

CALIFORNIA RULES OF COURT  
Title 3. Civil Rules  
Division 8. Alternative Dispute Resolution  
Chapter 1. General Provisions

*Cal Rules of Court, Rule 3.800 (2009)*

**Rule 3.800. Definitions**

As used in this division:

(1) "Alternative dispute resolution process" or "ADR process" means a process, other than formal litigation, in which a neutral person or persons resolve a dispute or assist parties in resolving their dispute.

(2) "Mediation" means a process in which a neutral person or persons facilitate communication between disputants to assist them in reaching a mutually acceptable agreement. As used in this division, mediation does not include a settlement conference under rule 3.1380.

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*Cal Rules of Court, Rule 3.810 (2009)*

**Rule 3.810. Application**

The rules in this chapter (commencing with this rule) apply if Code of Civil Procedure, part 3, title 3, chapter 2.5 (commencing with section 1141.10) is in effect.

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*Cal Rules of Court, Rule 3.811 (2009)*

**Rule 3.811. Cases subject to and exempt from arbitration**

(a) **Cases subject to arbitration** Except as provided in (b), the following cases must be arbitrated:

(1) In each superior court with 18 or more authorized judges, all unlimited civil cases where the amount in controversy does not exceed \$50,000 as to any plaintiff;

(2) In each superior court with fewer than 18 authorized judges that so provides by local rule, all unlimited civil cases where the amount in controversy does not exceed \$50,000 as to any plaintiff;

(3) All limited civil cases in courts that so provide by local rule;

(4) Upon stipulation, any limited or unlimited civil case in any court, regardless of the amount in controversy; and

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(5) Upon filing of an election by all plaintiffs, any limited or unlimited civil case in any court in which each plaintiff agrees that the arbitration award will not exceed \$50,000 as to that plaintiff.

(Subd (a) amended effective January 1, 2004.)

**(b) Cases exempt from arbitration** The following cases are exempt from arbitration:

(1) Cases that include a prayer for equitable relief that is not frivolous or insubstantial;

(2) Class actions;

(3) Small claims cases or trials de novo on appeal from the small claims court;

(4) Unlawful detainer proceedings;

(5) Family Law Act proceedings except as provided in *Family Code section 2554*;

(6) Any case otherwise subject to arbitration that is found by the court not to be amenable to arbitration on the ground that arbitration would not reduce the probable time and expense necessary to resolve the litigation;

(7) Any category of cases otherwise subject to arbitration but excluded by local rule as not amenable to arbitration on the ground that, under the circumstances relating to the particular court, arbitration of such cases would not reduce the probable time and expense necessary to resolve the litigation; and

(8) Cases involving multiple causes of action or a cross-complaint if the court determines that the amount in controversy as to any given cause of action or cross-complaint exceeds \$50,000.

(Subd (b) adopted effective January 1, 2004.)

#### History:

**Rule 3.811** renumbered effective January 1, 2007; adopted as **rule 1600** effective July 1, 1979; previously amended effective January 1, 1982, January 1, 1986, January 1, 1988, and July 1, 1999; previously amended and renumbered as **rule 1601** effective January 1, 2004.

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*Cal Rules of Court, Rule 3.812 (2009)*

#### **Rule 3.812. Assignment to arbitration**

**(a) Stipulations to arbitration** When the parties stipulate to arbitration, the case must be set for arbitration forthwith. The stipulation must be filed no later than the time the initial case management statement is filed, unless the court orders otherwise.

(Subd (a) amended effective January 1, 2004; previously amended effective July 1, 1979, January 1, 1999, and January 1, 2003.)

**(b) Plaintiff election for arbitration** Upon written election of all plaintiffs to submit a case to arbitration, the case must be set for arbitration forthwith, subject to a motion by defendant for good cause to delay the arbitration hearing. The election must be filed no later than the time the initial case management statement is filed, unless the court orders otherwise.

(Subd (b) amended effective January 1, 2004; adopted effective July 1, 1979; previously amended effective January 1, 1982, January 1, 1986, January 1, 1988, and January 1, 2003.)

