



Judicial Council of California · Administrative Office of the Courts

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

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: August 23, 2013

Title

Judicial Council Report to the Legislature:
Default Prove Up in Collections Cases Under
Government Code Section 68526

Agenda Item Type

Action Required

Effective Date

September 30, 2013

Rules, Forms, Standards, or Statutes Affected
None

Date of Report

August 8, 2013

Recommended by

Mary M. Roberts, Chief Counsel
Susan R. McMullan, Senior Attorney
Legal Services Office, Administrative Office
of the Courts

Contact

Susan R. McMullan, 415-865-7990
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Executive Summary

Government Code section 68526 requires the Judicial Council to conduct an analysis of the cost incurred by trial courts related to the default prove up process and report on the different methods trial courts use in processing filings related to the default prove up process, as well as the revenue generated by these filings. The Administrative Office of the Courts recommends that the Judicial Council approve this report and direct that it be transmitted to the Legislature.

Recommendation

The Administrative Office of the Courts (AOC) recommends that the Judicial Council:

1. Approve the report, *Judicial Council Report to the Legislature: Default Prove Up in Collections Cases Under Government Code Section 68526*, and
2. Direct the AOC to transmit the report to the Legislature.

Previous Council Action

There is no directly relevant previous council action.

Rationale for Recommendation

This report is based on input from 47 courts responding to a statewide survey and includes information made available to the Collections Cases Working Group of the Civil and Small Claims Advisory Committee.

The submission of this report to the Legislature is required under Government Code section 68526, which provides that the council “shall conduct an analysis of the cost incurred by trial courts related to the default prove up process and report on the different methods trial courts use in processing filings related to the default prove up process, as well as the revenue generated by these filings. The Judicial Council shall also compare the processes used by trial courts in filings related to the default prove up process to best practices used in other states, including, but not limited to, the use of electronic filing.” (Gov. Code, § 68526(a).) The Judicial Council must provide its report to the Assembly Committee on Budget, the Senate Committee on Budget and Fiscal Review, and the Legislative Analyst’s Office by September 30, 2013. (Gov. Code, § 68526(c).)

Comments, Alternatives Considered, and Policy Implications

This report did not circulate for comment. Because it is required by statute, there were no alternatives considered.

Implementation Requirements, Costs, and Operational Impacts

There are no immediate implementation requirements, costs, or operational impacts. Under Government Code section 68526(b), however, “The Legislative Analyst’s Office shall review the Judicial Council report, consult with stakeholders, consider the best practices of other states, and make any recommendations to increase efficiency, streamline the processes and turnaround times for filing documents related to the default prove up process, and assess whether any changes should be made to the fee structure for filings related to the process. In conducting its analysis, the Legislative Analyst’s Office shall consider, among other factors it deems relevant, whether electronic filing could be implemented as a tool to improve the efficiency and turnaround times of the default prove up process.”

Any recommendations by the Legislative Analyst’s Office could have implementation requirements, costs, or operational impacts.

Attachments

1. *Default Prove Up Process in Collections Cases: Judicial Council Report to the Legislature Under Government Code Section 68526*



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

STEVEN JAHR
Administrative Director of the Courts

August 23, 2013

Hon. Mark Leno
Chair, Senate Committee on Budget and Fiscal Review
State Capitol, Room 5100
Sacramento, California 95814

Hon. Nancy Skinner
Chair, Assembly Committee on Budget
State Capitol, Room 6026
Sacramento, California 95814

Mr. Mac Taylor
Legislative Analyst
925 L Street, Suite 1000
Sacramento, California 95814

RE: Report on the Default Prove Up Process, as required by Government Code section 68526

Dear Senator Leno, Assembly Member Skinner, and Mr. Taylor:

The Judicial Council respectfully submits this report, as required by Government Code section 68526, which provides that “[t]he Judicial Council shall conduct an analysis of the cost incurred by trial courts related to the default prove up process and report on the different methods trial courts use in processing filings related to the default prove up process, as well as the revenue generated by these filings. The Judicial Council shall also compare the processes used by trial courts in filings related to the default prove up process to best practices used in other states, including, but not limited to, the use of electronic filing.”

