Judicial Council of California . Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 29, 2011

Title
Rules and Forms: Miscellaneous Technical Changes

Rules, Forms, Standards, or Statutes Affected
Amend Cal. Rules of Court, rules 8.104 and 8.130; revise forms APP-001, AT-140, CR-110/JV-790, POS-040, POS-040(P), and SC-108

Recommended by
Administrative Office of the Courts
Deborah Brown, Managing Attorney
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Office of the General Counsel

Agenda Item Type
Action Required

Effective Date
July 1, 2011

Date of Report
March 4, 2011

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Executive Summary

Various Judicial Council advisory committee members, court personnel, members of the public, and Administrative Office of the Courts (AOC) staff have identified errors in rules and forms resulting from inadvertent omissions, typographical errors, language inconsistencies, or changes in the rules naming and numbering systems, or legislative changes. It is therefore necessary to make technical changes to the rules and forms noted below.

Recommendation

The AOC recommends that the Judicial Council make the following changes to the California Rules of Court and Judicial Council forms, effective July 1, 2011:

1. Amend rule 8.104(e) to correct an internal reference from subdivision “(e)” to subdivision “(d)”;

2. Amend the Advisory Committee Comment for rule 8.130(f)(4) to correct the citation to Code of Civil Procedure section 269(c), which is obsolete. The correct current citation is section 271(c);

3. Revise form APP-001, page 4, to include language from rule 8.212(c)(2) that adds the option of serving "one electronic copy or four paper copies" on the California Supreme Court;

4. Revise form AT-140, items 1 and 2.a, to add a field for the names of plaintiff and defendant;

5. Revise form CR-110/JV-790 to (1) reflect recent legislation that increased the maximum administrative fee for the collection of restitution from 10 to 15 percent as provided in item 3e; (2) replace the obsolete citation to Penal Code section 1214(d) in the Notice to Victims section on page 2 with the correct citation: Penal Code section 1214(b); (3) replace the incorrect citation to Penal Code section 1202.4(l) in the Notice to County Recorder on the bottom of page 2 with the correct citation: Penal Code section 1202.4(i); (4) provide more space to enter the names of parents and co-offenders in items 1c and 1d; and (5) provide more space to enter the name of the victim in item 3a;

6. Revise forms POS-040 and POS-040(P) to (1) reflect new legislation (Sen. Bill 1274) on service by hyperlinks by changing "electronic notification" to "electronic service" and (2) make these forms consistent with other proof of service forms that have already been revised; and

7. Revise form SC-108, page 1, under "If you receive this form," to correct "then fill out 6 and 9" to "then fill out 6 through 9."

The text of the amended rules is attached at page 4. The revised forms are attached at pages 5–18.

Previous Council Action

Although the Judicial Council has acted on these rules and forms previously, this report recommends only minor corrections not related to any prior action.

Rationale for Recommendation

The changes to these rules and forms are technical in nature and necessary to correct inadvertent omissions, typographical errors, and language inconsistencies and to implement legislation and changes in the rules naming and numbering system.

Comments, Alternatives Considered, and Policy Implications

These proposals were not circulated for public comment because they are noncontroversial, involve technical revisions, and are therefore within the Judicial Council's purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

Implementation Requirements, Costs, and Operational Impacts

The proposed revisions will result in standard reproduction costs.

Attachments

1. Cal. Rules of Court, rules 8.104 and 8.130 at page 4
2. Forms APP-001, AT-140, CR-110/JV-790, POS-040, POS-040(P), and SC-108 at pages 5–18

Rules 8.104 and 8.130 of the California Rules of Court, are amended effective July 1, 2011, to read:

Rule 8.104. Time to appeal

(a)–(d) ***

(e) Appealable order

As used in (a) and ~~(e)~~(d), "judgment" includes an appealable order if the appeal is from an appealable order.

Rule 8.130. Reporter's transcript

(a)–(g) ***

Advisory Committee Comment

***

Subdivision (f). Subdivision (f)(1) requires the reporter to prepare and file additional copies of the record "if multiple appellants equally share the cost of preparing the record. . . ." The reason for the requirement is explained in the comment to rule 8.147(a)(2).

