



Judicial Council of California

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on March 24, 2017

Title	Agenda Item Type
Rules and Forms: Miscellaneous Technical Changes	Action Required
	Effective Date
Rules, Forms, Standards, or Statutes Affected	July 1, 2017
Amend rule 1.100; revise forms CP10, DE-111, DE-142/DE-111(A-3d), FL-510, FL-570, FL-592, FL-676-INFO, MC-410, SC-100-INFO, and SC-104C; and renumber form FL-321-INFO as FL-323-INFO	Date of Report
	February 8, 2017
	Contact
Recommended by	Susan R. McMullan, 415-865-7990
Judicial Council staff	susan.mcmullan@jud.ca.gov
Susan R. McMullan, Senior Attorney	
Legal Services	

Executive Summary

Various Judicial Council advisory committees, members of the public, and Judicial Council staff have identified errors in the California Rules of Court and Judicial Council forms resulting from typographical errors, and changes resulting from legislation and previous rule amendments and form revisions. Judicial Council staff recommends making the necessary corrections to avoid confusing court users, clerks, and judicial officers.

Recommendation

Judicial Council staff recommends that the council, effective July 1, 2017:

1. Amend rule 1.100 and revise form MC-410 to conform to AB 1709 (Gallagher; ch. 94, 2016), which would remove the words “impairment” and “impaired” when describing a person with a disability. AB 1709 replaces the term “hearing impaired” with the term “hard of hearing,” or a close variation of “hard of hearing,” and would make additional technical,

non-substantive changes in sections 54.1 and 54.2 of the Civil Code, section 224 of the Code of Civil Procedure, and other statutes relating to deaf or hard-of-hearing individuals.

2. Revise form CP10, page 1, item 4, to read “(This date is in the accompanying Writ of Possession.)”
3. Revise *Petition for Probate* (form DE-111) and *Waiver of Bond by Heir or Beneficiary* (form DE-142/DE-111(A-3d)) to correct cross-references superseded by the recent addition of item 3b to form DE-111. The *Petition for Probate* was revised, effective January 1, 2017, to add item 3b regarding the decedent’s foreign citizenship. That addition required renumbering items 3b–3g as 3c–3h. In the revision process, one cross reference to renumbered item 3d in item 2d(1) on form DE-111 was overlooked. Several references to renumbered item 3d on the *Waiver of Bond by Heir or Beneficiary* were overlooked. Staff recommends revising both forms, effective July 1, 2017, to replace all references to renumbered item 3d with references to item 3e.
4. Renumber *Attorney for Child in a Family Law Case—Information Sheet* (form FL-321-INFO), which was approved, effective January 1, 2012, to provide information to parties about the appointment of an attorney for a minor child involved in a family law case. Effective July 1, 2012, the Judicial Council approved *Witness List* (form FL-321) for optional use. The numbering of these forms has caused some confusion to parties and court professionals since they believe form FL-321-INFO provides information about form FL-321. However, form FL-321-INFO is not related to the witness list. Because FL-321-INFO relates to the appointment of a minor’s counsel, the Family and Juvenile Law Advisory Committee recommends that the information sheet be renumbered to reflect its association with *Order Appointing Counsel for a Child* (form FL-323). Specifically, the committee recommends that form FL-321-INFO be renumbered to form FL-323-INFO and that all translated versions of form FL-321-INFO be revised to reflect this change.
5. Revise *Summons (UIFSA)* (form FL-510) to add a Spanish translation of “FOR COURT USE ONLY” to be consistent with other family law summons forms, to correct the misspelling of a Spanish word (“Desea”)—inadvertently spelled “Desia,”—and to replace the date and signature line for the clerk that was inadvertently removed from the form during the recent form change. Form FL-510 was revised, effective January 1, 2017, to comply with the modifications to the Uniform Interstate Family Support Act.
6. Revise *Notice of Registration of Out-of- State Support Order* (form FL-570) to replace “item 1” with “section 1” in item 3; to break the text regarding arrears in item 3 into two sentences with the checkbox placed before the second sentence for more clarity; and to change item 7 to replace “registration statement” in the first sentence with “Letter of Transmittal Requesting Registration” and to replace “registration statement” in the last sentence to “Personal Information Form.” These changes are being proposed at the request of counsel at the California Department of Child Support Services to comply with modifications to the

federal Uniform Interstate Family Support Act forms, which were made after this form's effective date, and for more clarity. Form FL-570 was revised, effective January 1, 2017, to comply with the modifications to the Uniform Interstate Family Support Act.

7. Revise *Notice of Registration of an International Hague Convention Support Order* (form FL-592) to break the text regarding arrears in item 3 into two sentences with the checkbox placed before the second sentence for more clarity. This change is being proposed at the request of counsel for the California Department of Child Support Services for more clarity. Form FL-592 was revised, effective January 1, 2017, to comply with the modifications to the Uniform Interstate Family Support Act.
8. Revise *Information Sheet: Request for Determination of Support Arrears or Adjustment of Child Support Arrears Due to Incarceration or Involuntary Institutionalization* (form FL-676-INFO) to correct the words "Other Parent/Parent" under the third paragraph in the section titled "Instructions for Completing Form FL-676" to "Other Parent/Party." Form FL-676-INFO was revised, effective January 1, 2017, to reflect the AB 610 changes in the process for adjusting arrears and to update and clarify instructions.
9. Revise *Information for the Small Claims Plaintiff* (form SC-100-INFO) and *How to Serve a Business or Public Entity (Small Claims)* (form SC-104C) to reflect changes in several reference web addresses.

Copies of the revised rule and forms are attached at pages 5-23.

Previous Council Action

Although the Judicial Council has acted on these rules and forms previously, this proposal recommends only minor corrections unrelated to any prior action.

Rationale for Recommendation

The changes to these rules are technical in nature and necessary to correct inadvertent omissions and incorrect references.

Comments, Alternatives Considered, and Policy Implications

These proposals were not circulated for public comment because they are noncontroversial, involve technical revisions, and are therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Implementation Requirements, Costs, and Operational Impacts

Operational impacts are expected to be minor. The proposed revisions may result in reproduction costs if courts provide hard copies of any of the forms recommended for revision. Because the proposed changes are technical corrections, case management systems are unlikely to need updating to implement them.

Attachments and Links

1. Rule 1.100 at page 5
2. Forms CP10, DE-111, DE-142/DE-111(A-3e), FL-323-INFO, FL-510, FL-570, FL-592, FL-676-INFO, MC-410, SC-100-INFO, and SC-104C at pages 6–23

Rule 1.100 of the California Rules of Court is amended, effective July 1, 2017, to read:

Rule 1.100. Requests for accommodations by persons with disabilities

(a) Definitions

As used in this rule:

(1) “Persons with disabilities” means individuals covered by California Civil Code section 51 et seq.; the Americans With Disabilities Act of 1990 (42 U.S.C. §12101 et seq.); or other applicable state and federal laws. This definition includes persons who have a physical or mental ~~impairment~~ medical condition that limits one or more of the major life activities, have a record of such an ~~impairment~~ a condition, or are regarded as having such an ~~impairment~~ a condition.

