



## Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

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# INVITATION TO COMMENT

## SPR26-11

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**Title**

Civil Practice and Procedure: Amendment of Court-Ordered Mediation Rule

**Action Requested**

Review and submit comments by May 18, 2026, to [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

**Proposed Rules, Forms, Standards, or Statutes**

Amend Cal. Rules of Court, rule 3.891

**Proposed Effective Date**

January 1, 2027

**Proposed by**

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

**Contact**

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### Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes amending California Rules of Court, rule 3.891, which identifies cases that may be ordered into mediation, to reflect the changes in law made by Assembly Bill 1523 (Stats. 2025, ch. 201) that will take effect on January 1, 2027.

### Background

California Rules of Court, rule 3.891 implements Code of Civil Procedure section 1775.5, which identifies the cases that may be ordered into mediation. Under section 1775.5, the amount in controversy is currently the only limit on the court's ability to order cases into mediation. Specifically, the court may not order a case into mediation if the amount in controversy exceeds \$50,000.

Effective January 1, 2027, AB 1523 (Link A) increases the monetary limit in section 1775.5 to \$75,000 and places other conditions on court-ordered mediation, including that the case must already have been set for trial and that there must not be any ongoing discovery disputes.

### The Proposal

The committee proposes amending rule 3.891 to conform with section 1775.5 of the California Code of Civil Procedure as amended by AB 1523. The committee proposes amending rule 3.891(a)(1) to state: "The court may order an action submitted to mediation if it meets the

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conditions stated in Code of Civil Procedure section 1775.5(a).” The committee considered listing the conditions specified in section 1775.5(a), as that format may be more accessible to readers because it does not require cross-referencing the Code of Civil Procedure, but decided to cross-reference the statute to ensure the rule remains accurate and requires fewer future rule amendments.

The committee also considered whether to define AB 1523’s term “ongoing discovery disputes,” but determined that courts should have discretion to interpret the requirement. The committee was also concerned that any definition might inadvertently exclude cases that are suitable for mediation.

In addition to the amendment to implement AB 1523, the committee proposes reorganizing the rule to place court-ordered mediation and stipulated mediation in separate subdivisions and to separate the conditions for court-ordered mediation into separate paragraphs of subdivision (a). The committee also proposes new subdivisions (a)(5) and (a)(6) to ensure rule 3.891 is consistent with the requirements set out in section 1775.5(d) for after a case has been ordered into mediation:

(5) Mediation ordered under this subdivision must conclude in the form of a mutually acceptable agreement or statement of nonagreement, as described in Code of Civil Procedure section 1775.9, no later than 120 days before the trial date described in Code of Civil Procedure section 1775.5(a)(2).

(6) Any mediation may not delay the trial date described in section

### **Alternatives Considered**

The committee did not consider the alternative of taking no action because, unless amended, the rule will be inaccurate on January 1, 2027. As discussed in the explanation of the proposal, the committee considered alternatives when drafting the proposal and concluded that the current proposal best implements the statutory changes.

### **Fiscal and Operational Impacts**

Amending rule 3.891 will require educating court staff and judicial officers. Because the revisions to the rule are required to ensure conformity with a new law, these operational impacts cannot be avoided.

### **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 3.891, at pages 4–5
2. Link A: Assem. Bill 1523 (Stats. 2025, ch. 201),  
[leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202520260AB1523](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=202520260AB1523)

Rule 3.891 of the California Rules of Court would be amended, effective January 1, 2027, to read:

1 **Rule 3.891. Actions subject to mediation**

2  
3 **(a) Actions that may be ~~submitted~~ ordered to mediation**

4  
5 The following actions may be ~~submitted~~ ordered to mediation under these  
6 provisions:

7  
8 ~~(1) —~~ *By court order*

9  
10 ~~Any action in which the amount in controversy, independent of the merits of~~  
11 ~~liability, defenses, or comparative negligence, does not exceed \$50,000 for each~~  
12 ~~plaintiff.~~

13  
14 (1) The court may order an action submitted to mediation if it meets the  
15 conditions stated in Code of Civil Procedure section 1775.5(a).

16  
17 (2) The court must determine the amount in controversy under Code of Civil  
18 Procedure section 1775.5.

19  
20 (3) Determinations to send a case to mediation must be made by the court after  
21 consideration of the expressed views of the parties on the amenability of the  
22 case to mediation.

23  
24 (4) The court must not require the parties or their counsel to personally appear in  
25 court for a conference held solely to determine whether to send their case to  
26 mediation.

27  
28 (5) Mediation ordered under this subdivision must conclude in the form of a  
29 mutually acceptable agreement or statement of nonagreement, as described in  
30 Code of Civil Procedure section 1775.9, no later than 120 days before the  
31 trial date described in Code of Civil Procedure section 1775.5(a)(2).

32  
33 (6) Any mediation may not delay the trial date described in section 1775.5(a)(2).

34  
35 ~~(2) —~~ *By stipulation*

36  
37 **(b) Stipulation to mediation**

38  
39 Any ~~other~~ action, regardless of the amount of controversy, ~~in which may be~~  
40 submitted to mediation if all parties stipulate to such mediation. The stipulation  
41 must be filed not later than 90 days before trial unless the court permits a later time.  
42

1 ~~(b)~~ (c) **Case-by-case determination**

2

3 Amenability of a particular action for mediation must be determined on a case-by-  
4 case basis, rather than categorically.

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