

RESOLUTION 02-04-2007

DIGEST

Complex Citations: Simplify Laws, Statutes, Rules and Regulations

Amends California Rules of Court, rule 3.113 to create a simplified system of citation for numerically complex authorities.

RESOLUTIONS COMMITTEE RECOMMENDATION

DISAPPROVE

History:

No similar resolutions found.

Reasons:

This resolution amends California Rules of Court, rule 3.113 to create a system of citation for numerically complex authorities. This resolution should be disapproved because it does not go far enough to simplify the numbering system that has become too complex.

The law is increasingly complex, and citing rules and statutes is becoming more difficult. Not all litigants are trained as attorneys and not all attorneys remain sufficiently adept at dealing with our ever more complex systems. Attempts to reorganize the Rules of Court, while well-intentioned, have only further complicated their citation. Most of the rules are now identified by three digits after the decimal point and many other rules, including rules for motions and mandatory settlement conferences, contain four digits after the decimal point. It should be noted that the process this resolution is seeking to amend requires three post-decimal digits. This has placed a burden on jurists and litigants not only faced with trying to memorize the new system, but also to be able to provide effectively the necessary citations. The resolution does not go far enough to truly simplify the numbering system.

This resolution provides for citations with only two digits following a decimal point and to round up to the next highest authority when eliminating insignificant digits. To assume that pro per litigants or even attorneys understand the process of rounding-up only adds complexity to an otherwise complex system. Adding another layer of thought processing, particularly as it relates to lawyers untrained in the concepts of arithmetic complexity, is asking too much of an already overburdened profession. In addition, the resolution, by allowing citation to the full number of the authority if the citation includes an alphabetical recitation of the authority to ease the task of committing it to memory, adds alphabetic complexity to arithmetic complexity. It is also too burdensome in oral argument to recite the number of statutes and rules with long numerical citations. For example Rule 1 (how to file an appeal) has now become Rule 8.100. Rule 17 (grace period for late filing) is now Rule 8.220. When will it end?

There is an absolute need for the practice of law to become simplified and this resolution is one step in that direction, but does not go far enough. Single digits must be the goal.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that the Judicial Council amend California Rules of Court, rule 3.1113, to read as follows:

- 1 Rule 3.1113.
2 [Subdivisions (a) through (h) remain unchanged.]
3 (i) *Use of California Style Manual*
4 (1) Except as set forth in subparagraph (2), a memorandum must follow the style
5 prescribed by either the *California Style Manual* or *The Bluebook: Uniform System of*
6 *Citation*, at the option of the party filing the document. The same style must be used
7 consistently throughout the memorandum.
8 (2) With respect to any law, statute, rule, or regulation designated by a number that
9 contains multiple digits following a decimal point, only two such digits shall be considered
10 significant.
11 (A) Citation to any law, statute, rule, or regulation need only include the significant
12 digits after the decimal point, irrespective of the number of digits actually following the
13 decimal point.
14 (B) When insignificant digits are omitted from citation pursuant to subparagraph (A),
15 the citation shall be rounded to the hundredths place if less than the next highest statute or
16 rule, or if greater than, to the next highest statute or rule.
17 (C) In lieu of the provisions of subparagraphs (A) and (B), the entire citation may be
18 used, provided it is spelled out alphabetically in addition to numerically.
19 [Subdivisions (j) through (n) remain unchanged.]

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Sacramento County Bar Association

STATEMENT OF REASONS

Existing Law: Requires citation to the entire law, statute, rule, or regulation irrespective of how complex its numeration is.

This Resolution: Would create an easier system of citation for complex authorities. It would ease the burden on jurists and litigants by requiring citation to only two digits after the decimal point when referring to any statute or rule, and allow rounding to the next highest authority when eliminating insignificant digits. The resolution would also continue to allow citation to the full number of the authority so long as the citation includes an alphabetical recitation of the authority to ease the task of committing it to memory.

