

# **2011 California Rules of Court**

## **Title 3. Civil Rules**

<http://www.courts.ca.gov/7260.htm?title=three>

### **Division 8. Alternative Dispute Resolution**

#### **Chapter 1. General Provisions**

##### **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.

#### **Chapter 3. General Rules Relating to Mediation of Civil Cases**

##### **Article 1. [Reserved]**

##### **Article 2. Rules of Conduct for Mediators in Court-Connected Mediation Programs for Civil Cases**

##### **Rule 3.850. Purpose and function**

###### **(a) Standards of conduct**

The rules in this article establish the minimum standards of conduct for mediators in court-connected mediation programs for general civil cases. These rules are intended to guide the conduct of mediators in these programs, to inform and protect participants in these mediation programs, and to promote public confidence in the mediation process and the courts. For mediation to be effective, there must be broad public confidence in the integrity and fairness of the process. Mediators in court-connected programs

are responsible to the parties, the public, and the courts for conducting themselves in a manner that merits that confidence.

**(b) Scope and limitations**

These rules are not intended to:

- (1) Establish a ceiling on what is considered good practice in mediation or discourage efforts by courts, mediators, or others to educate mediators about best practices;
- (2) Create a basis for challenging a settlement agreement reached in connection with mediation; or
- (3) Create a basis for a civil cause of action against a mediator.

**Rule 3.851. Application**

**(a) Circumstances applicable**

The rules in this article apply to mediations in which a mediator:

- (1) Has agreed to be included on a superior court's list or panel of mediators for general civil cases and is notified by the court or the parties that he or she has been selected to mediate a case within that court's mediation program; or
- (2) Has agreed to mediate a general civil case pending in a superior court after being notified by the court or the parties that he or she was recommended, selected, or appointed by that court or will be compensated by that court to mediate a case within that court's mediation program. A mediator who is not on a superior court list or panel and who is selected by the parties is not "recommended, selected, or appointed" by the court within the meaning of this subdivision simply because the court approves the parties' agreement to use this mediator or memorializes the parties' selection in a court order.

**(b) Application to listed firms**

If a court's panel or list includes firms that provide mediation services, all mediators affiliated with a listed firm are required to comply with the rules in this article when they are notified by the court or the parties that the firm was selected from the court list to mediate a general civil case within that court's mediation program.

**(c) Time of applicability**

Except as otherwise provided in these rules, the rules in this article apply from the time the mediator agrees to mediate a case until the end of the mediation in that case.

**(d) Inapplicability to judges**

The rules in this article do not apply to judges or other judicial officers while they are serving in a capacity in which they are governed by the Code of Judicial Ethics.

**(e) Inapplicability to settlement conferences**

The rules in this article do not apply to settlement conferences conducted under rule 3.1380.

**Rule 3.852. Definitions**

As used in this article, unless the context or subject matter requires otherwise:

(1)"Mediation" means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement.

(2)"Mediator" means a neutral person who conducts a mediation.

(3)"Participant" means any individual, entity, or group, other than the mediator taking part in a mediation, including but not limited to attorneys for the parties.

(4)"Party" means any individual, entity, or group taking part in a mediation that is a plaintiff, a defendant, a cross-complainant, a cross-defendant, a petitioner, a respondent, or an intervenor in the case.

**Rule 3.854. Confidentiality**

**(a) Compliance with confidentiality law**

A mediator must, at all times, comply with the applicable law concerning confidentiality.

**(b) Informing participants of confidentiality**

At or before the outset of the first mediation session, a mediator must provide the participants with a general explanation of the confidentiality of mediation proceedings.

**(c) Confidentiality of separate communications; caucuses**

If, after all the parties have agreed to participate in the mediation process and the mediator has agreed to mediate the case, a mediator speaks separately with one or more participants out of the presence of the other participants, the mediator must first discuss with all participants the mediator's practice regarding confidentiality for separate communications with the participants. Except as required by law, a mediator must not disclose information revealed in confidence during such separate communications unless authorized to do so by the participant or participants who revealed the information.

**(d) Use of confidential information**

A mediator must not use information that is acquired in confidence in the course of a mediation outside the mediation or for personal gain.

**Rule 3.855. Impartiality, conflicts of interest, disclosure, and withdrawal**

**(a) Impartiality**

A mediator must maintain impartiality toward all participants in the mediation process at all times.

