



Judicial Council of California

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January 19, 2024

Subject Text

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File #: 22-161, Version: 1

Title

Rules and Forms | Civil Law and Family Law: Request to Enter Default Forms Under the Servicemembers Civil Relief Act (Action Required)

Summary

The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee jointly propose that the Judicial Council revise six forms so that they comply with the Servicemembers Civil Relief Act and reflect the act's current title and legal citation. The revisions are intended to address concerns by courts that the forms are noncompliant with the act because they do not include a declaration as to how the petitioner/plaintiff determined the respondent's/defendant's nonmilitary status before requesting default judgment, and to make other minor technical revisions as appropriate. The joint proposal seeks to ensure that the declarations of nonmilitary status on civil and family law forms are consistent to the extent appropriate.

Recommendation

The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee jointly recommend that the Judicial Council, effective January 1, 2023:

1. Revise the declaration of nonmilitary status in the following forms to (1) comply with section 3931(b) of the Servicemembers Civil Relief Act (SCRA) by providing a way for the petitioner/plaintiff to state facts necessary to support a declaration regarding the nonresponding party's nonmilitary status, and (2) include information that may help the petitioner/plaintiff determine the nonresponding party's military status and how to proceed depending on that determination:
 - Item 8 of *Request for Entry of Default* (form CIV-100);
 - Item 9 of *Request for Entry of Default* (form CIV-105);
 - Item 5 of *Request to Enter Default* (form FL-165); and
 - Item 3 of *Request to Enter Default Judgment* (form FL-620).
2. Revise the following forms to update the title and citation of the SCRA:
 - *Appearance, Stipulations, and Waivers* (form FL-130); and
 - *Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act of 2003* (form FL-130(A)).