Hon. Mark Leno
Hon. Nancy Skinner
Mr. Mac Taylor
August 23, 2013
Page 2

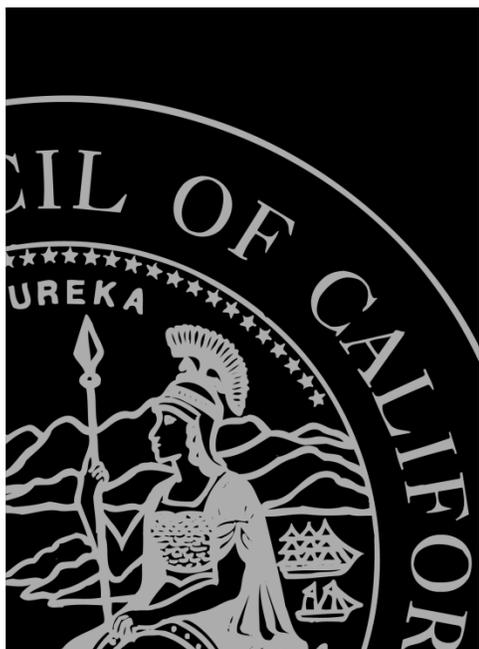
If you have any questions related to this report, please contact Susan McMullan, Senior Attorney, AOC Legal Services Office, at 415-865-7990, or susan.mcmullan@jud.ca.gov.

Sincerely,

Steven Jahr
Administrative Director of the Courts

SJ/SM/ms

cc: Members of the Judicial Council
Hon. Bill Emmerson, Vice-Chair, Senate Committee on Budget and Fiscal Review
Hon. Jeff Gorrell, Vice-Chair, Assembly Committee on Budget
Ms. Diane Boyer-Vine, Legislative Counsel
Mr. Gregory P. Schmidt, Secretary of the Senate
Mr. E. Dotson Wilson, Chief Clerk of the Assembly
Ms. Peggy Collins, Principal Consultant, Joint Legislative Budget Committee
Ms. Margie Estrada, Principal Consultant, Office of Senate President Pro Tempore
Darrell Steinberg
Mr. Benjamin Palmer, Chief Counsel, Senate Committee on Judiciary
Mr. Joe Stepenshaw, Consultant, Senate Committee on Budget and Fiscal Review
Mr. Matt Osterli, Consultant, Senate Republican Fiscal Office
Mr. Mike Petersen, Senior Consultant, Senate Republican Office of Policy
Ms. Fredericka McGee, Chief Counsel, Office of Speaker of the Assembly John A. Pérez
Mr. Marvin Deon II, Consultant, Assembly Committee on Budget
Mr. Drew Liebert, Chief Counsel, Assembly Committee on Judiciary
Mr. Allan Cooper, Consultant, Assembly Republican Fiscal Office
Mr. Paul Dress, Consultant, Assembly Republican Office of Policy
Ms. Anita Lee, Fiscal and Policy Analyst, Legislative Analyst's Office
Mr. Jay Sturges, Principal Program Budget Analyst, Department of Finance
Ms. Jody Patel, AOC Chief of Staff
Mr. Curt Soderlund, AOC Chief Administrative Officer
Mr. Curtis L. Child, AOC Chief Operating Officer
Mr. Cory Jasperson, Director, AOC Office of Governmental Affairs
Ms. Zlatko Theodorovic, Director, AOC Fiscal Services Office
Mr. Peter Allen, Senior Manager, AOC Office of Communications



Default Prove Up in Collections Cases

JUDICIAL COUNCIL REPORT TO THE
LEGISLATURE UNDER GOVERNMENT
CODE SECTION 68526

AUGUST 2013



JUDICIAL COUNCIL
OF CALIFORNIA

ADMINISTRATIVE OFFICE
OF THE COURTS



Judicial Council of California
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TANI CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

STEVEN JAHR
Administrative Director of the Courts

Report Summary

Report title: Default Prove Up in Collections Cases

Statutory citation: Government Code Code section 68526

Date of report: August 2013

The Judicial Council has submitted a report to the Legislature in accordance with Government Code section 68526.

The following summary of the report is provided under the requirements of Government Code section 9795.

From June 25 through July 12, 2013, the AOC surveyed all 58 superior courts on topics designed to elicit information required by Government Code section 68526. Responses were submitted by 47 courts (81%).¹

Courts were fairly consistent in their responses to the questions that asked how they process a request for entry of default and a request for default judgment under Code of Civil Procedure section 585. Courts were asked about their use of checklists to ensure proper steps are followed and that default requests are processed uniformly and efficiently. Staff obtained copies of checklists, which are attached to the report.

