

**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: Administrative Office of the Courts  
Kenneth Kann, Managing Attorney, 415-865-7661  
Romunda Price, Administrative Coordinator

DATE: September 8, 2004

SUBJECT: Miscellaneous Technical Changes to the California Rules of Court, the Appendixes of the California Rules of Court, and Judicial Council Forms (amend Cal. Rules of Court, rules 31 and 5.500; amend Ethics Standards for Neutral Arbitrators in Contractual Arbitration; amend Cal. Stds. of Jud. Admin. § 20.6; revise forms CM-110, CR-110/JV-790, EJ-100, FL-620, FL-640, WV-131, and WV-132; revise form 2009 and renumber as form MC-005)  
(Action Required)

---

Issue Statement

Advisory committee members, court personnel, members of the public, and Administrative Office of the Courts staff have identified errors in rules, standards, and forms resulting from prior rule amendments, renumbering, and inadvertent omissions.

Recommendation

Administrative Office of the Courts staff recommends that the Judicial Council, effective January 1, 2005:

1. Amend rule 31(b)(11) to correct a cross-reference;
2. Amend rule 5.500(c)(3) to correct a statutory reference;
3. Amend the advisory comment to standard 7 of the Ethics Standards for Neutral Arbitrators in Contractual Arbitration;
4. Amend section 20.6 of the California Standards of Judicial Administration to correct statutory reference;
5. Revise form CM-110(10)(g) to correct rule reference;
6. Revise form CR-110/JV-790 to correct a statutory reference;
7. Revise form EJ-100 to correct the statutory reference in the lower right corner;
8. Revise form FL-620 to replace the title in item 3;

9. Revise form FL-640 to correct the format of the form and to add language that was omitted in the Information Sheet;
10. Revise form WV-131 to correct the title of the form; and
11. Revise form WV-132 to correct the title of the form
12. Revise form 2009 and renumber as form MC-005;

The text of the proposed amendments to the rules of court is attached at pages 4–8. The proposed revised forms are attached at pages 9–22.

### Rationale for Recommendation

*Rule 31.* Normal record. The reference to rule 203.5 in rule 31(b)(11) is incorrect because rule 203.5 was renumbered to rule 243.9 effective January 1, 2003. Therefore, rule 31(b)(11) should be amended to correct the cross-reference.

*Rule 5.500.* Court communication protocol for domestic violence and child custody orders. Penal Code section 136.2 was amended effective January 1, 2004. Rule 5.500(c)(3) cross-references the statute and should be amended to reference the correct subdivision.

*Standard 7.* Disclosure. The cross-reference in the third sentence of the second paragraph of the comment to standard 7 of the Ethics Standards for Neutral Arbitrators in Contractual Arbitration is incorrect; former standard 10 was renumbered as standard 12 effective January 1, 2003.

*Section 20.6.* Guidelines for determining payment for costs of appointed counsel for children in family court. This proposed change would update the code sections referenced in section 20.6 of the California Standards of Judicial Administration. The current standard refers to two Civil Code sections that were superseded by the Family Code, which was adopted in 1994.

*Form CM-110.* *Case Management Statement.* The form would be revised to correctly cross-reference to rule 1601(b) in item 10(g). The current form references rule 1600.5, which was repealed effective January 1, 2004.

*Form CR-110/JV-790.* *Order for Restitution and Abstract of Judgment.* The form would be revised to correct the statutory reference for an administrative fee related to restitution collection. The listed references currently relate to restitution itself not the administrative fee. The proposed revisions include (1) deleting the incorrect reference and adding the correct reference to Penal Code section 1203.1(I) in item 3e. and (2) adding the correct statutory reference to the administrative fee to the caption boxes and lower right corner of the footer.

*Form EJ-100.* *Acknowledgment of Satisfaction of Judgment.* The current form contains several typographical errors, which would be corrected. The revision would correctly state the statutory references to Code of Civil Procedure sections 724.060, 724.120, and 724.250 in the lower right corner of the form.

*Form FL-620. Request to Enter Default Judgment (Governmental).* The form would be revised to replace the title, “Soldiers, and Sailors’ Relief Act of 1940” with its new title, “Servicemembers Civil Relief Act.”