**(b) Disclosure of matters potentially affecting impartiality**

(1) A mediator must make reasonable efforts to keep informed about matters that reasonably could raise a question about his or her ability to conduct the proceedings impartially, and must disclose these matters to the parties. These matters include:

(A) Past, present, and currently expected interests, relationships, and affiliations of a personal, professional, or financial nature; and

(B) The existence of any grounds for disqualification of a judge specified in Code of Civil Procedure section 170.1.

(2) A mediator's duty to disclose is a continuing obligation, from the inception of the mediation process through its completion. Disclosures required by this rule must be made as soon as practicable after a mediator becomes aware of a matter that must be disclosed. To the extent possible, such disclosures should be made before the first mediation session, but in any event they must be made within the time required by applicable court rules or statutes.

**(c) Proceeding if there are no objections or questions concerning impartiality**

Except as provided in (f), if, after a mediator makes disclosures, no party

objects to the mediator and no participant raises any question or concern about the mediator's ability to conduct the mediation impartially, the mediator may proceed.

**(d) Responding to questions or concerns concerning impartiality**

If, after a mediator makes disclosures or at any other point in the mediation process, a participant raises a question or concern about the mediator's ability to conduct the mediation impartially, the mediator must address the question or concern with the participants. Except as provided in (f), if, after the question or concern is addressed, no party objects to the mediator, the mediator may proceed.

**(e) Withdrawal or continuation upon party objection concerning impartiality**

In a two-party mediation, if any party objects to the mediator after the mediator makes disclosures or discusses a participant's question or concern regarding the mediator's ability to conduct the mediation impartially, the mediator must withdraw. In a mediation in which there are more than two parties, the mediator may continue the mediation with the nonobjecting parties, provided that doing so would not violate any other provision of these rules, any law, or any local court rule or program guideline.

**(f) Circumstances requiring mediator recusal despite party consent**

Regardless of the consent of the parties, a mediator either must decline to serve as mediator or, if already serving, must withdraw from the mediation if:

- (1) The mediator cannot maintain impartiality toward all participants in the mediation process; or
- (2) Proceeding with the mediation would jeopardize the integrity of the court or of the mediation process.

**Rule 3.856. Competence**

**(a) Compliance with court qualifications**

A mediator must comply with experience, training, educational, and other requirements established by the court for appointment and retention.

**(b) Truthful representation of background**

A mediator has a continuing obligation to truthfully represent his or her background to the court and participants. Upon a request by any party, a

mediator must provide truthful information regarding his or her experience, training, and education.

**(c) Informing court of public discipline and other matters**

A mediator must also inform the court if:

- (1) Public discipline has been imposed on the mediator by any public disciplinary or professional licensing agency;
- (2) The mediator has resigned his or her membership in the State Bar or another professional licensing agency while disciplinary or criminal charges were pending;
- (3) A felony charge is pending against the mediator;
- (4) The mediator has been convicted of a felony or of a misdemeanor involving moral turpitude; or
- (5) There has been an entry of judgment against the mediator in any civil action for actual fraud or punitive damages.

**(d) Assessment of skills; withdrawal**

A mediator has a continuing obligation to assess whether or not his or her level of skill, knowledge, and ability is sufficient to conduct the mediation effectively. A mediator must decline to serve or withdraw from the mediation if the mediator determines that he or she does not have the level of skill, knowledge, or ability necessary to conduct the mediation effectively.

**Rule 3.857. Quality of mediation process**

**(a) Diligence**

A mediator must make reasonable efforts to advance the mediation in a timely manner. If a mediator schedules a mediation for a specific time period, he or she must keep that time period free of other commitments.

**(b) Procedural fairness**

A mediator must conduct the mediation proceedings in a procedurally fair manner. "Procedural fairness" means a balanced process in which each party is given an opportunity to participate and make uncoerced decisions. A mediator is not obligated to ensure the substantive fairness of an agreement reached by the parties.

**(c) Explanation of process**

In addition to the requirements of rule 3.853 (voluntary participation and self-determination), rule 3.854(a) (confidentiality), and (d) of this rule (representation and other professional services), at or before the outset of the mediation the mediator must provide all participants with a general explanation of:

- (1)The nature of the mediation process;
- (2)The procedures to be used; and
- (3)The roles of the mediator, the parties, and the other participants.

**(d) Representation and other professional services**

A mediator must inform all participants, at or before the outset of the first mediation session, that during the mediation he or she will not represent any participant as a lawyer or perform professional services in any capacity other than as an impartial mediator. Subject to the principles of impartiality and self-determination, a mediator may provide information or opinions that he or she is qualified by training or experience to provide.

