

**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
Uniform Rules Subcommittee, Hon. Brian R. Van Camp, Chair
Patrick O'Donnell, Committee Counsel, 415-865-7665,
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DATE: September 28, 2005

SUBJECT: Notice of Change of Address (revise form MC-040) (Action
Required)

Issue Statement

The *Notice of Change of Address and Telephone Number* (form MC-040) was adopted effective January 1, 2002. This form does not currently have a place for a party or attorney to provide his or her fax number or e-mail address. It has been proposed that these be added.

Also, the proof of service on the current form requires that service be by certified mail. Attorneys have complained that this requirement is costly and unnecessary. It has been suggested that the proof of service be revised to provide for service by first-class mail. It has also been proposed that the proof of service be modified to indicate service on multiple parties.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2006, revise form MC-040 and rename it *Notice of Change of Address*.

Revised form MC-040 is attached at pages 3–4.

Rationale for Recommendation

Form MC-040 should be revised to contain the fax number and e-mail address of the person using it and to modify the proof of service to eliminate the requirement that it be made by certified mail and to provide for service on multiple parties.

Also, the name of the form should be shortened to *Notice of Change of Address*. Some other stylistic changes have been made to the form. It would remain an optional form.

Alternative Actions Considered

The form could be left unchanged. However, the committee thought that the revisions would make the form more useful and less costly to serve.

Comments From Interested Parties

The revised form was circulated for comment in the spring of 2005. Nine comments were received on this form proposal. The commentators included court administrators, a court attorney, a local bar association, and the Committee on Administration of Justice of the State Bar of California. A chart summarizing the comments and the committee's responses is attached at pages 5–6.

The committee reviewed the comments and agreed that several additional changes should be made to the form. First, the effective date for service at the new address should be added. Second, a means for listing multiple parties represented should be added to item 1. Third, the words “Any and” should be deleted before “all” as surplusage in item 2.

Implementation Requirements and Costs

Some costs will be incurred in making the revised form available.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> 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:	CASE NUMBER: JUDICIAL OFFICER:
NOTICE OF CHANGE OF ADDRESS	DEPT.:

1. **Please take notice** that, as of *(date)*:

- the following party or
- the attorney for:
 - a. plaintiff *(name)*:
 - b. defendant *(name)*:
 - c. petitioner *(name)*:
 - d. respondent *(name)*:
 - e. other *(describe)*:

has **changed his or her address** for service of notices and documents in the above-captioned action.

A list of additional parties represented is provided in Attachment 1.

2. The **new address** of *(name)*:

is as follows:

- a. Street:
- b. City:
- c. Mailing address *(if different from above)*:
- d. State and zip code:
- e. Telephone number:
- f. Fax number *(optional)*:
- g. E-mail address *(optional)*:

3. **All notices and documents** regarding the action should be sent to the above address.

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF PARTY OR ATTORNEY)

PLAINTIFF:	CASE NUMBER:
DEFENDANT:	

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF CHANGE OF ADDRESS**

(NOTE: You cannot serve the Notice of Change of Address 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 Change of Address* 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 Change of Address* was mailed:

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

4. The envelope was addressed and mailed as follows:

- | | |
|---|---|
| <ul style="list-style-type: none"> a. Name of person served:
 Street address: City: State and zip code:

 b. Name of person served:
 Street address: City: State and zip code: | <ul style="list-style-type: none"> c. 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).)*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

<hr style="border: none; border-top: 1px solid black;"/>		<hr style="border: none; border-top: 1px solid black;"/>
(TYPE OR PRINT NAME OF DECLARANT)		(SIGNATURE OF DECLARANT)

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Ms. Heather Adler Morrison & Foerester, LLP San Francisco	AM	N	Item 2: it should be changed to read: “Any and all notices and documents regarding the action should be sent to the above address effective [date].” Otherwise it is fine.	The committee agreed that the effective date should be included. It located this information in item 1 rather than item 2. It also deleted “Any and...” at the beginning of item 2 as surplusage.
2.	Ms. Janet Davis Court Manager Superior Court of California, County of Amador Jackson	AM	N	Item 1: As it is written, it makes it appear only an attorney can use the form. You need to add a box for the pro per party. So you would have a box for attorney, and a box for pro per party.	The committee agreed and revised item 1 to apply to both attorneys and self-represented parties.
3.	Superior Court of California, County of Los Angeles	A	Y	No specific comment.	No response required.
4.	Mr. Stephen Love Executive Officer Superior Court of California, County of San Diego	AM	Y	The court’s executives, managers, and supervisors commented that, if an attorney representing multiple parties submits the form, shouldn’t more space be provided so that he or she can indicate the names of all parties he or she represents?	The committee agreed and added a box where an attorney serving the notice may list additional parties represented.
5.	Ms. Pam Moraida Court Program Manager Superior Court of California, County of Solano Fairfield	A	N	No specific comment.	No response required.
6.	Ms. Tina Rasnow Senior Attorney/Coordinator Superior Court of California, County of Ventura	A	N	No specific comment.	No response required.
7.	Ms. Patti Morua-Widdows	A	N	No specific comment.	No response required.

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

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	Court Program Manager Superior Court of California, County of Ventura				
8.	Committee on Administration of Justice The State Bar of California San Francisco	AM	Y	The Committee on Administration of Justice supports this proposal.	No response required.
9.	Mr. Dean Zipser President Orange County Bar Association Irvine	A	Y	No specific comment.	No response required.