Courts provided information on the numbers of staff and judicial officers involved in processing collections cases, and the percentage of time these staff spent on the default prove up process. Taking the numbers, the percentage of time spent on default cases, and the statewide average salaries and benefits for those classifications, as well as a statewide average cost of operating

¹ Information addressing the cost incurred by trial courts related to the default prove up process and the revenue generated by filings [of collections cases], was based on responses from 39 courts. Those courts responded by July 10, 2013 (two days after the requested response date). Because of the time needed to analyze data related to those two questions, it was not possible to include data in the sections on “Costs Incurred by Trial Courts Related to Default Prove Up” and “Revenue Generated by Filings” that were submitted by the 8 courts that responded later.

expenses and equipment (OE&E), and extrapolating statewide, it can be estimated that statewide trial court costs for processing default collections cases is \$15.675 million.

In terms of the revenue, the report finds that courts receive no revenue from filings related directly to the default prove up process. However, an estimated \$35–\$40 million was received from filings related to default collections cases in fiscal year 2011–2012, the last year for which complete filings data were available at the time of the writing of this report.

Concerning electronic filing of requests for entry of default and default judgments, five courts responded that they offer e-filing in these circumstances. Of those that offer e-filing, the percentage of cases filed electronically ranged from zero to 20 percent in four courts, to more than 50 percent in the Superior Court of Orange County.

The full report can be accessed here: <http://www.courts.ca.gov/18654.htm>. A printed copy of the report may be obtained by calling 415-865-7446.

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Administrative Director of the Courts
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Government Code section 68526 provides that the council “shall conduct an analysis of the cost incurred by trial courts related to the default prove up process and report on the different methods trial courts use in processing filings related to the default prove up process, as well as the revenue generated by these filings. The Judicial Council shall also compare the processes used by trial courts in filings related to the default prove up process to best practices used in other states, including, but not limited to, the use of electronic filing.” (Gov. Code, § 68526(a).)]

I. Background

In 2010, the California Association of Collectors, a statewide association representing debt collection businesses, sponsored budget trailer bill language that required the Judicial Council to conduct the study on the default prove up process that is the subject of this report. (Sen. Bill 857; Stats. 2010, ch. 720, § 14; codified at Gov. Code, § 68526.) Pursuant to this legislation, the Judicial Council would have been required to report to the budget committees of the Legislature and the Legislative Analyst’s Office on the results of the study by September 30, 2011. In 2011, with the support of the California Association of Collectors, the Judicial Council sought legislation that would extend the study deadline for two years while it pursued collaborative efforts to improve the courts’ handling of collections cases through its Collections Cases Working Group, which is described below. The Legislature agreed to this extension, which was included in the 2011 budget trailer bill for the courts. (Assem. Bill 110; Stats. 2011, ch. 193, § 1).

II. Collaborative Efforts to Improve Collection Case Procedures

The Collections Cases Working Group of the Judicial Council’s Civil and Small Claims Advisory Committee (CSCAC) was created in April 2011 to address various procedural issues involving lawsuits to collect consumer debt. In addition to members of the CSCAC, members of the working group include representatives from the collections bar and consumer groups and a former CSCAC member, Judge Robert Freedman of the Superior Court of Alameda County, who serves as chair. The charge of the working group is to “[i]dentify issues and make recommendations to the Judicial Council’s Civil and Small Claims Advisory Committee on possible changes to increase the efficient handling of collections cases in superior court, consistent with the legal rights and obligations of the parties.”

In various meetings since its formation, the working group has considered and provided input on legislation relating to the collection of consumer debt.¹ The working group also considered

¹ The working group provided technical assistance on legislation originally introduced in the 2011–2012 Legislative Session (SB 890 [Leno]) and then reintroduced and ultimately enacted in 2013 (SB 233 [Leno]; Stats. 2013, ch. 64) that imposes various requirements on practices that may be used to collect on purchased consumer debt. The working group also provided technical assistance and is continuing to provide input on the currently pending SB 702 (Anderson), legislation sponsored by the California Association of Collectors that seeks to codify the elements required to be provided to the court in support of a default judgment in collections cases. In addition, the working group provided technical assistance on legislation introduced in 2013 (AB 1167 [Dickinson]) that seeks to clarify and enhance the use of electronic writs in the enforcement of judgments. Following the recommendations of the

possible rule amendments that would affect collections cases. At the suggestion of a member, the CSCAC developed, and the Judicial Council adopted, a rule amendment to provide that on the filing of a notice of conditional settlement, the court must vacate all hearings and other proceedings requiring the appearance of a party and not set any such proceeding until at least 45 days after the dismissal date specified in the notice of conditional settlement, and to refer specifically to “payment in installment payments” to clarify that the rule applies in such circumstances. (See Cal. Rules of Court, rule 3.1385(c).)