(2) * * *

(3) “Accommodations” means actions that result in court services, programs, or activities being readily accessible to and usable by persons with disabilities. Accommodations may include making reasonable modifications in policies, practices, and procedures; furnishing, at no charge, to persons with disabilities, auxiliary aids and services, equipment, devices, materials in alternative formats, readers, or certified interpreters for persons ~~with hearing impairments~~ who are deaf or hard-of-hearing; relocating services or programs to accessible facilities; or providing services at alternative sites. Although not required where other actions are effective in providing access to court services, programs, or activities, alteration of existing facilities by the responsible entity may be an accommodation.

(b) * * *

(c) Process for requesting accommodations

The process for requesting accommodations is as follows:

(1) * * *

(2) Requests for accommodations must include a description of the accommodation sought, along with a statement of the ~~impairment~~ medical condition that necessitates the accommodation. The court, in its discretion, may require the applicant to provide additional information about the ~~impairment~~ medical condition.

(3)–(4) * * *

CLAIMANT OR CLAIMANT'S ATTORNEY (<i>Name and Address</i>): TELEPHONE NO.: ATTORNEY FOR (<i>Name</i>): NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council 02.08.2017
Plaintiff: Defendant:	CASE NUMBER: (For levying officer use only) Completed form was received on Date: _____ Time: _____ By: _____
CLAIM OF RIGHT TO POSSESSION AND NOTICE OF HEARING	
Complete this form only if ALL of these statements are true: 1. You are NOT named in the accompanying form called <i>Writ of Possession</i> . 2. You occupied the premises on or before the date the unlawful detainer (eviction) action was filed. (<i>The date is in the accompanying Writ of Possession.</i>) 3. You still occupy the premises. 4. A <i>Prejudgment Claim of Right to Possession</i> form was NOT served with the <i>Summons and Complaint</i> , OR this eviction results from a foreclosure.	
NOTICE: If you are being evicted because of foreclosure, you have additional rights and should seek legal assistance immediately.	

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is (*specify*):
2. I reside at (*street address, unit no., city and ZIP code*):
3. The address of "the premises" subject to this claim is (*address*):

☐ Check here if this property was foreclosed on.

4. On (*insert date*): _____, the owner, landlord, or the landlord's authorized agent filed a complaint to recover possession of the premises. (*This date is in the accompanying Writ of Possession.*)
5. I occupied the premises on the date the complaint was filed (*the date in item 4*). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (*the date in item 4*).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (*the date in item 4*).
8. I was not named in the *Writ of Possession*.
9. I understand that if I make this claim of possession, a court hearing will be held to decide whether my claim will be granted.
10. (*Filing fee*) To obtain a court hearing on my claim, I understand that after I present this form to the levying officer I must go to the court and pay a filing fee of \$ _____ or file with the court "*Application for Waiver of Court Fees and Costs*." I understand that if I don't pay the filing fee or file the form for waiver of court fees within 2 court days, the court will immediately deny my claim.
11. (*Immediate court hearing unless you deposit 15 days' rent*) To obtain a court hearing on my claim, I understand I must also present a copy of this completed complaint form or a receipt from the levying officer. I also understand the date of my hearing will be set immediately if I do not deliver to the court an amount equal to 15 days' rent.

(Continued on reverse)

Plaintiff: Defendant:	CASE NUMBER:
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12. I am filing my claim in the following manner *(check the box that shows how you are filing your claim. Note that you must deliver to the court a copy of the claim form or a levying officer's receipt):*

- a. ☐ I presented this claim form to the sheriff, marshal, or other levying officer, AND within two court days I shall deliver to the court the following: (1) a copy of this completed claim form or a receipt, (2) the court filing fee or form for proceeding in forma pauperis, and (3) an amount equal to 15 days' rent; or
- b. ☐ I presented this claim form to the sheriff, marshal, or other levying officer, AND within two court days I shall deliver to the court (1) a copy of this completed claim form or a receipt, and (2) the court filing fee or form for proceeding in forma pauperis.

IMPORTANT: Do not take a copy of this claim form to the court unless you have first given the form to the sheriff, marshal, or other levying officer.

<i>(To be completed by the court)</i>			
Date of hearing:	Time:	Dept. or Div.:	Room:
Address of court:			

NOTICE: If you fail to appear at this hearing you will be evicted without further hearing.

13. **Rental agreement.** I have *(check all that apply to you):*

- a. ☐ an oral rental agreement with the landlord.
- b. ☐ a written rental agreement with the landlord.
- c. ☐ an oral rental agreement with a person other than the landlord.
- d. ☐ a written rental agreement with a person other than the landlord.
- e. ☐ a rental agreement with the former owner who lost the property through foreclosure.
- f. ☐ other *(explain)*:

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

WARNING: Perjury is a felony punishable by imprisonment in the state prison.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF CLAIMANT)

NOTICE: If your claim to possession is found to be valid, the unlawful detainer action against you will be determined at trial. At trial, you may be found liable for rent, costs, and, in some cases, treble damages.

— NOTICE TO OCCUPANTS —

YOU MUST ACT AT ONCE if all the following are true:

1. You are **NOT** named, in the accompanying form called **Writ of Possession**;
2. You occupied the premises on or before the date the unlawful detainer (eviction) action was filed; *and*
3. You still occupy the premises.
4. A Prejudgment Claim of Right to Possession form was **NOT** served with the Summons and Complaint, **OR** you are being evicted due to foreclosure.

You can complete and SUBMIT THIS CLAIM FORM

(1) Before the date of eviction at the sheriff's or marshal's office located at *(address)*:

(2) OR at the premises at the time of the eviction. *(Give this form to the officer who comes to evict you.)*

If you do not complete and submit this form (and pay a filing fee or file the form for proceeding in forma pauperis if you cannot pay the fee), **YOU WILL BE EVICTED** along with the parties named in the writ.

After this form is properly filed, A HEARING WILL BE HELD to decide your claim. If you do not appear at the hearing, you will be evicted without a further hearing.

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO.: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____			
ESTATE OF (name): _____ DECEDENT			
PETITION FOR <input type="checkbox"/> Probate of <input type="checkbox"/> Lost Will and for Letters Testamentary <input type="checkbox"/> Probate of <input type="checkbox"/> Lost Will and for Letters of Administration <input type="checkbox"/> with Will Annexed <input type="checkbox"/> Letters of Administration <input type="checkbox"/> Letters of Special Administration <input type="checkbox"/> with general powers <input type="checkbox"/> Authorization to Administer Under the Independent Administration of Estates Act <input type="checkbox"/> with limited authority	CASE NUMBER: _____ <table style="width: 100%;"> <tr> <td style="width: 80%;">HEARING DATE AND TIME: _____</td> <td style="width: 20%;">DEPT.: _____</td> </tr> </table>	HEARING DATE AND TIME: _____	DEPT.: _____
HEARING DATE AND TIME: _____	DEPT.: _____		

1. Publication will be in (specify name of newspaper):

- a. ☐ Publication requested.
 b. ☐ Publication to be arranged.