*Form FL-640. Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income (Governmental).* The form would be revised to (1) clarify that the form may be completed by any of the parties or the local child support agency, (2) correct the placement of the space for the date the form is signed, and (3) correct the Information Sheet to add omitted language regarding filling in the heading, dating the form, and signing it under penalty of perjury

*Form WV-131. Proof of Service by Mail of Completed Response (Workplace Violence).* The form would be revised to correct the title of the form in the footer and caption box by adding language that was omitted when the form was adopted effective January 1, 2004.

*WV-132. Proof of Service by Personal Delivery of Completed Response (Workplace Violence).* The form would be revised to correct the title of the form in the footer and caption box by adding language that was omitted when the form was adopted effective January 1, 2004.

*Form 2009. Fax Transmission Cover Sheet (Fax Filing).* The form would be revised to eliminate a reference in the lower right corner to Code of Civil Procedure section 1012.5, which was repealed in 2001 (Stats. 2001, ch. 115). The information in the lower left corner would be revised to specifically state that the form is adopted for mandatory use. The caption has been modified to conform to the current Judicial Council forms format. Finally, the form would be renumbered as form MC-005, to identify it as one of the miscellaneous forms.

#### Alternative Actions Considered

No alternatives exist other than continuing to use incorrect or incomplete rules, standards, and forms.

#### Comments From Interested Parties

These proposals were not circulated for comment because they are technical in nature and are noncontroversial.

#### Implementation Requirements and Costs

Courts will incur some costs in printing the revised forms.

#### Attachments

Rules 31 and 5.500 of the California Rules of Court are amended, effective January 1, 2005 to read:

**Rule 31. Normal record**

(a) \*\*\*

(b) **Clerk's transcript**

The clerk's transcript must contain:

- (1) the accusatory pleading and any amendment;
- (2) any demurrer or other plea;
- (3) all court minutes;
- (4) all instructions submitted in writing, each one indicating the party requesting it;
- (5) any written communication between the court and the jury or any individual juror;
- (6) any verdict;
- (7) any written opinion of the court;
- (8) the judgment or order appealed from and any abstract of judgment or commitment;
- (9) any motion for new trial, with supporting and opposing memoranda and attachments;
- (10) the notice of appeal and any certificate of probable cause filed under rule 30(b);
- (11) any transcript of a sound or sound-and-video recording furnished to the jury or tendered to the court under rule ~~203.5~~ 243.9;
- (12) any application for additional record and any order on the application;
- (13) if the appellant is the defendant, the clerk's transcript must also contain:
  - (A) any written defense motion denied in whole or in part, with supporting and opposing memoranda and attachments;
  - (B) if related to a motion under (A), any search warrant and return and the reporter's transcript of any preliminary examination or grand jury hearing;

(C) any certified record of a court or the Department of Corrections admitted in evidence to prove a prior conviction or prison term; and

(D) the probation officer's report.

(c)–(g) \*\*\*

**Rule 5.500. Court communication protocol for domestic violence and child custody orders**

(a)–(b) \*\*\*

(c) **[Local rule required]** Every superior court must, by January 1, 2004, adopt local rules containing, at a minimum, the following elements:

(1) (*Court communication*) A procedure for communication among courts issuing criminal protective orders and courts issuing orders involving child custody and visitation orders, regarding the existence and terms of criminal protective orders and child custody and visitation orders, including;

(A) A procedure requiring courts issuing any orders involving child custody or visitation to make reasonable efforts to determine whether there exists a criminal court protective order that involves any party to the action.

(B) A procedure requiring courts issuing criminal court protective orders to make reasonable efforts to determine whether there exist any child custody or visitation orders that involve any party to the action.

(2) (*Modification*) A procedure by which the court that has issued a criminal court protective order may, after consultation with a court that has issued a subsequent child custody or visitation order, modify the criminal court protective order to allow or restrict contact between the person restrained by the order and his or her children.

(3) The requirements of Penal Code section 136.2~~(i)~~(j)(1) and (2).

Standard 7 of the Ethics Standards for Neutral Arbitrators in Contractual Arbitration is amended, effective January 1, 2005, to read:

**DIVISION VI. Ethics Standards for Neutral Arbitrators in Contractual Arbitration**

**Standard 7. Disclosure**

**(a)–(f) \*\*\***

**Comment to Standard 7**

This standard requires arbitrators to disclose to all parties, in writing within 10 days of service of notice of their proposed nomination or appointment, all matters they are aware of at that time that could cause a person aware of the facts to reasonably entertain a doubt that the proposed arbitrator would be able to be impartial and to disclose any additional such matters within 10 days of becoming aware of them.

