

Judicial Council of California • Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688
<http://www.courts.ca.gov/policyadmin-invitationstocomment.htm>

INVITATION TO COMMENT

SPR11-22

Title	Action Requested
Civil Forms: <i>Writ of Execution</i>	Review and submit comments by June 20, 2011
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form EJ-130	January 1, 2012
Proposed by	Contact
Civil and Small Claims Advisory Committee	Anne Ronan
Hon. Dennis M. Perluss, Chair	415-865-8933
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Summary

Code of Civil Procedure Section 699.520 on writs of execution was amended by Assembly Bill 2394 (Brownley; Stats. 2010; ch. 680) to require that a writ of execution, possession, or sale specify certain additional information, including the type of legal entity of the judgment debtor, if other than a natural person, and a statement indicating whether the case is a limited or unlimited civil action. The Judicial Council current writ form, *Writ of Execution* (form EJ-130), does not include places where this newly required information may be provided. The proposed revisions to the form would remedy that.

Discussion

Assembly Bill 2394 was primarily enacted to authorize sheriffs or other levying officers to electronically transmit and receive certain documents and records pertaining to the enforcement of judgments, upon agreement with courts and with financial institutions. In addition to the provisions regarding such electronic transmissions, the bill added some further requirements about what information must be included in a writ of execution. Specifically, in addition to providing the name and last known address of a judgment debtor, the writ must identify the type of legal entity the judgment debtor is if other than a natural person. (Code Civ. Proc., § 699.520(c).) In addition, the writ must state whether the case in which the writ is being issued is a limited or unlimited case. Code Civ. Proc., § 699.520(k).

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

Most writs of execution are prepared by parties on the Judicial Council's *Writ of Execution* (form EJ-130) and presented to the court clerk to be issued. While the use of the form is not mandated, the form is the most frequently used format in which such writs are presented to the courts. Revision of the form to specifically include the newly required information would be helpful to courts and parties.

The proposed revisions are as follows. First, a new item has been added under the Case Number box at the top of the form, with check boxes to indicate whether the action is a limited case or an unlimited one. Specific comments are requested on whether any additional choices should be added to this box, to identify, for example, small claims or family law actions.

Second, new text has been added to items 4 (judgment debtor), 21 (additional judgment debtor), and 23 (joint judgment debtor) to indicate that the information provided in each should include the type of legal entity by which the judgment debtor, if not a natural person, is described in the judgment. The space in which to respond to each of those items has been increased to allow additional information in the response. In order to add the extra line of text to item 4 and to add additional space for the response, item 4 has been modified to allow information on only one judgment debtor on the first page of the form, rather than two.

In addition, a technical correction has been made to item 24, changing the cross-reference in that item to 24e.

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number and address):

TELEPHONE NO.: _____ FAX NO.: _____

E-MAIL ADDRESS: _____

ATTORNEY FOR (Name): _____

ATTORNEY FOR JUDGMENT CREDITOR ASSIGNEE OF RECORD

FOR COURT USE ONLY

DRAFT

**Not approved by
Judicial Council
V.4**

03.28.11

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS: _____

MAILING ADDRESS: _____

CITY AND ZIP CODE: _____

BRANCH NAME: _____

PLAINTIFF: _____

DEFENDANT: _____

WRIT OF

EXECUTION (Money Judgment)

POSSESSION OF Personal Property

SALE Real Property

CASE NUMBER: _____

Limited Civil Case

Unlimited Civil Case

1. To the Sheriff or Marshal of the County of:

You are directed to enforce the judgment described below with daily interest and your costs as provided by law.

2. To any registered process server: You are authorized to serve this writ only in accord with CCP 699.080 or CCP 715.040.

3. (Name): _____ is the judgment creditor assignee of record whose address is shown on this form above the court's name.

4. **Judgment debtor** (name, type of legal entity stated in judgment if not a natural person, and last known address): _____

9. See next page for information on real or personal property to be delivered under a writ of possession or sold under a writ of sale.