In addition, the working group provided valuable input on a script for a video produced by the Administrative Office of the Courts to help self-represented litigants resolve debt claims. The working group has, in several meetings, discussed ways to standardize how courts handle requests for default judgments, efficient and fair case management in collections cases, and technology solutions, including permitting telephonic testimony. Most recently, working group members received information on collections hubs—courtrooms dedicated to collections cases—in the Superior Court of Los Angeles County.

III. Survey

From June 25 through July 12, 2013, the AOC surveyed all 58 superior courts, using an online survey, on topics designed to elicit information required by Government Code section 68526. A copy of the survey is attached. The survey was divided into three sections to help courts identify the appropriate person to respond to each question. The first section addressed procedures for processing collections cases and was directed to a person knowledgeable about civil division operations and staff. The second section included questions about legal staff time and judicial officer time spent processing collections cases. The third section addressed filings and dispositions of collections cases, including the percent disposed of through a default judgment, and was directed to a person knowledgeable about court case statistics. Complete or partial responses were submitted by 47 courts (81%).²

IV. Methods Used by Trial Courts in Processing Requests for Default

Courts were fairly consistent in their responses to the questions that asked how they process a request for entry of default and a request for default judgment under Code of Civil Procedure section 585. The question about processing a request for entry of default asked the following:

Describe how a request for entry of default under Code of Civil Procedure section 585 in a collections case is processed by your court. [Question 2.]

working group and other advisory bodies, the Judicial Council adopted support positions on both SB 233 and AB 1167.

² Information addressing the cost incurred by trial courts related to the default prove up process and the revenue generated by filings of collections cases was based on responses from 39 courts. Those courts responded by July 10, 2013 (two days after the requested response date). Because of the time needed to analyze data related to those two questions, it was not possible to include data in the sections on “Costs Incurred by Trial Courts Related to Default Prove Up” and “Revenue Generated by Filings” that were submitted by the 8 courts that responded later.

Most courts responded with a description of each step in the process.³ Courts generally followed a procedure that began with a court clerk reviewing the case history to see if all proofs of service had been correctly served and filed, whether a responsive pleading had been filed by the party against whom the default was requested, and whether the time to do so had passed. Once it was determined that service was completed and there was no responsive pleading, the request for entry of default was then reviewed for accuracy, completeness, and signature. If all criteria were met, the entry of default and all supporting documents were processed and filed by the clerk. If the entry of default could not be approved because not all of the above prerequisites were met, the court clerk completed the request for entry of default indicating the reason it could not be entered. In either case, the court retained the original papers and returned an endorsed copy.

After a default is entered, a judgment of default must be entered. Courts also provided consistent descriptions of how a request for entry of default judgment is handled. The survey question read as follows:

Describe how a request for default judgment under Code of Civil Procedure section 585 in a collections case is processed by your court. [Question 3.]

A default judgment may be either a clerk's judgment (Code Civ. Proc., § 585(a)) or a court judgment (Code Civ. Proc., § 585(b)) and responding courts provided descriptions of both. A clerk may enter judgment, if certain criteria are met, in the amount stated in the complaint. In processing the request for entry of judgment, the clerk determines if default has been entered, and whether the case should proceed by clerk's judgment or by court judgment. Documents are checked for completeness and accuracy: the amount of the judgment is compared to the prayer for damages in the complaint or the statement of damages under Code of Civil Procedure section 425.11, interest computations are made, any costs or attorney fees are added, and the amount is totaled. The clerk will file any declarations that support the default judgment, such as a declaration for attorney fees, a declaration on contract for the amount at issue, and a declaration on the promissory note. The clerk verifies that all Doe defendants, or any other parties against whom judgment is not sought, have been dismissed. A deputy clerk will sign off and enter a default clerk's judgment.

