



Judicial Council of California

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INVITATION TO COMMENT

SPR23-08

Title

Unlawful Detainer: Opportunities for Settlement Before Trial

Action Requested

Review and submit comments by May 12, 2023

Proposed Rules, Forms, Standards, or Statutes

Adopt Cal. Rules of Court, rule 3.2005 and approve form UD-155

Proposed Effective Date

January 1, 2024

Proposed by

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

Contact

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Executive Summary and Origin

The Civil and Small Claims Advisory Committee is proposing a new rule and a new form for optional use in unlawful detainer cases to promote settlement opportunities through the use of alternative dispute resolution processes. The new rule and form were previously circulated for comment between December 2022 and January 2023. The new rule states a policy favoring at least one opportunity for parties in all eviction cases to participate in some form of pretrial alternative dispute resolution process and would allow a court to shorten the existing deadline for submitting a mandatory settlement conference statement. The proposed new form would allow parties to submit any settlement agreement they reached to the court and ask for either an order without judgment or a stipulated judgment.

Background

The Ad Hoc Workgroup on Post-Pandemic Initiatives examined successful court practices adopted during the COVID-19 pandemic in order to increase access to justice. The workgroup recommended that the Civil and Small Claims Advisory Committee consider developing a proposal that would encourage parties in unlawful detainer cases to work on solutions not requiring trials. The workgroup's recommendation included, as one possibility, considering ways to encourage more frequent use of mandatory settlement conferences.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

Prior Circulation

A proposal for new rule 3.2005 and optional form UD-155, *Eviction Case (Unlawful Detainer) Stipulation* was previously circulated for comment from December 9, 2022, to January 20, 2023. The rule and form are being recirculated due to changes made in response to these comments.

Commenters suggested narrowing the scope of proposed new rule 3.2005, for example, by excluding mediation entirely and excluding for-cost mediation and ADR. Commenters also suggested limiting application of the rule to cases in which all parties are either represented by counsel or unrepresented. The committee has modified the proposal by revising the the advisory committee comment accompanying the proposed rule to acknowledge that the rule is not intended in any way to mandate for-cost mediation or alternative dispute resolution (ADR) processes. Other than that addition and a minor wording change, the committee presently does not intend to make substantive changes to the proposed rule. The committee will consider in full the comments already received when it considers any new comments on the proposed rule.

The committee received several comments from organizations and attorneys representing tenants. They suggested revisions to the form to make it more accessible, more comprehensive, and more even-handed in the terms presented. The committee is proposing significant revisions to proposed form UD-155 based on these comments. For example, the committee has added or revised items in proposed UD-155 relating to:

- The voluntary nature of agreeing to resolve a case by stipulation;
- Expanded information relating to the effects of a stipulated judgment and a conditional judgment;
- Options that allow the parties to identify terms of the agreement that will not result in eviction if a tenant fails to perform as agreed;
- More options concerning payment and attorney fees;
- Revised notice and hearing provisions that standardize the time frame for both defendants and plaintiffs to two court days' notice and an opportunity to respond at a hearing;
- An option to allow an opportunity to fix potential violations of the agreement;
- An option for a grace period; and
- Additional terms in the order, including retaining jurisdiction and calendaring the case for dismissal.

The Proposal

The Civil and Small Claims Advisory Committee proposes that the Judicial Council adopt a new rule—rule 3.2005—effective January 1, 2024, that would establish a policy favoring an opportunity for settlement before trial in eviction cases. The committee also proposes that the Judicial Council, effective January 1, 2024, approve *Eviction Case (Unlawful Detainer) Stipulation* (form UD-155) for optional use. The proposal is responsive to the directive from the Ad Hoc Workgroup on Post-Pandemic Initiatives. The form would give parties in eviction cases a framework for use in reaching an agreement, whether it be a stipulation and order without entry of judgment or a stipulated judgment.