**(e) Recommending other services**

A mediator may recommend the use of other services in connection with a mediation and may recommend particular providers of other services. However, a mediator must disclose any related personal or financial interests if recommending the services of specific individuals or organizations.

**(f) Nonparticipants' interests**

A mediator may bring to the attention of the parties the interests of others who are not participating in the mediation but who may be affected by agreements reached as a result of the mediation.

**(g) Combining mediation with other ADR processes**

A mediator must exercise caution in combining mediation with other alternative dispute resolution (ADR) processes and may do so only with the informed consent of the parties and in a manner consistent with any applicable law or court order. The mediator must inform the parties of the general natures of the different processes and the consequences of revealing information during any one process that might be used for decision making in another process, and must give the parties the opportunity to select another neutral for the subsequent process. If the parties consent to a combination of processes, the mediator must clearly inform the participants when the transition from one process to another is occurring.

**(h) Settlement agreements**

Consistent with (d), a mediator may present possible settlement options and terms for discussion. A mediator may also assist the parties in preparing a written settlement agreement, provided that in doing so the mediator confines the assistance to stating the settlement as determined by the parties.

**(i) Discretionary termination and withdrawal**

A mediator may suspend or terminate the mediation or withdraw as mediator when he or she reasonably believes the circumstances require it, including when he or she suspects that:

- (1)The mediation is being used to further illegal conduct;
- (2)A participant is unable to participate meaningfully in negotiations; or
- (3)Continuation of the process would cause significant harm to any participant or a third party.

**(j) Manner of withdrawal**

When a mediator determines that it is necessary to suspend or terminate a mediation or to withdraw, the mediator must do so without violating the obligation of confidentiality and in a manner that will cause the least possible harm to the participants.

**Rule 3.858. Marketing**

**(a) Truthfulness**

A mediator must be truthful and accurate in marketing his or her mediation services. A mediator is responsible for ensuring that both his or her own marketing activities and any marketing activities carried out on his or her behalf by others comply with this rule.

**(b) Representations concerning court approval**

A mediator may indicate in his or her marketing materials that he or she is a member of a particular court's panel or list but, unless specifically permitted by the court, must not indicate that he or she is approved, endorsed, certified, or licensed by the court.

**(c) Promises, guarantees, and implications of favoritism**

In marketing his or her mediation services, a mediator must not:

- (1)Promise or guarantee results; or

(2) Make any statement that directly or indirectly implies bias in favor of one party or participant over another.

**(d) Solicitation of business**

A mediator must not solicit business from a participant in a mediation proceeding while that mediation is pending.

**Rule 3.859. Compensation and gifts**

**(a) Compliance with law**

A mediator must comply with any applicable requirements concerning compensation established by statute or the court.

**(b) Disclosure of and compliance with compensation terms**

Before commencing the mediation, the mediator must disclose to the parties in writing any fees, costs, or charges to be paid to the mediator by the parties. A mediator must abide by any agreement that is reached concerning compensation.

**(c) Contingent fees**

The amount or nature of a mediator's fee must not be made contingent on the outcome of the mediation.

**(d) Gifts and favors**

A mediator must not at any time solicit or accept from or give to any participant or affiliate of a participant any gift, bequest, or favor that might reasonably raise a question concerning the mediator's impartiality.

**Rule 3.860. Attendance sheet and agreement to disclosure**

**(a) Attendance sheet**

In each mediation to which these rules apply under rule 3.851(a), the mediator must request that all participants in the mediation complete an attendance sheet stating their names, mailing addresses, and telephone numbers; retain the attendance sheet for at least two years; and submit it to the court on request.

**(b) Agreement to disclosure**

The mediator must agree, in each mediation to which these rules apply under rule 3.851(a), that if an inquiry or a complaint is made about the conduct of the mediator, mediation communications may be disclosed solely for purposes of a

complaint procedure conducted pursuant to rule 3.865 to address that complaint or inquiry.

**Article 3.** Requirements for Addressing Complaints About Court-Program Mediators

**Rule 3.865. Application and purpose**

**(a) Application**

The rules in this article apply to each superior court that makes a list of mediators available to litigants in general civil cases or that recommends, selects, appoints, or compensates a mediator to mediate any general civil case pending in that court. A court that approves the parties' agreement to use a mediator who is selected by the parties and who is not on the court's list of mediators or that memorializes the parties' agreement in a court order has not thereby recommended, selected, or appointed that mediator within the meaning of this rule.