A request for default judgment by the court is submitted to a judge for signature. The procedures and rules are much the same as those for a clerk's judgment; differences include that the plaintiff may be asking for attorney fees not listed in a schedule of fees, there is no written agreement to support the amount prayed for, or the contract has been lost. In these circumstances the attorney will submit a declaration stating the reasons that support the judgment. A plaintiff or plaintiff's attorney may seek judgment on the declarations or through a scheduled default prove up hearing.

Members of the working group had heard anecdotally that sometimes a request for entry of default is rejected for noncompliance with statutory requirements and sent back to the plaintiff with a single reason stated for rejection, even in a case in which there are multiple reasons for rejection. Upon correction of the deficiency and resubmission of the request for entry of default,

³ One court, the Superior Court of Mendocino County, responded that it follows procedures in the Court Clerk Training Institute's Training Manual.

it may be rejected for another reason. This obviously delays the final entry of default and default judgment. To assess this, the survey included the following question:

In determining whether there is reason to reject a request for entry of default and default judgment, are all the documents submitted in support of default reviewed to identify all reasons for rejection? [Question 4.]

All courts but one⁴ responded that they do identify all reasons for rejection.

V. Court Checklists

In discussing ways to improve the processing of requests for default in collections cases, the working group noted that some courts have checklists or guidelines to be used by court staff in processing requests for default. The working group obtained for its review checklists from several courts. These checklists help to ensure proper steps are followed and that default requests are processed uniformly and efficiently. In some courts, checklists or guidelines may be available to attorneys or others seeking default judgments in collections cases. Courts were asked about checklists in the following question:

Does your court have a checklist or guide to assist with the default process that is used by either court staff or the public? [Question 5.]

Twenty-eight courts responded that they do have a checklist. AOC staff followed up with a request for copies of checklists; checklists of the courts that provided them are attached. With the receipt of checklists from courts for processing requests for entry of default, the working group will continue to consider ways to standardize how courts handle requests for default judgments.

VI. Length of Time in Processing Requests for Default

Working group members heard anecdotal reports of delays in the time it took to process a request for entry of default. Not surprisingly, the delays got longer as court funding was cut and courts were required to lay off employees or reduce working hours. The amount of time differed greatly by court. To gather information beyond anecdotal reports and provide data relevant to this report, courts were asked the following question:

What is the average time (in calendar days) from the filing of a request for entry of default and default judgment until a default judgment is entered? [Question 8.]

The number of days ranged from 1 day to 296 days. (The Superior Court of San Mateo County explained in its response, “This backlog is due to the state budget cuts and reductions in court staff. San Mateo Court does not separate or differentiate the collection case defaults from other case type defaults, so the 296 days represents our oldest default judgment.”) Twelve courts responded that they process requests for entry of default and default judgment in 1, 2, or 3 days

⁴ The Superior Court of San Diego County responded that it does not identify all reasons for rejection. However, when papers are rejected for noncompliance and returned to the plaintiff, a checklist of all possible reasons for rejection is included so the plaintiff may review the papers and determine if other deficiencies should be corrected before resubmitting the papers.

and four courts responded that it took over 120 days (specifically 122, 180, 240, and 296 days). If a request for entry of default and default judgment was rejected for noncompliance with statutory and rule requirements, some courts reported taking a long time to notify the requesting party of this fact. The amount of time was similar to the time it took to process a request, although one court reported that it rejected requests much more quickly than it processed requests.⁵

VII. Costs Incurred by Trial Courts Related to Default Prove Up

Government Code section 68526 includes a requirement that the council report on the costs incurred by trial courts related to the default prove up process. Courts responded to a series of questions intended to help reach this determination. Specifically, courts provided information on the numbers of staff involved in processing collections cases and the percentage of time these staff spent on the default prove up process.⁶ By July 10, 2013, 30 courts provided information on the numbers of clerk's office staff, legal and paralegal staff, courtroom staff, and other non-judicial staff involved in processing collections cases, as well as the relative percentage of their time spent on the default prove up process. The same number of courts provided information on the numbers of judges and subordinate judicial officers involved in processing collections cases generally, and default collections cases more specifically.