2. **Petitioner** (name each):

requests that

- a. ☐ decedent's will and codicils, if any, be admitted to probate.
 b. (name): _____ be appointed
 (1) ☐ executor
 (2) ☐ administrator with will annexed
 (3) ☐ administrator
 (4) ☐ special administrator ☐ with general powers
 and Letters issue upon qualification.
 c. ☐ full ☐ limited authority be granted to administer under the Independent Administration of Estates Act.
 d. (1) ☐ bond not be required for the reasons stated in item 3e.
 (2) ☐ \$ _____ bond be fixed. The bond will be furnished by an admitted surety insurer or as otherwise
 provided by law. (Specify reasons in Attachment 2 if the amount is different from the maximum required by Prob.
 Code, § 8482.)
 (3) ☐ \$ _____ in deposits in a blocked account be allowed. Receipts will be filed.
 (Specify institution and location): _____

3. a. Decedent died on (date): _____ at (place): _____
 (1) ☐ a resident of the county named above.
 (2) ☐ a nonresident of California and left an estate in the county named above located at (specify location permitting
 publication in the newspaper named in item 1): _____

b. ☐ Decedent was a citizen of a country other than the United States (specify country): _____

c. Street address, city, and county of decedent's residence at time of death (specify): _____

ESTATE OF (name):

DECEDENT

CASE NUMBER:

3. d. **Character and estimated value of the property of the estate** (complete in all cases):

- (1) Personal property: \$ _____
- (2) Annual gross income from
- (a) real property: \$ _____
- (b) personal property: \$ _____
- (3) **Subtotal** (add (1) and (2)): \$ _____
- (4) Gross fair market value of real property: \$ _____
- (5) (Less) Encumbrances: (\$ _____)
- (6) Net value of real property: \$ _____
- (7) **Total** (add (3) and (6)): \$ _____

- e. (1) ☐ Will waives bond. ☐ Special administrator is the named executor, and the will waives bond.
- (2) ☐ All beneficiaries are adults and have waived bond, and the will does not require a bond. (Affix waiver as Attachment 3e(2).)
- (3) ☐ All heirs at law are adults and have waived bond. (Affix waiver as Attachment 3e(3).)
- (4) ☐ Sole personal representative is a corporate fiduciary or an exempt government agency.
- f. (1) ☐ Decedent died intestate.
- (2) ☐ Copy of decedent's will dated: ☐ codicil dated (specify for each):
- are affixed as Attachment 3f(2). (Include typed copies of handwritten documents and English translations of foreign-language documents.)
- ☐ The will and all codicils are self-proving (Prob. Code, § 8220).
- (3) ☐ The original of the will and/or codicil identified above has been lost. (Affix a copy of the lost will or codicil or a written statement of the testamentary words or their substance in Attachment 3f(3), and state reasons in that attachment why the presumption in Prob. Code, § 6124 does not apply.)

g. **Appointment of personal representative** (check all applicable boxes):

- (1) Appointment of executor or administrator with will annexed:
- (a) ☐ Proposed executor is named as executor in the will and consents to act.
- (b) ☐ No executor is named in the will.
- (c) ☐ Proposed personal representative is a nominee of a person entitled to Letters. (Affix nomination as Attachment 3g(1)(c).)
- (d) ☐ Other named executors will not act because of ☐ death ☐ declination ☐ other reasons (specify):

☐ Continued in Attachment 3g(1)(d).

- (2) Appointment of administrator:
- (a) ☐ Petitioner is a person entitled to Letters. (If necessary, explain priority in Attachment 3g(2)(a).)
- (b) ☐ Petitioner is a nominee of a person entitled to Letters. (Affix nomination as Attachment 3g(2)(b).)
- (c) ☐ Petitioner is related to the decedent as (specify):
- (3) ☐ Appointment of special administrator requested. (Specify grounds and requested powers in Attachment 3g(3).)
- (4) ☐ Proposed personal representative would be a successor personal representative.

h. Proposed personal representative is a

- (1) ☐ resident of California.
- (2) ☐ nonresident of California (specify permanent address):

- (3) ☐ resident of the United States.
- (4) ☐ nonresident of the United States.

ESTATE OF (name):

DECEDENT

CASE NUMBER:

4. ☐ Decedent's will does not preclude administration of this estate under the Independent Administration of Estates Act.
5. a. Decedent was survived by (check items (1) or (2), and (3) or (4), and (5) or (6), and (7) or (8))
- (1) ☐ spouse.
 - (2) ☐ no spouse as follows:
 - (a) ☐ divorced or never married.
 - (b) ☐ spouse deceased.
 - (3) ☐ registered domestic partner.
 - (4) ☐ no registered domestic partner. (See Fam. Code, § 297.5(c); Prob. Code, §§ 37(b), 6401(c), and 6402.)
 - (5) ☐ child as follows:
 - (a) ☐ natural or adopted.
 - (b) ☐ natural adopted by a third party.
 - (6) ☐ no child.
 - (7) ☐ issue of a predeceased child.
 - (8) ☐ no issue of a predeceased child.
- b. Decedent ☐ was ☐ was not survived by a stepchild or foster child or children who would have been adopted by decedent but for a legal barrier. (See Prob. Code, § 6454.)
6. (Complete if decedent was survived by (1) a spouse or registered domestic partner but no issue (only a or b apply), or (2) no spouse, registered domestic partner, or issue. (Check the **first** box that applies):
- a. ☐ Decedent was survived by a parent or parents who are listed in item 8.
 - b. ☐ Decedent was survived by issue of deceased parents, all of whom are listed in item 8.
 - c. ☐ Decedent was survived by a grandparent or grandparents who are listed in item 8.
 - d. ☐ Decedent was survived by issue of grandparents, all of whom are listed in item 8.
 - e. ☐ Decedent was survived by issue of a predeceased spouse, all of whom are listed in item 8.
 - f. ☐ Decedent was survived by next of kin, all of whom are listed in item 8.
 - g. ☐ Decedent was survived by parents of a predeceased spouse or issue of those parents, if both are predeceased, all of whom are listed in item 8.
 - h. ☐ Decedent was survived by no known next of kin.
7. (Complete only if no spouse or issue survived decedent.)
- a. ☐ Decedent had no predeceased spouse.
 - b. ☐ Decedent had a predeceased spouse who
 - (1) ☐ died not more than 15 years before decedent and who owned an interest in **real property** that passed to decedent,
 - (2) ☐ died not more than five years before decedent and who owned **personal property** valued at \$10,000 or more that passed to decedent, (If you checked (1) or (2), check only the **first** box that applies):
 - (a) ☐ Decedent was survived by issue of a predeceased spouse, all of whom are listed in item 8.
 - (b) ☐ Decedent was survived by a parent or parents of the predeceased spouse who are listed in item 8.
 - (c) ☐ Decedent was survived by issue of a parent of the predeceased spouse, all of whom are listed in item 8.
 - (d) ☐ Decedent was survived by next of kin of the decedent, all of whom are listed in item 8.
 - (e) ☐ Decedent was survived by next of kin of the predeceased spouse, all of whom are listed in item 8.
 - (3) ☐ neither (1) nor (2) apply.
8. Listed on the next page are the names, relationships to decedent, ages, and addresses, so far as known to or reasonably ascertainable by petitioner, of (1) all persons mentioned in decedent's will or any codicil, whether living or deceased; (2) all persons named or checked in items 2, 5, 6, and 7; and (3) all beneficiaries of a trust named in decedent's will or any codicil in which the trustee and personal representative are the same person.