Timely disclosure to the parties is the primary means of ensuring the impartiality of an arbitrator. It provides the parties with the necessary information to make an informed selection of an arbitrator by disqualifying or ratifying the proposed arbitrator following disclosure. See also standard ~~10~~ 12, concerning disclosure and disqualification requirements relating to concurrent and subsequent employment or professional relationships between an arbitrator and a party or attorney in the arbitration. A party may disqualify an arbitrator for failure to comply with statutory disclosure obligations (see Code Civ. Proc., § 1281.91(a)). Failure to disclose, within the time required for disclosure, a ground for disqualification of which the arbitrator was then aware is a ground for *vacatur* of the arbitrator's award (see Code Civ. Proc., § 1286.2(a)(6)(A)).

\*\*\*

1 Standard 20.6 of the California Standards of Judicial Administration is amended effective  
2 January 1, 2005, to read:

3  
4 **Sec. 20.6. Guidelines for determining payment for costs of appointed counsel for**  
5 **children in family court**  
6

7 (a) **[General]** Whenever in a proceeding under the Family Law Act counsel is  
8 appointed to represent children under ~~Civil Code section 4606~~ Family Code  
9 section 3150, the court should determine the ability of the parties to pay all or a  
10 portion of the cost of the counsel.  
11

12 (b)–(d) \*\*\*  
13

14 (e) **[Payment of attorney]** If the court finds the parties are unable to pay all or a  
15 portion of the cost of appointed counsel, pursuant to ~~Civil Code section~~  
16 ~~4606(g)~~ Family Code section 3153 it shall order the county to pay the portion  
17 the parties are unable to pay. The order may provide for progress or installment  
18 payments.  
19





PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
--	--------------

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*

*(If more space is needed, check this box and attach a page designated as Attachment 4b.)*

5. **Jury or nonjury trial**

The party or parties request  a jury trial  a nonjury trial *(if more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

- a.  The trial has been set for *(date)*:
- b.  No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain)*:
- c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability)*:

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one)*:

- a.  days *(specify number)*:
- b.  hours (short causes) *(specify)*:

8. **Trial representation** *(to be answered for each party)*

The party or parties will be represented at trial  by the attorney or party listed in the caption  by the following:

- a. Attorney:
- b. Firm:
- c. Address:
- d. Telephone number:
- e. Fax number:
- f. E-mail address:
- g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section)*:

10. **Alternative Dispute Resolution (ADR)**

- a. Counsel  has  has not provided the ADR information package identified in rule 201.9 to the client and has reviewed ADR options with the client.
- b.  All parties have agreed to a form of ADR. ADR will be completed by *(date)*:
- c.  The case has gone to an ADR process *(indicate status)*:

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

10. d. The party or parties are willing to participate in *(check all that apply)*:
- (1)  Mediation
  - (2)  Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 1612)
  - (3)  Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 1612)
  - (4)  Binding judicial arbitration
  - (5)  Binding private arbitration
  - (6)  Neutral case evaluation
  - (7)  Other *(specify)*:
- e.  This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.
- f.  Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- g.  This case is exempt from judicial arbitration under rule 1601(b) of the California Rules of Court *(specify exemption)*:

11. **Settlement conference**

- The party or parties are willing to participate in an early settlement conference *(specify when)*:

12. **Insurance**

- a.  Insurance carrier, if any, for party filing this statement *(name)*:
- b. Reservation of rights:  Yes  No
- c.  Coverage issues will significantly affect resolution of this case *(explain)*:

13. **Jurisdiction**

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

- Bankruptcy  Other *(specify)*:

Status:

14. **Related cases, consolidation, and coordination**

- a.  There are companion, underlying, or related cases.
- (1) Name of case:
  - (2) Name of court:
  - (3) Case number:
  - (4) Status:
- Additional cases are described in Attachment 14a.
- b.  A motion to  consolidate  coordinate will be filed by *(name party)*:

15. **Bifurcation**

- The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action *(specify moving party, type of motion, and reasons)*:

16. **Other motions**

- The party or parties expect to file the following motions before trial *(specify moving party, type of motion, and issues)*:

