



Judicial Council of California

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INVITATION TO COMMENT

SPR26-12

Title

Civil Practice and Procedure: Amendment of Mandatory Settlement Conferences Rule

Action Requested

Review and submit comments by May 18, 2026, to invitations@jud.ca.gov

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 3.1380

Proposed Effective Date

January 1, 2027

Proposed by

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

Contact

Nikki Marquez, 415-865-7990
nikki.marquez@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee proposes amending California Rules of Court, rule 3.1380 to clarify that the rule does not require in-person attendance at mandatory settlement conferences. This change would give courts the discretion to determine how parties must appear, including by allowing remote appearances. The committee proposes this amendment in response to a suggestion by a member of the public.

Background

Rule 3.1380

California Rules of Court, rule 3.1380 addresses mandatory settlement conferences and specifies who is required to attend. Specifically, rule 3.1380(b) states:

(b) Persons attending

Trial counsel, parties, and persons with full authority to settle the case must personally attend the conference, unless excused by the court for good cause. If any consent to settle is required for any reason, the party with that consensual authority must be personally present at the conference.

The provision that certain parties with the authority to settle the case must attend the conference, unless excused for good cause, was included in the first iteration of this rule that went into effect

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 It is circulated for comment purposes only.

in January 1985. This subdivision was amended in 1995 to add the requirement that any party with consensual authority to settle be personally present at the conference, which was a frequently reported problem. Aside from renumbering, this subsection has not been substantively amended since 1995.

The rule does not specify how to interpret the phrases “personally attend” and “personally present” and whether they refer to in-person attendance or mean the specific persons must themselves be present at the conference (i.e., they cannot send someone else on their behalf).

General provisions governing remote court proceedings

California Code of Civil Procedure section 367.75 authorizes courts to conduct proceedings in civil matters using remote technology. Certain civil cases are excepted, and courts may still require in-person appearances if specific conditions are met. Section 367.75 does not explicitly address mandatory settlement conferences. However, section 367.75 applies to mandatory settlement conferences as section 367.75(a)(1) states that in civil cases a party may appear remotely, and courts may conduct conferences, hearings, and proceedings through remote technology.¹

California Rules of Court, rule 3.672 implements section 367.75.² Rule 3.672 is silent as to mandatory settlement conferences or other court rules that require in-person appearances. The language in rule 3.1380(b) requiring individuals “personally attend” or be “personally present” creates ambiguity as to how section 367.75 and rule 3.672 apply to mandatory settlement conferences.

Rule 3.670, which addresses telephonic appearances and predates section 367.75, addresses a similar ambiguity and demonstrates the need for clarification. Although the relevant portions of rule 3.670 are suspended while rule 3.672 applies in its place, rule 3.670 is informative as it directly addresses telephonic appearances in mandatory settlement conferences. Specifically, rule 3.670(e) identifies instances where personal appearances are required, including settlement conferences. However, rule 3.670(f) states the court may permit a telephonic appearance at a proceeding under rule 3.670(e) if the court finds it appropriate.

Thus, although the court may permit remote appearances for mandatory settlement conferences under section 367.75, rules 3.670 and 3.1380 are unclear on that issue.

The Proposal

The committee proposes amending rule 3.1380(b) to remove the word “personally” from “personally attend” and “personally present.” This proposed change is intended to clarify that the rule does not require in-person attendance at mandatory settlement conferences. This will also

¹ Section 367.75(a)(2) contains exceptions for matters identified in Code of Civil Procedure section 367.76(a)(1) and juvenile justice proceedings covered by Welfare and Institutions Code section 679.5.

² Section 367.75 is currently set to sunset on January 1, 2027, but the sunset date has been extended several times since section 367.75 was first enacted and may be extended again.

remove confusion as to whether section 367.75 and rule 3.672 apply to mandatory settlement conferences. Under this amendment, the court will have discretion to determine how parties must appear, including by allowing remote appearances.

This proposed amendment is consistent with Code of Civil Procedure section 367.75 and rule 3.672, which broadly permit remote appearances in civil proceedings and do not prohibit remote attendance at mandatory settlement conferences.

Alternatives Considered

The committee considered taking no action but ultimately determined that amending rule 3.1380 will help clarify for courts and court users that remote attendance at mandatory settlement conferences is permissible.

The committee considered two alternatives when drafting the proposal and requests specific comments on both.

First, because the proposed amendment to subdivision (b) is silent as to remote appearances, the committee considered adding an advisory committee comment to state: “Attendance may be in person or remote.” The committee requests specific comments on whether including this advisory committee comment in the rule would be useful.

Second, the committee considered amending rule 3.1380 to add a subdivision that expressly allows for remote appearances at the discretion of the court:

The court may permit a party to appear remotely at a conference or proceeding under (a) if the court determines that a remote appearance is appropriate.

Unlike the proposed amendment to subdivision (b), this amendment would explicitly allow for remote appearances but would also establish in-person attendance as the default. The rule history for rule 3.1380 suggests subdivision (b) was intended to ensure the attendance of parties needed for a productive settlement conference, but the history does not indicate the rule sought to establish a preference for in-person over remote attendance. For this reason, the committee’s proposed amendment to subdivision (b) will not specify that in-person attendance is required by default. The committee requests specific comments on whether it is preferable to add subdivision (e), which makes in-person attendance the default, instead of removing the word “personally” from subdivision (b).

Fiscal and Operational Impacts

Amending rule 3.1380 will require educating court staff and judicial officers. This amendment could make operations more efficient by providing courts with clarity that remote appearances are allowed in mandatory settlement conferences.

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?
- Would amending the rule to include the proposed advisory committee comment be useful? If so, please explain.
- Is the alternative of amending the rule to explicitly allow the court to permit remote appearances preferable to the proposed amendment to subdivision (a)? If so, please explain.

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 3.1380, at page 5

Rule 3.1380 of the California Rules of Court would be amended, effective January 1, 2027, to read:

1 **Rule 3.1380. Mandatory settlement conferences**

2

3 **(a) Setting conferences**

4

5 On the court's own motion or at the request of any party, the court may set one or
6 more mandatory settlement conferences.

7

8 **(b) Persons attending**

9

10 Trial counsel, parties, and persons with full authority to settle the case must
11 ~~personally~~ attend the conference, unless excused by the court for good cause. If any
12 consent to settle is required for any reason, the party with that consensual authority
13 must be ~~personally~~ present at the conference.

14

15 **(c)–(d) * * ***