



Judicial Council of California

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January 19, 2024

Subject Text

Meeting materials
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File #: 16-171, Version: 1

Title

Civil Practice and Procedure: Order of Examination (Action Required)

Summary

The Civil and Small Claims Advisory Committee recommends revising the forms used to order examination of a judgment debtor to clarify in the instructions that, to be enforceable by the court, the order must be served by a law enforcement officer or a registered process server. This proposal, based on a suggestion from a superior court commissioner who handles small claims cases, will assist litigants and eliminate needless appearances by judgment creditors seeking court enforcement of orders that were not served in this manner and therefore are unenforceable. The committee also recommends revisions to these forms to improve clarity and readability.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2017:

1. Revise *Application and Order to Produce Statement of Assets and Appear for Examination* (form SC-134), used in small claims cases, and *Application and Order for Appearance and Examination* (form AT-138/EJ-125), the parallel form used in civil actions generally, to clarify in the instructions that, although service may be completed by any means proper for serving a summons, to be enforceable by the court service *must* be effected by a sheriff, marshal, or a registered process server;
2. Further revise forms SC-134 and AT-138/EJ-125 to add instructions for those who are hard of hearing regarding requesting accommodations for a court appearance;
3. Further revise form SC-134 by reorganizing the top of the first page to allow space for filestamping; adding a parenthetical statement to explain that the judgment debtor should have provided the statement of assets within 30 days after service of notice of entry of the judgment; and reformatting item 2 and reorganizing the instructions on the second page for clarity and readability; and
4. Further revise form AT-138/EJ-125 to delete a requirement in the box on the second page titled "Appearance of a Third Person (Enforcement of Judgment)" that the description of the property must be made "using typewritten capital letters."