

Code of Civil Procedure

Part 3. Of Special Proceedings of a Civil Nature

Title 11.6 Civil Action Mediation

§ 1775. Findings and declarations

The Legislature finds and declares that:

(a) The peaceful resolution of disputes in a fair, timely, appropriate, and cost-effective manner is an essential function of the judicial branch of state government under Article VI of the California Constitution.

(b) In the case of many disputes, litigation culminating in a trial is costly, time consuming, and stressful for the parties involved. Many disputes can be resolved in a fair and equitable manner through less formal processes.

(c) Alternative processes for reducing the cost, time, and stress of dispute resolution, such as mediation, have been effectively used in California and elsewhere. In appropriate cases mediation provides parties with a simplified and economical procedure for obtaining prompt and equitable resolution of their disputes and a greater opportunity to participate directly in resolving these disputes. Mediation may also assist to reduce the backlog of cases burdening the judicial system. It is in the public interest for mediation to be encouraged and used where appropriate by the courts.

(d) Mediation and similar alternative processes can have the greatest benefit for the parties in a civil action when used early, before substantial discovery and other litigation costs have been incurred. Where appropriate, participants in disputes should be encouraged to utilize mediation and other alternatives to trial for resolving their differences in the early stages of a civil action.

(e) As a pilot project in Los Angeles County and in other counties which elect to apply this title, courts should be able to refer cases to appropriate dispute resolution processes such as judicial arbitration and mediation as an alternative to trial, consistent with the parties' right to obtain a trial if a dispute is not resolved through an alternative process.

(f) The purpose of this title is to encourage the use of court-annexed alternative dispute resolution methods in general, and mediation in particular. It is estimated that the average cost to the court for processing a civil case of the kind described in Section 1775.3 through judgment is three thousand nine hundred forty-three dollars (\$3,943) for each judge day, and that a substantial portion of this cost can be saved if these cases are resolved before trial.

The Judicial Council, through the Administrative Office of the Courts, shall conduct a survey to determine the number of cases resolved by alternative dispute resolution authorized by this title, and shall estimate the resulting savings realized by the courts and the parties. The results of the survey shall be included in the report submitted pursuant to Section 1775.14. The programs authorized by this title shall be deemed successful if they result in estimated savings of at least two hundred fifty thousand dollars (\$250,000) to the courts and corresponding savings to the parties.

§ 1775.1. Definitions

(a) As used in this title, “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.

(b) Unless otherwise specified in this title or ordered by the court, any act to be performed by a party may also be performed by his or her counsel of record.

§ 1775.2. Application of title

(a) This title shall apply to the courts of the County of Los Angeles.

(b) A court of any county, at the option of the presiding judge, may elect whether or not to apply this title to eligible actions filed in that court, and this title shall not apply in any court which has not so elected. An election under this subdivision may be revoked by the court at any time.

§ 1775.3. At-issue civil actions; actions with public agency or public entity as party

(a) In the courts of the County of Los Angeles and in other courts that elect to apply this title, all at-issue civil actions in which arbitration is otherwise required pursuant to Section 1141.11, whether or not the action includes a prayer for equitable relief, may be submitted to mediation by the presiding judge or the judge designated under this title as an alternative to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3.

(b) Any civil action otherwise within the scope of this title in which a party to the action is a public agency or public entity may be submitted to mediation pursuant to subdivision (a).

§ 1775.4. Actions ordered into arbitration; actions ordered into mediation

An action that has been ordered into arbitration pursuant to Section 1141.11 or 1141.12 may not be ordered into mediation under this title, and an action that has been ordered into mediation pursuant to Section 1775.3 may not be ordered into arbitration pursuant to Section 1141.11.

§ 1775.5. Cases ordered into mediation; limitation on amount in controversy

The court shall not order a case into mediation where the amount in controversy exceeds fifty thousand dollars (\$50,000). The determination of the amount in controversy shall be made in the same manner as provided in Section 1141.16 and, in making this determination, the court shall not consider the merits of questions of liability, defenses, or comparative negligence.

