

**Invitation to Comment**

Title	Alternative Dispute Resolution: <i>Case Management Statement</i> (revise form CM-110)
Summary	This proposal would revise the portion of the <i>Case Management Statement</i> relating to alternative dispute resolution (ADR) to clarify and supplement the information currently requested about the parties' past use of ADR and current agreements to use ADR.
Source	Civil and Small Claims Advisory Committee Hon. Dennis M. Perluss, Chair
Staff	Heather Anderson, ADR Subcommittee Counsel, 415-865-7691, heather.anderson@jud.ca.gov

On the current *Case Management Statement* (form CM-110), items 10 and 11 address the parties' agreements to use ADR, past use of ADR, willingness to use ADR, and eligibility for referral to judicial arbitration. Item 10b provides a box to indicate if all parties have agreed to ADR but does not ask what process has been agreed to, what the status of that process is, or for a copy of the parties' ADR stipulation form.<sup>1</sup> Item 10c similarly includes a box that can be checked to indicate that "the case has gone to an ADR process," but it does not ask what ADR process is being used. Item 10d addresses the parties' willingness to use ADR and includes a list of ADR processes that makes it easy for parties to indicate the type of ADR in which they are willing to participate. However, this list currently does not include settlement conferences; the parties' willingness to participate in such conferences is separately addressed in item 11.

This proposal would revise form CM-110 to obtain clearer and more complete information about the parties' use of and willingness to use ADR by laying out the ADR questions in the form of a table. The proposed table lists the most common ADR processes, including voluntary and mandatory settlement conferences, and provides spaces the parties can use to identify which of these processes they are willing to participate in, have agreed to participate in, or have completed. This table format should allow parties to more quickly provide the requested information and help judges more quickly see the parties' responses.

This proposal would also revise item 10a so that counsel can separately indicate whether they have provided the ADR information package identified in rule 3.221 and whether they have reviewed ADR options with their client.

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<sup>1</sup> The stipulation form is part of the ADR information package that must be made available to the plaintiff by the court and served on the defendant by the plaintiff under California Rules of Court, rule 3.221.



PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

*(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request  a jury trial  a nonjury trial. *(If more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a.  The trial has been set for *(date)*:
- b.  No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:
- c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a.  days *(specify number)*:
- b.  hours (short causes) *(specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial  by the attorney or party listed in the caption  by the following:

- a. Attorney:
- b. Firm:
- c. Address:
- d. Telephone number:
- e. E-mail address:
- f. Fax number:
- g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative Dispute Resolution (ADR)**

a. Counsel  has  has not provided the ADR information package identified in rule 3.221 to the client and  has  has not reviewed ADR options with the client.

b. Referral to judicial arbitration.

- (1)  This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.
- (2)  Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- (3)  This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court *(specify exemption)*:

PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	CASE NUMBER: _____
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10. c. Indicate the ADR process or processes that the party or parties are willing to participate in, have agreed to participate in, or have already participated in (*check all that apply and provide the specified information*)

	The party or parties completing this form are willing to participate in the following ADR processes	If all parties in the case have agreed to participate in an ADR process or processes, indicate the status of the processes ( <i>attach a copy of the parties' ADR stipulation</i> )	If all parties in the case have completed an ADR process or processes, indicate the completion date
(1) Court-connected mediation	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:
(2) Private mediation	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:
(3) Voluntary settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:
(4) Mandatory settlement conference	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:
(5) Court-connected neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:
(6) Private neutral evaluation	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:
(7) Nonbinding judicial arbitration (discovery to remain open until 15 days before arbitration)	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:
(8) Nonbinding judicial arbitration (discovery to remain open until 30 days before trial)	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:
(9) Binding judicial arbitration	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:
(10) Binding private arbitration	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:
(11) Other ( <i>specify</i> )	<input type="checkbox"/>	<input type="checkbox"/> Not yet started <input type="checkbox"/> Currently under way Agreed completion date:	Date Completed:

PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT:	CASE NUMBER:
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**11. Insurance**

- a.  Insurance carrier, if any, for party filing this statement (*name*):
- b. Reservation of rights:  Yes  No
- c.  Coverage issues will significantly affect resolution of this case (*explain*):

**12. Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case and describe the status.

- Bankruptcy  Other (*specify*):

Status:

**13. Related cases, consolidation, and coordination**

- a.  There are companion, underlying, or related cases.
  - (1) Name of case:
  - (2) Name of court:
  - (3) Case number:
  - (4) Status:
- Additional cases are described in Attachment 13a.
- b.  A motion to  consolidate  coordinate will be filed by (*name party*):

**14. Bifurcation**

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (*specify moving party, type of motion, and reasons*):

**15. Other motions**

- The party or parties expect to file the following motions before trial (*specify moving party, type of motion, and issues*):

**16. Discovery**

- a.  The party or parties have completed all discovery.
  - b.  The following discovery will be completed by the date specified (*describe all anticipated discovery*):
- | <u>Party</u> | <u>Description</u> | <u>Date</u> |
|--------------|--------------------|-------------|
|--------------|--------------------|-------------|

- c.  The following discovery issues, including issues regarding the discovery of electronically stored information, are anticipated (*specify*):

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**17. Economic litigation**

- a.  This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90-98 will apply to this case.
- b.  This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

**18. Other issues**

- The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

**19. Meet and confer**

- a.  The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*):
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

20. Total number of pages attached (*if any*): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached.

## Item SPR10-01 Response Form

**Title:** [Alternative Dispute Resolution: Case Management Statement](#) (revise form CM-110)

- 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: 5:00 p.m., Friday, June 18, 2010</b>
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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.*