

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

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Report

TO: Members of the Judicial Council

FROM: Appellate Advisory Committee
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Civil and Small Claims Advisory Committee
Hon. Dennis M. Perluss, Chair
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DATE: September 8, 2009

SUBJECT: Civil Forms: *Notice of Entry of Judgment or Order* (approve form CIV-130) (Action Required)

Issue Statement

California Code of Civil Procedure section 664.5 generally requires a prevailing party to serve and file a notice of entry of judgment or appealable order. Similarly, Code of Civil Procedure section 1019.5 generally requires that the prevailing party provide notice of a court's decision or order regarding a motion. Currently, there is no Judicial Council form available for parties to use to give notice of a judgment or order.

Recommendation

The Appellate Advisory Committee and the Civil and Small Claims Advisory Committee recommend that the Judicial Council approve new optional *Notice of Entry of Judgment or Order* (form CIV-130), effective January 1, 2010, to assist litigants in providing notice of entry of a judgment or order.

The text of the proposed form is attached at pages 3–4.

Rationale for Recommendation

In civil actions other than small claims actions, following entry of a judgment, decree, or appealable order, a prevailing party who is represented by counsel is required under Code of Civil Procedure section 664.5(a) to prepare and serve by mail a notice of entry of

judgment and to file the notice and proof of service with the court.¹ The mailing of this notice triggers the period in which an appeal may be filed in both unlimited civil cases (Cal. Rules of Court, rule 8.104) and limited civil cases (rule 8.822). Similarly, under Code of Civil Procedure section 1019.5, when a motion is granted or denied (in whole or in part), the prevailing party is required to give notice of the court's decision or order to all other parties, unless the court orders otherwise or notice is waived by all parties in open court and is entered in the minutes. Notice of entry of an order concerning a motion is what starts the time period for asking the court to reconsider, modify, amend, or revoke the order (Code Civ. Proc., § 1008). In addition, in the case of some nonappealable orders, service of a notice of entry of the order starts the time for seeking review by way of petition for extraordinary writ (see, for example, Code Civ. Proc. § 437c(m)(1) concerning the denial of a motion for summary judgment).

The proposed *Notice of Entry of Judgment or Order* (form CIV-130) is a simple form stating that: (1) a judgment, decree, or order was entered on a specified date; and (2) a copy of the judgment or order is attached. Litigants on all sides would benefit from having such a form available. Those required to give notice would have a simple form available for this purpose. In addition, litigants could be more certain that what they are filing or receiving constitutes a notice of entry of judgment that triggers the time for seeking review of the judgment or order or taking other action specified by law. The form is for optional use, so litigants who wish to draft their own notice may still do so.

Alternative Actions Considered

The committee considered making it optional to attach a copy of the judgment or order that was entered. The committee concluded, however, that it is important that the judgment or order be attached to the notice so that the recipient of the notice is informed about exactly what judgment or order has been entered and can determine whether to seek appropriate review.

Comments From Interested Parties

This proposal was circulated as part of the spring 2009 comment cycle. Nine individuals or organizations submitted comments on this proposal. Eight commentators agreed with the proposal and one did not specifically indicate a position on the proposal but suggested modifying the form so that attaching a copy of the judgment or order would be optional. The full text of the comments received and the committee's responses is attached beginning on page 5.

Implementation Requirements and Costs

There will be no appreciable costs to the courts associated with use of this optional form.

Attachments

¹ If the prevailing party is self-represented, the court must send notice of entry of the judgment, decree, or appealable order.

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
<p style="text-align: center;">NOTICE OF ENTRY OF JUDGMENT OR ORDER</p> <p>(Check one): <input type="checkbox"/> UNLIMITED CASE <input type="checkbox"/> LIMITED CASE (Amount demanded exceeded \$25,000) (Amount demanded was \$25,000 or less)</p>	CASE NUMBER:

TO ALL PARTIES :

1. A judgment, decree, or order was entered in this action on *(date)*:
2. A copy of the judgment, decree, or order is attached to this notice.

Date:

 (TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)



 (SIGNATURE)

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

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify)*:

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and *(check one)*:

- a. deposited the sealed envelope with the United States Postal Service.
- b. placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:

- a. on *(date)*:
- b. from *(city and state)*:

4. The envelope was addressed and mailed as follows:

a. Name of person served:

Street address:

City:

State and zip code:

c. Name of person served:

Street address:

City:

State and zip code:

b. Name of person served:

Street address:

City:

State and zip code:

d. Name of person served:

Street address:

City:

State and zip code:

Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

5. Number of pages 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 OF DECLARANT)



(SIGNATURE OF DECLARANT)

SPR09-09**Civil Actions: Notice of Entry of Judgment or Order** (adopt form CIV-030)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Appellate Court Committee San Diego County Bar Association Matthew Mullford Chair		Again, we commend the Committee's efforts to provide optional forms to assist all litigants with the appellate process. The new optional form facilitates a litigant's compliance with California Code of Civil Procedure section 664.5. As currently drafted, however, the form requires litigants to attach a copy of the judgment, decree, or order, although this is not a requirement under Code of Civil Procedure section 664.5. Accordingly, we propose that on page 1 of the form, directly following item 2, the Committee include a box to designate that attachment of a copy of the judgment, decree, or order is not required as well as text at the end of this item indicating that it is optional. The suggested revisions to item 2 would appear as follows: 2. <input type="checkbox"/> A copy of the judgment, decree, or order is attached to this notice (optional)	The committee considered, but ultimately rejected, the idea of making it optional to attach a copy of the judgment or order. Code of Civil Procedure section 664.5 neither requires nor prohibits attaching a copy of the judgment or order; is simply silent on this matter. The committee concluded that it is important for the judgment or order to be attached to the notice so that the recipient of the notice is informed about exactly what judgment or order has been entered and can determine whether to seek appropriate review.
2.	Committee on Appellate Courts The State Bar of California by Saul Bercovitch Legislative Counsel	A	The Committee supports the proposed new form.	No response required.
3.	Committee on Administrative Justice The State Bar of California by Saul Bercovitch Legislative Counsel	A	CAJ supports this proposal.	No response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SPR09-09**Civil Actions: Notice of Entry of Judgment or Order** (adopt form CIV-030)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
4.	Hon. Judith McConnell Presiding Justice Court of Appeal, Fourth Appellate District, Division One	A	I support the creation of a Judicial Council form for giving notice of entry of judgment or order to assist litigants, particularly self-represented litigants, in the appellate process	No response required.
5.	Orange County Bar Association by Michael G. Yoder President	A	No additional comments.	No response required.
6.	Mark Schaeffer Attorney Sherman Oaks	A	No additional comments.	No response required.
7.	Superior Court of Kern County by Laura Rusk Supervising Court Clerk	A	No additional comments.	No response required.
8.	Superior Court of Los Angeles by Janet Garcia Court Manager	A	Agreed with proposed changes.	No response required.
9.	Superior Court of San Diego County by Mr. Michael M. Roddy Executive Officer	A	No additional comments.	No response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.