Courts are currently authorized to set mandatory settlement conferences under California Rules of Court, rule 3.1380, but courts are not required to hold them. To understand current practice for pretrial dispute resolution of eviction cases, the committee informally surveyed superior courts around the state. Through this survey the committee learned that ADR programs for eviction cases vary by court. Some courts offer day-of-trial mediation using volunteer mediators. A few courts require participation in mandatory settlement conferences, as resources allow. And some courts have no pretrial ADR programs for eviction cases in place at this time. Because the courts that have ADR programs in place are using different processes based on the resources available, the committee concluded that a rule requiring courts to use a particular ADR process would be undesirable and potentially burdensome if resources were not available. Plus, a rule focused on mandatory settlement conferences alone would not account for existing court-connected mediation programs or other ADR processes that may have proven or might prove successful in resolving eviction cases without a trial.

Rule 3.2005

The proposed rule adopts a broad policy encouraging—in all unlawful detainer actions—an opportunity for participating in an ADR process, including settlement conferences or mediation, before trial. Because eviction cases move more quickly than most civil litigation, the proposed rule allows a court to exempt the parties from the five-court-day deadline for mandatory settlement conference statements set in rule 3.1380(c). The committee acknowledges that there may be other deadlines relating to ADR processes that may need to be shortened for parties in eviction cases to participate in those processes. An advisory committee comment has been included to note both (1) that the rule’s stated exemption is not meant to limit courts in granting relief from other deadlines that may facilitate a party’s participation in any ADR process that might result in resolution before trial; and (2) that the rule is not intended in any way to mandate for-cost mediation or other ADR processes.

Form UD-155

Because eviction cases often involve at least one self-represented party, the committee is proposing a plain-language form, UD-155, that parties can use to submit to the court a settlement agreement that they reach and ask for either a Stipulation and Order (without entry of judgment and with or without a conditional judgment) or a Stipulated Judgment. The proposed form, which is designed to be understood by both attorneys and self-represented parties, can also be used to assist parties, mediators or other ADR neutrals, and judicial officers in guiding discussions that might lead to resolution before trial. The proposed new form addresses the most common components of a stipulated agreement in eviction cases. Items 6–10 of the form also include an “Other” option in which the parties may specify any other terms that are necessary to the agreement.

Proposed form UD-155 is intended to serve as an alternative to the existing form, *Stipulation for Entry of Judgment* (form UD-115). Form UD-115 allows parties to tell the court that there is an agreement to finish an eviction case and ask the judge to approve it by entering judgment. That form may still be used if preferred by the parties. Form UD-115, however, is not easily modified

to reflect a settlement that avoids entry of judgment. Proposed new form UD-155, in contrast, allows for the parties to reach an agreement that seeks an end to an eviction case without a judgment. The committee understands that avoiding a judgment may be an important goal for defendants in eviction cases. As noted above, based on comments received during the prior circulation, the committee has made revisions to proposed form UD-155 that are intended to make the form clearer and more accessible. The committee also proposes inclusion of additional terms that are common to eviction case settlements. Proposed form UD-155 is intended to be fairly comprehensive, and the committee has tried to make the language as accessible as possible.

Alternatives Considered

The advisory committee considered whether to propose that parties in unlawful detainer cases be required to participate in a mandatory settlement conference (MSC) before trial. The committee concluded that there are other ADR processes that may also help parties reach solutions not requiring trials, and that requiring MSCs would unnecessarily promote one form of ADR to the exclusion of other available ADR processes. The committee also had concerns about whether courts had the resources necessary to successfully hold an MSC before every unlawful detainer trial.

The committee considered taking no action because some courts already offer court-connected mediation or MSCs in eviction cases. However, the committee determined that adopting a policy favoring settlement opportunities and adopting an optional form would be helpful to parties, neutrals, judicial officers, and courts.

The committee also considered revoking form UD-115. The committee does not recommend revoking that form at this time. It is not clear how frequently UD-115 is used or if the more streamlined entry of judgment form would be preferable to the new form in some subset of eviction cases. The committee will reconsider whether to recommend revoking UD-115 after form UD-155 has been approved and is in use.

