

Title	Civil Actions: Statement of Decision (amend rule 3.1590 of the California Rules of Court)
Summary	The proposed amendment to rule 3.1590 would simplify procedures and time deadlines in preparing a statement of decision and judgment following a bench trial.
Source	Civil and Small Claims Advisory Committee Hon. Dennis M. Perluss, Chair
Staff	Susan R. McMullan, Senior Attorney, 415-865-7990, susan.mcmullan@jud.ca.gov
Discussion	<p>Rule 3.1590, which governs the statement of decision and judgment following a bench trial, includes time deadlines that are complicated and difficult to follow. Reflecting this difficulty, the <i>California Judges Benchbook: Civil Proceedings: Trial</i> has two sections devoted to the current rule and includes a special worksheet to show the calculations. (<i>Cal. Judges Benchbook: Civil Proceedings: Trial</i> (CJER 1997), §§ 212 and 218.) The deadlines in the current rule are dependent on and calculated from different types of events. They are variously determined by calculating a certain—and different—number of days:</p> <ul style="list-style-type: none"> <li>• after a request for a statement of decision (subdivision (d));</li> <li>• after the expiration of a time period (subdivision (e) and other subdivisions);</li> <li>• after notice (subdivision (e));</li> <li>• after service (subdivision (f) and (g));</li> <li>• after notification (subdivision (g)); and</li> <li>• after a hearing (subdivision (h)).</li> </ul> <p>This proposal would simplify the rule by having most deadlines for action calculated from the date of the announcement of the tentative decision or the most recent action. It does not shorten the time for preparing the statement of decision and judgment, and it continues to allow parties to file objections to the proposed statement of decision and judgment, and to allow a court to order a hearing on the objections.</p> <p>The amendment also would clarify that the rule does not apply if the trial was completed within one day or in less than eight hours over</p>

Attachment

more than one day.

Rule 3.1590 of the California Rules of Court would be amended by the Judicial Council, effective January 1, 2010, to read:

1 **Rule 3.1590. Announcement of tentative decision, statement of decision, and**  
2 **judgment**

3  
4 **(a) Announcement and service of tentative decision**

5  
6 On the trial of a question of fact by the court, the court must announce its  
7 tentative decision by an oral statement, entered in the minutes, or by a  
8 written statement filed with the clerk. Unless the announcement is made in  
9 open court in the presence of all parties ~~who~~ that appeared at the trial, the  
10 clerk must immediately mail to all parties that appeared at the trial a copy of  
11 the minute entry or written tentative decision.

12  
13 **(b) Tentative decision not binding**

14  
15 The tentative decision does not constitute a judgment and is not binding on  
16 the court. ~~If the court subsequently modifies or changes its announced~~  
17 ~~tentative decision, the clerk must mail a copy of the modification or change~~  
18 ~~to all parties that appeared at the trial.~~

19  
20 **(c) Provisions in tentative decision**

21  
22 The court in its tentative decision may ~~(1) state whether a statement of~~  
23 ~~decision, if requested, will be prepared by the court or by a designated party,~~  
24 ~~and (2) direct that the tentative decision will be the statement of decision~~  
25 ~~unless within 10 days either party specifies controverted issues or makes~~  
26 ~~proposals not covered in the tentative decision.~~

- 27  
28 (1) State that it is the court's proposed statement of decision subject to a  
29 party's objection under (g);  
30  
31 (2) Indicate that the court will prepare a statement of decision;  
32  
33 (3) Order a party to prepare a statement of decision; or  
34  
35 (4) Direct that the tentative decision will become the statement of  
36 decision unless, within 10 days of announcement or service of the  
37 tentative decision, a party requests a statement of decision to address  
38 controverted issues specified by the party and not included in the  
39 tentative decision.

1 **(d) Request for statement of decision**

2  
3 Within 10 days of announcement or service of the tentative decision, any  
4 party that appeared at trial may request a statement of decision to address  
5 controverted issues not included in the tentative decision. The controverted  
6 issues must be specified in the request.

7  
8 **(d)(e) Proposals following Other party's response to request for statement of**  
9 **decision (Code Civ. Proc., § 632)**

10  
11 Any proposals as to the content of the statement of decision must be made If  
12 a party makes a request for a statement of decision under (c), any other party  
13 may make proposals as to the content of the statement of decision within 10  
14 days of after the date of request for a statement of decision.