**(c) Cross-actions** A case involving a cross-complaint where all plaintiffs have elected to arbitrate must be removed from the list of cases assigned to arbitration if, upon motion of the cross-complainant made within 15 days after notice of the election to arbitrate, the court determines that the amount in controversy relating to the cross-complaint exceeds \$50,000.

(Subd (c) amended effective January 1, 2004; adopted as part of subd (b) effective July 1, 1979; amended and lettered effective January 1, 2003.)

**(d) Case management conference** Absent a stipulation or an election by all plaintiffs to submit to arbitration, cases must be set for arbitration when the court determines that the amount in controversy does not exceed \$50,000. The amount in controversy must be determined at the first case management conference or review under the rules on case management in division 7 of this title that takes place after all named parties have appeared or defaulted.

(Subd (d) amended effective January 1, 2007; adopted as subd (c) effective July 1, 1976; previously amended effective July 1, 1979, January 1, 1982, and January 1, 2004; previously amended and relettered effective January 1, 2003.)

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*Cal Rules of Court, Rule 3.813 (2009)*

**Rule 3.813. Arbitration program administration**

**(a) Arbitration administrator** The presiding judge must designate the ADR administrator selected under rule 10.783 to serve as arbitration administrator. The arbitration administrator must supervise the selection of arbitrators for the cases on the arbitration hearing list, generally supervise the operation of the arbitration program, and perform any additional duties delegated by the presiding judge.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2004.)

**(b) Responsibilities of ADR committee** The ADR committee established under rule 10.783 is responsible for:

(1) Appointing the panels of arbitrators provided for in rule 3.814;

(2) Removing a person from a panel of arbitrators;

(3) Establishing procedures for selecting an arbitrator not inconsistent with these rules or local court rules; and

(4) Reviewing the administration and operation of the arbitration program periodically and making recommendations to the Judicial Council as the committee deems appropriate to improve the program, promote the ends of justice, and serve the needs of the community.

(Subd (b) amended effective January 1, 2007; adopted as subd (d) effective July 1, 1976; previously amended and relettered as subd (b) effective January 1, 2004.)

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*Cal Rules of Court, Rule 3.814 (2009)*

**Rule 3.814. Panels of arbitrators**

**(a) Creation of panels** Every court must have a panel of arbitrators for personal injury cases, and such additional panels as the presiding judge may, from time to time, determine are needed.

(Subd (a) amended effective January 1, 2004; previously amended effective July 1, 1979, and July 1, 2001.)

**(b) Composition of panels** The panels of arbitrators must be composed of active or inactive members of the State Bar, retired court commissioners who were licensed to practice law before their appointment as commissioners, and retired judges. A former California judicial officer is not eligible for the panel of arbitrators unless he or she is an active or inactive member of the State Bar.

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 1979, January 1, 1996, July 1, 2001, and January 1, 2004.)

**(c) Responsibilities of ADR committee** The ADR committee is responsible for determining the size and composition of each panel of arbitrators. The personal injury panel, to the extent feasible, must contain an equal number of those who usually represent plaintiffs and those who usually represent defendants.

(Subd (c) amended effective January 1, 2004; previously amended effective July 1, 2001.)

**(d) Service on panel** Each person appointed serves as a member of a panel of arbitrators at the pleasure of the ADR committee. A person may be on arbitration panels in more than one county. An appointment to a panel is effective when the person appointed:

(1) Agrees to serve;

(2) Certifies that he or she is aware of and will comply with applicable provisions of canon 6 of the Code of Judicial Ethics and these rules; and

(3) Files an oath or affirmation to justly try all matters submitted to him or her.

(Subd (d) amended effective January 1, 2004; previously amended effective January 1, 1996, and July 1, 2001.)

**(e) Panel lists** Lists showing the names of panel arbitrators available to hear cases must be available for public inspection in the ADR administrator's office.