PLAINTIFF/PETITIONER:	CASE NUMBER:
DEFENDANT/RESPONDENT:	

**17. Discovery**

- a.  The party or parties have completed all discovery.  
 b.  The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
--------------	--------------------	-------------

- c.  The following discovery issues are anticipated (*specify*):

**18. Economic Litigation**

- a.  This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.  
 b.  This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

**19. Other issues**

- The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):

**20. Meet and confer**

- a.  The party or parties have met and conferred with all parties on all subjects required by rule 212 of the California Rules of Court (*if not, explain*):  
  
 b. After meeting and conferring as required by rule 212 of the California Rules of Court, the parties agree on the following (*specify*):

**21. Case management orders**

Previous case management orders in this case are (*check one*):  none  attached as Attachment 21.

22. Total number of pages attached (*if any*): \_\_\_\_\_

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date:

\_\_\_\_\_  
 (TYPE OR PRINT NAME)



\_\_\_\_\_  
 (SIGNATURE OF PARTY OR ATTORNEY)

\_\_\_\_\_  
 (TYPE OR PRINT NAME)



\_\_\_\_\_  
 (SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached

Draft 1  
07/21/04 mc

ATTORNEY OR PERSON WITHOUT ATTORNEY (Name, State Bar number, and address):

Recording requested by and return to:

TELEPHONE NO.: FAX NO. (Optional):

E-MAIL ADDRESS (Optional):

ATTORNEY FOR  JUDGMENT CREDITOR  ASSIGNEE OF RECORD

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF**

STREET ADDRESS:  
MAILING ADDRESS:  
CITY AND ZIP CODE:  
BRANCH NAME:

FOR RECORDER'S USE ONLY

CASE NUMBER:

CASE NAME:

FOR COURT USE ONLY

**ORDER FOR RESTITUTION AND ABSTRACT OF JUDGMENT**  
(Penal Code, §§ 1202.4(f), 1203.1(l), 1214; Welfare and Institutions Code, § 730.6(h) and (i))

**ORDER FOR RESTITUTION**

1. a.  On (date): defendant (name):  
was convicted of a crime that entitles the victim to restitution.
- b.  On (date): child (name):  
was found to be a person described in Welfare and Institutions Code section 602, which entitles the victim to restitution.  Wardship is terminated.
- c.  Parents or guardians jointly and severally liable (name each):
- d.  Co-offenders found jointly and severally liable (name each):
2. Evidence was presented that the victim named below suffered losses as a result of defendant's/child's conduct. Defendant/child was informed of his or her right to a judicial determination of the amount of restitution and
  - a.  a hearing was conducted.
  - b.  stipulated to the amount of restitution to be ordered.
  - c.  waived a hearing.
3. **THE COURT ORDERS** defendant/child to pay restitution to
  - a.  the victim (name): in the amount of: \$
  - b.  the State Victim Compensation Board, to reimburse payments to the victim from the Restitution Fund, in the amount of: \$
  - c.  plus interest at 10 percent per year from the date of  loss or  sentencing
  - d.  plus attorney fees and collection costs in the sum of \$
  - e.  plus an administrative fee at 10 percent of the restitution owed (Pen. Code, § 1203.1(l))
4. The amount of restitution includes
  - a.  value of property stolen or damaged
  - b.  medical expenses
  - c.  lost wages or profits
    - (1)  incurred by victim due to injury
    - (2)  of victim's parent(s) or guardian(s) (if victim is a child) incurred while caring for the injured child
    - (3)  incurred by victim due to time spent as a witness or in assisting police or prosecution
    - (4)  of victim's parent(s) or guardian(s) (if victim is a child) due to time spent as a witness or in assisting police or prosecution
  - d.  noneconomic losses (felony violations of Pen. Code, § 288 only)
  - e.  other (specify):

Date: \_\_\_\_\_ JUDICIAL OFFICER

**VICTIM TO RECEIVE CERTIFIED COPY FOR FILING WITH COUNTY RECORDER**

CASE NAME: _____	CASE NUMBER: _____
---------------------	-----------------------

**NOTICE TO VICTIMS**

**PENAL CODE SECTION 1214 PROVIDES THAT ONCE A DOLLAR AMOUNT OF RESTITUTION HAS BEEN ORDERED, THE ORDER IS THEN ENFORCEABLE AS IF IT WERE A CIVIL JUDGMENT. ALTHOUGH THE CLERK OF THE COURT IS NOT ALLOWED TO GIVE LEGAL ADVICE, YOU ARE ENTITLED TO ALL RESOURCES AVAILABLE UNDER THE LAW TO OBTAIN OTHER INFORMATION TO ASSIST IN ENFORCING THE ORDER.**