Implementing statutory provisions (e.g., Code Civ. Proc., § ~~269~~271~~, subd. (c)~~; Gov. Code, § 69954), subdivision (f)(4) requires the reporter to provide a party, on request, with a copy of the reporter's transcript in computer-readable format. But in recognition of the fact that in some instances the reporter may be unable to provide a copy in that format, the subdivision also authorizes the reporter to apply to the superior court for relief from this requirement.

INFORMATION ON APPEAL PROCEDURES FOR UNLIMITED CIVIL CASES

The following is general information about the procedures for appeals of unlimited civil cases ("unlimited civil case" generally means a civil case in which the amount in controversy is more than $25,000; see Code of Civil Procedure sections 85 and 88). This information is not intended to be comprehensive, but to provide an overview to help guide you through the appeal process. **You should thoroughly read rules 8.100–8.276 of the California Rules of Court. If you have questions about the appellate process, you should consult an attorney of your own choosing.**

1. NATURE OF AN APPEAL

An appeal is a review of a court's decision by another court. A party may appeal an unfavorable judgment and certain orders in an unlimited civil case made in the superior court to the Court of Appeal for the district in which the superior court is located. Generally, the appeal must be based on an argument that a **legal error** was made by the superior court. An appeal is not a retrial. You will not be permitted to introduce new evidence, and the appellate court will not reassess conflicting evidence. You may not appeal on behalf of a friend, a spouse, a child, or other relative (unless you are a legally appointed guardian).

2. PARTIES

The party filing the appeal is called the APPELLANT. The party against whom the appeal is brought is called the RESPONDENT.

STEPS IN THE APPEAL PROCESS AT THE SUPERIOR COURT

3. NOTICE OF APPEAL

To appeal from a superior court decision in an unlimited civil case, the appellant must file a notice of appeal **in the superior court** (Cal. Rules of Court, rule 8.100). A notice of appeal tells the other party or parties in the case and the superior court that you are appealing the decision of the superior court. You may use Judicial Council form APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case),* to file a notice of appeal in an unlimited civil case.

The notice of appeal must be served on the other party or parties in the case and filed with the clerk of the superior court. Generally, this service and filing must be completed within **60 calendar days** after the clerk or a party serves either a notice of entry of judgment or a file-stamped copy of the judgment. If neither of these documents is served, the notice of appeal must be filed within **180 calendar days** after entry of judgment (generally the date the judgment is file-stamped). **If your notice of appeal is filed late, your appeal will be dismissed** (Cal. Rules of Court, rules 8.104 and 8.108).

If a notice of appeal has been filed in a case, any other party to the case may file its own appeal from the same judgment or order. This is called a cross-appeal. To cross-appeal, a party must file a notice of appeal within either the regular time for filing a notice of appeal or within 20 days after the clerk of the superior court mails notice of the first appeal, whichever is later (Cal. Rules of Court, rule 8.108). You may use Judicial Council form APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case),* to file this notice in an unlimited civil case.

4. FEE ON APPEAL

The notice of appeal must be accompanied by a $655 filing fee (Gov. Code, §§ 68926 and 68926.1) made payable to "Clerk, Court of Appeal" and a $100 deposit (Gov. Code, § 68926.1) made payable to "Clerk of the Superior Court." If you do not have the money for the fees, you may submit an application for waiver of court fees and costs on appeal under rule 3.50–3.63 of the California Rules of Court (Cal. Rules of Court, rule 8.100).

5. DESIGNATION OF RECORD

See rules 8.130–8.163 of the California Rules of Court, which govern the preparation of the record on appeal.