ESTATE OF *(name)*:

DECEDENT

CASE NUMBER:

8. Name and relationship to decedent Age Address

☐ Continued on Attachment 8.

9. Number of pages attached: _____

Date:

(TYPE OR PRINT NAME OF ATTORNEY)



(SIGNATURE OF ATTORNEY) *

* (Signatures of all petitioners are also required. All petitioners must sign, but the petition may be verified by any one of them (Prob. Code, §§ 1020, 1021; Cal. Rules of Court, rule 7.103).)

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 OF PETITIONER)



(SIGNATURE OF PETITIONER)

(TYPE OR PRINT NAME OF PETITIONER)



(SIGNATURE OF PETITIONER)

Signatures of additional petitioners follow last attachment.

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NO.: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
ESTATE OF (Name): , DECEDENT		
WAIVER OF BOND BY HEIR OR BENEFICIARY <input type="checkbox"/> Attachment 3e to Petition for Probate*		CASE NUMBER:

NOTICE: READ PARAGRAPHS A–G BEFORE YOU SIGN

- A. A bond is a form of insurance to replace assets that may be mismanaged or stolen by the executor or administrator (the estate's **personal representative**). The cost of the bond is paid from the assets of the estate.
- B. A bond may not be required if the decedent's will admitted to probate waives a bond and the court approves.
- C. If the decedent's will does not waive bond, or if the decedent died without a will, the law ordinarily requires the personal representative to give a bond approved and ordered by the court. However, all persons eligible to receive a share of the estate may waive the requirement of a bond. If they all waive bond and the court approves, the personal representative will NOT have to give a bond.
- D. **If bond is not ordered by the court, and the estate suffers loss because the personal representative fails to properly perform the duties of the office, the loss or some part of it may not be recoverable from the personal representative. If so, your share of the estate may be partly or entirely lost.**
- E. You may waive the requirement of a bond by signing this form and delivering it to the petitioner for appointment of a personal representative or to the petitioner's attorney. Your waiver cannot be withdrawn after the court appoints the personal representative without requiring a bond. However, if you sign a waiver of bond, you may later petition the court to require a bond.
- F. A guardian ad litem or other legal representative with specific authority under law to waive bond must sign for a minor, an incapacitated person, an unascertained beneficiary, or a designated class of persons who are not ascertained or not yet in being. See Judicial Council forms DE-350 and DE-351 and Probate Code section 1003.
- G. **If you do not understand this form, do not sign it until you have asked a lawyer (who is independent of the lawyer for the proposed personal representative) to explain it to you.**

WAIVER

- I have read and understand paragraphs A through G above.
- I understand that before signing this form, I am free to consult with a lawyer of my choice concerning the possible consequences to me of waiving bond.
- I understand that I do not have to waive bond to allow the estate administration to begin or proceed, or to receive my share of the estate.
- I WAIVE the posting of bond in this estate by (name of personal representative):

Date:

(TYPE OR PRINT NAME OF BENEFICIARY (AND AUTHORIZED SIGNER, IF BENEFICIARY IS NOT AN INDIVIDUAL))

(SIGNATURE)

***(This form may be filed as an independent form (as form DE-142) OR as Attachment 3e(2) (will) or Attachment 3e(3) (intestacy) to the Petition for Probate (form DE-111) (as form DE-111(A-3e).)**

FL-323-INFO**Attorney for Child in a Family Law Case—Information Sheet**

In some cases, the family court judge will appoint a private attorney to represent a child in a custody or parenting time (visitation) case. These attorneys are often called “minor’s counsel.”

Why might the court appoint an attorney for a child?

The court might appoint an attorney for a child for many different reasons. For example, if parents significantly disagree about issues of parenting time and a child is experiencing stress, the court might appoint an attorney to represent the child in the case.

What will minor’s counsel do?

Minor’s counsel will:

- Gather and present evidence about the best interests of the child;
- If the child wants, present the child’s wishes to the court; and
- Inform the court if the child wants to address the court.

Generally, minor’s counsel will also:

- Interview the child; and
- Review court files and records available to the parties and make additional investigation.

Minor’s counsel:

- Cannot be called as a witness but can bring witnesses for the child’s case;
- Can see a child’s mental health, medical, dental, and other health-care records, and school and educational records;
- Has the right to interview school personnel, caretakers, health-care providers, mental health professionals, and others who have assessed the child or provided care to the child; and
- Must be served with all documents in the case once appointed.

Who pays for minor's counsel?

In general, the parties pay for the attorney for their child, but sometimes the court will cover the cost

of minor’s counsel. The court must determine the reasonable amount for the attorney. The court must also decide about the ability of the parties to pay all or some of that amount. The court will review the parties’ financial information to make this decision. If the parties do not pay when they are required to, the attorney or the court could bring a case against them to collect the money. If the court finds that the parties are not able to pay all or some of the cost, the court must pay the part the parties can’t pay.

Who can ask that minor’s counsel be appointed?

Parties and their attorneys, other types of attorneys, the child or a relative of the child, or a child custody mediator, recommending counselor, or evaluator may ask the court to appoint minor’s counsel for the child. The court may also decide to appoint minor’s counsel without a request.

What will a court order for minor’s counsel include?

The court must make written orders when appointing and relieving counsel for a child.

Appointment orders must include the appointed counsel’s name, address, and telephone number; the name of the child for whom counsel is appointed; and the child’s date of birth.

Orders might also include:

- The child’s address, if appropriate;
- Issues to be addressed in the case;
- Case-related tasks that would benefit from the services of counsel for the child;
- Responsibilities and rights of the child’s counsel;
- Counsel’s rate or amount of compensation;
- Allocation of fees payable by each party or the court;
- Source of funds and manner of reimbursement for costs and attorney fees;
- Allocation of payment of attorney fees to one party subject to reimbursement by the other party;
- The terms and amount of any progress or installment payments; and



- The ability of the court to change the order on fees and payment.

When does the minor's counsel stop representing the child?

Generally, the attorney keeps representing the child until the court decides otherwise or when the child turns 18 years.

Does the court have a list of attorneys who might be appointed?

The court may or may not maintain a list or panel of attorneys meeting the minimum qualifications to be appointed. The court may also appoint attorneys not on a list and may take into consideration factors including language, culture, and the special needs of the child.

What do I do if I have a complaint about minor's counsel?

Look in the court's local rules or ask the court about its complaint procedures.

What kind of qualifications must attorneys have to be appointed?