**THIS ORDER DOES NOT EXPIRE UNDER PENAL CODE SECTION 1214(d).**

**THE VICTIM SHALL FILE A SATISFACTION OF JUDGMENT WITH THE COURT WHENEVER AN ORDER TO PAY RESTITUTION IS SATISFIED, PURSUANT TO PENAL CODE SECTION 1214(d).**

**APPLICATION FOR ABSTRACT OF JUDGMENT**

5. The  judgment creditor  assignee of record  other (*specify*):  
applies for an abstract of judgment and represents the following:

a. Judgment debtor's

Name and last known address


- b.  Driver's license no. and state:
- c.  Social security no.:
- d.  Date of birth:

- Unknown
- Unknown
- Unknown

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME)



\_\_\_\_\_  
(SIGNATURE OF APPLICANT OR ATTORNEY)

ON INFORMATION AND BELIEF

**ABSTRACT OF JUDGMENT**

- 6. I certify that the following is a true and correct judgment entered in this action.
- 7. Judgment creditor (*name*):  
 whose address or whose attorney's address appears on this form above the court's name.
- 8. Judgment debtor (*full name as it appears in judgment*):
- 9. Judgment entered on (*date*):
- 10. Total amount of judgment as entered or last renewed: \$
- 11.  A stay of enforcement was ordered on \_\_\_\_\_ and is effective until \_\_\_\_\_.  
 A stay of enforcement was not ordered.

[SEAL]

This abstract of judgment issued on (*date*):

Clerk, by \_\_\_\_\_, Deputy

**NOTICE TO COUNTY RECORDER**

**THIS ORDER IS ENFORCEABLE AS IF IT WERE A CIVIL JUDGMENT, PURSUANT TO PENAL CODE SECTION 1202.4(l) AND (m), PENAL CODE SECTION 1214, AND WELFARE AND INSTITUTIONS CODE SECTION 730.6(i) AND (r), AND FUNCTIONS AS AN ABSTRACT OF JUDGMENT.**

DRAFT 1  
08 12 04

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
After recording return to:

---

TELEPHONE NO.:  
FAX NO. (Optional):  
E-MAIL ADDRESS (Optional):  
ATTORNEY FOR (Name):

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF**  
STREET ADDRESS:  
MAILING ADDRESS:  
CITY AND ZIP CODE:  
BRANCH NAME:

FOR RECORDER'S OR SECRETARY OF STATE'S USE ONLY

PLAINTIFF:  
  
DEFENDANT:

CASE NUMBER:

**ACKNOWLEDGMENT OF SATISFACTION OF JUDGMENT**  
 FULL     PARTIAL     MATURED INSTALLMENT

FOR COURT USE ONLY

1. Satisfaction of the judgment is acknowledged as follows:
- a.  Full satisfaction
    - (1)  Judgment is satisfied in full.
    - (2)  The judgment creditor has accepted payment or performance other than that specified in the judgment in full satisfaction of the judgment.
  - b.  Partial satisfaction  
The amount received in partial satisfaction of the judgment is \$
  - c.  Matured installment  
All matured installments under the installment judgment have been satisfied as of (date):

2. Full name and address of judgment creditor:\*

3. Full name and address of assignee of record, if any:

4. Full name and address of judgment debtor being fully or partially released:\*

5. a. Judgment entered on (date):

b.  Renewal entered on (date):

6.  An  abstract of judgment  certified copy of the judgment has been recorded as follows (complete all information for each county where recorded):

COUNTY	DATE OF RECORDING	INSTRUMENT NUMBER
--------	-------------------	-------------------

7.  A notice of judgment lien has been filed in the office of the Secretary of State as file number (specify):

**NOTICE TO JUDGMENT DEBTOR:** If this is an acknowledgment of full satisfaction of judgment, it will have to be recorded in each county shown in item 6 above, if any, in order to release the judgment lien, and will have to be filed in the office of the Secretary of State to terminate any judgment lien on personal property.

