

**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
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DATE: September 28, 2005

SUBJECT: Notice of Settlement: Amend Cal. Rules of Court, rule 225 and
revise *Notice of Settlement* (form CM-200) (Action Required)

Issue Statement

Rule 225 of the California Rules of Court requires that the plaintiff notify the court and others of the settlement of a case. *Notice of Settlement* (form CM-200) was adopted to implement the rule. There has been some uncertainty over how the rule and form should be applied when there is a settlement of less than the entire case.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2006, amend rule 225 of the California Rules of Court and revise the *Notice of Settlement* (form CM-200) to clarify that the notice of settlement must be given only when an entire action is settled.

The text of amended rule 225 is attached at page 3–4. Revised form CM-200 is attached at pages 5–6.

Rationale for Recommendation

There has been some confusion and uncertainty about whether the duty to notify the court and others of a settlement under rule 225 applies to a partial settlement. The basic purpose of rule 225 is to require notice of the settlement of an *entire* case. Once the court has received this notice, it may cancel any pending trial date. Also, in terms of calculating case disposition time, the filing of the notice of settlement serves as a case disposition. If only part of a case is settled, these

events would not be triggered. So the notice should only be provided if there is a settlement of the entire action.

Requiring notice of partial settlements is not necessary. The court will learn of partial settlements by other means, such as through good faith settlement motions and trial briefs. Because the court does not need this information under rule 225 or on form CM-200, partial settlements are not included in the rule or form.

To clarify this matter, both rule 225 and form CM-110 should be modified. The rule should clearly state it applies to the settlement of the *entire* case. Similarly, the form should be renamed *Notice of Settlement of Entire Case* and changes be made to the form to clarify that it provides notice of the settlement of an *entire* case.

Alternative Actions Considered

It is possible to leave rule 225 and form CM-200 unchanged. But the committee thought it preferable to modify both to make the purpose of the law on providing notice of settlements clearer.

Comments From Interested Parties

The proposed amendment to rule 225 and revision to form CM-200 were circulated for public comment in the spring of 2005. Eleven comments were received on this proposal. The commentators included court administrators, a court attorney, court ADR program director, 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 7–8.

Most of the commentators agreed with the proposal. Some commentators suggested further changes to the form. The committee agreed with the suggestions to add a proof of service to the form and for certain technical improvements to it. However, it did not agree that the form should be changed from mandatory to optional. Requiring the use of this form to notify the courts of settlement in all civil actions results in greater certainty, predictability, and efficiency.

Implementation Requirements and Costs

Some costs will be incurred in distributing the revised form; however, these should be offset by the benefits from clarifying that the form should only be used to notify the court of the settlement of an *entire* case.

Attachments

Rules Proposal

Rule 225 of the California Rules of Court is amended, effective January 1, 2006, to read:

1 **Rule 225. Duty to notify court and others of settlement of entire case**

2
3 **(a) [Notice of settlement]**

- 4
5 (1) If an entire case is settled or otherwise disposed of, each plaintiff or
6 other party seeking affirmative relief must immediately file written
7 notice of the settlement or other disposition with the court and serve the
8 notice on all parties and any arbitrator or other court-connected
9 alternative dispute resolution (ADR) neutral involved in the case. Each
10 plaintiff or other party seeking affirmative relief must also immediately
11 give oral notice to all of the above if a hearing, conference, or trial is
12 scheduled to take place within 10 days.
13
14 (2) If the plaintiff or other party seeking affirmative relief does not notify
15 an arbitrator or other court-connected ADR neutral involved in the case
16 of a settlement at least 2 days before the scheduled hearing or session
17 with that arbitrator or neutral, the court may order the party to
18 compensate the arbitrator or other neutral for the scheduled hearing
19 time. The amount of compensation ordered by the court must not exceed
20 the maximum amount of compensation the arbitrator would be entitled
21 to receive for service as an arbitrator under Code of Civil Procedure
22 section 1141.18(b) or that the neutral would have been entitled to
23 receive for service as a neutral at the scheduled hearing or session.
24

25 **(b) [Dismissal of case]** Except as provided in (c), each plaintiff or other party
26 seeking affirmative relief must serve and file a request for dismissal of the
27 entire case within 45 days after the date of settlement of the case. If the
28 plaintiff or other party required to serve and file the request for dismissal
29 does not do so, the court must dismiss the entire case 45 days after it
30 receives notice of settlement unless good cause is shown why the case
31 should not be dismissed.
32

33 **(c) [Conditional settlement]** If the settlement agreement conditions dismissal
34 on the satisfactory completion of specified terms that are not to be performed
35 within 45 days of the settlement, the notice of conditional settlement served
36 and filed by each plaintiff or other party seeking affirmative relief must
37 specify the date by which the dismissal is to be filed. If the plaintiff or other
38 party required to serve and file a request for dismissal within 45 days after

1 the dismissal date specified in the notice does not do so, the court must
2 dismiss the entire case unless good cause is shown why the case should not
3 be dismissed.