An attorney must:

- Be an active member in good standing of the State Bar of California;
- Have professional liability insurance or demonstrate to the court that he or she is adequately self-insured;
- Have completed at least 12 hours of education and training on specific topics (see California Rules of Court, rule 5.242); and
- Have a certain amount of experience before being appointed and also receive at least 8 hours of additional training each year.

How does the attorney tell the court he or she is qualified?

The attorney must file a declaration with the court indicating compliance with all requirements no later than 10 days after being appointed and before beginning work on the case.

SUMMONS

NOTICE AND WARNING TO RESPONDENT:
AVISO Y ADVERTENCIA AL ACUSADO O A LA ACUSADA:

CASE NUMBER (Número del Caso):

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

DRAFT
 Not approved by the
 Judicial Council

IF YOU WANT LEGAL ADVICE, CONTACT A LAWYER IMMEDIATELY.

SI DESEA CONSEJOS LEGALES, CONSULTE A UN ABOGADO DE INMEDIATO.

YOU ARE BEING SUED. THE LAWSUIT CLAIMS YOU ARE THE PARENT OF CHILDREN NAMED IN THE UNIFORM SUPPORT PETITION. THE LAWSUIT ALSO SAYS YOU MUST PAY CHILD SUPPORT.

SE HA PRESENTADO UNA DEMANDA JUDICIAL EN SU CONTRA. EN LA DEMANDA SE ALEGA QUE USTED ES EL PADRE/LA MADRE DEL (DE LOS) HIJO(S) NOMBRADO(S) EN LA PETICIÓN UNIFORME DE SUSTENTO (UNIFORM SUPPORT PETITION). LA DEMANDA INDICA TAMBIÉN QUE USTED DEBE PAGAR POR EL SUSTENTO DE DICHO(S) HIJO(S).

YOU CAN OPPOSE THE LAWSUIT. IF YOU DON'T, THE COURT MAY FIND THAT YOU ARE THE PARENT AND ORDER YOU TO PAY CHILD SUPPORT, WHICH MAY BE TAKEN FROM YOUR PAY OR YOUR PROPERTY.

USTED PUEDE Oponerse a la demanda. Si no lo hace, la corte podrá determinar que usted es el padre/la madre y ordenarle que haga pagos de sustento, los cuales podrán deducirse de su sueldo o de otros bienes de su propiedad.

YOU CAN OPPOSE THE LAWSUIT BY DOING ALL OF THE FOLLOWING WITHIN 30 CALENDAR DAYS AFTER BEING SERVED WITH THIS SUMMONS AND UNIFORM SUPPORT PETITION:

USTED PUEDE Oponerse a la demanda al tomar todos los pasos siguientes dentro de los 30 días calendarios contados a partir de la fecha en que se le entregue esta citación judicial y petición uniforme de sustento:

1. If you did not receive the *Response to Uniform Support Petition* (form FL-520) with the summons, you can get one from the court's family law facilitator's office or from the California Courts website at www.courts.ca.gov. Fill out, sign, and date the form.
Si no recibió, junto con la citación judicial, el formulario de respuesta (formulario FL-520), titulado en inglés Response to Uniform Support Petition (form FL-520), obtenga uno en la oficina del asistente de derecho familiar de la corte o en el sitio web de las Cortes de California en www.sucorte.ca.gov. Complete, firme y feche el formulario.
2. Have an adult other than yourself mail a copy of the response to the Petitioner, or Petitioner's attorney, and/or local child support agency at the following address(es):
Haga que otra persona adulta (que no sea usted), envíe por correo una copia de este formulario a la parte demandante, o al abogado de la parte demandante, y/o a la oficina de la agencia local de mantenimiento de hijos (local child support agency) en la dirección o direcciones siguiente(s):

[SEAL]

3. The person who mailed the form must complete the proof of service on the back of the response.
La persona que envía el formulario por correo debe completar el comprobante de notificación (proof of service) impreso al dorso del formulario de respuesta.
4. File the response with the court at the following address:
Presente el formulario de respuesta ante la corte en la siguiente dirección:

Date (Fecha):

Clerk, by (Secretario, por)

, Deputy (Asistente)

Page 1 of 1

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<i>FOR COURT USE ONLY</i> DRAFT Not approved by the Judicial Council
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
NOTICE OF REGISTRATION OF OUT-OF-STATE SUPPORT ORDER <input type="checkbox"/> Support Order <input type="checkbox"/> Income Withholding Order	CASE NUMBER:

1. To (name):
2. You are notified that an ☐ Out-of-State Support Order ☐ Out-of-State Order for Income Withholding has been registered with this court. A copy of the order and the Letter of Transmittal Requesting Registration are attached.
3. The amount of arrears is specified in section 1 on the attached Letter of Transmittal Requesting Registration.
 The amount of the alleged arrears is: _____ as of _____
☐ The arrears have a U.S. dollar equivalence of _____ as of _____
4. The registered order is enforceable in the same manner as a support order made by a California court as of the date that the Letter of Transmittal Requesting Registration is filed.
5. If you want to contest the validity or enforcement of the registered order, you must request a hearing within 20 days after notice. You can request a hearing by completing and filing a *Request for Hearing Regarding Registration of Support Order* (form FL-575).
6. If you fail to contest the validity or enforcement of the attached order within 20 days after notice, the order will be confirmed by the court and you will be unable to contest any portion of the order including the amount of arrears as specified in item 1 of the Letter of Transmittal Requesting Registration.

CLERK'S CERTIFICATE OF MAILING

7. I certify that I am not a party to this cause and that a copy of the Letter of Transmittal Requesting Registration with a copy of the out-of-state order were sent to the person named in item 1 by first-class mail. The copies were enclosed in an envelope with postage fully prepaid. The envelope was addressed to the person named in item 1 only at the address in the Personal Information Form, sealed, and deposited with the U.S. Postal Service

at (place):

on (date):

8. A copy was sent to the local child support agency on (date):

Date: _____ Clerk, by _____, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT:	
NOTICE OF REGISTRATION OF AN INTERNATIONAL HAGUE CONVENTION SUPPORT ORDER	CASE NUMBER:

- To (name):
- You are notified that an International Hague Convention Support Order has been registered with this court. A copy of the following is attached:
 - ☐ Complete text of the order
 - ☐ Abstract of the order
 - ☐ Record stating the support order is enforceable in the issuing country
 - ☐ Record attesting proper notice and opportunity to be heard, if respondent did not appear and was not represented
 - ☐ Record showing the amount of arrears, if any
 - ☐ Record showing a requirement for automatic adjustment of support, if any
 - ☐ Record showing the extent to which the applicant received free legal assistance, if necessary
- The amount of arrears is specified in item 1 on the attached Transmittal Form under Article 12(2).
 The amount of the alleged arrears is: _____ as of _____
☐ The arrears have a U.S. dollar equivalence of _____ as of _____
- The registered order is enforceable in the same manner as a support order made by a California court as of the date the Transmittal Form under article 12(2) is filed.
- If you want to contest the validity or enforcement of the registered order, you must request a hearing within 30 days if you reside in the United States, or within 60 days if residing outside the United States, of the date that the notice was mailed to you (*see below for clerk's date of mailing*). You can request a hearing by completing and filing a *Request for Hearing Regarding Registration of an International Hague Convention Support Order* (form FL-594).
- If you fail to contest the validity or enforcement of the attached order within 30 days, or 60 days if residing outside the United States, of the date this notice was mailed, the order will be confirmed by the court and you will be unable to contest any portion of the order including the amount of arrears as specified in item 1 of the Transmittal Form under article 12(2).