Since the appellate court was not present at the trial or other proceedings in the superior court, there must be an official record of the proceedings from the superior court for the appellate court to review in assessing the appeal. Within 10 days of filing the notice of appeal, the appellant must tell the superior court in writing ("designate") what documents and oral proceedings, if any, to include in the record that will be sent to the Court of Appeal. **You will need to designate all the parts of the record that the Court of Appeal will need to decide the issues you raise in the appeal.** You can use Judicial Council form APP-003, *Notice Designating Record on Appeal (Unlimited Civil Case)* to designate the record in an unlimited civil case.

Reporter's Transcript

A court reporter's transcript is a written record (often called the "verbatim" record) of the oral proceedings in the superior court. A reporter's transcript is not required but is usually necessary.

Within 10 days of filing the notice of appeal, the appellant must serve and file with the superior court clerk either a notice designating a reporter's transcript or a notice of intent to proceed without a reporter's transcript (Cal. Rules of Court, rule 8.130). You can use Judicial Council form APP-003, *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* to file this notice in an unlimited civil case.

If the appellant chooses to designate a reporter's transcript, the notice designating this transcript must specify the date of each proceeding to be included in the transcript and must be served on each known court reporter (Cal. Rules of Court, rule 8.130). The names of the court reporters who reported the proceedings are found in the superior court clerk's minute orders, which are prepared for each day of the proceedings and then placed in the superior court file.

With the notice designating the reporter's transcript, the appellant must deposit the approximate cost of transcribing the proceedings designated (Cal. Rules of Court, rule 8.130). The cost may be obtained from the reporter's written estimate or calculated at $650 per day (more than three hours of court time) or $325 per fraction of a day (less than three hours of court time) (Cal. Rules of Court, rule 8.130).

Within 10 days after service of the appellant's designation of the reporter's transcript, the respondent may serve and file a notice designating additional proceedings to be included in the reporter's transcript (Cal. Rules of Court, rule 8.130). Respondent must pay for the cost of transcribing any additional proceedings designated.

If the appellant chooses to proceed without a reporter's transcript, the respondent may not designate a reporter's transcript without first obtaining an order from the reviewing court (Cal. Rules of Court, rule 8.130).

Clerk's Transcript or Appendix

The clerk's transcript is a compilation of the documents filed in the superior court. Within 10 days of filing the notice of appeal, the appellant must serve and file with the superior court clerk a notice either designating the documents from the court file that the appellant wants the superior court to include in the clerk's transcript (Cal. Rules of Court, rule 8.122) or a notice of intent to prepare his or her own compilation of these documents, called an appendix (Cal. Rules of Court, rule 8.124). You can use Judicial Council form APP-003, *Appellant's Notice Designating Record on Appeal (Unlimited Civil Case)* to file this notice in an unlimited civil case.

If the appellant chooses to designate a clerk's transcript, each document designated for inclusion in the clerk's transcript must be identified by its title and filing date. If the filing date is not known, the date the document was signed may be used instead (Cal. Rules of Court, rule 8.122).

Within 10 days after service of a notice designating the documents to be included in the clerk's transcript, respondent may serve and file a notice designating additional documents to be included in the clerk's transcript (Cal. Rules of Court, rule 8.122).

The superior court clerk will send the appellant a bill for the cost of preparing an original and one copy of the transcript (Cal. Rules of Court, rule 8.122). This must be paid within 10 days or the appeal may be dismissed by the Court of Appeal.

If the appellant chooses to prepare an appendix of the documents filed in the superior court, rather than designating a clerk's transcript, that appendix must include all of the documents and be prepared in the form required by California Rules of Court, rule 8.124. The parties may prepare separate appendixes but are encouraged to stipulate (agree) to a joint appendix. If separate appendixes are prepared, each party must pay for its own appendix. If a joint appendix is prepared, the parties can agree on how the cost of preparing the appendix will be paid or the cost will be paid by the appellant(s) (Cal. Rules of Court, rule 8.124).

6. FILING OF CLERK'S AND REPORTER'S TRANSCRIPTS (IF ANY)

If the appellant chooses to designate a clerk's transcript, after all the fees have been paid, the superior court clerk will compile the requested documents into a transcript format and forward the original clerk's transcript, together with the original reporter's transcript, if any, to the Court of Appeal for filing. A copy of the transcript(s) will be sent to the appellant. If the respondent has purchased a copy, the clerk's transcript will also be mailed to the respondent (Cal. Rules of Court, rules 8.122, 8.130, and 8.150).