**(b) Purpose**

These rules are intended to promote the resolution of complaints that mediators in court-connected mediation programs for civil cases may have violated a provision of the rules of conduct for such mediators in article 2. They are intended to help courts promptly resolve any such complaints in a manner that is respectful and fair to the complainant and the mediator and consistent with the California mediation confidentiality statutes.

**Rule 3.866. Definitions**

As used in this article, unless the context or subject matter requires otherwise:

- (1)"The rules of conduct" means rules 3.850-3.860 of the California Rules of Court in article 2.
- (2)"Court-program mediator" means a person subject to the rules of conduct under rule 3.851.
- (3)"Inquiry" means an unwritten communication presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.
- (4)"Complaint" means a written communication presented to the court's complaint coordinator indicating that a mediator may have violated a provision of the rules of conduct.
- (5)"Complainant" means the person who makes or presents a complaint.

- (6)"Complaint coordinator" means the person designated by the presiding judge under rule 3.867(a) to receive complaints and inquiries about the conduct of mediators.
- (7)"Complaint committee" means a committee designated or appointed to investigate and make recommendations concerning complaints under rule 3.869(d)(2).
- (8)"Complaint procedure" means a procedure for presenting, receiving, reviewing, responding to, investigating, and acting on any inquiry or complaint.
- (9)"Complaint proceeding" means all of the proceedings that take place as part of a complaint procedure concerning a specific inquiry or complaint.
- (10)"Mediation communication" means any statement that is made or any writing that is prepared for the purpose of, in the course of, or pursuant to a mediation or a mediation consultation, as defined in Evidence Code section 1115, and includes any communications, negotiations, and settlement discussions between participants in the course of a mediation or a mediation consultation.

### **Rule 3.867. Complaint coordinator**

#### **(a) Designation of the complaint coordinator**

The presiding judge must designate a person who is knowledgeable about mediation to serve as the complaint coordinator.

#### **(b) Identification of the complaint coordinator**

The court must make the complaint coordinator's identity and contact information readily accessible to litigants and the public.

### **Rule 3.868. Complaint procedure required**

Each court to which this article applies under rule 3.865 must establish a complaint procedure by local rule of court that is consistent with this article.

### **Rule 3.869. General requirements for complaint procedures and complaint proceedings**

#### **(a) Submission and referral of inquiries and complaints to the complaint coordinator**

All inquiries and complaints should be submitted or referred to the complaint coordinator.

**(b) Acknowledgment of complaint**

The complaint coordinator must send the complainant a written acknowledgment that the court has received the complaint.

**(c) Preliminary review and disposition of complaints**

The complaint coordinator must conduct a preliminary review of all complaints to determine whether the complaint can be informally resolved or closed, or whether the complaint warrants investigation.

**(d) Procedure for complaints not resolved through the preliminary review**

The following procedures are required only if a complaint is not resolved or closed through the preliminary review.

*(1) Mediator's notice and opportunity to respond*

The mediator must be given notice of the complaint and an opportunity to respond.

*(2) Investigation and recommendation*

(A) Except as provided in (B), the complaint must be investigated and a recommendation concerning court action on the complaint must be made by either an individual who has experience as a mediator and who is familiar with the rules of conduct stated in article 2 or a complaint committee that has at least one such individual as a member.

(B) A court with eight or fewer authorized judges may waive the requirement in (A) for participation by an individual who has experience as a mediator in conducting the investigation and making the recommendation if the court cannot find a suitable qualified individual to perform the functions described in (A) or for other grounds of hardship.

*(3) Final decision*

The final decision on the complaint must be made by the presiding judge or his or her designee, who must not be the complaint coordinator or an individual who investigated the complaint before its submission for final decision.

**(e) Notice of final action**

(1) The court must send the complainant notice of the final action taken by the court on the complaint.

(2) If the complaint was not closed during the preliminary review, the court must send notice of the final action to the mediator.

**(f) Promptness**

The court must process complaints promptly at all stages.

**(g) Records of complaints**

The court should maintain sufficient information about each complaint and its disposition to identify any history or patterns of complaints submitted under these rules.

