating instead that "Unless otherwise ordered . . . [g]rant of review by the Supreme Court of a decision by the Court of Appeal does not affect the appellate court's certification of the opinion for full or partial publication." Additional new language was also

added to rule 8.1105 providing that, “The Supreme Court may also order depublication of part of an opinion at any time after granting review.” Rule 8.528 was not modified in conjunction with the amendments to rule 8.1105. Subdivision (b)(3) of rule 8.528 should be amended to address what happens when the Supreme Court dismisses review of a case in which review is granted on or after July 1, 2016.