7. ABANDONMENT OF APPEAL

If the appellant decides not to proceed with the appeal and the record has not yet been filed in the Court of Appeal, the appellant must file an abandonment of appeal in the superior court (Cal. Rules of Court, rule 8.244). You can use Judicial Council form APP-005, *Abandonment of Appeal (Unlimited Civil Case)*, for this purpose.

STEPS IN THE APPEAL PROCESS AT THE COURT OF APPEAL

8. CIVIL CASE INFORMATION STATEMENT

When the Court of Appeal is notified that a notice of appeal has been filed in an unlimited civil case, the clerk of the Court of Appeal will mail the appellant a copy of Judicial Council form APP-004, the *Civil Case Information Statement*, along with a notice that this form must be filed within 10 days. Within 10 days after the clerk mails this notice, the appellant must serve and file in the Court of Appeal a completed *Civil Case Information Statement*, attaching a copy of the judgment or appealed order that shows the date it was entered (Cal. Rules of Court, rules 8.100 and 8.104).

9. SERVING AND FILING APPENDIX IN LIEU OF CLERK'S TRANSCRIPT

If a party chooses to prepare an appendix of the documents filed in the superior court under rule 8.124 rather than designating a clerk's transcript, the party preparing the appendix must serve the appendix on each other party (unless the parties have agreed or the Court of Appeal has ordered otherwise) and file the appendix in the Court of Appeal. A joint appendix or an appellant's appendix must be served and filed with the appellant's opening brief. A respondent's appendix, if any, must be served and filed with the respondent's brief. An appellant's reply appendix, if any, must be served and filed with the appellant's reply brief (Cal. Rules of Court, rule 8.124).

10. BRIEFS

A brief is a party's written description of the facts in the case, the relevant law, and the party's argument. The preparation and filing of briefs is governed by rules 8.200–8.224 of the California Rules of Court. Parties are encouraged to read these rules thoroughly and comply accordingly.

Contents and Format of Briefs

See rule 8.204 of the California Rules of Court.

The brief must clearly explain, using references to the clerk's and reporter's transcripts (or other form of the record being used), the claimed legal errors in the superior court proceedings. Each brief must be no longer than 14,000 words if produced on a computer (you can rely on the word count provided by your computer in meeting this requirement) or up to 50 pages if produced on a typewriter. The brief must contain a table of contents and a table of authorities.

Service and Filing of Briefs

See rule 8.212 of the California Rules of Court.

The appellant's opening brief must be served and filed within 40 days after the record is filed in the Court of Appeal or 70 days from the date the appellant elects to proceed under rule 8.124 with no reporter's transcript. The cover of the appellant's opening brief must be green (Cal. Rules of Court, rules 8.212 and rule 8.40).

The respondent's brief must be served and filed within 30 days after the appellant's opening brief is filed. The cover of the respondent's brief must be yellow.

The appellant's reply brief, if any, must be served and filed within 20 days after the respondent's brief is filed. The cover of the appellant's reply brief must be tan.

An original and four copies of each brief, along with proof of service, must be filed with the Court of Appeal. A copy of each brief must be served on all counsel and self-represented parties and on the superior court clerk for delivery to the trial judge. One electronic copy or four paper copies must also be served on the California Supreme Court (Cal. Rules of Court, rule 8.212). The addresses of the California Supreme Court, Courts of Appeal, and superior courts can be found on the Internet at *www.courts.ca.gov/courts.htm.*

In some instances a copy of each brief must be served on the Attorney General or the local district attorney. See rule 8.29 of the California Rules of Court and the *Civil Case Information Statement* (Judicial Council form APP-004).