CLERK'S CERTIFICATE OF MAILING

- I certify that I am not a party to this cause and that a copy of the Transmittal Form with a copy of the International Hague Convention Support Order were sent to the person named in item 1 by first-class mail. The copies were enclosed in an envelope with postage fully prepaid. The envelope was addressed to the person named in item 1 only at the address in the Transmittal Form, sealed, and deposited with the U.S. Postal Service

at (place):

on (date):

- Copy sent to local child support agency on (date):

Date: _____ Clerk, by _____, Deputy

INFORMATION SHEET: REQUEST FOR DETERMINATION OF SUPPORT ARREARS OR ADJUSTMENT OF CHILD SUPPORT ARREARS DUE TO INCARCERATION OR INVOLUNTARY INSTITUTIONALIZATION

Please follow these instructions to complete a *Request for Determination of Support Arrears or Adjustment of Child Support Arrears Due to Incarceration or Involuntary Institutionalization* (form FL-676). If you need free help completing form FL-676, you can contact the Family Law Facilitator's Office in your county. For more information on finding a family law facilitator, see the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp.

Form FL-676 should be used only if you disagree with the past due support payments (arrears) that the local child support agency says are owed or if an adjustment of child support arrears due to incarceration or institutionalization is needed and you cannot reach an agreement with the local child support agency. Child support includes the basic amount plus any additional amounts for child care costs related to employment, or training needed to get job skills and reasonable uninsured health care costs for the children. Form FL-676 cannot be used if you want to change your child support order.

When you have completed form FL-676, file the original and attachments with the court clerk. The court clerk's address is listed in the telephone directory under "County Government Offices" or online at www.courts.ca.gov/courts/find.htm. Keep three copies of the filed form and its attachments. Serve one copy on the local child support agency, one copy on the other parent, and keep the other for your records. (See *Information Sheet for Service of Process* (form FL-611).)

INSTRUCTIONS FOR COMPLETING FORM FL-676 (TYPE OR PRINT IN BLACK INK):

Front page, first box, top of form, left side: Print your name, address, and telephone number in this box.

Front page, second box, left side: Print your county's name and the court's address in the box. Use the same address for the court that is on your most recent support order or judgment. If you do not have a copy of your most recent support order or judgment, you can get one from either the court clerk or the local child support agency.

Front page, third box, left side: Print the names of the Petitioner/Plaintiff, Respondent/Defendant, and Other Parent/Party in this box. Use the same names listed in your most recent support order or judgment. If no name is listed for the Other Parent/Party, leave that line blank.

Front page, first box, top of form, right side: Leave this box blank for the court's use.

Front page, second box, right side: Print your case number in this box. This number is also listed on your most recent support order or judgment.

Front page, fourth box, left side: Check the box to indicate whether you are asking for a determination of support arrears or adjustment of child support arrears due to incarceration or involuntary institutionalization. Check both boxes if you are asking for both a determination of arrears and an adjustment of child support arrears.

- 1.a.-b You must contact the court clerk's office and ask that a hearing date be set for this motion. The court clerk will give you the information you need to complete this section.
2. This section states that the local child support agency is handling your support case.
3. Check the box if you do not agree with the local child support agency's statement of past due support payments (arrears) and want the court to make a final determination.
- 3a. **This section requires you to attach the statement or other document from the local child support agency that tells the amount of support arrears owed.**
- 3b. **This section requires you to attach your own statement of the amount of support arrears owed.** Your statement must show a monthly breakdown of the amount of support ordered and the amount paid each month. You may use *Declaration of Payment History* (form FL-420) and *Payment History Attachment* (form FL-421) to complete your statement of arrears.
4. **Check if this applies.** Attach or bring to the court hearing proof of the dates of incarceration or involuntary institutionalization. If you have any evidence or documentation that you had no income or assets, in addition to your sworn statement on the form, please bring that to court with you.

You must date the request, print your name, and sign the form under penalty of perjury. When you sign the form, you are stating that the information you have provided is true and correct.

Top of second page, box on left side: Print the names of Petitioner/Plaintiff, Respondent/Defendant, and Other Parent/Party in this box. Use the same names listed on the front page.

Top of second page, box on right side: Print your case number in this box. Use the same number as the one on the front page.

Instructions for how to complete the Proof of Service section of the *Request* form are in the *Information Sheet for Service of Process* (form FL-611). The person who serves the request and its attachments must fill out this section of the form. **You cannot serve your own form FL-676.**

APPLICANT'S INFORMATION TO BE KEPT CONFIDENTIAL

MC-410

APPLICANT (name): APPLICANT is <input type="checkbox"/> Witness <input type="checkbox"/> Juror <input type="checkbox"/> Attorney <input type="checkbox"/> Party <input type="checkbox"/> Other Person submitting request (name): APPLICANT'S ADDRESS: TELEPHONE NO.:	<p style="text-align: center;">DRAFT Not approved by the Judicial Council</p>
NAME OF COURT STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Judge:	
Case Title:	
<p style="text-align: center;">REQUEST FOR ACCOMMODATIONS BY PERSONS WITH DISABILITIES AND RESPONSE</p>	CASE NUMBER:

Applicant requests accommodation under rule 1.100 of the California Rules of Court, as follows:

1. Type of proceeding: ☐ Criminal ☐ Civil ☐ Other:
2. Proceedings to be covered (for example, bail hearing, preliminary hearing, trial, sentencing hearing, family, probate, juvenile):
3. Date or dates needed (specify):
4. **Medical condition** necessitating accommodation (specify):
5. Type or types of accommodation requested (specify):
6. Special requests or anticipated problems (specify):

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)	_____ (SIGNATURE)
-------------------------------	----------------------

RESPONSE

The accommodation request is **GRANTED** and the court will provide the

- ☐ requested accommodation, in whole
☐ requested accommodation, in part (specify below):

For the following duration:

- ☐ For the above matter or appearance
☐ From (dates): to
☐ Indefinite period

The accommodation is **DENIED** in whole or in part because it

- ☐ fails to satisfy the requirements of rule 1.100.
☐ creates an undue burden on the court.
☐ fundamentally alters the nature of the service, program, or activity.

For the following reason (attach additional pages, if necessary): [See Cal. Rules of Court, rule 1.100(g), for the review procedure]

- ☐ The court will provide the alternative accommodation as follows:

Date response delivered in person or sent to applicant:

_____ (TYPE OR PRINT NAME)	_____ (SIGNATURE)
-------------------------------	----------------------

☐ SIGNATURE FOLLOWS THE LAST PAGE OF THE RESPONSE.

