



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 24-034

For business meeting on May 17, 2024

Title

Rules and Forms: Order for Debtor's
Examination in Small Claims Cases

Agenda Item Type

Action Required

Effective Date

June 1, 2024

Rules, Forms, Standards, or Statutes Affected

Revise form SC-134

Date of Report

May 1, 2024

Recommended by

Judicial Council staff
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Executive Summary

Judicial Council staff recommend revising the instructions on one Judicial Council form to implement a statutory change made by Assembly Bill 1119 (Stats. 2023, ch. 562), enacted October 8, 2023. Revisions to the form will ensure that it conforms to existing law and avoid causing confusion for court users, clerks, and judicial officers.

Recommendation

Judicial Council staff recommend that the council, effective June 1, 2024, revise *Application and Order to Produce Statement of Assets and to Appear for Examination* (form SC-134) to reflect the revised deadline set in AB 1119 for service of an order for examination of a judgment debtor.

The proposed revised form is attached at pages 4–5.

Relevant Previous Council Action

Form SC-134 was adopted effective January 1, 1998, and has been revised by the council several times since then. The most recent revision, effective January 1, 2017, clarified the form's instructions for service and reorganized portions of the form to improve clarity and readability.

Analysis/Rationale

Judgments in small claims cases may be enforced under the same provisions applicable to all civil cases, including examination of judgment debtors.¹ Judgment creditors in small claims cases can use either *Application and Order for Appearance and Examination* (form AT-138/EJ-125) or *Application and Order to Produce Statement of Assets and to Appear for Examination* (form SC-134) to seek an examination of the judgment debtor.²

Prior law required a judgment creditor to serve a copy of an order to appear for a debtor's examination on the judgment debtor no less than 10 days before the date of the examination. AB 1119³ changes this deadline to 30 days for all judgment debtors.⁴ This change in law became effective on January 1, 2024.

This deadline is stated in item 4 on page 2 of form SC-134. Staff recommend changing "10 calendar days" to "30 calendar days" to reflect the requirements of AB 1119.⁵

Policy implications

The proposed revisions to the form implement an amended statute that changes the deadline for a judgment creditor to serve a judgment debtor with an order to appear for examination. Accordingly, the key policy implication is to ensure that this council form correctly reflects the law.

Comments

Public comments were not solicited for this proposal because the Rules Committee determined that the recommendations are within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).) The Civil and Small Claims Advisory Committee will be asking to circulate other revisions to this form later this year as part of a proposal to implement other provisions in AB 1119, but the current changes are needed to ensure that the form is not stating incorrect law in the meantime.

Alternatives considered

The alternative of no action was not considered because, without the proposed revisions, the form does not reflect current law.

¹ Code Civ. Proc., § 116.820.

² Form SC-134 is also used to enforce the requirement in Code of Civil Procedure section 116.830 for the judgment debtor to complete *Judgment Debtor's Statement of Assets* (form SC-133).

³ See Link A.

⁴ Code Civ. Proc., § 708.110(d).

⁵ Form AT-138/EJ-125 has already been updated to reflect the new deadline. Judicial Council of Cal., Staff Rep., *Rules and Forms: Order for Debtor's Examination* (Feb. 15, 2024), <https://jcc.legistar.com/View.ashx?M=F&ID=12701049&GUID=532D0822-334E-4355-A9F1-84D3029C7798>.

Fiscal and Operational Impacts

Staff anticipate that this proposal will require courts to train court staff and judicial officers on the changes in law reflected in the revised form. Because the revisions reflect changes in statute, these operational impacts cannot be avoided.

Attachments and Links

1. Form SC-134, at pages 4–5
2. Link A: Assem. Bill 1119,
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240AB1119

FOR COURT USE ONLY
DRAFT
04/15/2024
NOT APPROVED
BY COUNCIL

PLAINTIFF/DEMANDANTE (name, address, and telephone number of each):

Telephone No.:

DEFENDANT/DEMANDADO (name, address, and telephone number of each):

Telephone No.:

See attached sheet for additional plaintiffs and defendants.

ORDER TO PRODUCE STATEMENT OF ASSETS AND TO APPEAR FOR EXAMINATION

- 1. TO JUDGMENT DEBTOR (name):
2. YOU ARE ORDERED
a. to pay the judgment and file proof of payment...
b. to
(1) personally appear in this court...
(2) bring with you a completed Judgment Debtor's Statement of Assets...

Hearing Date

Date: Time: Dept.: Room:

Name and address of court if different from above:

If you fail to appear and have not paid the judgment, including postjudgment costs and interest, a bench warrant may be issued for your arrest, you may be held in contempt of court, and you may be ordered to pay penalties.

Si usted no se presenta y no ha pagado el monto del fallo judicial, inclusive las costas e intereses posteriores al fallo, la corte puede expedir una orden de detencion contra usted, declararle en desacato y ordenar clue pague multas.

3. This order may be served by a sheriff, marshal, or registered process server.

Date: (SIGNATURE OF JUDGE)

APPLICATION FOR THIS ORDER

(See Instructions on reverse)

- A. Judgment creditor (the person who won the case) (name): applies for an order requiring judgment debtor (the person or business who lost the case and owes money) (name): to (1) pay the judgment or (2) personally appear in this court with a completed Judgment Debtor's Statement of Assets...
B. I, judgment creditor, state the following:
(1) Judgment debtor has not paid the judgment.
(2) Judgment debtor either did not file an appeal or the appeal has been dismissed or judgment debtor lost the appeal.
(3) Judgment debtor either did not file a motion to vacate or the motion to vacate has been denied.
(4) More than 30 days have passed since the Notice of Entry of Judgment was mailed or delivered to judgment debtor.
(5) I have not received a completed Judgment Debtor's Statement of Assets from judgment debtor.
(6) The person to be examined resides or has a place of business in this county or within 150 miles of the place of examination.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: (TYPE OR PRINT NAME) (DECLARANT)

- The county provides small claims advisor services free of charge -

INSTRUCTIONS FOR APPLICANT

1. This form is intended to be an easy tool to enforce your right to receive a completed *Judgment Debtor's Statement of Assets* (form SC-133). This form is not intended to replace the *Application and Order for Appearance and Examination* (form EJ-125), often called an "Order for Examination." The *Application and Order for Appearance and Examination* should still be used to enforce a small claims judgment if you are not seeking at the same time to make the debtor complete a *Judgment Debtor's Statement of Assets*.
2. To set a hearing on an *Application and Order to Produce Statement of Assets and to Appear for Examination*, you must complete this form, present it to the court clerk, and pay the fee for an initial hearing date or a reset hearing date.
3. After you file this form, the clerk will set a hearing date, note the hearing date on the form, and return two copies or an original and one copy of the form to you.
4. If you want to be able to ask the court to enforce the order on the judgment debtor (the person or business who lost the case), you must have a copy of this form and a blank copy of the *Judgment Debtor's Statement of Assets* (form SC-133) personally served on the judgment debtor by a sheriff, marshal, or registered process server at least **30 calendar days** before the date of the hearing, and have a proof of service filed with the court. The law provides for a new fee if you reset the hearing.
5. If the judgment is paid, including all postjudgment costs and interest, you must immediately complete the *Acknowledgment of Satisfaction of Judgment* on the reverse of the *Notice of Entry of Judgment* (form SC-130) and file a copy with the court.
6. You must attend the hearing unless the judgment has been paid.



Request for Accommodations. Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Request for Accommodation* (form MC-410). (Civil Code, § 54.8.)