



Judicial Council of California

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January 19, 2024

Subject Text

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File #: 17-146, Version: 1

Title

Civil Practice and Procedure: Request for Entry of Default (Action Required)

Summary

The Civil and Small Claims Advisory Committee recommends adopting a new mandatory form for requesting entry of default and default judgment in cases subject to the Fair Debt Buying Practices Act, which imposes a number of requirements that debt buyers who purchase charged-off consumer debt must meet in order to pursue collection efforts and seek a default judgment against the debtor. The committee also recommends revising the current form for requesting entry of default and default judgment in all other civil cases, and amending the rule regarding default judgment to include references to the new form. The new form will assist litigants and courts by listing the extensive statutory requirements for a default judgment under the act. Both forms also include a revised declaration of nonmilitary service.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Amend California Rules of Court, rule 3.1800, which currently provides that form CIV-100 must be submitted in support of a default judgment on declarations, to authorize and require the use of new form CIV-105 in actions subject to the Fair Debt Buying Practices Act;
2. Adopt *Request for Entry of Default (Fair Debt Buying Practices Act)* (form CIV-105) to provide a form for requesting a default judgment in cases subject to the Fair Debt Buying Practices Act; and
3. Revise *Request for Entry of Default (Application to Enter Default)* (form CIV-100) to provide notice that the form is not for use in actions subject to the Fair Debt Buying Practices Act, and to clarify the declaration of nonmilitary service by revising the language of the declaration and including the state law definition of military service.

Speakers

Hon. Ann I. Jones, Vice-Chair, Civil and Small Claims Advisory Committee

Ms. Anne Ronan, Legal Services

Ms. Christy Simons, Legal Services