(Subd (e) amended effective January 1, 2007; previously amended effective July 1, 2001, and January 1, 2004.)

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*Cal Rules of Court, Rule 3.815 (2009)*

**Rule 3.815. Selection of the arbitrator**

**(a) Selection by stipulation** By stipulation, the parties may select any person to serve as arbitrator. If the parties select a person who is not on the court's arbitration panel to serve as the arbitrator, the stipulation will be effective only if:

(1) The selected person completes a written consent to serve and the oath required of panel arbitrators under these rules; and

(2) Both the consent and the oath are attached to the stipulation.

A stipulation may specify the maximum amount of the arbitrator's award. The stipulation to an arbitrator must be served and filed no later than 10 days after the case has been set for arbitration under rule 3.812.

(Subd (a) amended effective January 1, 2007; adopted effective January 1, 2004.)

**(b) Selection absent stipulation or local procedures** If the arbitrator has not been selected by stipulation and the court has not adopted local rules or procedures for the selection of the arbitrator as permitted under (c), the arbitrator will be selected as follows:

(1) Within 15 days after a case is set for arbitration under rule 3.812, the administrator must determine the number of clearly adverse sides in the case; in the absence of a cross-complaint bringing in a new party, the administrator may assume there are two sides. A dispute as to the number or identity of sides must be decided by the presiding judge in the same manner as disputes in determining sides entitled to peremptory challenges of jurors.

(2) The administrator must select at random a number of names equal to the number of sides, plus one, and mail the list of randomly selected names to counsel for the parties.

(3) Each side has 10 days from the date of mailing to file a rejection, in writing, of no more than one name on the list; if there are two or more parties on a side, they must join in the rejection of a single name.

(4) Promptly on the expiration of the 10-day period, the administrator must appoint, at random, one of the persons on the list whose name was not rejected, if more than one name remains.

(5) The administrator must assign the case to the arbitrator appointed and must give notice of the appointment to the arbitrator and to all parties.

(Subd (b) amended effective January 1, 2007; adopted as subd (a) effective July 1, 1976; previously amended effective July 1, 1979, January 1, 1982, and January 1, 1984; previously amended and relettered as subd (b) effective January 1, 2004.)

**(c) Local selection procedures** Instead of the procedure in (b), a court that has an arbitration program may, by local rule or by procedures adopted by its ADR committee, establish any fair method of selecting an arbitrator that:

(1) Affords each side an opportunity to challenge at least one listed arbitrator peremptorily; and

(2) Ensures that an arbitrator is appointed within 30 days from the submission of a case to arbitration.

The local rule or procedure may require that all steps leading to the selection of the arbitrator take place during or immediately following the case management conference or review under the rules on case management in division 7 of this title at which the court determines the amount in controversy and the suitability of the case for arbitration.

(Subd (c) amended effective January 1, 2007; adopted effective January 1, 2004.)

**(d) Procedure if first arbitrator declines to serve** If the first arbitrator selected declines to serve, the administrator must vacate the appointment of the arbitrator and may either:

(1) Return the case to the top of the arbitration hearing list, restore the arbitrator's name to the list of those available for selection to hear cases, and appoint a new arbitrator; or

(2) Certify the case to the court.

(Subd (d) amended and relettered effective January 1, 2004; adopted as subd (b) effective July 1, 1976; previously amended effective January 1, 1991, and January 1, 1994.)

**(e) Procedure if second arbitrator declines to serve or hearing is not timely held** If the second arbitrator selected declines to serve or if the arbitrator does not complete the hearing within 90 days after the date of the assignment of the case to him or her, including any time due to continuances granted under rule 3.818, the administrator must certify the case to the court.

(Subd (e) amended effective January 1, 2007; adopted as subd (c) effective July 1, 1976; previously amended effective January 1, 1991; previously amended and relettered effective January 1, 2004.)