The Problem: In recent years, a tendency to number and renumber statutes and rules in a well-organized manner has resulted in an ever increasing number of digits after the decimal point for an ever increasing number of authorities.

While the Sacramento County Bar Association applauds the efforts of the various committees of the AOC and Judicial Council for their exceptional work in reorganizing the Rules of Court into a more logical format, this type of numeration is exceedingly difficult to work with, much less memorize, and places an unfair burden on legal practitioners and jurists who must constantly refer back to the rules to ensure they are citing them correctly. For example, where a distraught losing party at trial previously only needed look to Rule 1 to determine how to file an appeal, the same litigant must now endure the additional stress of finding Rule 8.100 to ascertain how to perfect an appeal (and perhaps in the process risk the need for additional therapy than otherwise required from the loss at trial). Likewise, the beloved old Rule No. 17 is now Rule 8.220, causing attorneys whose briefs are on the verge of being late to waste valuable preparation time to locate the rule to see exactly how much time the grace period is and when it is triggered.

Most new rules are identified by at least three digits after the decimal point, and many, such as the rule requiring mandatory settlement conferences and most rules for motions, have gone from zero to four post-decimal digits (Rule 222 is new Rule 3.1380; see also e.g., new Chapter 3.). The burden on jurists and practitioners who are grappling with the complex task of memorizing the new numbers in the new numbering system is worthy of alleviation, especially when that burden disproportionately affects those with slowing memories. Aside from the difficulty in locating the rules, recalling the number of relevant statutes or rules during oral argument is burdensome, the time to recite them in open court wastes precious court resources as other litigants must await their turn, and it unfairly taxes court reporters' fingers.

This problem is not limited to the Rules of Court, but exists wherever a statute or rule contains an excessively precise number of digits.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

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COUNTERARGUMENTS

BEVERLY HILLS BAR ASSOCIATION

The author, who apparently suffers from keyboard fatigue, wants to truncate citations to decimalized statutes and rules so that, for example, CAL.R.CT. 3.1380 would be cited only as "3.13" and CAL. CIV. CODE § 1799.104 would be cited only as "1799.10." This resolution would render citations meaningless and add an unnecessary though challenging element to the work of members of the bench and bar as we scour our books and/or online resources in search of the appropriate statute or rule. To place the proposal in personal terms, it would be like referring to the author solely as "Levy," leaving it up to readers to conduct the research necessary to determine which of the three active lawyers in Sacramento named Levy he actually

is. While we applaud the author's efforts to simplify our professional lives, this well-intentioned resolution is, alas, ill-conceived and should be unanimously disapproved on the consent calendar.

ORANGE COUNTY BAR ASSOCIATION

While this Resolution vents the frustration felt by many who are confronted with the new format used in the Court Rules and elsewhere, it does not present a workable alternative. The complexity of legal practice requires precise citations to applicable statutes and court rules. It would not be workable to merely refer to authority located "somewhere near" to the applicable statute or court rule number.

For example, citation to the Court Rule which is the subject of this resolution as Rule "3.11" would be extremely confusing and cause undue hardship on practitioners and jurists. One would be forced to speculate which of the twenty-six (26) rules that fall under the designation of Rule "3.11" the party is relying upon to make his or her point.

When preparing briefs and points and authorities wherein a statute or court rule will be referred to repeatedly, it is common to define the specific statute or court rule in the preamble to the document as being the "Statute" or the "Rule", so that the number of the statute or court rule need not be repeated throughout the document. This procedure eliminates the need to insert all of the numbers following the decimal point in each instance, but still retains the precision of the citation, and presents a better solution than this Resolution.

The proposal require that the entire citation be spelled out alphabetically, in addition to numerically, is punitive in nature and represents an "overkill" to the objective of the Resolution.

Resolution "Zero Two dash Zero Four dash Zero Seven" (02-04-07) should be summarily rejected as it will cause what the proponent hopes to avoid: undue complexity, additional stress and additional need of therapy for practitioners and jurists.