Fiscal and Operational Impacts

The proposal's fiscal or operational impacts, if any, are expected to be minimal. The new form is intended to assist parties, neutrals, and courts in resolving eviction cases before trial by setting out the most common terms at issue in stipulated eviction-case agreements. Court staff, judicial officers, and self-help center staff may need to be trained on the new form. Case management systems may need to be adjusted to appropriately handle the new form.

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?
- Are there terms or language in the proposed form that might be stated more plainly for self-represented litigants? If so, suggest alternative language for the committee to consider.
- Are there other terms common to stipulated agreements in eviction cases that ought to be considered for inclusion on the form? If there are any common terms that might be added, specify which item the term would best be located under and any proposed phrasing for it.
- Are there other terms common to orders in eviction cases that might be considered for inclusion on the form? For example, does the form need to state when the case is to be calendared for dismissal?

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 3.2005, at page 6
2. Form UD-155, at pages 7–12

Rule 3.2005 of the California Rules of Court would be adopted, effective January 1, 2024, to read:

Title 3. Civil Rules

Division 20. Unlawful Detainers

Rule 3.2005. Settlement opportunities

(a) Policy favoring an opportunity for resolution without trial

The intent of this rule is to promote opportunities for resolution of unlawful detainer cases before trial. Courts should encourage participation, to the extent feasible, in at least one opportunity for resolution before trial, including but not limited to a settlement conference, mediation, or another alternative dispute resolution process.

(b) Exemption for mandatory settlement conference statement deadline

The court may exempt the parties in an unlawful detainer case participating in a mandatory settlement conference from the five-court-day deadline for submitting a settlement conference statement set out in rule 3.1380(c).

Advisory Committee Comment

The Judicial Council has adopted an optional form—*Eviction Case (Unlawful Detainer) Stipulation* (form UD-155)—that can be used to advise the court about any settlement that has been reached before trial.

Subdivision (a). The committee notes that parties may choose but cannot be required to participate in for-cost mediation or alternative dispute resolution (ADR). This rule is not intended in any way to mandate for-cost mediation or ADR.

Subdivision (b). Because unlawful detainer cases generally proceed on an expedited basis, this exemption allows parties in unlawful detainer cases to participate in and complete mandatory settlement conferences on shorter timelines. Nothing in this rule, including the exemption set out in subdivision (b), is intended to preclude a court from shortening other deadlines related to alternative dispute resolution processes.

Clerk stamps date here when form is filed.

DRAFT

03/15/2023

NOT APPROVED BY THE JUDICIAL COUNCIL

Instructions

- This form is for use only in an **eviction (unlawful detainer) case**.
- Complete this form if the parties have agreed to resolve the case before trial.
- A stipulation is an agreement between the parties that is submitted to the court for approval.
- Agreeing to resolve the case before trial is voluntary. If the parties do not reach an agreement, the case will go to trial and the judge will hear from both sides and decide if the tenant has to move out and pay money (if plaintiff asked for money in *Complaint—Unlawful Detainer* (UD-100)).
- If a party agrees to terms in a stipulation and then does not do everything agreed to, an eviction and lockout may take place, entry of judgment may occur, or a trial may be necessary.

Fill in court name and street address:

Superior Court of California, County of

Court fills in case number when form is filed.

Case Number:

1 The plaintiff (the person or entity asking the court to order defendant to move out) is:

- a. Name: _____
- b. Lawyer *(complete if plaintiff has one for this case)*:
 Name: _____
 State Bar No.: _____ Firm Name: _____
- c. Address *(if plaintiff has a lawyer, use the lawyer’s information)*:
 Address: _____
 City: _____ State: _____ Zip: _____
 Email Address: _____
- Check here if there is more than one plaintiff and attach one sheet of paper or form MC-025 and write “UD-155, Item 1” at the top.