**(f) Cases certified to court** If a case is certified to the court under either (d) or (e), the court must hold a case management conference. If the inability to hold an arbitration hearing is due to the neglect or lack of cooperation of a party who elected or stipulated to arbitration, the court may set the case for trial and may make any other appropriate orders. In all other circumstances, the court may reassign the case to arbitration or make any other appropriate orders to expedite disposition of the case.

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(Subd (f) amended effective January 1, 2007; adopted as part of subd (c) effective July 1, 1976; previously amended and relettered as subd (f) effective January 1, 2004.)

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*Cal Rules of Court, Rule 3.816 (2009)*

**Rule 3.816. Disqualification for conflict of interest**

**(a) Arbitrator's duty to disqualify himself or herself** The arbitrator must determine whether any cause exists for disqualification upon any of the grounds set forth in *Code of Civil Procedure section 170.1* governing the disqualification of judges. If any member of the arbitrator's law firm would be disqualified under subdivision (a)(2) of section 170.1, the arbitrator is disqualified. Unless the ground for disqualification is disclosed to the parties in writing and is expressly waived by all parties in writing, the arbitrator must promptly notify the administrator of any known ground for disqualification and another arbitrator must be selected as provided in rule 3.815.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 1979, July 1, 1990, July 1, 2001, January 1, 2004, and July 1, 2004.)

**(b) Disclosures by arbitrator** In addition to any other disclosure required by law, no later than five days before the deadline for parties to file a motion for disqualification of the arbitrator under *Code of Civil Procedure section 170.6* or, if the arbitrator is not aware of his or her appointment or of a matter subject to disclosure at that time, as soon as practicable thereafter, an arbitrator must disclose to the parties:

**(1)** Any matter subject to disclosure under subdivisions (D)(5)(a) and (D)(5)(b) of canon 6 of the Code of Judicial Ethics; and

**(2)** Any significant personal or professional relationship the arbitrator has or has had with a party, attorney, or law firm in the instant case, including the number and nature of any other proceedings in the past 24 months in which the arbitrator has been privately compensated by a party, attorney, law firm, or insurance company in the instant case for any services, including service as an attorney, expert witness, or consultant or as a judge, referee, arbitrator, mediator, settlement facilitator, or other alternative dispute resolution neutral.

(Subd (b) amended effective January 1, 2008; adopted effective July 1, 2001; previously amended effective January 1, 2007.)

**(c) Request for disqualification** A copy of any request by a party for the disqualification of an arbitrator under *Code of Civil Procedure section 170.1* or *170.6* must be sent to the ADR administrator.

(Subd (c) amended effective January 1, 2007; adopted as subd (b) effective July 1, 1976, previously amended and relettered effective July 1, 2001; previously amended effective July 1, 1979, July 1, 1990, and January 1, 2004.)

**(d) Arbitrator's failure to disqualify himself or herself** On motion of any party, made as promptly as possible under *Code of Civil Procedure sections 170.1* and *1141.18(d)* and before the conclusion of arbitration proceedings, the appointment of an arbitrator to a case must be vacated if the court finds that:

- (1)** The party has demanded that the arbitrator disqualify himself or herself;
- (2)** The arbitrator has failed to do so; and
- (3)** Any of the grounds specified in section 170.1 exists.

The ADR administrator must return the case to the top of the arbitration hearing list and appoint a new arbitrator. The disqualified arbitrator's name must be returned to the list of those available for selection to hear cases, unless the court orders that the circumstances of the disqualification be reviewed by the ADR administrator, the ADR committee, or the presiding judge for appropriate action.

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(Subd (d) amended effective January 1, 2007; adopted as subd (c) effective January 1, 1994; previously amended and relettered effective July 1, 2001; previously amended effective January 1, 2004.)

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*Cal Rules of Court, Rule 3.817 (2009)*

**Rule 3.817. Arbitration hearings; notice; when and where held**

**(a) Setting hearing; notice** Within 15 days after the appointment of the arbitrator, the arbitrator must set the time, date, and place of the arbitration hearing and notify each party and the administrator in writing of the time, date, and place set.