§ 1775.6. Selection of mediator; time limitations

In actions submitted to mediation pursuant to Section 1775.3, a mediator shall be selected for the action within 30 days of its submission to mediation. The method of selection and qualification of the mediator shall be as the parties determine. If the parties are unable to agree on a mediator within 15 days of the date of submission of the action to mediation, the court may select a mediator pursuant to standards adopted by the Judicial Council.

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§ 1775.7. Running of time limitations

- (a) Submission of an action to mediation pursuant to this title shall not suspend the running of the time periods specified in Chapter 1.5 (commencing with [Section 583.110](#)) of Title 8 of Part 2, except as provided in this section.
- (b) If an action is or remains submitted to mediation pursuant to this title more than four years and six months after the plaintiff

has filed the action, then the time beginning on the date four years and six months after the plaintiff has filed the action and ending on the date on which a statement of nonagreement is filed pursuant to Section 1775.9 shall not be included in computing the five-year period specified in Section 583.310.

§ 1775.8. Compensation of court-appointed mediators; administrative costs

(a) The compensation of court-appointed mediators shall be the same as the compensation of arbitrators pursuant to Section 1141.18, except that no compensation shall be paid prior to the filing of a statement of nonagreement by the mediator pursuant to Section 1775.9 or prior to settlement of the action by the parties.

(b) All administrative costs of mediation, including compensation of mediators, shall be paid in the same manner as for arbitration pursuant to Section 1141.28. Funds allocated for the payment of arbitrators under the judicial arbitration program shall be equally available for the payment of mediators under this title.

§ 1775.9. Termination of mediation; statement of nonagreement

(a) In the event that the parties to mediation are unable to reach a mutually acceptable agreement and any party to the mediation wishes to terminate the mediation, then the mediator shall file a statement of nonagreement. This statement shall be in a form to be developed by the Judicial Council.

(b) Upon the filing of a statement of nonagreement, the matter shall be calendared for trial, by court or jury, both as to law and fact, insofar as possible, so that the trial shall be given the same place on the active list as it had prior to mediation, or shall receive civil priority on the next setting calendar.

§ 1775.10. Statements made during mediation; evidence

All statements made by the parties during the mediation shall be

subject to Sections 703.5 and 1152, and Chapter 2 (commencing with Section 1115) of Division 9, of the Evidence Code.

§ 1775.11. Discovery

Any party who participates in mediation pursuant to Section 1775.3 shall retain the right to obtain discovery to the extent available under the Civil Discovery Act, Title 4 (commencing with Section 2016.010) of Part 4.

§ 1775.12. Reference to mediation or statement of nonagreement at subsequent trial

Any reference to the mediation or the statement of nonagreement filed pursuant to Section 1775.9 during any subsequent trial shall constitute an irregularity in the proceedings of the trial for the purposes of Section 657.

§ 1775.13. Legislative intent

It is the intent of the Legislature that nothing in this title be construed to preempt other current or future alternative dispute resolution programs operating in the trial courts.

§ 1775.14. Report to legislature

(a) On or before January 1, 1998, the Judicial Council shall submit a report to the Legislature concerning court alternative dispute resolution programs. This report shall include, but not be limited to, a review of programs operated in Los Angeles County and other courts that have elected to apply this title, and shall examine, among other things, the effect of this title on the judicial arbitration programs of courts that have participated in that program.

(b) The Judicial Council shall, by rule, require that each court applying this title file with the Judicial Council data that will enable the Judicial Council to submit the report required by subdivision (a).

§ 1775.15. Rules provided by Judicial Council

Notwithstanding any other provision of law except the provisions of this title, the Judicial Council shall provide by rule for all of the following:

- (a) The procedures to be followed in submitting actions to mediation under this act.
- (b) Coordination of the procedures and processes under this act with those under the trial Court Delay Reduction Act, Article 5 (commencing with Section 68600) of Chapter 2 of Title 8 of the Government Code.
- (c) Exceptions for cause from provisions of this title. In providing for exceptions, the Judicial Council shall take into consideration whether the civil action might not be amenable to mediation.