

RESOLUTION 06-03-08

DIGEST

Rules of Court: Courtesy Copy to Court of Documents to be Judicially Noticed

Amends rule 3.1306 of California Rules of Court to require courtesy copies of large documents of which judicial notice is sought to be provided to the court.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution recommends that the Judicial Council amend rule 3.1306 of California Rules of Court to require courtesy copies of large documents of which judicial notice is sought to be provided to the court. This resolution should be approved in principle because it will make the work of the state trial courts more efficient by providing the reviewing judge with hard copies of large documents of which it is being requested to take judicial notice.

California Rules of Court, rule 3.1306, presently requires that courtesy copies be furnished to the court only of those documents which are not part of a file in the court in which the matter is being heard. This resolution would require courtesy copies also be furnished the court of any document exceeding 25 pages or exhibits that exceed 50 pages.

This change is necessary in order to provide courts with sufficient hard copies of documents under consideration which are or may be impractical to understand or comprehend if available solely online as will occur upon the further implementation of the statewide California Case Management System (“CCMS”).

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that the Judicial Council amend Rule 3.1306 of the California Rules of Court, to read as follows:

- 1 § 3.1306
- 2 (a) Restrictions on oral testimony. Evidence received at a law and motion hearing
- 3 must be by declaration or request for judicial notice without testimony or cross-
- 4 examination, unless the court orders otherwise for good cause shown.
- 5 (b) Request to present oral testimony. A party seeking permission to introduce oral
- 6 evidence, except for oral evidence in rebuttal to oral evidence presented by the other party,
- 7 must file, no later than three court days before the hearing, a written statement stating the
- 8 nature and extent of the evidence proposed to be introduced and a reasonable time estimate
- 9 for the hearing. When the statement is filed less than five court days before the hearing, the
- 10 filing party must serve a copy on the other parties in a manner to assure delivery to the
- 11 other parties no later than two days before the hearing.

12 (c) Judicial notice. A party requesting judicial notice of material under Evidence
13 Code Sections 452 or 453 must provide the court and each party with a copy of the
14 material, if the material is not part of a file in the court in which the matter is being heard.
15 If the material is part of a file in the court in which the matter is being heard, and is a
16 document exceeding 25 pages, or exhibits that exceed 50 pages, the party must:
17 (1) Specify in writing the part of the court file sought to be judicially noticed; and
18 (2) ~~Make arrangements with the clerk to have the file in the courtroom at the time~~
19 ~~of the hearing.~~ Provide a courtesy copy to the judge.

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

PROPONENT: Sacramento County Bar Association

STATEMENT OF REASONS

Existing law: A party requesting judicial notice of material under Evidence Code Sections 452 or 453 must provide each party with a copy of the material, unless if the material is part of a file in the court in which the matter is being heard. In that case, the party need not provide the court with a copy, but must specify in writing the part of the court file sought to be judicially noticed; and make arrangements with the clerk to have the file in the courtroom at the time of the hearing.

This Resolution: Would minimize the distinction between documents which are already part of a court file and other judicially noticeable documents, which are not part of the court file, by requiring the party requesting judicial notice to provide courtesy copies of large documents of which it requests judicial notice to the court.

The Problem: The Administrative Office of the Courts is implementing a new, uniform, statewide California Case Management System (“CCMS”). Among the changes being implemented are the elimination of hard copies of documents and court files. All civil case documents filed with a court are being scanned into the computer database and will be accessible to the court and the public only as electronic versions. The hard copies are discarded, after scanning.

Two trial courts have been selected as “guinea pigs” to be the first in the state to implement the CCMS system. The Sacramento Superior Court is one of the two courts first implementing CCMS.

There are occasions, for example a motion for reconsideration of an order on a motion for summary adjudication, when the documents in the court’s computer “file”, of which judicial notice is requested, are voluminous, as they include long briefs and bulky exhibits. Even a dual screen computer for the judge and court staff, lacks sufficient space to simultaneously refer to the earlier filed motion, opposition, reply, separate statements and supporting evidence. Scanned documents lack the required exhibit tabs, which simplify the court’s initial review of bulky exhibits.

This proposed amendment is based upon the local rule in the U.S.D.C. for the Eastern District of California, which is already paperless, which requires courtesy copies be provided for the judge of all documents which exceed 25 pages, or exhibits that exceed 50 pages.

This proposed amendment would make the work of the state trial courts more efficient, by requiring that a courtesy copy of voluminous court documents, of which judicial notice is requested, be submitted by counsel to the court with the request for judicial notice.

IMPACT STATEMENT:

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

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