(Subd (a) amended and lettered effective January 1, 2004; adopted as part of unlettered subd effective July 1, 1976.)

**(b) Date of hearing; limitations** Except upon the agreement of all parties and the arbitrator, the arbitration hearing date must not be set:

- (1)** Earlier than 30 days after the date the arbitrator sends the notice of the hearing under (a); or
- (2)** On Saturdays, Sundays, or legal holidays.

(Subd (b) amended and lettered effective January 1, 2004; adopted as part of unlettered subd effective July 1, 1976.)

**(c) Hearing completion deadline** The hearing must be scheduled so as to be completed no later than 90 days from the date of the assignment of the case to the arbitrator, including any time due to continuances granted under rule 3.818.

(Subd (c) amended effective January 1, 2007; adopted as part of unlettered subd effective July 1, 1976; previously amended and relettered effective January 1, 2004.)

**(d) Hearing location** The hearing must take place in appropriate facilities provided by the court or selected by the arbitrator.

(Subd (d) amended effective January 1, 2004.)

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*Cal Rules of Court, Rule 3.818 (2009)*

**Rule 3.818. Continuances**

**(a) Stipulation to continuance; consent of arbitrator** Except as provided in (c), the parties may stipulate to a continuance in the case, with the consent of the assigned arbitrator. An arbitrator must consent to a request for a continuance if it appears that good cause exists. Notice of the continuance must be sent to the ADR administrator.

(Subd (a) amended effective January 1, 2004; previously amended effective January 1, 1984, and January 1, 1992.)

## Cal Rules of Court, Rule 3.818

**(b) Court grant of continuance** If the arbitrator declines to give consent to a continuance, upon the motion of a party and for good cause shown, the court may grant a continuance of the arbitration hearing. In the event the court grants the motion, the party who requested the continuance must notify the arbitrator and the arbitrator must reschedule the hearing, giving notice to all parties to the arbitration proceeding.

(Subd (b) amended effective January 1, 2007; previously amended effective July 1, 1979, and January 1, 2004.)

**(c) Limitation on length of continuance** An arbitration hearing must not be continued to a date later than 90 days after the assignment of the case to the arbitrator, including any time due to continuances granted under this rule, except by order of the court upon the motion of a party as provided in (b).

(Subd (c) amended effective January 1, 2004; previously amended effective January 1, 1991 and January 1, 1994.)

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*Cal Rules of Court, Rule 3.819 (2009)*

**Rule 3.819. Arbitrator's fees**

**(a) Filing of award or notice of settlement required** The arbitrator's award must be timely filed with the clerk of the court under rule 3.825(b) or a notice of settlement must have been filed before a fee may be paid to the arbitrator.

(Subd (a) amended effective January 1, 2007; previously amended effective July 1, 1979, and January 1, 2004.)

**(b) Exceptions for good cause** On the arbitrator's verified ex parte application, the court may for good cause authorize payment of a fee:

- (1) If the arbitrator devoted a substantial amount of time to a case that was settled without a hearing; or
- (2) If the award was not timely filed.

(Subd (b) amended effective January 1, 2004; previously amended effective July 1, 1979, and January 1, 1987.)

**(c) Arbitrator's fee statement** The arbitrator's fee statement must be submitted to the administrator promptly upon the completion of the arbitrator's duties and must set forth the title and number of the cause arbitrated, the date of the arbitration hearing, and the date the award or settlement was filed.

(Subd (c) amended effective January 1, 2007; previously amended effective July 1, 1979, and January 1, 2004.)

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*Cal Rules of Court, Rule 3.820 (2009)*

**Rule 3.820. Communication with the arbitrator**

**(a) Disclosure of settlement offers prohibited** No disclosure of any offers of settlement made by any party may be made to the arbitrator prior to the filing of the award.

(Subd (a) amended and relettered effective January 1, 2004; adopted as part of unlettered subd effective July 1, 1976.)

