



# Judicial Council of California

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## INVITATION TO COMMENT

### SPR25-05

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<b>Title</b>	<b>Action Requested</b>
Civil Practice and Procedure: Deadlines for Motions to Certify or Decertify a Class	Review and submit comments by May 23, 2025
<b>Proposed Rules, Forms, Standards, or Statutes</b>	<b>Proposed Effective Date</b>
Amend Cal. Rules of Court, rule 3.764	January 1, 2026
<b>Proposed by</b>	<b>Contact</b>
Civil and Small Claims Advisory Committee Hon. Donald J. Proietti, Chair	James Barolo, 415-865-8928 <a href="mailto:james.barolo@jud.ca.gov">james.barolo@jud.ca.gov</a>

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes amending California Rules of Court, rule 3.764 to lengthen each of the briefing deadlines for motions to certify or decertify a class or to amend or modify an order certifying a class. This proposal aims to address concerns that the deadline for filing a reply provides insufficient time for courts to review the briefing prior to the hearing. These concerns were raised by a superior court judge who regularly hears such motions.

### Background

Rule 3.764(c)(1) governs the timing for service of motions, oppositions, and replies regarding the certification and decertification of a class, as well as any amendment or modification of an existing certification order. The briefing on such issues is typically voluminous—often amounting to hundreds of pages of exhibits including expert reports. The rule currently requires any reply to be served and filed at least five calendar days before the hearing on the motion. The result of this five-day deadline is that courts have very little time to review a reply before the hearing, especially if the reply is filed before a regular weekend or a long weekend that includes a court holiday or holidays. This proposal aims to remedy such situations by expanding the deadlines for all briefs on these motions.

*This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.*

## **The Proposal**

This proposal would extend by five calendar days each of rule 3.764(c)(1)'s deadlines for filing motions, oppositions, and replies regarding the certification and decertification of a class.<sup>1</sup> Although the identified concern that this proposal aims to address is limited to replies, the committee proposes adding five days to the deadline for each brief 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.<sup>2</sup>

## **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. The committee considered several other options to address the concerns identified. One such option was increasing the 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 court days to each deadline, such as two or seven, but ultimately concluded that five additional court days was an appropriate balance to provide sufficient time for court review without setting the deadlines too far away from the hearing.

## **Fiscal and Operational Impacts**

The committee anticipates that this proposal would require courts to train court staff and judicial officers on the amended rule. The amended rule will impact individuals briefing motions to certify or decertify classes as the deadlines for such briefs will be changed, but any such impacts are likely to be minimal and are outweighed by the positive impact this amendment would have on the courts' ability to review such briefing.

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<sup>1</sup> The deadline for motions would change from 28 calendar days to 33 calendar days before the hearing. The deadline for oppositions would change from 14 calendar days to 19 calendar days before the hearing. The deadline for replies would change from 5 calendar days to 10 calendar days before the hearing.

<sup>2</sup> The proposal also includes minor changes to the rule to promote consistency of style and to remove archaic terminology.

### **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- 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?
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments and Links**

1. Cal. Rules of Court, rule 3.764, at page 4

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

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

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4 **(a)–(b) \* \* \***

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6 **(c) Format and filing of motion**

7  
8 (1) *Time for service of papers*

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10 Notice of a motion to certify or decertify a class or to amend or modify a  
11 certification order must be ~~filed and~~ served on all parties to the action and  
12 filed at least ~~28~~ 33 calendar days before the date ~~appointed~~ set for hearing.  
13 Any opposition to the motion must be served and filed at least ~~14~~ 19 calendar  
14 days before the noticed or continued hearing, unless the court for good cause  
15 orders otherwise. Any reply to the opposition must be served and filed at  
16 least ~~5~~ 10 calendar days before the noticed or continued date of the hearing,  
17 unless the court for good cause orders otherwise. The provisions of Code of  
18 Civil Procedure section 1005 otherwise apply.

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20 **(2)–(4) \* \* \***

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22 **(d)–(e) \* \* \***  
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