Cover:	Appellant's opening brief—green Respondent's brief—yellow Appellant's reply brief—tan
File:	Original plus 4 copies along with proof of service in the Court of Appeal
Serve:	California Supreme Court—1 electronic or 4 paper copies Superior court—1 copy All counsel All self-represented parties

Extension of Time to File Brief

The parties may extend the time to file a brief for up to 60 days by filing a stipulation (agreement) in the Court of Appeal (Cal. Rules of Court, rule 8.212).

An application for extension of time must be filed with the Court of Appeal before the brief is due when:

The parties cannot agree to a stipulation; or

The parties have stipulated to the maximum automatic extension permitted under rule 8.212 of the California Rules of Court, and the applicant seeks a further extension.

Judicial Council form APP-006, *Application for Extension of Time to File Brief (Civil Case),* can be used to apply to the Court of Appeal for an extension of time to file a brief.

11. DISMISSAL OF APPEAL

If the appellant decides not to proceed with the appeal after the record has been filed in the Court of Appeal, the appellant must file a request for dismissal in the Court of Appeal (Cal. Rules of Court, rule 8.244). You can use Judicial Council form APP-007, *Request for Dismissal of Appeal (Civil Case)* for this purpose (Cal. Rules of Court, rule 8.244).

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*:	*FOR COURT USE ONLY*
TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR *(Name)*:	DRAFT V-2 02/25/11
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF: DEFENDANT:	
TEMPORARY PROTECTIVE ORDER	CASE NUMBER:

1. The court has considered the application of plaintiff *(name)*: _____ for
   a. ☐ a right to attach order, order for issuance of writ of attachment pursuant to chapter 4 (beginning with Code Civ. Proc., § 484.010), and a temporary protective order.
   b. ☐ an ex parte right to attach order and order for issuance of writ of attachment under Chapter 5 (beginning with Code Civ. Proc., § 485.010).

FINDINGS

2. THE COURT FINDS
   a. Defendant *(name)*: _____ is a ☐ natural person ☐ partnership ☐ unincorporated association ☐ corporation ☐ other *(specify)*:
   b. The amount sought to be secured by the attachment under the application for the right to attach is: $
   c. The claim upon which the application for attachment is based is one upon which an attachment may be issued under ☐ Code of Civil Procedure section 483.010 ☐ Welfare and Institutions Code section 15657.01.
   d. Plaintiff has established the probable validity of the claim upon which the application for the attachment is based.
   e. The order is not sought for a purpose other than the recovery upon the claim up on which the application for the attachment is based.
   f. Great or irreparable injury to the plaintiff will result if this order is not issued, based on the following:
      (1) ☐ There is a danger that the property sought to be attached would be
         (a) ☐ concealed
         (b) ☐ substantially impaired in value.
         (c) ☐ made unavailable to levy by other than concealment or substantial impairment in value.
      (2) ☐ Defendant has failed to pay the debt underlying the requested attachment and is insolvent as defined in Code of Civil Procedure section 485.010(b)(2).
      (3) ☐ A bulk sales notice was recorded and published pursuant to division 6 (beginning with section 6101) of the Commercial Code with respect to a bulk transfer by the defendant.
      (4) ☐ An escrow has been opened pursuant to the provisions of Business and Professions Code section 24074 with respect to the sale by the defendant of a liquor license. The liquor license number is:
      (5) ☐ Other circumstances:
   g. ☐ The requirements of Code of Civil Procedure section 485.220 are satisfied, but a temporary protective order should issue instead of an ex parte right to attach order and order for issuance of writ of attachment.
   h. Plaintiff must file an undertaking in the amount of: $ before a temporary protective order will issue, and plaintiff has filed an undertaking in that amount.
   i. The property subject to the following order is:

SHORT TITLE:	CASE NUMBER:

2. j. ☐ The following property of defendant is inventory or farm products held for sale and may be transferred in the ordinary course of business *(specify)*:

k. ☐ Other *(specify)*:

ORDER

3. THE COURT ORDERS

a. Defendant shall not transfer, directly or indirectly, any interest in the property described in item 2i of the findings.

b. ☐ Defendant shall not dispose of the proceeds of any transfer of inventory or farm products held for sale except under the following restrictions:

c. ☐ Other *(specify)*:

d. This order will expire at the earliest of the following times:
(1) When plaintiff levies upon specific property described in this order;
(2) After *(date)*: ; or
(3) 40 days after the issuance of this order.