2 The defendant (the tenant being sued for a court order to move out) is:

- a. Name: _____
- b. Lawyer *(if defendant has one for this case)*:
 Name: _____
 State Bar No.: _____ Firm Name: _____
- c. Address *(if defendant has a lawyer, use the lawyer’s information)*:
 Address: _____
 City: _____ State: _____ Zip: _____
 Email Address: _____
- Check here if there is more than one defendant and attach one sheet of paper or form MC-025 and write “UD-155, Item 2” at the top.

3 The property is located at:

- Street Address: _____
- Apartment No.: _____ City: _____ State: _____ Zip: _____



4 Type of Stipulation *(Check one.)*

- A Stipulation and Order tells the court about the parties’ agreement and makes it part of the court record (no judgment will be entered at this time). A Stipulation and Order can include, but is not required to, a Conditional Judgment, which tells the court how to resolve the case if one of the parties does not do everything agreed to in the Stipulation and Order, such as entering an eviction judgment against the defendant. Once signed by the court, the stipulation becomes a legally binding order.
 - A Stipulated Judgment is similar except that it ends the case once the court signs the Stipulation. If the Stipulated Judgment is approved, the court will enter a judgment against the defendant immediately. This will have the same effect as though the defendant lost the eviction case at a trial. The plaintiff will be able to ask the sheriff for a lockout. The eviction judgment against the defendant will become public.
- a. Stipulation and Order (no entry of judgment at this time) *(Check one.)*
- (1) With Conditional Judgment *(Complete 11.)*
- (2) Without Conditional Judgment *(Skip 11.)*
- b. Stipulated Judgment

5 Purpose of the Stipulation *(Check one.)*

- a. Defendant will stay in the property with conditions stated in this Stipulation.
- b. Defendant will stay in the property if defendant does everything that the parties agree is necessary to avoid an eviction judgment. *(Check one.)*
- (1) Everything in this Stipulation is necessary to avoid an eviction judgment.
- (2) Only some terms in this Stipulation may result in an eviction judgment. (See item 8i.)
- c. Defendant will move out of (vacate) the property with conditions stated in this Stipulation.
- d. Defendant has already moved out of (vacated) the property.
- e. Other *(describe any other purpose of the Stipulation):* _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write “UD-155, Item 5” at the top.

6 Defendant agrees to do the following *(Check all that defendant agrees to.)*

- a. To pay:

Past Due Rent	Damages	Attorney Fees	Court Costs	Total
\$	\$	\$	\$	\$

(Damages may include an amount based on daily rental value or any harm to the property.)

- (1) This amount is all that defendant owes plaintiff as of the date of this Stipulation.
- (2) Plaintiff acknowledges receipt of defendant’s full payment.
- b. To follow a payment plan, making payments in cash, certified funds, cashier’s check, or money order
- postmarked received as follows *(check one):*
- (1) Payments of \$ _____, on the _____ day of each week month, starting *(date):* _____ until *(date of final payment):* _____; amount of final payment: _____.
- (2) Other payment schedule *(state payment terms):* _____

_____ until paid in full.



- 6 c. To deliver payment to *(state delivery terms)*: _____

 and made payable to *(state name of person or entity)*: _____

- d. To move out of (vacate) the property no later than 11:59 p.m. on *(date)*: _____
- e. To incorporate and comply with the General Provisions agreed to in ⑩.
- f. Other *(describe any other things agreed to by defendant)*: _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write "UD-155, Item 6" at the top.

7 **If defendant does not do everything that the parties agree is necessary to avoid an eviction judgment** *(Complete if the parties agree to this process.)*

Defendant agrees that plaintiff can tell the court (ex parte) how defendant has not complied with the Stipulation and ask the court to quickly make the judgment in the eviction case as follows:

- a. Notice: Plaintiff will give 2 court days' notice to defendant at *(state how notice will be given)*: _____

- b. Hearing: Plaintiff will ask the court for a hearing in 6–10 days.
- c. Result *(check all that apply)*:
- (1) That defendant be ordered to do what was promised.
 - (2) That defendant be ordered to move out (evicted) and locked out (immediate possession) of the property identified in ③.
 - (3) That defendant be ordered to pay any amount of money still unpaid.
 - (4) Cancellation of the rental agreement/forfeiture of the lease.
 - (5) Other *(describe any other order the plaintiff may request)*: _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write "UD-155, Item 7" at the top.

