

**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. Lee Smalley Edmon, Chair  
Case Management Subcommittee  
Hon. Frank Roesch, Chair  
Anne M. Ronan, Committee Counsel, 415-865-8933,  
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DATE: August 8, 2008

SUBJECT: Civil Forms: *Summons—Cross-Complaint* (adopt form SUM-110) (Action  
Required)

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Issue Statement

There is currently no summons form specifically for use on a cross-complaint. The mandatory summons form used for a general civil complaint must be manually modified by a defendant who seeks to cross-complain against a party who has not already appeared. The new form *Summons—Cross-Complaint* (form SUM-110) eliminates the need for such modifications.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2009, adopt a mandatory form *Summons—Cross-Complaint* (form SUM-110).

The text of form SUM-110 is attached at page 3.

Rationale for Recommendation

A summons is required when a cross-complaint is brought against a party that has not appeared in the action. (Code Civ. Proc., § 428.60.) There is currently no Judicial Council summons form expressly referencing cross-complaints. Instead, a summons must be individually drafted or the general civil *Summons* (form SUM-100) must be amended, by hand or typewriter, to indicate that it is a summons for a cross-complaint rather than for a complaint and to show the appropriate designations of the parties.

The adoption of this additional summons form is appropriate. There are already separate summons forms for other types of complaints for which the general civil *Summons* (form SUM-100) does not work: *Summons (Joint Debtor)* (form SUM-120) (issued post-judgment); *Summons—Unlawful Detainer—Eviction* (form SUM-130) (requiring an answer in five days rather than 30); and *Summons—Storage Lien Enforcement* (form SUM-140) (requiring an answer in 10 days rather than 30).

New form SUM-110 is identical to the current form SUM-100 except for the title and the identification of the parties as cross-complainant rather than plaintiff and cross-defendant rather than defendant. These new terms have also been included in the Spanish translation. A box has also been added for the name of the underlying action.

#### Alternative Actions Considered

The committee considered not developing a summons form for cross-complaints. The committee decided to do so because the form will assist litigants and clerks' offices.

#### Comments From Interested Parties

The proposed form was circulated for public comment in the spring 2008 comment cycle. Comments were received from eleven individuals and organizations, including several courts, all agreeing with the proposal. A chart summarizing the comments and the committee's responses thereto is attached at pages 4–5.

A few of the commentators proposed the same modification: inclusion of a space to enter the original case name. The committee agreed and has modified the circulated form to include, directly above the box for the case number, a box for the short name of the case.

#### Implementation Requirements and Costs

Some minor costs will be incurred in making the new form available to the public.

#### Attachments

**SUMMONS  
Cross-Complaint  
(CITACION JUDICIAL-CONTRADEMANDA)**

**NOTICE TO CROSS-DEFENDANT:  
(AVISO AL CONTRA-DEMANDADO):**

**YOU ARE BEING SUED BY CROSS-COMPLAINANT:  
(LO ESTÁ DEMANDANDO EL CONTRADEMANDANTE):**

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

DRAFT v.6  
08/04/08

Not approved by  
Judicial Council

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the cross-complainant. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association.

*Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al contrademandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.*

*Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), o oniéndose en contacto con la corte o el colegio de abogados locales.*

The name and address of the court is:  
(El nombre y dirección de la corte es):

SHORT NAME OF CASE (from Complaint): (Nombre de Caso):

CASE NUMBER: (Número del Caso):

The name, address, and telephone number of cross-complainant's attorney, or cross-complainant without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del contrademandante, o del contrademandante que no tiene abogado, es):

DATE: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy  
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons (POS-010).)

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served

1.  as an individual cross-defendant.
2.  as the person sued under the fictitious name of (specify):
3.  on behalf of (specify):
  - under:  CCP 416.10 (corporation)  CCP 416.60 (minor)
  - CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)
  - CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)
  - other (specify):
4.  by personal delivery on (date):



**SPR08-13****Civil Forms: Summons—Cross-Complaint** (adopt form SUM-110)

Paraphrased comments are indicated by an asterisk; all other comments are verbatim.

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Tony Klein Process Server Institute San Francisco	AM	Support with suggestions.  The new form has a new label for Cross-Defendant and Cross-Complainant, but no space for the initial case name. I suggest that addition to the form, because I think it would not comport with current protocols and practice.	The proposed form has been modified to include a box for the short name of the action.
2.	Orange County Bar Association By Cathrine Castaldi President	A	No specific comments.	Commentator’s agreement has been noted.
3.	Mark Schwartz Rapid Legal Director of Training and Education San Jose	AM	I agree with the proposed changes if modified:  I suggest you add a place on the form for the “original” case name. Often times when we file the Summons on [cross-complaint] for our customers we are asked to put the original case name on the form in addition to the Cross Complainant and Cross Defendant. Sometimes the Summons is rejected if that information is not placed on the form.	The proposed form has been modified to include a box for the short name of the action
4.	State Bar of California, Committee on Administration of Justice By Saul Bercovitch, Staff Attorney San Francisco	A	CAJ supports this proposal.	Commentator’s agreement has been noted.
5.	Superior Court of Los Angeles County	A	No specific comments.	Commentator’s agreement has been noted.
6.	Superior Court of Monterey County By Diana Valenzuela Operations Manager	A	Would there be a location on the Summons for the originating case title? Plaintiff v Defendant	The proposed form has been modified to include a box for the short name of the action

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

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
7.	Superior Court of Riverside County By David Gutknecht Supervising Management Analyst	A	The adoption of form SUM-110 is appropriate as there is currently no summons form specifically for use on a cross-complaint and currently the mandatory summons form used for a general civil complaint must be manually modified by a defendant who seeks to cross-complain. The new form will eliminate the need to make modifications to form SUM-100.	Commentator's agreement has been noted.
8.	Superior Court of San Bernardino County By Debra Meyers Director of Staff Counsel Services and Self-Help Division	A	No specific comments.	Commentator's agreement has been noted.
9.	Superior Court of San Diego County By Michael M. Roddy Executive Officer San Diego	A	No specific comments.	Commentator's agreement has been noted.
10.	Superior Court of Ventura County Self-Help Legal Access Center By Tina Rasnow Senior Attorney/Coordinator	A	This will make it much easier for [self-represented litigants] and those who assist them in self-help centers.	The committee agrees.
11.	Derek Tabone Attorney Van Nuys	A	No specific comments.	Commentator's agreement has been noted.

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