INFORMATION FOR THE SMALL CLAIMS PLAINTIFF

SC-100-INFO

This information sheet is written for the person who sues in the small claims court. It explains some of the rules of, and some general information about, the small claims court. It may also be helpful for the person who is sued.

WHAT IS SMALL CLAIMS COURT?

Small claims court is a special court where disputes are resolved quickly and inexpensively. The rules are simple and informal. The person who sues is the **plaintiff**. The person who is sued is the **defendant**. In small claims court, you may ask a lawyer for advice before you go to court, but you cannot have a lawyer in court. Your claim cannot be for more than \$5,000 if you are a business or public entity or for more than \$10,000 if you are a natural person (including a sole proprietor). (See below for reference to exceptions. *) If you have a claim for more than this amount, you may sue in the civil division of the trial court or you may sue in the small claims court and give up your right to the amount over the limit. You cannot, however, file more than two cases in small claims court for more than \$2,500 each during a calendar year.

WHO CAN FILE A CLAIM?

1. You must be at least *18 years old* to file a claim. If you are not yet 18, tell the clerk. You may ask the court to appoint a **guardian ad litem**. This is a person who will act for you in the case. The guardian ad litem is usually a parent, a relative, or an adult friend.
2. A person who sues in small claims court must first make a **demand**, if possible. This means that you have asked the defendant to pay, and the defendant has refused. If your claim is for possession of property, you must ask the defendant to give you the property.
3. Unless you fall within two technical exceptions, you must be the **original owner** of the claim. This means that if the claim is assigned, the buyer cannot sue in the small claims court.
4. If a corporation files a claim, an employee, an officer, or a director must act on its behalf. If the claim is filed on behalf of an association or another entity that is not a natural person, a regularly employed person of the entity must act on its behalf. A person who appears on behalf of a corporation or another entity must not be employed or associated solely for the purpose of representing the corporation or other entity in the small claims court. **You must file a declaration with the court to appear in any of these instances.** (See *Authorization to Appear*, form SC-109.)

WHERE CAN YOU FILE YOUR CLAIM?

You must sue in the right court and location. This rule is called **venue**. Check the court's local rules if there is more than one court location in the county handling small claims cases. If you file your claim in the wrong court, the court will dismiss the claim unless all defendants personally appear at the hearing and agree that the claim may be heard. The right location may be any of these:

1. Where the defendant lives or where the business involved is located;
2. Where the damage or accident happened;
3. Where the contract was signed or carried out;
4. If the defendant is a corporation, where the contract was broken; or
5. For a retail installment account or sales contract or a motor vehicle finance sale:
 - a. Where the buyer lives;
 - b. Where the buyer lived when the contract was entered into;
 - c. Where the buyer signed the contract; or
 - d. Where the goods or vehicle are permanently kept.

SOME RULES ABOUT THE DEFENDANT (including government agencies)

1. You must sue using the defendant's *exact legal name*. If the defendant is a business or a corporation and you do not know the exact legal name, check with the state or local licensing agency, the county clerk's office, or the Office of the Secretary of State, Corporate Status Unit, at www.sos.ca.gov/business. Ask the clerk for help if you do not know how to find this information. If you do not use the defendant's exact legal name, the court may be able to correct the name on your claim at the hearing or after the judgment.
2. If you want to sue a government agency, you must first file a claim with the agency before you can file a lawsuit in court. Strict time limits apply. If you are in a Department of Corrections or Youth Authority facility, you must prove that the agency denied your claim. Please attach a copy of the denial to your claim.
3. With very limited exceptions, the defendant must be served within the state of California.

HOW DOES THE DEFENDANT FIND OUT ABOUT THE CLAIM?

You must make sure the defendant finds out about your lawsuit. This has to be done according to the rules or your case may be dismissed or delayed. The correct way of telling the defendant about the lawsuit is called **service of process**. This means giving the defendant a copy of the claim. **YOU CANNOT DO THIS YOURSELF.** You should read form SC-104B, *What is "Proof of Service"?* Here are four ways to serve the defendant:

1. **Service by a law officer**—You may ask the marshal or sheriff to serve the defendant. A fee will be charged.
2. **Process server**—You may ask anyone who is *not a party* in your case and who is at least *18 years old* to serve the defendant. The person is called a **process server** and must personally give a copy of your claim to the defendant. The person must also sign a proof of service form showing when the defendant was served. Registered process servers will serve papers for a fee. You may also ask a friend or relative to do it.
3. **Certified mail**—You may ask the clerk of the court to serve the defendant by certified mail. The clerk will charge a fee. You should check back with the court before the hearing to see if the receipt for certified mail was returned to the court. **Service by certified mail must be done by the clerk's office except in motor vehicle accident cases involving out-of-state defendants.**
4. **Substituted service**—This method lets you serve another person instead of the defendant. You must follow the procedures carefully. You may also wish to use the marshal or sheriff or a registered process server.

* Exceptions: Different limits apply in an action against a defendant who is a guarantor. (See Code Civ. Proc., § 116.220(c).)

4. **Substituted service** (*continued*) A copy of your claim must be left at the defendant's business with the person in charge, **OR** at the defendant's home with a competent person who is at least 18 years old. The person who receives the claim must be told about its contents. Another copy must be mailed, first class postage prepaid, to the defendant at the address where the paper was left. The service is not complete until **10 days** after the copy is mailed.
5. **Timing and proof of service**—No matter which method of service you choose, the defendant must be served by a certain date, or the trial will be postponed. If the defendant lives in the county, service must be completed at least **15 days** before the trial date. This period is at least **20 days** if the defendant lives outside the county.
The person who serves the defendant must sign a court paper showing when the defendant was served. This paper is called a *Proof of Service* (form SC-104). It must be signed and returned to the court clerk as soon as the defendant has been served.

WHAT IF THE DEFENDANT ALSO HAS A CLAIM?

Sometimes the person who was sued (the **defendant**) will also have a claim against the person who filed the lawsuit (the **plaintiff**). This claim is called the *Defendant's Claim*. The defendant may file this claim in the same lawsuit. This helps to resolve all of the disagreements between the parties at the same time.

If the defendant decides to file the claim in the small claims court, the claim may not be for more than \$5,000, or \$10,000 if the defendant is a natural person (*see exceptions on page 1**). If the value of the claim is more than this amount, the defendant may either give up the amount over \$5,000 or \$10,000 and sue in the small claims court or sue in the appropriate court for the full value of the claim. If the defendant's claim relates to the same contract, transaction, matter, or event that is the subject of your claim and exceeds the value amount for small claims court, the defendant may file the claim in the appropriate court and file a motion to transfer your claim to that court to resolve both claims together.

The defendant's claim must be served on the plaintiff at least **five days** before the trial. If the defendant received the plaintiff's claim **10 days** or less before the trial, then the claim must be served at least **one day** before the trial. Both claims will be heard by the court at the same time.

WHAT HAPPENS AT THE TRIAL?

