

# Judicial Council of California • Administrative Office of the Courts

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## INVITATION TO COMMENT

### SPR11-23

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Title	Action Requested
Civil Forms: <i>Notice of Entry of Dismissal and Proof of Service</i>	Review and submit comments by June 20, 2012
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Revise form CIV-120	January 1, 2012
From	Contact
Civil and Small Claims Advisory Committee Hon. Dennis M. Perluss, Chair	Anne Ronan 415-865-8933 anne.ronan@jud.ca.gov

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### Summary

The mandatory form *Notice of Entry of Dismissal and Proof of Service* (form CIV-120) does not currently include an item for proof of electronic service. The form would be revised so that it may be used appropriately in cases in which electronic service has been agreed to by the parties or ordered by the court.

### Discussion

The California Rules of Court provide that electronic service of notice is permitted in certain circumstances. (See Cal. Rules of Court, rule 2.251(a)–(b).) In the recent past, the Judicial Council has developed rules regarding proof of such service and forms that may be used to present such proof. (See Cal. Rules of Court, rule 2.251(g) and form POS-050.)

The *Notice of Entry of Dismissal and Proof of Service* (form CIV-120), a mandatory form required to be served and filed in all cases that have been voluntarily dismissed, includes a proof of service as an integral part of the form. That proof, however, does not provide for proof of electronic service. The revisions to the form proposed here were designed to allow parties to include proof of such service.

To accomplish this goal, a second part has been added to item 1 of the form to require the electronic address of the server in addition to the physical address when electronic service is used. In addition, new item 3 will enable the party serving the notice electronically to provide the

*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 These proposals are circulated for comment purposes only.*

information required by rule 2.251(g) for proof of electronic service. Item 3 also includes a check box to allow a party to attach the proof of electronic service separately.

Item 4, for service by personal delivery, has been reformatted so that the items are parallel to those for service by other means, where appropriate.

Item 5 has been added to allow parties to indicate that additional proofs of service are attached in cases with multiple parties served.

In addition to these revisions, the proposed form would eliminate the “optional” qualifiers from the email and fax items in the attorney address box at the top of the form.

### **Specific Comments Requested**

In addition to seeking comments generally on the proposed revisions to the form, comments are requested on an alternative considered by the committee. This alternative to the changes proposed here would be to remove the integral proof of service from the form altogether and instead add an instruction box stating that the form must be filed with proof of service attached or filed simultaneously and directing the parties to the other Judicial Council forms for proofs of service. The text would read as follows:

The original of this *Notice of Entry of Dismissal* must be filed with the clerk of this court with proof that a copy was served on each attorney in this action and on each party not represented by an attorney. You may prepare your own proof of service or you may use the applicable Judicial Council form, such as form POS-020, POS-030, POS-040, or POS-050 (if electronic service has been ordered by the court or agreed to by the parties) for the proof of service.

Specific comments are requested on this alternative as well as on the proposed revised form attached here.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): _____ :  TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY  <b>DRAFT</b> <b>Not approved by</b> <b>Judicial Council</b>  <b>03.28.11</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
<b>NOTICE OF ENTRY OF DISMISSAL AND PROOF OF SERVICE</b> <input type="checkbox"/> <b>Personal Injury, Property Damage, or Wrongful Death</b> <input type="checkbox"/> <b>Motor Vehicle</b> <input type="checkbox"/> <b>Other</b> <input type="checkbox"/> <b>Family Law</b> <input type="checkbox"/> <b>Eminent Domain</b> <input type="checkbox"/> <b>Other (specify):</b>	CASE NUMBER:

**TO ATTORNEYS AND PARTIES WITHOUT ATTORNEYS:** A dismissal was entered in this action by the clerk as shown on the *Request for Dismissal*. (Attach a copy completed by the clerk.)

Date: \_\_\_\_\_

\_\_\_\_\_  
 (TYPE OR PRINT NAME OF  ATTORNEY  PARTY WITHOUT ATTORNEY) (SIGNATURE)

**PROOF OF SERVICE**

1. I am over the age of 18 and not a party to this cause. My residence or business address is:
  - The electronic service address from which I served the documents is *(complete if electronic service is used based on a court order or agreement of the parties)*: \_\_\_\_\_
2.  I am a resident of or employed in the county where the mailing occurred. I served a copy of the *Notice of Entry of Dismissal and Request for Dismissal* by mailing them, in a sealed envelope with postage fully prepaid, as follows:
  - a.  I deposited the envelope with the United States Postal Service.
  - b.  I placed the envelope for collection and processing for mailing following this business's ordinary practice 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.
  - c. Date of deposit: \_\_\_\_\_
  - d. Place of deposit (*city and state*): \_\_\_\_\_
  - e. Addressed as follows (*name and address*): \_\_\_\_\_
3.  I served a copy of the *Notice of Entry of Dismissal and Request for Dismissal* by electronically serving copies as shown below:
  - a. Name of person served: \_\_\_\_\_
  - b. Electronic service address of person served: \_\_\_\_\_
  - c. On (*date*): \_\_\_\_\_
  - d. At (*time*): \_\_\_\_\_ Proof of electronic service is attached.
4.  I served a copy of the *Notice of Entry of Dismissal and Request for Dismissal* by personally delivering copies as shown below:
  - a. Name of person served: \_\_\_\_\_
  - b. Address at which person served: \_\_\_\_\_
  - c. On (*date*): \_\_\_\_\_
  - d. At (*time*): \_\_\_\_\_
5.  Proof of service on additional parties is 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) (SIGNATURE OF DECLARANT)

## Item SPR11-23 Response Form

**Title:** Civil Forms: Notice of Entry of Dismissal and Proof of Service (revise form CIV-120)

- 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](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

Email: [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

Mail: Ms. Camilla Kieliger  
Judicial Council, 455 Golden Gate Avenue  
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Fax: (415) 865-7664, Attn: Camilla Kieliger

<b>DEADLINE FOR COMMENT: 5:00 p.m., Monday, June 20, 2011</b>
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*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.*