SAN DIEGO COUNTY BAR ASSOCIATION

[WARNING: READ WITH TONGUE FIRMLY IN CHEEK]

Rather than simplifying things, the proposed change to Rule 3.1113 creates the potential for *increased* confusion about precisely what law, statute, rule or regulation is being cited. For example, if the Resolution were adopted, the following twenty-six (26) Rules would all be citable as "Rule 3.11" (i.e., two (2) places after the decimal point):

- Rule 3.110 Time for Service of Complaint, Cross-Complaint, and Response
- Rule 3.1100 Law & Motion, General Provisions, Application
- Rule 3.1103 Law & Motion, General Provisions, Law and motion defined
- Rule 3.1109 Law & Motion, General Provisions, Notice of determination of submitted matters
- Rule 3.1110 Law & Motion, Format of Motion Papers, General format
- Rule 3.1112 Law & Motion, Format of Motion Papers, Motions and other pleadings
- Rule 3.1113 Law & Motion, Format of Motion Papers, Memorandum

- Rule 3.1114 Law & Motion, Format of Motion Papers, Applications, motions, and petitions not requiring a memorandum
- Rule 3.1115 Law & Motion, Format of Motion Papers, Declarations
- Rule 3.1116 Law & Motion, Format of Motion Papers, Deposition testimony as an exhibit
- Rule 3.1130 Provisional & Injunctive Relief, General Provisions, Bonds and undertakings
- Rule 3.1140 Provisional & Injunctive Relief, Writs, Lodging of record in administrative mandate cases
- Rule 3.1150 Provisional & Injunctive Relief, Injunctions, Preliminary injunctions and bonds
- Rule 3.1151 Provisional & Injunctive Relief, Injunctions, Requirements for injunction in certain cases
- Rule 3.1152 Provisional & Injunctive Relief, Injunctions, Civil harassment and workplace violence
- Rule 3.1153 Provisional & Injunctive Relief, Injunctions, Minors may appear without counsel to seek specified restraining orders
- Rule 3.1175 Provisional & Injunctive Relief, Receiverships, Ex parte application for appointment of receiver
- Rule 3.1176 Provisional & Injunctive Relief, Receiverships, Confirmation of ex parte appointment of receiver
- Rule 3.1177 Provisional & Injunctive Relief, Receiverships, Nomination of receivers
- Rule 3.1178 Provisional & Injunctive Relief, Receiverships, Amount of undertakings
- Rule 3.1179 Provisional & Injunctive Relief, Receiverships, The receiver
- Rule 3.1180 Provisional & Injunctive Relief, Receiverships, Employment of receiver
- Rule 3.1181 Provisional & Injunctive Relief, Receiverships, Receiver's inventory
- Rule 3.1182 Provisional & Injunctive Relief, Receiverships, Monthly reports
- Rule 3.1183 Provisional & Injunctive Relief, Receiverships, Interim fees and objections
- Rule 3.1184 Provisional & Injunctive Relief, Receiverships, Receiver's final account and report

Instead of simplifying things, allowing attorneys to interchangeably cite these unrelated provisions would lead to more confusion. Second, the suggestion that only two (2) digits after the decimal point are "significant" is contradicted by the above example. There is a substantive and significant difference between the citations in memoranda of law (Rule 3.1113) and the rules governing injunctions against civil harassment and workplace violence (Rule 3.1152), yet they would both be cited as "Rule 3.11." Third, "rounding up" numbers in citations to the nearest 100th creates even more confusion. This would result in Rule 3.1177 (Nomination of receivers) being rounded up to "Rule 3.12" – the same citation as Rules 3.1200 through 3.1207, which deal with ex parte applications for injunctions.

As for the complaint that the numbering systems employed by the Legislature and Administrative Office of the Courts are overly complex for older practitioners, who are used to earlier and presumably simpler citations, the simple answer is that federal regulations already provide for such citations. If the problem is lengthy post-decimal citations, the solution is to change the numbering system, not the method of citing it.