10. This writ is issued on a sister-state judgment.

11. Total judgment \$ _____

12. Costs after judgment (per filed order or memo CCP 685.090) \$ _____

13. Subtotal (add 11 and 12) \$ _____

14. Credits \$ _____

15. Subtotal (subtract 14 from 13) \$ _____

16. Interest after judgment (per filed affidavit CCP 685.050) (not on GC 6103.5 fees) . . . \$ _____

17. Fee for issuance of writ \$ _____

18. **Total** (add 15, 16, and 17) \$ _____

_____ Additional judgment debtors on next page

5. Judgment entered on (date): _____

6. **Judgment renewed** on (dates): _____

7. **Notice of sale** under this writ

a. has not been requested.

b. has been requested (see next page).

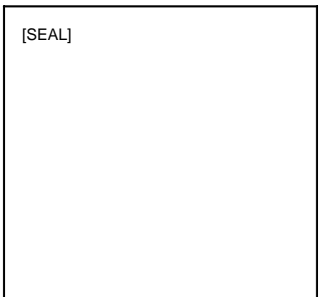
8. Joint debtor information on next page.

19. Levying officer:

(a) Add daily interest from date of writ (at the legal rate on 15) (not on GC 6103.5 fees) of. \$ _____

(b) Pay directly to court costs included in 11 and 17 (GC 6103.5, 68511.3; CCP 699.520(i)) \$ _____

20. The amounts called for in items 11–19 are different for each debtor. These amounts are stated for each debtor on Attachment 20.



Issued on (date): _____ Clerk, by _____, Deputy

NOTICE TO PERSON SERVED: SEE NEXT PAGE FOR IMPORTANT INFORMATION.

PLAINTIFF:	CASE NUMBER:
DEFENDANT:	

— Items continued from page 1—

21. **Additional judgment debtor** (name, type of legal entity stated in judgment if not a natural person, and last known address):

22. **Notice of sale** has been requested by (name and address):

23. **Joint debtor** was declared bound by the judgment (CCP 989–994)

a. on (date): b. name, type of legal entity stated in judgment if not a natural person, and last known address of joint debtor:	a. on (date): b. name, type of legal entity stated in judgment if not a natural person, and last known address of joint debtor:
_____ _____	_____ _____

c. additional costs against certain joint debtors (itemize):

24. (Writ of Possession or Writ of Sale) **Judgment** was entered for the following:

a. Possession of real property: The complaint was filed on (date):
(Check (1) or (2)):

(1) The Prejudgment Claim of Right to Possession was served in compliance with CCP 415.46.
 The judgment includes all tenants, subtenants, named claimants, and other occupants of the premises.

(2) The Prejudgment Claim of Right to Possession was NOT served in compliance with CCP 415.46.
 (a) \$ _____ was the daily rental value on the date the complaint was filed.
 (b) The court will hear objections to enforcement of the judgment under CCP 1174.3 on the following dates (specify):

b. Possession of personal property.
 If delivery cannot be had, then for the value (itemize in 24e) specified in the judgment or supplemental order.

c. Sale of personal property.

d. Sale of real property.

e. Description of property:

NOTICE TO PERSON SERVED

WRIT OF EXECUTION OR SALE. Your rights and duties are indicated on the accompanying *Notice of Levy* (Form EJ-150).
 WRIT OF POSSESSION OF PERSONAL PROPERTY. If the levying officer is not able to take custody of the property, the levying officer will make a demand upon you for the property. If custody is not obtained following demand, the judgment may be enforced as a money judgment for the value of the property specified in the judgment or in a supplemental order.
 WRIT OF POSSESSION OF REAL PROPERTY. If the premises are not vacated within five days after the date of service on the occupant or, if service is by posting, within five days after service on you, the levying officer will remove the occupants from the real property and place the judgment creditor in possession of the property. Except for a mobile home, personal property remaining on the premises will be sold or otherwise disposed of in accordance with CCP 1174 unless you or the owner of the property pays the judgment creditor the reasonable cost of storage and takes possession of the personal property not later than 15 days after the time the judgment creditor takes possession of the premises.
 ► A Claim of Right to Possession form accompanies this writ (unless the Summons was served in compliance with CCP 415.46).

Item SPR11-22 Response Form

Title: Civil Forms: Writ of Execution (revise form EJ-130)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: www.courts.ca.gov/policyadmin-invitationstocomment.htm

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Monday, June 20, 2011

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.