4. Number of pages attached: _____

Date:

(TYPE OR PRINT NAME) (SIGNATURE OF JUDICIAL OFFICER)

NOTICE TO DEFENDANT: An undertaking has been filed with the court by plaintiff. You may object to the undertaking.

a. You may issue any number of checks against any of your accounts in a financial institution in this state in any amount for the following purposes:
(1) Payment of any payroll expense (including fringe benefits and taxes and premiums for workers' compensation and unemployment insurance) falling due in the ordinary course of business prior to the levy of a writ of attachment.
(2) Payment for goods thereafter delivered to you C.O.D. for use in your trade, business, or profession.
(3) Payment of taxes if payment is necessary to avoid penalties which will accrue if there is any further delay in payment.
(4) Payment of reasonable legal fees and reasonable costs and expenses required for your representation in the action.

b. In addition, you may issue any number of checks for any purpose so long as the total amount of such checks does not exceed the greater of the following:
(1) The amount by which the total amount on deposit exceeds the sum of the amount sought to be secured by the attachment and the amounts permitted to be paid pursuant to this notice.
(2) One thousand dollars ($1,000).

c. If the property is farm products held for sale or is inventory, the temporary protective order may not prohibit you from transferring the property in the ordinary course of business, but may impose appropriate restrictions on the disposition of the proceeds from such transfer.

[SEAL]

CLERK'S CERTIFICATE

I certify that the foregoing is a correct copy of the original on file in my office.
Date:

Clerk, by _____, Deputy

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 not exceed 15% 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(b).

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. [last 4 digits] and state: ☐ Unknown
   c. ☐ Social security no. [last 4 digits]: ☐ Unknown
   d. ☐ Date of birth: ☐ Unknown

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF APPLICANT OR ATTORNEY)

☐ ON INFORMATION AND BELIEF

ABSTRACT OF JUDGMENT

[SEAL]

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.

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(i) AND (m), PENAL CODE SECTION 1214, AND WELFARE AND INSTITUTIONS CODE SECTION 730.6(i) AND (r), AND FUNCTIONS AS AN ABSTRACT OF JUDGMENT.

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*:	*FOR COURT USE ONLY*
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:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
PROOF OF SERVICE—CIVIL **Check method of service *(only one)*:** ☐ **By Personal Service** ☐ **By Mail** ☐ **By Overnight Delivery** ☐ **By Messenger Service** ☐ **By Fax** ☐ **By Electronic Service**	JUDGE: DEPT.:

(Do not use this proof of service to show service of a Summons and complaint.)

1. At the time of service I was over 18 years of age and **not a party to this action.**
2. My residence or business address is:

3. ☐ The fax number or electronic service address from which I served the documents is *(complete if service was by fax or electronic service):*
4. On *(date):* I served the following **documents** *(specify):*

☐ The documents are listed in the *Attachment to Proof of Service–Civil (Documents Served)* (form POS-040(D)).

5. I served the documents on the **person or persons** below, as follows:
   a. Name of person served:
   b. ☐ (*Complete if service was by personal service, mail, overnight delivery, or messenger service.)*
   Business or residential address where person was served:

   c. ☐ *(Complete if service was by fax or electronic service.)*
   (1) Fax number or electronic service address where person was served:

   (2) Time of service:

   ☐ The names, addresses, and other applicable information about persons served is on the *Attachment to Proof of Service—Civil (Persons Served)* (form POS-040(P)).

6. The documents were served by the following means *(specify):*
   a. ☐ **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

CASE NAME:	CASE NUMBER:

6. b. ☐ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 5 and *(specify one):*

(1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

(2) ☐ placed the envelope for collection and mailing, 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.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at *(city and state):*

c. ☐ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 5. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

d. ☐ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 5 and providing them to a professional messenger service for service. *(A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.)*

e. ☐ **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 5. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

f. ☐ **By electronic service.** Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed in item 5.

