

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. Robert B. Freedman, Chair
Patrick O'Donnell, Committee Counsel, 415-865-7665,
patrick.o'donnell@jud.ca.gov

DATE: September 28, 2005

SUBJECT: Form Complaints: Complaint—Personal Injury, Property Damage,
Wrongful Death and Complaint—Contract (Action Required)

Issue Statement

The Judicial Council form complaints contain general statements that “[t]he true names and capacities of defendants sued as Does are unknown to plaintiff.” This language does not cover the situation sometimes alleged in complaints that the Doe defendants were the agents or employees of other defendants and were acting within the scope of that agency or employment.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2006, revise *Complaint—Personal Injury, Property Damage, Wrongful Death* (form 982.1(1)) and *Complaint—Contract* (form 982.1(20)).

Revised forms 982.1(1) and 982.1(20) are attached at pages 3–7.

Rationale for Recommendation

Complaint forms 982.1(1) (for personal injury property damage, and wrongful death cases) and 982.1(20) (for contract cases) should be revised to include optional check boxes for the plaintiff to indicate either that the Doe defendants’ capacities are unknown or that the Does were the agents or employees of the other defendants and were acting within the scope of that agency or employment. This option would be included on form 982.1(1) in item 6a and 6b, and on form 982.1(20) in item 4b(1) and 4b(2).

The revision of the form complaints to provide agency allegations regarding Doe defendants will make them more useful, flexible, and accurate.

Alternative Actions Considered

The form complaints could be left unrevised. But because the revisions would make them more useful and flexible, the committee supported revising these forms.

Comments From Interested Parties

This proposal was circulated for public comment in the spring of 2005. Nine comments were received on this proposal. The commentators included court administrators, a court attorney, a local bar association, and the Committee on Administration of Justice of the State Bar. A chart summarizing the comments and the committee's responses is attached at pages 8–9.

Most of the comments were favorable without any specific comments. The one suggestion—to use the term “relationships” instead of “capacities”—was rejected by the committee. It thought that the term “capacities” is more accurate, and substituting the word “relationships” would be more confusing to self-represented litigants than clarifying.

Implementation Requirements and Costs

Some minor costs would be incurred in replacing the existing forms with the revised ones.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <hr style="width: 20px; margin-left: 0;"/> TELEPHONE NO: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT: <input type="checkbox"/> DOES 1 TO _____	
COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER (specify): <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input type="checkbox"/> Personal Injury <input type="checkbox"/> Other Damages (specify):	
Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited	CASE NUMBER:

1. **Plaintiff** (name or names):

alleges causes of action against **defendant** (name or names):

2. This pleading, including attachments and exhibits, consists of the following number of pages:

3. Each plaintiff named above is a competent adult

a. **except** plaintiff (name):

- (1) a corporation qualified to do business in California
- (2) an unincorporated entity (describe):
- (3) a public entity (describe):
- (4) a minor an adult
 - (a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) other (specify):
- (5) other (specify):

b. **except** plaintiff (name):

- (1) a corporation qualified to do business in California
- (2) an unincorporated entity (describe):
- (3) a public entity (describe):
- (4) a minor an adult
 - (a) for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) other (specify):
- (5) other (specify):

Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

SHORT TITLE:	CASE NUMBER:
--------------	--------------

4. Plaintiff (*name*):
is doing business under the fictitious name (*specify*):

and has complied with the fictitious business name laws.
5. Each defendant named above is a natural person
- a. **except** defendant (*name*):
 (1) a business organization, form unknown
 (2) a corporation
 (3) an unincorporated entity (*describe*):

 (4) a public entity (*describe*):
 (5) other (*specify*):
- b. **except** defendant (*name*):
 (1) a business organization, form unknown
 (2) a corporation
 (3) an unincorporated entity (*describe*):

 (4) a public entity (*describe*):
 (5) other (*specify*):
- c. **except** defendant (*name*):
 (1) a business organization, form unknown
 (2) a corporation
 (3) an unincorporated entity (*describe*):

 (4) a public entity (*describe*):
 (5) other (*specify*):
- d. **except** defendant (*name*):
 (1) a business organization, form unknown
 (2) a corporation
 (3) an unincorporated entity (*describe*):

 (4) a public entity (*describe*):
 (5) other (*specify*):
- Information about additional defendants who are not natural persons is contained in Attachment 5.
6. The true names of defendants sued as Does are unknown to plaintiff.
- a. Doe defendants (*specify Doe numbers*): _____ were the agents or employees of other named defendants and acted within the scope of that agency or employment.
- b. Doe defendants (*specify Doe numbers*): _____ are persons whose capacities are unknown to plaintiff.
7. Defendants who are joined under Code of Civil Procedure section 382 are (*names*):
8. This court is the proper court because
- a. at least one defendant now resides in its jurisdictional area.
- b. the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
- c. injury to person or damage to personal property occurred in its jurisdictional area.
- d. other (*specify*):
9. Plaintiff is required to comply with a claims statute, **and**
- a. has complied with applicable claims statutes, **or**
- b. is excused from complying because (*specify*):

SHORT TITLE:	CASE NUMBER:
--------------	--------------

10. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- a. Motor Vehicle
- b. General Negligence
- c. Intentional Tort
- d. Products Liability
- e. Premises Liability
- f. Other (*specify*):

11. Plaintiff has suffered

- a. wage loss
- b. loss of use of property
- c. hospital and medical expenses
- d. general damage
- e. property damage
- f. loss of earning capacity
- g. other damage (*specify*):