Be sure you are on time for the trial. The small claims trial is informal. You must bring with you all witnesses, books, receipts, and other papers or things to prove your case. You may ask the witnesses to come to court voluntarily, or you may ask the clerk to issue a **subpoena**. A subpoena is a court order that *requires* the witness to go to trial. The witness has a right to charge a fee for going to the trial. If you do not have the records or papers to prove your case, you may also get a court order before the trial date requiring the papers to be brought to the trial. This order is called a *Small Claims Subpoena and Declaration* (form SC-107).

If you settle the case before the trial, you must file a **dismissal** form with the clerk.

The court's decision is usually mailed to you after the trial. It may also be hand delivered to you when the trial is over and after the judge has made a decision. The decision appears on a form called the *Notice of Entry of Judgment* (form SC-130 or SC-200).

WHAT HAPPENS AFTER JUDGMENT?

The court may have ordered one party to pay money to the other party. The party who wins the case and is owed the money is called the **judgment creditor**. The party who loses the case and owes the money is called the **judgment debtor**. Enforcement of the judgment is **postponed** until the time for appeal ends or until the appeal is decided. This means that the judgment creditor cannot collect any money or take any action until this period is over. Generally both parties may be represented by lawyers after judgment. More information about your rights after judgment is available on the back of the *Notice of Entry of Judgment*. The clerk may also have this information on a separate sheet.

HOW TO GET HELP WITH YOUR CASE

1. **Lawyers**—Both parties may ask a lawyer about the case, but a lawyer may not represent either party in court at the small claims trial. Generally, after judgment and on appeal, both parties may be represented by lawyers.
2. **Interpreters**—If you do not speak English well, ask the court clerk as soon as possible if your court has a court-provided interpreter available and how to request one. A court-provided interpreter may not be available. Alternatively, you may bring an adult who is not a witness or an attorney to interpret for you or ask the court for a list of interpreters for hire.
3. **Waiver of fees**—The court charges fees for some of its procedures. Fees are also charged for serving the defendant with the claim. The court may excuse you from paying these fees if you cannot afford them. Ask the clerk for the *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO) to find out if you meet the requirements so that you do not have to pay the fees.
4. **Night and Saturday court**—If you cannot go to court during working hours, ask the clerk if the court has trials at **night** or on **Saturdays**.
5. **Parties who are in jail**—If you are in jail, the court may excuse you from going to the trial. Instead, you may ask another person who is not an attorney to go to the trial for you. You may mail written declarations to the court to support your case.
6. **Accommodations**—If you have a disability and need assistance, immediately ask the court to help accommodate your needs. If you are hearing impaired and need assistance, notify the court immediately.
7. **Forms**—You can get small claims forms and more information at the California Courts Self-Help Center website (www.courts.ca.gov/smallclaims), your county law library, or the courthouse nearest you.
8. **Small claims advisors**—The law requires each county to provide assistance in small claims cases free of charge. (*Small claims advisor information*):

SC-104C How to Serve a Business or Public Entity (Small Claims)

You must serve the *right* person and write the *exact* name of the business and the person to be served.
Use this form to make sure you serve correctly, and follow the instructions on *Proof of Service*, form SC-104.

Business Type:	Sole Proprietorship (Only 1 owner)	Partnership	Landlord	Corporation, Association	Limited Liability Company (LLC), Limited Liability Partnership (LLP), Limited Partnership (LP)	Unknown Business Type
Serve:	The owner	If you are suing a partnership , serve one of the partners. If you are suing a partnership and the partners, serve each partner.	The property owner or manager (<i>Read Civil Code sections 1962–1962.7.</i>)	Agent for service listed with Secretary of State or any corporate officer (president, vice-president, secretary, treasurer), chief executive officer (CEO), controller, chief financial officer, or general manager	Agent for service listed with Secretary of State To serve a limited partnership, you can also serve the general partner.	Someone who seems to be in charge of the business during normal business hours
Write on your Proof of Service form:	<ul style="list-style-type: none">• Business name• Owner's name and job title	<ul style="list-style-type: none">• Partnership name• Name of partner, general manager, or agent for service and job title	<ul style="list-style-type: none">• Business name (if there is one)• Owner's name and job title	<ul style="list-style-type: none">• Corporation name• Name of corporate officer or agent for service and job title	<ul style="list-style-type: none">• Company or partnership name• Name of agent or partner for service and job title	<ul style="list-style-type: none">• Business name, form unknown• Owner's name and job title (<i>if you know it</i>)
Check that you have the exact names of the owner and business with:	<ul style="list-style-type: none">• County Clerk–Recorder's or County Tax Assessor's Office (Ask to see the fictitious business name statement.) Your county's Web site may have this information. Check: www.csac.counties.org.• City Clerk's Office (Ask to see the business license.) Your city's website may have this information.		County Tax Collector	Search under Corporation, LP and LLC at the California Secretary of State website: businesssearch.sos.ca.gov/ Or call: 1-916-657-5448 OR County Clerk–Recorder's Office: (Ask to see the fictitious business name statement.) Your county's website may have this information. OR City Clerk's Office: (Ask to see the business license.) Your city's website may have this information.		Try the other resources listed on this page to see if they know more about the business's organization type, like corporation or sole proprietorship.



Need help?

For free help, contact your county's Small Claims Advisor:

[\[space for local info here\]](#)

Or, go to "County-Specific Court Information" at: www.courts.ca.gov/selfhelp/smallclaims

SC-104C How to Serve a Business or Public Entity (Small Claims)

You must serve the *right* person and write the *exact* name of the public agency and the person to be served.
Use this form to make sure you serve correctly, and follow the instructions on *Proof of Service*, form SC-104.

	City, County, or Public Entity	State of California, State Agency	Federal Agency
Serve:	City or county clerk, chief officer or director of public agency, or agent authorized to accept service	<p>Use this general address for service: Office of the Attorney General 1300 I Street Sacramento, CA 95814</p> <p><i>Exception:</i> if your claim involves California Department of Transportation (Caltrans), serve it at: California Department of Transportation 1120 N Street Sacramento, CA 95814</p>	You cannot sue a federal agency in small claims court.
	<p>Important! Before you sue, you must first file a claim with the public entity. Contact it and ask for the claim procedures.</p>	<p>Note: Before you sue, you must first file a claim with the state or the state agency. To file a claim, see: www.dgs.ca.gov/orim/Programs/GovernmentClaims.aspx or call: 1-800-955-0045</p>	
Write on your Proof of Service form:	<ul style="list-style-type: none"> Name of city, county, or public entity Name of city clerk, county clerk, chief officer, or agent for service and job title 	<ul style="list-style-type: none"> Name of the agency you are suing Name of agent for service 	
Check that you have the exact names of the owner and business with:	<p>Call the city or county clerk. See the government pages of your phone book.</p> <p>Or search under the California Roster at the California Secretary of State website: www.sos.ca.gov/administration/california-roster/</p>	<p>Call the agency to confirm the name and address for service. Use the State Directory: 1-800-807-6755</p> <p>Or search: cold.ca.gov under "agency information"</p>	



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[\[space for local info here\]](#)

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