**Rule 3.870. Permissible court actions on complaints**

After an investigation has been conducted, the presiding judge or his or her designee may do one or more of the following:

- (1) Direct that no action be taken on the complaint;
- (2) Counsel, admonish, or reprimand the mediator;
- (3) Impose additional training requirements as a condition of the mediator remaining on the court's panel or list;
- (4) Suspend the mediator from the court's panel or list or otherwise temporarily prohibit the mediator from receiving future mediation referrals from the court; or
- (5) Remove the mediator from the court's panel or list or otherwise prohibit the mediator from receiving future mediation referrals from the court.

**Rule 3.871. Confidentiality of complaint proceedings, information, and records**

**(a) Intent**

This rule is intended to:

- (1) Preserve the confidentiality of mediation communications as required by Evidence Code sections 1115-1128;
- (2) Promote cooperation in the reporting, investigation, and resolution of complaints about court-program mediators; and
- (3) Protect mediators against damage to their reputations that might result from the disclosure of unfounded complaints against them.

**(b) Preserving the confidentiality of mediation communications**

All complaint procedures and complaint proceedings must be designed and conducted in a manner that preserves the confidentiality of mediation communications, including but not limited to the confidentiality of any communications between the mediator and individual mediation participants or subgroups of mediation participants.

**(c) Confidentiality of complaint proceedings**

All complaint proceedings must occur in private and must be kept confidential. No information or records concerning the receipt, investigation, or resolution of an inquiry or a complaint may be open to the public or disclosed outside the course of the complaint proceeding except as provided in (d) or as otherwise required by law.

**(d) Authorized disclosures**

After the decision on a complaint, the presiding judge, or a person whom the presiding judge designates to do so, may authorize the public disclosure of information or records concerning the complaint proceeding that do not reveal any mediation communications. The disclosures that may be authorized under this subdivision include the name of a mediator against whom action has been taken under rule 3.870, the action taken, and the general basis on which the action was taken. In determining whether to authorize the disclosure of information or records under this subdivision, the presiding judge or the designee should consider the purposes of the confidentiality of complaint proceedings stated in (a)(2) and (a)(3).

**(e) Disclosures required by law**

In determining whether the disclosure of information or records concerning a complaint proceeding is required by law, courts should consider the purposes of the confidentiality of complaint proceedings stated in (a). If it appears that the disclosure of information or records concerning a complaint proceeding that would reveal mediation communications is required by law, before the information or records are disclosed, notice should be given to any person whose mediation communications may thereby be revealed.

**Rule 3.872. Disqualification from subsequently serving as an adjudicator**

A person who has participated in a complaint proceeding or otherwise received information about the substance of a complaint, other than information that is publicly disclosed under rule 3.871(d), must not subsequently hear or determine any contested issue of law, fact, or procedure concerning the dispute that was the subject of the underlying mediation or any other dispute that arises from the

mediation as a judge, an arbitrator, a referee, or a juror, or in any other adjudicative capacity, in any court action or proceeding.

## **Chapter 4.** Civil Action Mediation Program Rules

### **Rule 3.890. Application**

The rules in this chapter implement the Civil Action Mediation Act, Code of Civil Procedure section 1775 et seq. Under section 1775.2, they apply in the Superior Court of California, County of Los Angeles and in other courts that elect to apply the act.

### **Rule 3.891. Actions subject to mediation**

#### **(a) Actions that may be submitted to mediation**

The following actions may be submitted to mediation under these provisions:

##### *(1) By court order*

Any action in which the amount in controversy, independent of the merits of liability, defenses, or comparative negligence, does not exceed \$50,000 for each plaintiff. The court must determine the amount in controversy under Code of Civil Procedure section 1775.5. Determinations to send a case to mediation must be made by the court after consideration of the expressed views of the parties on the amenability of the case to mediation. The court must not require the parties or their counsel to personally appear in court for a conference held solely to determine whether to send their case to mediation.

##### *(2) By stipulation*

Any other action, regardless of the amount of controversy, in which all parties stipulate to such mediation. The stipulation must be filed not later than 90 days before trial unless the court permits a later time.

#### **(b) Case-by-case determination**

Amenability of a particular action for mediation must be determined on a case-by-case basis, rather than categorically.

### **Rule 3.892. Panels of mediators**

Each court, in consultation with local bar associations, ADR providers, and associations of providers, must identify persons who may be appointed as mediators. The court must consider the criteria in standard 10.72 of the Standards of Judicial Administration and California Code of Regulations, title 16,

section 3622, relating to the Dispute Resolution Program Act.