12. The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. listed in Attachment 12.
- b. as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. **Plaintiff prays** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) compensatory damages
- (2) punitive damages
- The amount of damages is (*in cases for personal injury or wrongful death, you must check (1)*):
- (1) according to proof
- (2) in the amount of: \$

15. The paragraphs of this complaint alleged on information and belief are as follows (*specify paragraph numbers*):

Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF PLAINTIFF OR ATTORNEY)
----------------------	---	--------------------------------------

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: DEFENDANT: <input type="checkbox"/> DOES 1 TO _____	
CONTRACT <input type="checkbox"/> COMPLAINT <input type="checkbox"/> AMENDED COMPLAINT (<i>Number</i>): <input type="checkbox"/> CROSS-COMPLAINT <input type="checkbox"/> AMENDED CROSS-COMPLAINT (<i>Number</i>):	
Jurisdiction (<i>check all that apply</i>): ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000 but does not exceed \$25,000 <input type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint or cross-complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited	CASE NUMBER:

1. **Plaintiff*** (*name or names*):

alleges causes of action against **defendant*** (*name or names*):

2. This pleading, including attachments and exhibits, consists of the following number of pages:

3. a. Each plaintiff named above is a competent adult

except plaintiff (*name*):

(1) a corporation qualified to do business in California

(2) an unincorporated entity (*describe*):

(3) other (*specify*):

b. Plaintiff (*name*):

a. has complied with the fictitious business name laws and is doing business under the fictitious name (*specify*):

b. has complied with all licensing requirements as a licensed (*specify*):

c. Information about additional plaintiffs who are not competent adults is shown in Attachment 3c.

4. a. Each defendant named above is a natural person

except defendant (*name*):

(1) a business organization, form unknown

(2) a corporation

(3) an unincorporated entity (*describe*):

(4) a public entity (*describe*):

(5) other (*specify*):

except defendant (*name*):

(1) a business organization, form unknown

(2) a corporation

(3) an unincorporated entity (*describe*):

(4) a public entity (*describe*):

(5) other (*specify*):

* If this form is used as a cross-complaint, plaintiff means cross-complainant and defendant means cross-defendant.

SHORT TITLE:	CASE NUMBER:
--------------	--------------

4. (Continued)
- b. The true names of defendants sued as Does are unknown to plaintiff.
- (1) Doe defendants (*specify Doe numbers*): _____ were the agents or employees of the named defendants and acted within the scope of that agency or employment.
- (2) Doe defendants (*specify Doe numbers*): _____ are persons whose capacities are unknown to plaintiff.
- c. Information about additional defendants who are not natural persons is contained in Attachment 4c.
- d. Defendants who are joined under Code of Civil Procedure section 382 are (*names*):

5. Plaintiff is required to comply with a claims statute, **and**
- a. has complied with applicable claims statutes, *or*
- b. is excused from complying because (*specify*):

6. This action is subject to Civil Code section 1812.10 Civil Code section 2984.4.

7. This court is the proper court because
- a. a defendant entered into the contract here.
- b. a defendant lived here when the contract was entered into.
- c. a defendant lives here now.
- d. the contract was to be performed here.
- e. a defendant is a corporation or unincorporated association and its principal place of business is here.
- f. real property that is the subject of this action is located here.
9. other (*specify*):

8. The following causes of action are attached and the statements above apply to each (*each complaint must have one or more causes of action attached*):

- Breach of Contract
- Common Counts
- Other (*specify*):

9. Other allegations:

10. **Plaintiff prays** for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. damages of: \$
- b. interest on the damages
- (1) according to proof
- (2) at the rate of (*specify*): _____ percent per year from (*date*):
- c. attorney's fees
- (1) of: \$
- (2) according to proof.
- d. other (*specify*):

11. The paragraphs of this pleading alleged on information and belief are as follows (*specify paragraph numbers*):

Date:

_____ ▶ _____

(TYPE OR PRINT NAME) (SIGNATURE OF PLAINTIFF OR ATTORNEY)

(If you wish to verify this pleading, affix a verification.)

SPR05-15

**Form Complaints: Complaint—Personal Injury, Property Damage, Wrongful Death and Complaint—Contract
(revise forms 982.1(1) and 982.1(20))**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Mr. Mike Belote California Advocates, Inc. Sacramento	A	Y	No specific comment.	No response required.
2.	Ms. Deborah Decker Administrative Analyst Superior Court of California, County of Butte Oroville	A	N	No specific comment.	No response required.
3.	Superior Court of California, County of Los Angeles	A	Y	No specific comment.	No response required.
4.	Mr. Stephen V. Love Executive Officer Superior Court of California, County of San Diego	A	N	No specific comment.	No response required.
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	AM	N	<u>Form 982.1(1)</u> , item 6b and <u>Form 982.1(20)</u> , item 4b: I suggest using the word “relationships” either instead of “capacities” or with “capacities,” since self-represented litigants won’t know the meaning of “capacity.”	The committee disagreed with this suggestion. It thought the term “capacities” is more accurate and the term “relationships” may be more confusing.
7.	Ms. Patti Widdows Court Program Manager Superior Court of California,	A	N	No specific comment.	No response required.

SPR05-15

**Form Complaints: Complaint—Personal Injury, Property Damage, Wrongful Death and Complaint—Contract
(revise forms 982.1(1) and 982.1(20))**

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
	County of Ventura				
8.	Committee on Administration of Justice The State Bar of California San Francisco	A	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.