

Invitation to Comment

Title	Alteration of Judicial Council Forms (amend California Rules of Court, rules 1.31 and 1.35)
Summary	The proposal would amend rules 1.31 and 1.35 to provide that a court may not require the use of an altered mandatory or optional Judicial Council form; however, the rules would permit a judicial officer to modify a Judicial Council form order as necessary or appropriate to adjudicate a particular case.
Source	Civil and Small Claims Advisory Committee Hon. Lee Smalley Edmon, Chair
Staff	Patrick O'Donnell, Supervising Attorney 415-865-7665, patrick.o'donnell@jud.ca.gov
Discussion	<p><i>Background</i></p> <p>There has been some confusion regarding the intended meaning of California Rules of Court, rule 1.31(e) (prohibiting alteration of mandatory forms) and, by extension, its nearly identical corollary in rule 1.35(e) (prohibiting alteration of optional forms). The rules prohibit a court from altering forms <i>and</i> requiring the altered forms' use on an ongoing basis in place of Judicial Council forms. Because the term "and" can at times take on the disjunctive meaning "or," it is not entirely clear whether rules 1.31(e) and 1.35(e) should be read to proscribe courts from <i>both</i> modifying forms <i>and also</i> requiring litigants to use them, or proscribe courts from <i>either</i> modifying forms <i>or</i> requiring litigants to use them.</p> <p>A proposal to clarify the rules was circulated for comment in the spring of 2007. Based on the comments, the committee last year did not pursue making the changes as originally proposed, but now proposes further amendments.</p> <p><i>The New Proposal</i></p> <p>First, regarding the ambiguity about courts altering the language, the version previously proposed and circulated has been modified to further clarify what is being prohibited by the rule. The newly proposed revision eliminates the conjunctive language altogether. It would provide that a court can not require the use of an altered version of a Judicial Council form.</p>

In addition, the proposal would add an exception to the rules, clarifying that judicial officers may alter Judicial Council form orders as necessary or appropriate to adjudicate cases. Neither courts nor parties would be authorized to modify orders or any other forms, such as complaints, petitions, and declarations. Only judicial officers would be authorized to modify orders and only for the reasons specified.

Attachment

Rules 1.31 and 1.35 of the California Rules of Court would be amended to read as follows:

1 **Rule 1.31. Mandatory forms**

2
3 **(a) Use of mandatory forms and acceptance for filing**

4
5 Forms adopted by the Judicial Council for mandatory use are forms prescribed
6 under Government Code section 68511. Wherever applicable, they must be used by
7 all parties and must be accepted for filing by all courts. In some areas, alternative
8 mandatory forms have been adopted.

9
10 **(b) List of mandatory forms**

11
12 Each mandatory Judicial Council form is identified as mandatory by an asterisk (*)
13 on the list of Judicial Council forms in Appendix A to the California Rules of
14 Court. The list is available on the California Courts Web site at
15 www.courtinfo.ca.gov/forms.

16
17 **(c) Identification of mandatory forms**

18
19 Forms adopted by the Judicial Council for mandatory use bear the words “Form
20 Adopted for Mandatory Use,” “Mandatory Form,” or “Form Adopted for
21 Alternative Mandatory Use” in the lower left corner of the first page.

22
23 **(d) Words on forms**

24
25 Publishers and courts reprinting a mandatory Judicial Council form in effect before
26 July 1, 1999, must add the words "Mandatory Form" to the bottom of the first page.

27
28 **(e) No alteration of forms**

29
30 Except as provided in rule 5.504, concerning court orders in juvenile court
31 proceedings, and rule 7.101.5, concerning court orders in proceedings under the
32 Probate Code, courts may not ~~alter a mandatory Judicial Council form and require~~
33 the use of an altered mandatory Judicial Council form's use in place of the Judicial
34 Council form. However, a judicial officer may modify a Judicial Council form
35 order as necessary or appropriate to adjudicate a particular case.

36
37 **(f) No colored forms**

38
39 Courts may not require that any mandatory Judicial Council form be submitted on
40 any color of paper other than white.

1 **(g) Orders not on mandatory forms**

2
3 An otherwise legally sufficient court order for which there is a mandatory Judicial
4 Council form is not invalid or unenforceable because the order is not prepared on a
5 Judicial Council form or the correct Judicial Council form.
6

7 **Rule 1.35. Optional forms**

8
9 **(a) Use of optional forms and acceptance for filing**

10
11 Forms approved by the Judicial Council for optional use, wherever applicable, may
12 be used by parties and must be accepted for filing by all courts.
13

14 **(b) List of optional forms**

15
16 Each optional Judicial Council form appears without an asterisk (*) on the list of
17 Judicial Council forms in Appendix A to the California Rules of Court. The list is
18 available on the California Courts Web site at *www.courtinfo.ca.gov/forms*.
19

20 **(c) Identification of optional forms**

21
22 Forms approved by the Judicial Council for optional use bear the words “Form
23 Approved for Optional Use” or “Optional Form” in the lower left corner of the first
24 page.
25

26 **(d) Words on forms**

27
28 Publishers and courts reprinting an optional Judicial Council form in effect before
29 July 1, 1999, must add the words “Optional Form” to the bottom of the first page.
30

31 **(e) No alteration of forms**

32
33 Courts may not ~~alter an optional Judicial Council form and~~ require the use of an
34 altered optional Judicial Council form's use in place of the Judicial Council form.
35 However, a judicial officer may modify a Judicial Council form order as necessary
36 or appropriate to adjudicate a particular case.
37

38 **(f) No colored forms**

39
40 Courts may not require that any optional Judicial Council form be submitted on any
41 color of paper other than white.

Item SPR08-26 Response Form

Title: **Alteration of Judicial Council Forms** (amend Cal. Rules of Court, rules 1.31 and 1.35)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

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DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008

*Circulation for comment does not imply endorsement by the Judicial Council
or the Rules and Projects Committee.
All comments will become part of the public record of the council's action.*