### **Rule 3.893. Selection of mediators**

The parties may stipulate to any mediator, whether or not the person selected is among those identified under rule 3.892, within 15 days of the date an action is submitted to mediation. If the parties do not stipulate to a mediator, the court must promptly assign a mediator to the action from those identified under rule 3.892.

### **Rule 3.894. Attendance, participant lists, and mediation statements**

#### **(a) Attendance**

- (1) All parties and attorneys of record must attend all mediation sessions in person unless excused or permitted to attend by telephone as provided in (3). If a party is not a natural person, a representative of that party with authority to resolve the dispute or, in the case of a governmental entity that requires an agreement to be approved by an elected official or a legislative body, a representative with authority to recommend such agreement, must attend all mediation sessions in person, unless excused or permitted to attend by telephone as provided in (3).
- (2) If any party is insured under a policy of insurance that provides or may provide coverage for a claim that is a subject of the action, a representative of the insurer with authority to settle or recommend settlement of the claim must attend all mediation sessions in person, unless excused or permitted to attend by telephone as provided in (3).
- (3) The mediator may excuse a party, attorney, or representative from the requirement to attend a mediation session under (1) or (2) or permit attendance by telephone. The party, attorney, or representative who is excused or permitted to attend by telephone must promptly send a letter or an electronic communication to the mediator and to all parties confirming the excuse or permission.
- (4) Each party may have counsel present at all mediation sessions that concern the party.

#### **(b) Participant lists and mediation statements**

- (1) At least five court days before the first mediation session, each party must serve a list of its mediation participants on the mediator and all other parties. The list must include the names of all parties, attorneys, representatives of a party that is not a natural person, insurance

representatives, and other persons who will attend the mediation with or on behalf of that party. A party must promptly serve a supplemental list if the party subsequently determines that other persons will attend the mediation with or on behalf of the party.

- (2) The mediator may request that each party submit a short mediation statement providing information about the issues in dispute and possible resolutions of those issues and other information or documents that may appear helpful to resolve the dispute.

### **Rule 3.895. Filing of statement by mediator**

Within 10 days after conclusion of the mediation, the mediator must file a statement on *Statement of Agreement or Non-agreement* (form ADR-100), advising the court whether the mediation ended in full agreement or non-agreement as to the entire case or as to particular parties in the case.

### **Rule 3.896. Coordination with Trial Court Delay Reduction Act**

#### **(a) Effect of mediation on time standards**

Submission of an action to mediation under the rules in this chapter does not affect time periods specified in the Trial Court Delay Reduction Act (Gov. Code, § 68600 et seq.), except as provided in this rule.

#### **(b) Exception to delay reduction time standards**

On written stipulation of the parties filed with the court, the court may order an exception of up to 90 days to the delay reduction time standards to permit mediation of an action. The court must coordinate the timing of the exception period with its delay reduction calendar.

#### **(c) Time for completion of mediation**

Mediation must be completed within 60 days of a reference to a mediator, but that period may be extended by the court for up to 30 days on a showing of good cause.

#### **(d) Restraint in discovery**

The parties should exercise restraint in discovery while a case is in mediation. In appropriate cases to accommodate that objective, the court may issue a protective order under Code of Civil Procedure section 2017(c) and related provisions.

## **Rule 3.897. Statistical information**

### **(a) Quarterly information reports**

Each court must submit quarterly to the Judicial Council pertinent information on:

- (1)The cost and time savings afforded by mediation;
- (2)The effectiveness of mediation in resolving disputes;
- (3)The number of cases referred to mediation;
- (4)The time cases were in mediation; and
- (5)Whether mediation ended in full agreement or nonagreement as to the entire case or as to particular parties in the case.

### **(b) Submission of reports to the Judicial Council**

The information required by this rule must be submitted to the Judicial Council either on the *Statement of Agreement or Nonagreement* (form ADR-100) and *ADR Information Form* (form ADR-101) or as an electronic database that includes, at a minimum, all of the information required on these forms. The format of any electronic database used to submit this information must be approved by the Administrative Office of the Courts.

### **(c) Parties and mediators to supply information**

Each court must require parties and mediators, as appropriate, to supply pertinent information for the reports required under this rule.

### **(d) Alternative reporting method**

On request, a court may report cases in mediation under the rules in this chapter under the appropriate reporting methods for cases stayed for contractual arbitration.

## **Rule 3.898. Educational material**

Each court must make available educational material, adopted by the Judicial Council, or from other sources, describing available ADR processes in the community.