Taking the numbers of staff, the percentage of time spent on default cases, and the statewide average salaries and benefits for those classifications, as well as a statewide average cost of operating expenses and equipment (OE&E), AOC staff estimated that these 30 courts spent \$4.4 million on staff costs related to the default prove up process in fiscal year 2012–2013. The courts responding to these questions represented 43 percent of the statewide caseload of collections cases. Extrapolating these data results in an estimate of \$10.22 million in statewide staff costs. Adding in the time spent by judges and subordinate judicial officers, it can be estimated that statewide, costs for judicial officers and staff for processing default collections cases is \$15.675 million. This figure does not include an estimate of the cost of processing initial filings; it consists only of the cost of processing requests for default and default judgments.

VIII. Revenue Generated by Filings

Section 68526 also requests information on the revenue generated by filings related to the default prove up process. Government Code section 70617(b)(8) prohibits courts from assessing a fee for requests for entry of default or a default judgment. Thus, in response to section 68526, courts receive no revenue from filings related to the default prove up process. It may be noted, however, that an estimated \$35–\$40 million was received from initial filings related to default collections cases in fiscal year 2011–2012, the last year for which complete filings data were

⁵ The Superior Court of San Joaquin County reported that it processes a request in 180 days and rejects a request for noncompliance in 3 days.

⁶ Court data were not validated, and due to time constraints that prevented follow-up with the courts, AOC staff occasionally were compelled to interpret an answer not provided in the anticipated format to ascertain what the court intended.

available at the time of the writing of this report.⁷ The following assumptions guided staff in reaching this estimate of revenues from initial filings:

- The 32 courts providing data about the numbers of collections cases were representative, allowing staff to extrapolate the following to all courts based on the information provided:
 - Collections cases are 49.17 percent of all limited civil cases.
 - Of all collections cases, 51.76 percent proceed by default.
- Collections cases divide up along the same percentages as other limited civil cases: between paid filings for cases with up to \$10,000 in controversy and paid filings with \$10,000–\$25,000 in controversy (as this affects the amount of the filing fee that is paid, and thus the revenue received by the court).⁸

IX. Use of Electronic Filing

Courts were asked about electronic filing in the following question:

Does your court offer electronic filing of a request for entry of default and a default judgment? [Question 6.]

In response to the survey, 6 out of 47 courts reported that they currently offer electronic filing of requests for entry of judgment and default judgments.⁹

In most of these courts, the number of such filings appears to be small. Five out of the six courts report that the percentage of requests filed electronically are between 0 and 20 per cent. Thus, it is difficult to estimate the impact of electronic filing of requests for entry of default or default judgments in these courts. However, in the Superior Court of Orange County, which instituted mandatory electronic filing in civil cases at the beginning of 2013, there is more information.

In the Superior Court of Orange County, for the month of May 2013, the number of e-filed unlimited civil cases is 27,167 (98.1% of all unlimited civil cases) and the number of e-filed limited civil cases is 31,985 (92.26% of all limited civil cases). The court has also reported on the average times from the filing of a request for entry of judgment and a default judgment until a default judgment is entered: clerk's defaults take an average of 5 calendar days; court defaults with no hearing take an average of 10 days; and court defaults with a prove up hearing take an average of 33 days. A comparison between these disposition times and those of courts using paper filings is difficult because the disposition times at courts using paper filings vary so widely among themselves. As indicated above, a few courts indicate that they are taking just 1-2 days to

⁷ These fees are distributed as set out in Government Code section 68085.1.

⁸ Data are maintained for the number of paid complaints filed, paid complaints in unlawful detainer cases filed, and paid responses filed. For purposes of this calculation, the percentage of limited civil filings represented by non-unlawful detainer complaints was the point of comparison.

⁹ The courts are the Superior Courts of Alameda, Orange, San Bernardino, San Diego, San Francisco, and Siskiyou Counties.

enter judgments whereas four courts report taking as long as 122, 180, 240, and 296 days. In general, compared with other courts, Orange's disposition times, which rely on electronic filing, appear to be quite good.

Based on its experiences with electronic filing, the Superior Court of Orange County has also made some preliminary estimates of the potential cost savings from e-filing. It estimates that because electronically filed documents require less time to file than paper documents, the labor savings approximate \$2 per document filed. In addition, the court estimates that it saves approximately an additional \$1.50 per document from using electronic records because of labor savings, reduced filing supplies (e.g., file jackets), reduction in physical records space, reduction in repair and maintenance associated with movable shelves, etc. The savings from e-filing and use of e-records will vary among the courts. But assuming cost savings similar to those in Orange can be achieved, shifting to the e-filing of documents, including requests for entry of default and default judgments, should save money.