**(b) Ex parte communication prohibited** An arbitrator must not initiate, permit, or consider any ex parte communications or consider other communications made to the arbitrator outside the presence of all of the parties concerning a pending arbitration, except as follows:

**(1)** An arbitrator may communicate with a party in the absence of other parties about administrative matters, such as setting the time and place of hearings or making other arrangements for the conduct of the proceedings, as long as the arbitrator reasonably believes that the communication will not result in a procedural or tactical advantage for any party. When such a discussion occurs, the arbitrator must promptly inform the other parties of the communication and must give the other parties an opportunity to respond before making any final determination concerning the matter discussed.

**(2)** An arbitrator may initiate or consider any ex parte communication when expressly authorized by law to do so.

(Subd (b) amended effective January 1, 2007; adopted as part of unlettered subd effective July 1, 1976; previously amended and lettered effective January 1, 2004.)

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*Cal Rules of Court, Rule 3.821 (2009)*

**Rule 3.821. Representation by counsel; proceedings when party absent**

**(a) Representation by counsel** A party to the arbitration has a right to be represented by an attorney at any proceeding or hearing in arbitration, but this right may be waived. A waiver of this right may be revoked, but if revoked, the other party is entitled to a reasonable continuance for the purpose of obtaining counsel.

(Subd (a) amended effective January 1, 2004.)

**(b) Proceedings when party absent** The arbitration may proceed in the absence of any party who, after due notice, fails to be present and to obtain a continuance. An award must not be based solely on the absence of a party. In the event of a default by defendant, the arbitrator must require the plaintiff to submit such evidence as may be appropriate for the making of an award.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2004.)

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*Cal Rules of Court, Rule 3.822 (2009)*

**Rule 3.822. Discovery**

**(a) Right to discovery** The parties to the arbitration have the right to take depositions and to obtain discovery, and to that end may exercise all of the same rights, remedies, and procedures, and are subject to all of the same duties, liabilities, and obligations as provided in part 4, title 3, chapter 3 of the Code of Civil Procedure, except as provided in (b).

(Subd (a) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective July 1, 1976.)

**(b) Completion of discovery** All discovery must be completed not later than 15 days before the date set for the arbitration hearing unless the court, upon a showing of good cause, makes an order granting an extension of the time within which discovery must be completed.

(Subd. (b) amended and lettered effective January 1, 2007; adopted as part of unlettered subd effective July 1, 1976.)

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*Cal Rules of Court, Rule 3.823 (2009)*

**(a) Presence of arbitrator and parties** All evidence must be taken in the presence of the arbitrator and all parties, except where any of the parties has waived the right to be present or is absent after due notice of the hearing.

(Subd (a) amended effective January 1, 2004.)

**(b) Application of civil rules of evidence** The rules of evidence governing civil cases apply to the conduct of the arbitration hearing, except:

**(1) Written reports and other documents** Any party may offer written reports of any expert witness, medical records and bills (including physiotherapy, nursing, and prescription bills), documentary evidence of loss of income, property damage repair bills or estimates, police reports concerning an accident that gave rise to the case, other bills and invoices, purchase orders, checks, written contracts, and similar documents prepared and maintained in the ordinary course of business.

**(A)** The arbitrator must receive them in evidence if copies have been delivered to all opposing parties at least 20 days before the hearing.

**(B)** Any other party may subpoena the author or custodian of the document as a witness and examine the witness as if under cross-examination.

**(C)** Any repair estimate offered as an exhibit, and the copies delivered to opposing parties, must be accompanied by:

**(i)** A statement indicating whether or not the property was repaired, and, if it was, whether the estimated repairs were made in full or in part; and

**(ii)** A copy of the receipted bill showing the items of repair made and the amount paid.

**(D)** The arbitrator must not consider any opinion as to ultimate fault expressed in a police report.

**(2) Witness statements** The written statements of any other witness may be offered and must be received in evidence if:

**(A)** They are made by declaration under penalty of perjury;

**(B)** Copies have been delivered to all opposing parties at least 20 days before the hearing; and

**(C)** No opposing party has, at least 10 days before the hearing, delivered to the proponent of the evidence a written demand that the witness be produced in person to testify at the hearing. The arbitrator must disregard any portion of a statement received under this rule that would be inadmissible if the witness were testifying in person, but the inclusion of inadmissible matter does not render the entire statement inadmissible.