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)

(If item 6d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)

DECLARATION OF MESSENGER

☐ **By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package, which was clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on *(date):*

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

Date:

_____ ▶ _____

(NAME OF DECLARANT) (SIGNATURE OF DECLARANT)

INFORMATION SHEET FOR PROOF OF SERVICE—CIVIL

(This information sheet is not part of the official proof of service form and does not need to be copied, served, or filed.)

USE OF THIS FORM

Note: This proof of service form should **not** be used to show proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

This form is designed to be used to show proof of service of documents by (1) personal service, (2) mail, (3) overnight delivery, (4) messenger service, (5) fax, or (6) electronic transmission.

Certain documents must be personally served. For example, an order to show cause and temporary restraining order generally must be served by personal delivery. You must determine whether a document must be personally delivered or can be served by mail or another method.

GENERAL INSTRUCTIONS

A person must be over 18 years of age to serve the documents. The person who served the documents must complete the Proof of Service. **A party to the action cannot serve the documents.**

The Proof of Service should be typed or printed. If you have Internet access, a fillable version of this proof of service form is available at *www.courts.ca.gov/forms.htm.*

Complete the top section of the proof of service form as follows:

First box, left side: In this box print the name, address, and telephone number of the person *for* whom you served the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as the address on the documents that you served.

Third box, left side: Print the names of the plaintiff/petitioner and defendant/respondent in this box. Use the same names as are on the documents that you served.

Fourth box, left side: Check the method of service that was used. You should check only one method of service and should show proof of only one method on the form. If you served a party by several methods, use a separate form to show each method of service.

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

Second box, right side: Print the case number in this box. The case number should be the same as the case number on the documents that you served.

Third box, right side: State the judge and department assigned to the case, if known.

Complete items 1–6:

1. You are stating that you are over the age of 18 and that you are not a party to this action.
2. Print your home or business address.
3. If service was by fax service or electronic service, print the fax number or electronic service address from which service was made.
4. List each document that you served. If you need more space, check the box in item 4, complete the *Attachment to Proof of Service—Civil (Documents Served)* (form POS-040(D)), and attach it to form POS-040.
5. Provide the names, addresses, and other applicable information about the persons served. If more than one person was served, check the box on item 5, complete the *Attachment to Proof of Service—Civil (Persons Served)* (form POS-040(P)), and attach it to form POS-040.
6. Check the box before the method of service that was used, and provide any additional information that is required. The law may require that documents be served in a particular manner (such as by personal delivery) for certain purposes. Service by fax or electronic transmission generally requires the prior agreement of the parties.

You must sign and date the proof of service form. By signing, you are stating under penalty of perjury that the information that you have provided on form POS-040 is true and correct.

SHORT TITLE:	CASE NUMBER:

ATTACHMENT TO PROOF OF SERVICE—CIVIL (PERSONS SERVED)

(This attachment is for use with form POS-040.)

NAMES, ADDRESSES, AND OTHER APPLICABLE INFORMATION ABOUT PERSONS SERVED:

Name of Person Served	**Where Served**	**Time of Service**
(If the person served is an attorney, the party or parties represented should also be stated.)	*(Provide business or residential address where service was made by personal service, mail, overnight delivery, or messenger service. For other means of service, provide fax number or electronic service address, as applicable.)*	*(Complete for service by fax transmission or electronic service.)*
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____
		Time: _____

SC-108 Request to Correct or Cancel Judgment and Answer (Small Claims)

Clerk stamps date here when form is filed.

Fill in court name and street address:

Superior Court of California, County of

Fill in your case number and case name below:

Case Number:

Case Name:

Request

This form is used to ask the court to correct or cancel a small claims judgment. You must file this form no later than 30 days after the clerk mailed Form SC-130, *Notice of Entry of Judgment*. Filing this form does **not** extend the deadline to file an appeal.