X. Best Practices in Other States

Staff were unable to identify recognized best practices used in other states for processing filings related to the default prove up process in collections cases. Data were unavailable on the number of collections cases in other states that are disposed of by a default judgment. An additional obstacle to comparing the default prove up processes in collections cases in different states is that not all states define a collections case as it is defined in California's Government Code section 68526(d)(1) and in rule 3.740.¹⁰ Through the National Center for State Courts (NCSC), limited data were available on the number of seller-plaintiff cases¹¹ as a percentage of the total civil caseload. The percentage of the total civil caseload that were seller-plaintiff cases in the 10 states for which data were available ranged from 0.2 percent in North Carolina to 62 percent in Kansas.

New resources would be needed for the Judicial Council to gather further information on best practices used in other states for processing filings related to the default prove up process in collections cases. Though there is a lack of data currently, a research team at Harvard Law School is gathering data on a related subject: Phase I of a two-part investigation by the researchers includes an effort to identify the nature of consumer (particularly credit card) debt collection litigation occurring in the state courts. The research team is seeking answers from as many court systems as possible to a series of questions, including the following:

- How many debt collection lawsuits were filed in this court system per year in, say, the period from 2010 to 2012?

¹⁰ Both define "collections case" as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney fees, arising from a transaction in which property, services, or money were acquired on credit. The term *collections case* does not include an action seeking tort damages, punitive damages, recovery of real property or personal property, a prejudgment writ of attachment, or any action filed pursuant to the Family Code.

¹¹ This term is defined as "[c]ontract cases in which the plaintiff/seller brings suit against a buyer of goods or services for failure to pay for said goods or services as promised in an expressed or implied contract."

- To the extent discernible, how many such lawsuits were filed by debt buyers as opposed to original credit issuers?
- In what fraction of these suits was the defendant represented by counsel? In what fraction did the defendant receive some form of unbundled legal assistance (e.g., representation via a “lawyer for the day” program)?
- In each year in this court system, in what percentage of these lawsuits were default judgments issued?
- Does the court system have any procedural safeguards that apply to debt collection lawsuits, particularly those filed by debt buyers?
- What are the budgeting arrangements for each court system? In particular, are filing fees retained by the judiciary, either by explicit legal arrangement or implicit understanding? Are court budgets allocated according to caseloads?

Staff will obtain the final study report from Harvard Law School when completed and provide it to the Collections Cases Working Group for consideration. In addition, the working group will review checklists for processing requests for entry of default that were identified in the survey and have been provided by California courts. Staff anticipates that collaborative efforts like the Collections Cases Working Group will continue to identify efficiencies and improve procedures for the courts and those who rely on them.

Attachments

1. Survey of Courts
2. Court checklists on default process

Survey of Courts to Comply with Government Code Section 68526

Government Code section 68526^{*} requires the Judicial Council to conduct an analysis of the costs incurred by trial courts related to the default prove up process in collections cases (which are defined below and include open book accounts, common counts, installment contracts, credit card agreements, and similar cases) and to report to the Legislature on the different methods trial courts use in processing filings related to the default prove up process, as well as the revenue generated by these filings. The legislation also requires the Judicial Council to compare the processes used by trial courts in filings related to the default prove up process to best practices used in other states, including, but not limited to, the use of electronic filing and to include this in the report, which is due on September 30, 2013.

Definitions: For purposes of the statute and this survey, the following definitions apply:

"Collections case" means an action for recovery of money owed in a sum stated to be certain that is not more than twenty-five thousand dollars (\$25,000), exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money were acquired on credit. "Collections case" does not include an action seeking tort damages, punitive damages, recovery of real property or personal property, a prejudgment writ of attachment, or any action filed pursuant to the Family Code.

"Default prove up process" means a request for entry of default filed pursuant to Section 585 of the Code of Civil Procedure in a collections case.

Please use these definitions, which are set out in Government Code section 68526, when responding to survey questions. To comply with the requirements imposed by the statute, each superior court is asked to respond to the survey below by **Monday, July 8, 2013**.

The survey is divided into three sections, described below, to help you identify the appropriate person to respond to each. In some courts, one person may be the appropriate person to respond to all three sections. While completing the survey, the person responding will be able to choose only the section or sections to which that person will respond.

Section 1 concerns procedures for processing collections cases. This section is directed to a person knowledgeable about civil division operations and staff.