- d. The parties agree that plaintiff will not seek eviction without reasonable notice to defendant and an opportunity for defendant to fix (cure) a violation of the following items in ⑥ and ⑩ *(state all items by number and letter)*: _____

8 **Plaintiff agrees to do the following** *(Check all that plaintiff agrees to.)*

- a. To dismiss permanently (with prejudice) the eviction case that is currently pending within _____ business days after defendant has done everything agreed to in ⑥.
- b. To request an immediate court order to enforce eviction (writ of possession) for the property identified in ③ but to wait to act (stay actual execution of such writ) until *(date)*: _____
- c. To waive all rent, late fees, and damages that were requested in the case.
- d. To make the payment plan interest/penalty free, and not to charge any fees or interest on the total amount agreed to in ⑥.
- e. To make the following repairs *(describe all repairs to the property)*: _____

- (1) The repairs will be completed by *(date)*: _____
- (2) Plaintiff agrees to temporarily relocate defendant at plaintiff's expense while the repairs are made.



- 8
- f. To credit all future payments first to rent due and then to the amounts due under the stipulated judgment/ order entered by the court in this eviction case.
 - g. To pay \$ _____ in certified funds, in exchange for moving out as agreed to in item 6d. Payment will be made payable to _____, and delivered to _____ on or by _____. If plaintiff fails to make payment as agreed, then the defendant's move out (vacate) date will be extended by _____ days for each day that the payment is late.
 - h. To pay defendant's attorneys fees in the amount of \$ _____.
 - i. Not to request a court order to enforce eviction (writ of possession) for failure to comply with the following terms from 6 and 10 (state all items by number and letter): _____
 - j. To incorporate and comply with the General Provisions agreed to in 10.
 - k. Other (describe any other things agreed to by plaintiff): _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write "UD-155, Item 8" at the top.

- 9 **If plaintiff does not do everything agreed to** (Complete if the parties agree to this process.)
 Plaintiff agrees that defendant can tell the court (ex parte) how plaintiff has not complied with the Stipulation and ask the court to quickly act as follows:
- a. Notice: Defendant will give 2 court days' notice to plaintiff at (state how notice will be given): _____
 - b. Hearing: Defendant will ask the court for a hearing in 6–10 days.
 - c. Result (check all that apply):
 - (1) That plaintiff be ordered to do what was promised.
 - (2) That plaintiff be ordered to pay damages.
 - (3) That plaintiff be ordered to immediately make repairs.
 - (4) Other (describe any other order the defendant may request): _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write "UD-155, Item 9" at the top.

- 10 **General Provisions** (Check all that the parties agree to.)
- a. There is a grace period of _____ days to do anything agreed to in this Stipulation.
 - b. Defendant states that all adults who live in the property are named as defendants in the documents that started this eviction case (the summons and complaint). No other adult lives in the property or has a right to live there.
 - c. Defendant states that all tenants have already moved out of the property. Plaintiff may lawfully take possession of the property effective immediately.
 - d. Defendant agrees to leave the property free of garbage and debris and all personal belongings. Any personal items left in the property after (date): _____ are deemed abandoned. This means the items will no longer be considered defendant's personal belongings. Plaintiff will have the right to dispose of any abandoned personal items. Abandoned personal items left in the property will not be considered a breach of this agreement.