15  
16 **(e)(f) Preparation and service of proposed statement of decision and judgment**

17  
18 If a party requests a statement of decision is requested under (c), the court  
19 must, within 15 30 days after the expiration of the time for proposals as to  
20 the content of the statement of decision of announcement or service of the  
21 tentative decision, prepare and mail a proposed statement of decision and a  
22 proposed judgment to all parties that appeared at the trial, unless the court  
23 has designated a party to prepare the statement as provided by subdivision  
24 (e) or has, within 5 days after the request, notified ordered a party to prepare  
25 the statement. A party who that has been designated or notified ordered to  
26 prepare the statement must within 15 30 days after the expiration of the time  
27 for filing proposals as to the content of the statement, or within 15 days after  
28 notice, whichever is later, prepare, announcement or service of the tentative  
29 decision, serve, and submit to the court a proposed statement of decision and  
30 a proposed judgment. If the proposed statement of decision and judgment are  
31 not served and submitted within that time, any other party who that appeared  
32 at the trial may within 10 days: (1) prepare, serve, and submit to the court a  
33 proposed statement of decision and judgment, or (2) serve on all other parties  
34 and file a notice of motion for an order that a statement of decision be  
35 deemed waived.

36  
37 **(f)(g) Objections to proposed statement of decision**

38  
39 Any party affected by the judgment may, within 15 10 days after the  
40 proposed statement of decision and judgment have been served, serve and  
41 file objections to the proposed statement of decision or judgment.

1 ~~(g)~~**(h) Preparation and filing of written judgment when statement of decision**  
2 **not requested prepared**

3  
4 If ~~no party requests or is ordered to prepare~~ a statement of decision is ~~not~~  
5 ~~requested or has been waived~~ and a written judgment is required, the court  
6 must prepare and mail a proposed judgment to all parties ~~who~~ that appeared  
7 at the trial within ~~10~~ 20 days after ~~expiration of the time for requesting a~~  
8 ~~statement of decision or time of waiver~~ the announcement or service of the  
9 tentative decision; or the court may notify order a party to prepare, serve, and  
10 submit the proposed judgment to the court within 10 days after the date of  
11 the order. Any party affected by the judgment may, within 10 days after  
12 service of the proposed judgment, ~~serve and file objections thereto~~.

13  
14 **(i) Preparation and filing of written judgment when statement of decision**  
15 **deemed waived**

16  
17 If the court orders that the statement of decision is deemed waived and a  
18 written judgment is required, the court must, within 10 days of the order  
19 deeming the statement of decision waived, either prepare and serve a  
20 proposed judgment on all parties that appeared at the trial or order a party to,  
21 within 10 days, prepare, serve, and submit the proposed judgment to the  
22 court.

23  
24 **(j) Objection to proposed judgment**

25  
26 Any party may, within 10 days after service of the proposed judgment, serve  
27 and file objections thereto.

28  
29 **~~(h)~~(k) Signature and filing of judgment**

30  
31 If a written judgment is required, the court must, ~~within 10 days after~~  
32 expiration of the time for filing objections to the proposed judgment or, if a  
33 hearing is held, within 10 days after the hearing, sign and file its the  
34 judgment within 50 days after the announcement of the tentative decision or,  
35 if a hearing was held, within 10 days after the hearing. The judgment ~~so filed~~  
36 constitutes the decision on which judgment is to be entered under Code of  
37 Civil Procedure section 664.

38  
39 **~~(i)~~(l) Hearing**

40  
41 The court may order a hearing on proposals or objections to a proposed  
42 statement of decision or the proposed judgment ~~if a statement of decision is~~  
43 ~~not required.~~

1 ~~(j)~~**(m) Extension of time; relief from noncompliance**

2

3 The court may, by written order, extend any of the times prescribed by this  
4 rule and at any time before the entry of judgment may, for good cause shown  
5 and on such terms as may be just, excuse a noncompliance with the time  
6 limits prescribed for doing any act required by this rule.

7

8 ~~(k)~~**(n) Not applicable to trial within one day**

9

10 This rule does not apply if the trial was completed within one day or in less  
11 than eight hours over more than one day.

## Item SPR09-17 Response Form

**Title:** **Statement of Decision** (amend Cal. Rules of Court, rule 3.1590)

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

Comments: \_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

- Commenting on behalf of an organization**

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

### **To Submit Comments**

Comments may be submitted online, written on this form, or prepared in a letter format. 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. You are welcome to email your comments as an attachment.

**Internet:** <http://www.courtinfo.ca.gov/invitationstocomment/>

**Email:** [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

**Mail:** Ms. Camilla Kieliger  
Judicial Council, 455 Golden Gate Avenue  
San Francisco, CA 94102

**Fax:** (415) 865-7664, Attn: Camilla Kieliger

<b>DEADLINE FOR COMMENT:</b> 5:00 p.m., Wednesday, June 17, 2009
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*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.*