

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Elihu M. Berle, Chair
Case Management Subcommittee, Hon. Arthur E. Wallace, Chair
Patrick O'Donnell, Committee Counsel, 415-865-7665,
patrick.o'donnell@jud.ca.gov

DATE: October 1, 2004

SUBJECT: Notice and Acknowledgment of Receipt—Civil (revise and rename form 982(a)(4) and renumber it as form POS-015)(Action Required)

Issue Statement

The *Notice of Acknowledgement and Receipt* (form 982(a)(4)) should be revised to delete obsolete references to family law documents. The references to these documents are no longer accurate because the names of the documents have been changed and are not necessary because new notice and acknowledgment of receipt forms are now available for use in family law cases instead of this form. Some stylistic changes should be made to improve the form that has not been revised since 1975. Also, the form should be renumbered to place it in the new Proof of Service (POS) category.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2005, revise, renumber, and rename the *Notice and Acknowledgement of Receipt* (form 982(a)(4)) to:

1. Delete obsolete and unnecessary references to family law documents, revise the Notice box so that it more closely follows statute, and make other stylistic and technical changes to update the form;
2. Rename the form as *Notice and Acknowledgment of Receipt—Civil* to reflect that similar notice and acknowledgment of receipt forms now exist for family law cases so that this form need only be used in other civil matters; and

3. Renumber the form as POS-015 to place it in the new Proof of Service (POS) forms category.

Revised, renumbered, and renamed form POS-015 is attached at page 5.

Rationale for Recommendation

There are several reasons why the *Notice of Acknowledgement and Receipt* form should be revised. First, obsolete references to family law documents on the form should be removed. Two new forms, *Notice and Acknowledgment of Receipt (Governmental)* (form FL-605) and *Notice and Acknowledgment of Receipt—Family Law* (form FL-117), adopted effective July 1, 2003 and January 1, 2004, respectively, now must be used in family law matters instead of this form; and these forms list the current titles of these documents.

Second, the title of the form should be modified by adding “—Civil.” This change will distinguish this form from the new family law forms.

Third, the attorney, court, and case caption boxes at the top of the form should be revised to conform to the contemporary Judicial Council format for these items.

Fourth, the form number would be changed from 982(a)(4) to POS-015. The general legal form designator “982(a)(4)” refers to former rule 982(a), now rule 201.1, which concerns Judicial Council forms. The new and more specific form category “POS” (Proof of Service) is proposed as clearer and more useful. The first form placed in the category, POS-010, was the proof of service of summons, revised effective January 1, 2004. Other proof of service forms designated by “POS” are being submitted to the council for approval at the same time as this form. The *Notice and Acknowledgment of Receipt—Civil*, if signed and returned, completes service. This form is, in part, a proof of service form; hence, it would be appropriate to designate it as a “POS” form.

Fifth, the two paragraphs of information and instructions in the Notice box should be revised to conform to the similar paragraphs in the analogous family law forms and to more closely follow the statute, Code of Civil Procedure section 415.30. Also, in the Notice box, the phrase “from the date of mailing shown below” has been added after “within 20 days” in the first paragraph. This change clarifies that the 20-day period provided in Code of Civil Procedure section 415.30(d) runs from the date of mailing by the sender.

Sixth, the form should be revised to request that the sender provide the date of mailing, and to request the recipient to provide only the date he or she signs the form. The important dates are the date of mailing by the sender and the date the

form is signed by the recipient. Code of Civil Procedure section 415.30(c) provides that service is complete on the date the form is signed by the recipient. Section 415.30(d) provides that the 20-day period for the recipient to sign the form begins on the date the form and the referenced documents are mailed by the sender. The date the recipient receives the form, requested in the current version, is not a significant date under the statute and has been deleted.

Finally, the signature block for the sender should be revised by adding a caution that the sender must not be a party in the case. This change would conform to the new family law forms. The caution is consistent with general law, which prohibits a party from serving papers and executing proof of service.

Alternative Actions Considered

The form could have been left unchanged. But for the reasons explained above, the committee thought it preferable to revise, renumber, and rename it.

Comments From Interested Parties

The revised form was circulated for comment in the spring of 2004. It had not been revised since 1975. Seven comments were received on this revised form. The commentators included attorneys, a legal publisher, and a local bar association. A chart summarizing the comments and the committee's responses is attached at pages 6–7.

All the commentators agreed with the proposal either as circulated or if modified. One commentator suggested putting the name of the party served in a box and adding the party's address. The committee did not think that these changes were necessary. Another commentator proposed adding the sender's name and address to the signature line for the sender. Again, the committee did not think this was necessary. Finally, some commentators recommended adding "or entity" or "or business" to the signature line for the recipient. The committee agreed with this suggestion and added "or entity."

A commentator recommended that the revised form—like the current form—should be mandatory. The committee agreed. It noted that the new family law version is designated as optional. Nonetheless, it concluded that the general civil form for notice and acknowledgment of receipt should remain mandatory to avoid any problems of individualized versions being used. If a party wants to use a notice and acknowledgment in a civil case, it should be required to use this standardized form.

Implementation Requirements and Costs

Some minor court costs may be incurred in providing the revised form to the public. However, most litigants would obtain the form from other sources. And it would be useful to have a clearer, updated form available for use in civil cases.

Attachment

SPR04-07
Notice and Acknowledgment of Receipt
(revise form 982(a)(4) and renumber it as POS-015)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Diane Altamirano Family Law Facilitator Superior Court of California, County of Imperial El Centro, California	A	N	Agree with proposed changes.	No response required.
2.	Christine Copeland Staff Attorney Family Law Facilitator's Office San Jose, California	AM	N	Thank you for adding the caution (see Item 6 of your proposed change) admonishing sender that they cannot be a party. This is a very needed clarification.	The committee agreed that this provision, based on the family law version, is useful.
3.	Linda Durand Court Program Manager- Senior Superior Court of California, County of Ventura Ventura, California	A	N	Agree with proposed changes.	No response required.
4.	Ms. Julie Goren Lawdable Press Sherman Oaks, California	AM	N	The commentator provided several technical suggestions, including adding "or entity" to the form.	The committee agreed with the commentator's suggestions.
5.	Richard L. Haeussler Attorney Newport Beach, California	AM	N	I agree with the proposed rewrite of the text. However, I would request that the form have two modifications: 1. The "TO" LINE has a space for the address to which the form is being mailed. To: Name Address City/State/Zip This should be in "block" form so that a window	The committee did not agree that this proposal is necessary.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.

SPR04-07
Notice and Acknowledgment of Receipt
(revise form 982(a)(4) and renumber it as POS-015)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>envelope may be used; and</p> <p>2. That the name and business address of the sender be included in the signature line.</p> <p>The name of the Attorney may be different from the Name of the Sender.</p> <p>This additional information would cause the Acknowledgment of Receipt section to be moved down.</p>	The committee did not think this is necessary.
6.	Kim Hubbard Orange County Bar Association Irvine, California	A	N	Agree with proposed changes.	No response required.
7.	Stephen V. Love Executive Officer Superior Court of California, County of San Diego San Diego, California	AM	Y	<p>The following comments were received from our court managers:</p> <p>Recommend adding, “or business” to the signature line for the person accepting service of process. AB 418, chapter 1228, Stats. 2003, allows the small claims litigant to use this form for service, so this verbiage will be needed for clarification.</p>	The committee agreed generally, but decided instead to use “or entity” proposed by commentator number 4 above.

Positions: A = Agree; AM = Agree only if modified; N = Do not agree.