Date: \_\_\_\_\_ (SIGNATURE OF JUDGMENT CREDITOR OR ASSIGNEE OF CREDITOR OR ATTORNEY)\*\*

GOVERNMENTAL AGENCY (under Family Code, §§ 17400 and 17406):    TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>   <b>DRAFT 4</b> <b>08-04-04</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:  OTHER PARENT:	
<b>REQUEST TO ENTER DEFAULT JUDGMENT</b>	CASE NUMBER:

1. More than 30 days have passed since service of the summons, complaint, and copy of the proposed judgment.
2. To my knowledge no answer or other responsive pleading has been filed.
3. The parent against whom judgment is sought is not in the military service or in the military service of the United States as defined in section 511 et seq. of the Servicemembers Civil Relief Act (50 U.S.C. Appen. § 511) and is not entitled to the benefits of such act.
4. The local child support agency requests that default and judgment be entered under Family Code section 17430.

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 OF DECLARANT)

<b>FOR COURT USE ONLY</b>	(1) <input type="checkbox"/> Default entered as requested on (date): (2) <input type="checkbox"/> Default not entered as requested. (State reason):
By: _____	



PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
---	--------------

**PROOF OF SERVICE**

- At the time of service I was at least 18 years of age and not a party to the legal action.
- My residence or business address is *(specify)*:
- I served a copy of the foregoing *Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income (Governmental)* and all attachments as follows *(check either a or b for each person served)*:

a.  **Personal delivery.** I personally delivered a copy and all attachments as follows:

- |  |   |
|--|---|
| (1) <input type="checkbox"/> Name of party or attorney served: | (2) <input type="checkbox"/> Name of local child support agency served: |
| (a) Address where delivered:                                   | (a) Address where delivered:  |
| (b) Date delivered:  | (b) Date delivered:   |
| (c) Time delivered:  | (c) Time delivered:   |

b.  **Mail.** I am a resident of or employed in the county where the mailing occurred.

- I enclosed a copy in an envelope and
  - deposited** the sealed envelope with the United States Postal Service with the postage fully prepaid.
  - placed** the envelope for collection and mailing on the date and at the place shown below, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
- |  |   |
|--|---|
| <input type="checkbox"/> Name of party or attorney served: | <input type="checkbox"/> Name of local child support agency served: |
| (a) Address where delivered:                               | (a) Address where delivered:  |
| (b) Date mailed:   | (b) Date mailed:  |
| (c) Place of mailing <i>(city and state)</i> :             | (c) Place of mailing <i>(city and state)</i> :                      |

c.  **Other** *(specify code section)*:  
 Additional page is attached.

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 OF PERSON WHO SERVED REQUEST)
-------------------------------	---	---

## INFORMATION SHEET FOR NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME

These instructions are for parties other than the local child support agency. Please follow these instructions to complete the *Notice and Motion to Cancel (Set Aside) Support Order* (form FL-640) if you do not have a lawyer to represent you. If you have a lawyer, he or she will complete this form.

**WARNING: Do not wait to file your motion. See a lawyer or the family law facilitator for help.**

**This form should be used only if your support order was based on presumed income and the presumed income is different from your actual income.** If you are not sure whether your order is based on presumed income, look at your copy of the *Judgment Regarding Parental Obligations* (form FL-630). If the box for item 3 on the front of the judgment is checked, your support amount is based on presumed income. If it is not checked, your support amount is based on income information that was available then, and you should not use this form (FL-640). If you do not have a copy of the judgment, you can get one from either the court clerk or the local child support agency office.

You must file the completed motion form and attachments with the court clerk within one year of the date of the first collection of support. The address of the court clerk is the same as the one shown for the superior court on the *Judgment Regarding Parental Obligations* (form FL-630). You may have to pay a filing fee. If you cannot afford to pay the filing fee, the court may waive it. For more information about the filing fee and waiver of the filing fee, contact the court clerk. **Keep three copies of the filed motion form and its attachments. Serve one copy on the local child support agency and one copy on the other party.** (See *Information Sheet for Service of Process*, form FL-611.) **The third copy is for your records.**

### INSTRUCTIONS FOR COMPLETING THE NOTICE AND MOTION TO CANCEL (SET ASIDE) SUPPORT ORDER BASED ON PRESUMED INCOME FORM (TYPE OR PRINT FORM IN BLACK INK)

Page 1, first box, top of form, left side: Print your name, address, and telephone number in this box if they are not already there.