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:	
NOTICE OF SETTLEMENT OF ENTIRE CASE	CASE NUMBER: JUDGE: DEPT.:

NOTICE TO PLAINTIFF OR OTHER PARTY SEEKING RELIEF

You must file a request for dismissal of the entire case within 45 days after the date of the settlement if the settlement is **unconditional**. You must file a dismissal of the entire case within 45 days after the date specified in item 1b below if the settlement is **conditional**. Unless you file a dismissal within the required time or have shown good cause before the time for dismissal has expired why the case should not be dismissed, the court will dismiss the entire case.

To the court, all parties, and any arbitrator or other court-connected ADR neutral involved in this case:

1. This entire case has been settled. The settlement is:
 - a. **Unconditional.** A request for dismissal will be filed within 45 days after the date of the settlement.
Date of settlement: _____
 - b. **Conditional.** The settlement agreement conditions dismissal of this matter on the satisfactory completion of specified terms that are not to be performed within 45 days of the date of the settlement. A request for dismissal will be filed no later than *(date)*: _____
2. Date initial pleading filed: _____
3. Next scheduled hearing or conference:
 - a. Purpose: _____
 - b. (1) Date: _____
 - (2) Time: _____
 - (3) Department: _____
4. Trial date:
 - a. No trial date set.
 - b. (1) Date: _____
 - (2) Time: _____
 - (3) Department: _____

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 ATTORNEY PARTY WITHOUT ATTORNEY)

▶

 (SIGNATURE)

PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER:
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**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF SETTLEMENT OF ENTIRE CASE**

(NOTE: You cannot serve the Notice of Settlement of Entire Case 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 Settlement of Entire Case* 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 Settlement of Entire Case* 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)
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SPR05-13**Notice of Settlement: (amend Cal. Rules of Court, rule 225; revise form CM-200)**

	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.	Civil Managers Superior Court of California, County of Orange Santa Ana	AM	Y	Add a proof of service of mailing.	The committee agreed with this suggestion.
3.	Ms. Deborah Decker Administrative Analyst Superior Court of California, County of Butte Oroville	A	N	No specific comment.	No response required.
4.	Superior Court of California, County of Los Angeles	A	Y	No specific comment.	No response required.
5.	Mr. Stephen Love Executive Officer Superior Court of California, County of San Diego	A	N	No specific comment.	No response required.
6.	Ms. Mimi Lyster Director, ADR Programs Superior Court of California, County of Contra Costa Martinez	A	N	No specific comment.	No response required.
7.	Ms. Pam Moraida Court Program Manager Superior Court of California, County of Solano Fairfield	A	N	No specific comment.	No response required.
8.	Ms. Tina Rasnow Senior Attorney/Coordinator Superior Court of California, County of Ventura	AM	N	In the "Notice to Plaintiff or Other Party Seeking Relief," I suggest adding (in the second line after "by the court"): "if the settlement is unconditional." Also, I suggest making	The committee agreed that the text of the Notice should be clarified and has modified it, but not as suggested. It found that version to

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				“conditional” and “unconditional” bold. And I suggest adding after “item 1b” the word “below.”	be difficult to understand.
9.	Ms. Patti Morda-Widdows Court Program Manager Superior Court of California, County of Ventura	AM	N	Make this form optional instead of mandatory. Add language in the event some of the parties have previously been dispositioned and only the remaining parties are settling.	The committee disagreed. This form has been mandatory and should continue to be. This ensures that consistent, readily identifiable notices of settlement are filed in every court. As explained in the report, the form is intended to be used to provide notice of settlement of an <i>entire</i> case.
10.	Committee on Administration of Justice The State Bar of California San Francisco	AM	Y	The Committee on Administration of Justice (CAJ) supports this proposal. There was, however, some discussion within CAJ as to whether the existing rule is meant to apply to dismissal of an entire case only, or less than the entire case. In the case of settlement involving some, but not all, of the parties, CAJ believes it makes practical sense to notify all parties and the court of the settlement, but CAJ does not believe there is a need to require the parties to provide that notification.	The committee agreed with the commentators. The purpose of rule 225 and form CM-200 is to ensure that the court is notified when an entire case is settled. It may, of course, also make practical sense to provide notice of partial settlements; but that is not governed by this rule.
11.	Mr. Dean Zipser President Orange County Bar Association Irvine	A	Y	No specific comment.	No response required.