**(3) Depositions**

**(A)** The deposition of any witness may be offered by any party and must be received in evidence, subject to objections available under *Code of Civil Procedure section 2025.410*, notwithstanding that the deponent is not "unavailable as a witness" within the meaning of *Evidence Code section 240* and no exceptional circumstances exist, if:

(i) The deposition was taken in the manner provided for by law or by stipulation of the parties and within the time provided for in these rules; and

(ii) Not less than 20 days before the hearing the proponent of the deposition delivered to all opposing parties notice of intention to offer the deposition in evidence.

(B) The opposing party, upon receiving the notice, may subpoena the deponent and, at the discretion of the arbitrator, either the deposition may be excluded from evidence or the deposition may be admitted and the deponent may be further cross-examined by the subpoenaing party. These limitations are not applicable to a deposition admissible under the terms of *Code of Civil Procedure section 2025.620*.

(Subd (b) amended effective January 1, 2008; previously amended effective July 1, 1979, January 1, 1984, January 1, 1988, July 1, 1990, January 1, 2004, and January 1, 2007.)

### (c) Subpoenas

(1) **Compelling witnesses to appear** The attendance of witnesses at arbitration hearings may be compelled through the issuance of subpoenas as provided in the Code of Civil Procedure, in section 1985 and elsewhere in part 4, title 3, chapters 2 and 3. It is the duty of the party requesting the subpoena to modify the form of subpoena so as to show that the appearance is before an arbitrator and to give the time and place set for the arbitration hearing.

(2) **Adjournment or continuances** At the discretion of the arbitrator, nonappearance of a properly subpoenaed witness may be a ground for an adjournment or continuance of the hearing.

(3) **Contempt** If any witness properly served with a subpoena fails to appear at the arbitration hearing or, having appeared, refuses to be sworn or to answer, proceedings to compel compliance with the subpoena on penalty of contempt may be had before the superior court as provided in *Code of Civil Procedure section 1991* for other instances of refusal to appear and answer before an officer or commissioner out of court.

(Subd (c) amended effective January 1, 2007; previously amended effective July 1, 1979, and January 1, 2004.)

(d) **Delivery of documents** For purposes of this rule, "delivery" of a document or notice may be accomplished manually or by mail in the manner provided by *Code of Civil Procedure section 1013*. If service is by mail, the times prescribed in this rule for delivery of documents, notices, and demands are increased by five days.

(Subd (d) amended effective January 1, 2004; adopted effective January 1, 1988.)

### History:

**Rule 3.823** amended effective January 1, 2008; adopted as **rule 1613** effective July 1, 1976; previously amended effective July 1, 1979, January 1, 1984, January 1, 1988, July 1, 1990, and January 1, 2004; previously amended and renumbered effective January 1, 2007.

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*Cal Rules of Court, Rule 3.824 (2009)*

### **Rule 3.824. Conduct of the hearing**

(a) **Arbitrator's powers** The arbitrator has the following powers; all other questions arising out of the case are reserved to the court:

(1) To administer oaths or affirmations to witnesses;

(2) To take adjournments upon the request of a party or upon his or her own initiative when deemed necessary;

- (3) To permit testimony to be offered by deposition;
- (4) To permit evidence to be offered and introduced as provided in these rules;
- (5) To rule upon the admissibility and relevancy of evidence offered;
- (6) To invite the parties, on reasonable notice, to submit arbitration briefs;
- (7) To decide the law and facts of the case and make an award accordingly;
- (8) To award costs, not to exceed the statutory costs of the suit; and
- (9) To examine any site or object relevant to the case.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2004.)