If you are the person asking the court to correct or cancel a judgment, fill out 1–5 on this page, then file it at the clerk's office. The clerk will mail a copy of the form to all other plaintiffs and defendants in your case. The court will give the other plaintiffs and defendants at least 10 days to answer this *Request.* The court will mail its decision to you or tell you to go to a court hearing. If you did not go to the trial, you must use Form SC-135, *Notice of Motion to Vacate Judgment and Declaration.*

If you receive this form, read below, then fill out 6 through 9 on page 2. The court will mail its decision to you or tell you to go to a court hearing.

1 **The person asking the court to correct or cancel a judgment is:**

Name: _____

Address: _____

Check one: ☐ A defendant in this case
☐ A plaintiff in this case

2 **Notice to:**

(List names and addresses of all other defendants and plaintiffs in your case.)

Name Address

a. _____

b. _____

c. _____

d. _____

☐ *Check here if you need more space. Use Form MC-031 or a plain sheet of paper. Write "SC-108, Item 2" on top.*

3 **I ask the court to** *(check one):*

a. ☐ Correct the following clerical error in the judgment.

List the error: _____

Change to: _____

Explain why this correction is needed: _____

b. ☐ Cancel the judgment because the court applied the wrong law to this case. *(Explain):*

_____

☐ *Check here if you need more space. Use Form MC-031 or a plain sheet of paper. Write "SC-108, Item 3" on top.*

4 In making its order, I ask the court to consider the information on this form, any records on file, and, if the court holds a hearing, the evidence presented at that hearing.

5 I declare under penalty of perjury under California state law that the information above and on all attachments is true and correct.

Date: _____

_____ ▶ _____

Type or print your name *Sign your name*

SC-108 Request to Correct or Cancel Judgment and Answer (Small Claims)

Clerk stamps date here when form is filed.

Answer

The person listed in 1 on page 1 of this form has asked the court to correct or cancel the judgment in your small claims case.

Follow these steps to tell the court what you want to do about this request:

- Read page 1 to see what the person in 1 is asking for.
- Fill out 6–9 below.
- Mail your completed form to the court right away.
- Mail a copy of this form to each plaintiff and defendant listed in 1 and 2 on page 1 of this form.

The court will mail its decision to all plaintiffs and defendants at least 10 days after the *Request* was mailed. If you do nothing, the court may make the order without hearing from you.

Fill in court name and street address:

Superior Court of California, County of

Fill in your case number and case name below.

Case Number:

Case Name:

6 The person filing this answer is:

Name: _____

Address: _____

Check one: ☐ A defendant in this case ☐ A plaintiff in this case

7 Tell the court what you want to do about the request.

(Check all that apply):

a. ☐ I agree to the correction requested in 3 a.

b. ☐ I agree to the cancellation of judgment requested in 3 b.

c. ☐ I do not agree with the request in 3 a. *(Explain):* _____

_____

_____

d. ☐ I do not agree with the request in 3 b. *(Explain):* _____

_____

_____

e. ☐ I ask the court to have a hearing to decide this matter.

☐ *Check here if you need more space. Use Form MC-031 or a plain sheet of paper. Write "SC-108, Item 7" on top.*

8 I mailed a copy of this form to everyone listed in 1 and 2 of this form on *(date):* _____

9 I declare under penalty of perjury under California state law that the information above and on all attachments is true and correct.

Date: _____

_____
Type or print your name

▶ _____
Sign your name

Need help?

For free help, contact your county's Small Claims Advisor:

Or, go to "County-Specific Court Information" at:
www.courts.ca.gov/selfhelp-smallclaims.htm

The clerk fills out below.

— Clerk's Certificate of Mailing —

I certify that I am not involved in this case and *(check one):*

☐ A Certificate of Mailing is attached.

☐ The *Request to Correct or Cancel Judgment and Answer* was mailed first class, postage paid, to all parties at the addresses listed in 2.

On *(date):* _____

From *(city):* _____, California

Clerk, by _____ , Deputy