- 10 e. The parties request that the court bar access to the court record under Code of Civil Procedure section 1161.2(a)(2).
- f. Under Code of Civil Procedure section 664.6, the court will retain jurisdiction over the parties (continue to be able to make orders) to enforce this settlement if one party does not do what they say they will do until everything agreed to in this Stipulation has been done. A party will not have to file a new case to tell the court about any noncompliance.
- g. The parties agree to waive all attorney fees and costs associated with this eviction case.
- h. This agreement resolves the issue of possession only. The parties agree all other claims between them may be addressed by a new complaint filed in the appropriate division of the court. *(Check this item if the parties are agreeing to resolve only the issue of whether the tenant will stay or leave the property. All other issues in the case are being reserved.)*
- i. Plaintiff agrees to provide a neutral, or better, rental reference of defendant to any person who asks for a reference of defendant relating to housing.
- j. Plaintiff agrees they have not reported and will not report this action to any credit reporting agencies.
- k. The security deposit will be handled according to California law in the following manner *(check all that apply)*:
- (1) Plaintiff is awarded the security deposit of \$ _____ to cover rent due in the amount of \$ _____ for the period of *(state period of time)*: _____.
Defendant gives up any claim to return of the security deposit and any interest.
 - (2) Plaintiff may apply the security deposit toward the judgment in this eviction case.
 - (3) Plaintiff will return the security deposit to defendant by *(date)*: _____
 - (4) Under Civil Code section 1950.5, plaintiff will mail an itemized statement along with any unused portion of the security deposit to the defendant within 21 days after the defendant moves out of (vacates) the property.
- l. Other *(describe any other terms agreed to by the parties)*: _____

Check here if you need more space. Attach one sheet of paper or form MC-025 and write "UD-155, Item 10" at the top.

- 11 **Conditional Judgment** *(Skip if the parties do not want the court to enter a conditional judgment.)*
 Defendant will stay in the property if all conditions are met that the parties agree are necessary to avoid an eviction judgment. Plaintiff will dismiss permanently (with prejudice) the eviction case that is currently pending within _____ business days after defendant has done everything agreed to in this Stipulation. But plaintiff may seek eviction and lockout (immediate possession of the property) if defendant does not do everything agreed to in this Stipulation that the parties agree is necessary to avoid eviction.
- a. If defendant delivers the sum of \$ _____ in cash, certified check, cashier's check, or money order to plaintiff/plaintiff's lawyer by *(time)*: _____ on *(date)*: _____ at *(state delivery terms)*: _____
 _____ then defendant will retain possession of the property and plaintiff will dismiss the action with prejudice. If defendant does not deliver the agreed-upon sum of money as stated in ⑥, then plaintiff may file a declaration regarding the nonpayment and may enforce *(check all that apply)*:
- (1) Eviction (writ of possession/defendant will be locked out).
 - (2) Cancellation of the rental agreement/forfeiture of the lease.
 - (3) A judgment for rent and damages.



- 11 a. (4) Defendant will have an eviction judgment entered against them and owe money to plaintiff, \$ _____ in attorney fees, and \$ _____ in court costs.
- (5) However, if defendant pays in full before judgment is entered, no judgment may be entered against defendant.
- b. Incorporate General Provisions agreed to in 10.

I have read the entire Stipulation and I understand and agree that there are no promises, representations, or terms other than what is contained within this written Stipulation. I understand this Stipulation fully and request that this Stipulation be incorporated by the court as its order.

Date: _____

Type or print name



Signature of Plaintiff or Plaintiff's Lawyer

Type or print name



Signature of Defendant or Defendant's Lawyer

Names and signatures of additional parties follow last attachment.

Judge will fill out section below.

Order

- a. It is so ordered.
- b. Based on the stipulation of the parties, and under Code of Civil Procedure section 1161.2(a)(2), the court bars access to the court file and all court records, electronic or otherwise, of this case by any person except the parties, counsel of record, and the court until further order of the court.
- c. Under Code of Civil Procedure section 664.6, the court will retain jurisdiction over the parties (continue to be able to make orders) to enforce this settlement if one party does not do what they say they will do until everything agreed to in this Stipulation has been done. A party will not have to file a new case to tell the court about any noncompliance.
- d. The parties agree and accept the terms of the Stipulation, which is approved by the court. The case is calendared for dismissal or entry of judgment on (date): _____ at (time): _____ in Department: _____
- e. Judgment is entered.
- f. Other (specify any additional terms or modifications): _____
- _____
- _____
- _____

Date: _____



Signature of Judicial Officer