**(b) Record of proceedings**

**(1) Arbitrator's record** The arbitrator may, but is not required to, make a record of the proceedings.

**(2) Record not subject to discovery** Any records of the proceedings made by or at the direction of the arbitrator are deemed the arbitrator's personal notes and are not subject to discovery, and the arbitrator must not deliver them to any party to the case or to any other person, except to an employee using the records under the arbitrator's supervision or pursuant to a subpoena issued in a criminal investigation or prosecution for perjury.

**(3) No other record** No other record may be made, and the arbitrator must not permit the presence of a stenographer or court reporter or the use of any recording device at the hearing, except as expressly permitted by (1).

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 2004.)

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*Cal Rules of Court, Rule 3.825 (2009)*

**Rule 3.825. The award**

**(a) Form and content of the award**

**(1) Award in writing** The award must be in writing and signed by the arbitrator. It must determine all issues properly raised by the pleadings, including a determination of any damages and an award of costs if appropriate.

**(2) No findings or conclusions required** The arbitrator is not required to make findings of fact or conclusions of law.

(Subd (a) amended effective January 1, 2007; previously amended effective January 1, 2004.)

**(b) Filing the award or amended award**

**(1) Time for filing the award** Within 10 days after the conclusion of the arbitration hearing, the arbitrator must file the award with the clerk, with proof of service on each party to the arbitration. On the arbitrator's application in cases of unusual length or complexity, the court may allow up to 20 additional days for the filing and service of the award.

**(2) Amended award** Within the time for filing the award, the arbitrator may file and serve an amended award.

(Subd (b) amended effective January 1, 2007; previously amended effective January 1, 1995, and January 1, 2004.)

## Cal Rules of Court, Rule 3.827

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*Cal Rules of Court, Rule 3.827 (2009)*

**Rule 3.827. Entry of award as judgment**

**(a) Entry of award as judgment by clerk** The clerk must enter the award as a judgment immediately upon the expiration of 30 days after the award is filed if no party has, during that period, served and filed a request for trial as provided in these rules.

**(b) Notice of entry of judgment** Promptly upon entry of the award as a judgment, the clerk must mail notice of entry of judgment to all parties who have appeared in the case and must execute a certificate of mailing and place it in the court's file in the case.

**(c) Effect of judgment** The judgment so entered has the same force and effect in all respects as, and is subject to all provisions of law relating to, a judgment in a civil case or proceeding, except that it is not subject to appeal and it may not be attacked or set aside except as provided in rule 3.828. The judgment so entered may be enforced as if it had been rendered by the court in which it is entered.

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*Cal Rules of Court, Rule 3.828 (2009)*

**Rule 3.828. Vacating judgment on award**

**(a) Motion to vacate** A party against whom a judgment is entered under an arbitration award may, within six months after its entry, move to vacate the judgment on the ground that the arbitrator was subject to a disqualification not disclosed before the hearing and of which the arbitrator was then aware, or upon one of the grounds set forth in *Code of Civil Procedure* sections 473 or 1286.2(a)(1), (2), and (3), and on no other grounds.

**(b) Notice and grounds for granting motion** The motion must be heard upon notice to the adverse parties and to the arbitrator, and may be granted only upon clear and convincing evidence that the grounds alleged are true, and that the motion was made as soon as practicable after the moving party learned of the existence of those grounds.

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*Cal Rules of Court, Rule 3.829 (2009)*

**Rule 3.829. Settlement of case**

If a case is settled, each plaintiff or other party seeking affirmative relief must notify the arbitrator and the court as required in rule 3.1385.

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*Cal Rules of Court, Rule 3.830 (2009)*

**Rule 3.830. Arbitration not pursuant to rules**

These rules do not prohibit the parties to any civil case or proceeding from entering into arbitration agreements under part 3, title 9 of the Code of Civil Procedure. Neither the ADR committee nor the ADR administrator may take any part in the conduct of an arbitration under an agreement not in conformity with these rules except that the administrator may, upon joint request of the parties, furnish the parties to the agreement with a randomly selected list of at least three names of members of the appropriate panel of arbitrators.