



Judicial Council of California

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INVITATION TO COMMENT

SPR24-09

Title

Civil Practice and Procedure: Tentative Rulings

Action Requested

Review and submit comments by May 3, 2024

Proposed Rules, Forms, Standards, or Statutes

Amend Cal. Rules of Court, rule 3.1308

Proposed Effective Date

January 1, 2025

Proposed by

Civil and Small Claims Advisory Committee
Hon. Tamara L. Wood, Chair

Contact

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Executive Summary and Origin

The Civil and Small Claims Advisory Committee recommends amending California Rules of Court, rule 3.1308 to remove the outdated requirement that courts make tentative rulings available by telephone.

The Proposal

The changes proposed in this invitation to comment are intended to remove an unnecessary burden on trial courts and promote court efficiency.

Existing rule 3.1308 provides, among other things, that if courts offer tentative rulings they must make such rulings available by “telephone and also, at the option of the court, by any other method designated by the court.” (Rule 3.1308(a)(1) & (2).) Additionally, the courts must include in their local rules the procedures they follow regarding tentative rulings and must provide the telephone number for obtaining tentative rulings.

The committee understands that at least some courts are not following the provisions of the rule as they are not making tentative rulings available by telephone, but instead are using some other method to make these rulings available. To the extent courts are following the rule, they are expending court and staff resources to make tentative rulings available in a method that is being underutilized by litigants. The committee further understands that various courts exercise different methods for making tentative rulings available. Such practices include posting tentative

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rulings online, posting them on the courtroom door, handing them to parties in person as the parties enter the courtroom, and reading them out loud. Given the variety of different court practices necessitated by individual court circumstances,¹ the committee is proposing amendments to rule 3.1308 that would afford courts maximum flexibility in how they inform litigants of tentative rulings. Specifically, the committee proposes that subdivision (a)(1) and (2) of the rule state that a “court must make its tentative ruling available by a method designated by the court.” To provide notice to parties about the method for obtaining tentative rulings, the committee further recommends that subdivision (c) of the rule mandate that courts specify the method in their local rules.

Alternatives Considered

The committee considered amending rule 3.1308 to require tentative rulings be made available “by internet,” “upon request,” “in a method or methods designated by the court, which must include a method accessible to persons without internet access,” or some combination of those options. However, given the individual circumstances of each court, the committee concluded that the rule should allow courts to determine the best method for providing tentative rulings, but that the courts’ local rules should state the chosen method. The committee considered taking no action but concluded that amending the rule to remove the telephone requirement was appropriate given that this option, where available, is not frequently used by litigants, complying with the requirement places a burden on courts, and there are alternative methods available to inform litigants of tentative rulings.

Fiscal and Operational Impacts

The committees anticipate that this proposal would require courts to train court staff and judicial officers on the amended rule and may require amendments to local rules. To the extent courts are providing tentative rulings by telephone, this proposed rule amendment would have a positive operational impact by better utilizing administrative resources.

¹ For example, only posting tentative rulings online would not be sufficient for a court that serves a large number of incarcerated individuals.

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 three 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 3.1308, at pages 4–5

Rule 3.1308 of the California Rules of Court would be amended, effective January 1, 2025, to read:

1 **Rule 3.1308. Tentative rulings**

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3 **(a) Tentative ruling procedures**

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5 A trial court that offers a tentative ruling procedure in civil law and motion matters
6 must follow one of the following procedures:

7
8 (1) *Notice of intent to appear required*

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10 The court must make its tentative ruling available by ~~telephone and also, at~~
11 ~~the option of the court, by any other~~ a method designated by the court, by no
12 later than 3:00 p.m. the court day before the scheduled hearing. If the court
13 desires oral argument, the tentative ruling must so direct. The tentative ruling
14 may also note any issues on which the court wishes the parties to provide
15 further argument. If the court has not directed argument, oral argument must
16 be permitted only if a party notifies all other parties and the court by 4:00
17 p.m. on the court day before the hearing of the party's intention to appear. A
18 party must notify all other parties by telephone or in person. The court must
19 accept notice by telephone and, at its discretion, may also designate
20 alternative methods by which a party may notify the court of the party's
21 intention to appear. The tentative ruling will become the ruling of the court if
22 the court has not directed oral argument by its tentative ruling and notice of
23 intent to appear has not been given.

24
25 (2) *No notice of intent to appear required*

26
27 The court must make its tentative ruling available by ~~telephone and also, at~~
28 ~~the option of the court, by any other~~ a method designated by the court, by a
29 specified time before the hearing. The tentative ruling may note any issues on
30 which the court wishes the parties to provide further argument at the hearing.
31 This procedure must not require the parties to give notice of intent to appear,
32 and the tentative ruling will not automatically become the ruling of the court
33 if such notice is not given. The tentative ruling, or such other ruling as the
34 court may render, will not become the final ruling of the court until the
35 hearing.

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37 **(b) No other procedures permitted**

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39 Other than following one of the tentative ruling procedures authorized in (a), courts
40 must not issue tentative rulings except:

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42 (1) By posting a calendar note containing tentative rulings on the day of the
43 hearing; or

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(2) By announcing the tentative ruling at the time of oral argument.

(c) Notice of procedure

A court that follows one of the procedures described in (a) must so state in its local rules. The local rule must specify the ~~telephone number~~ method for obtaining the tentative rulings and the time by which the rulings will be available.

(d) Uniform procedure within court or branch

If a court or a branch of a court adopts a tentative ruling procedure, that procedure must be used by all judges in the court or branch who issue tentative rulings.

(e) Tentative rulings not required

This rule does not require any judge to issue tentative rulings.