Page 1, second box, left side: Print your county's name and the court's address in this box. Use the same address for the court that is on the *Judgment Regarding Parental Obligations* (form FL-630).

Page 1, third box, left side: Print the names of the petitioner/plaintiff, respondent/defendant, and other parent in this box. Use the same names listed on the *Judgment Regarding Parental Obligations* (form FL-630).

Page 1, first box, top of form, right side: Leave this box blank for the court's use.

Page 1, second box, right side: Print your case number in this box. This number is also on the *Judgment Regarding Parental Obligations* (form FL-630).

1. 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.
- 2–3. These sections are asking the court to cancel your child support order and issue another one based on your actual income.
4. **Attach a completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155), or other information concerning income for any relevant years. Also, check the local rules of court for any local requirements.**
5. You may file a completed *Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)* (form FL-610). Usually you must file an *Answer to Complaint* with the court clerk within 30 days from the date you are served with the complaint. Talk to a lawyer or the family law facilitator to understand your rights.
6. You must list the address and phone numbers where you can receive all notices and court dates. You must let the court know whenever your address changes. If the court does not have your current address, you may not receive important notices that affect you.

You must date the form, 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 in this box. Use the same names listed on page 1.

Top of second page, box on right side: Print your case number in this box. Use the same number as the one on page 1. Instructions for completing the *Proof of Service* on page 2 of this form are in the *Information Sheet for Service of Process* (form FL-611). The person who serves the motion and its attachments must fill out this section of the form. **You cannot serve your own motion.**

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, state bar number, and address):</i>  <hr/> TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY  <h1 style="margin: 0;">DRAFT 1</h1> <h1 style="margin: 0;">08 12 04</h1>
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF:  DEFENDANT:  EMPLOYEE:	
<b>PROOF OF SERVICE BY MAIL OF COMPLETED RESPONSE (Workplace Violence)</b>	CASE NUMBER: _____

**SERVICE BY MAIL**

**Instructions to Defendant:** *After having the plaintiff served by mail with any of the documents identified in item 2, have the person who mailed the documents complete this Proof of Service by Mail. Give the completed Proof of Service by Mail to the clerk for filing. You cannot serve these papers. An unsigned copy of the Proof of Service by Mail should be attached to and served with the document.*

1. I am over the age of 18 and **not a party to this legal action**. I am a resident of or employed in the county where the mailing occurred. My residence **or** business address is *(specify)*:
  
2. I served a copy of the following documents:
  - a  completed *Response to Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee* (form WV- 110)
  - b  other *(specify)*:
  
3. I deposited a true copy of each of the foregoing documents in the United States mail, in a sealed envelope with postage fully prepaid. The envelope was addressed and mailed as follows:
  - a. Name of person served:
  
  - b. Address:
  
  - c. Date of mailing:
  
  - d. Place of mailing *(city and state)*:

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)

(Proof of personal service on reverse)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, state bar number, and address):</i>  TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY  <h2 style="margin: 0;">DRAFT 1 08 12 04</h2>
NAME OF COURT: STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF:  DEFENDANT:  EMPLOYEE:	
<b>PROOF OF SERVICE BY PERSONAL DELIVERY OF COMPLETED RESPONSE (Workplace Violence)</b>	CASE NUMBER: _____

**PERSONAL SERVICE**

**Instructions to Defendant:** *If the court orders personal service, you must have someone else personally serve the plaintiff. You cannot serve these papers yourself. After having the plaintiff personally served with any of the documents identified in item 2, have the person who served the documents complete this Proof of Personal Service. Give the completed Proof of Personal Service to the clerk for filing. An unsigned copy of the Proof of Personal Service should be attached to and served with the document.*

1. I am over the age of 18 and **not a party to this legal action.**
  
2. I served a copy of the following documents (check the box before the title of each document you served):
  - a.  completed *Response to Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (form WV- 110)*
  - b.  other *(specify):*
  
3.
  - a. Name:
  - b. Date:
  - c. Time:
  - d. Address:
  
4. My residence or business address is *(specify):*
  
5. My telephone number is *(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)