Section 2 concerns legal staff time and judicial officer time spent processing collections cases. This section is directed to a person knowledgeable about legal research staff and judicial officer responsibilities and time.

Section 3 concerns filings and dispositions of collections cases, including the percent disposed of through a default judgment. This section is directed to a person knowledgeable about court case statistics.

^{*}Added by Stats. 2010, ch. 720 (SB 857), sec. 14; amended by Stats. 2011, ch. 193 (AB 110), sec. 1.

1. How would you like to begin the survey?

- Go to Section 1.
- Go to Section 2 (skip Section 1).
- Go to Section 3 (skip Sections 1 and 2).

Survey of Courts to Comply with Government Code Section 68526

Section 1

To be completed by a person knowledgeable about civil division operations and staff.

Government Code section 68526 requires the Judicial Council to report on “the different methods trial courts use in processing filings related to the default prove up process[.]” The questions directly below are designed to elicit this information.

2. Describe how a request for entry of default under Code of Civil Procedure section 585 in a collections case is processed by your court.

3. Describe how a request for default judgment under Code of Civil Procedure section 585 in a collections case is processed by your court.

4. In determining whether there is reason to reject a request for entry of default and default judgment, are all the documents submitted in support of default reviewed to identify all reasons for rejection?

- Yes
- No

5. Does your court have a checklist or guide to assist with the default process that is used by either court staff or the public?

- Yes
- No

Survey of Courts to Comply with Government Code Section 68526

Government Code section 68526 requires the Judicial Council to “compare the processes used by [California] trial courts in filings related to the default prove up process to best practices in other states, including the use of electronic filing.”

6. Does your court offer electronic filing of a request for entry of default and a default judgment?

- Yes
- No

7. Estimate what percentage of requests for entry of default and a default judgment are filed electronically?

- 0 to 20%
- 21 to 50%
- More than 50%

8. What is the average time (in calendar days) from the filing of a request for entry of default and default judgment until a default judgment is entered?

Number of calendar days:

9. If a request for entry of default and default judgment is rejected for noncompliance with statutory and rule requirements, what is the average time (in calendar days) from the filing of the request until the rejection notice or letter is served by the court?

Number of calendar days:

Thank you for completing Section 1.

10. How you would you like to proceed?

- Go to Section 2, which concerns legal staff time and judicial officer time spent processing collections cases. This section is to be completed by a person knowledgeable about legal research staff and judicial officer responsibilities and time.
- Skip Section 2 and go to Section 3, which concerns filings and dispositions of collections cases, including the percent disposed of through a default judgment. This section is to be completed by a person knowledgeable about court case statistics.
- Skip Sections 2 and 3.

Survey of Courts to Comply with Government Code Section 68526

Section 2

To be completed by a person knowledgeable about legal research staff and judicial officer responsibilities and time.

You will be asked to estimate the number of specific categories of court staff involved in handling various aspects of collection cases. The estimate should be given in terms of full-time equivalent (FTE) rather than a count of individual persons. Examples: a person working full time has an FTE of 1.0; a person working 20 hours per week of a 40-hour work week has an FTE of 0.5.

11. In your best estimate, how many court staff FTEs handled the processing of collection cases during fiscal year 2012-13? Please provide your estimates in the following assignment categories:

Clerk's office staff	<input type="text"/>
Legal and paralegal staff	<input type="text"/>
Courtroom staff	<input type="text"/>
Other non-judicial staff	<input type="text"/>

12. What percent of total staff time (of the staff listed above) spent processing collection cases goes to the default prove up process?

13. In your best estimate, please specify the FTE number and type of judicial officers who handled the processing of collections cases during fiscal year 2012-13:

Judges	<input type="text"/>
Subordinate judicial officers	<input type="text"/>

14. What percent of total judicial time spent processing collection cases goes to the default prove up process?

Thank you for completing Section 2.

15. The final section, Section 3, concerns filings and dispositions of collections cases, including the percent disposed of through a default judgment. This section is to be completed by a person knowledgeable about court case statistics.

How would you like to proceed?

- Go to Section 3.
- Skip Section 3.

Survey of Courts to Comply with Government Code Section 68526

Section 3

To be completed by a person knowledgeable about court case statistics.

16. Filings data on civil limited cases reported by the court allows us to estimate the number of collections cases filed in your court in fiscal year 2011-2012. Please view the number for your court in the attachment to the email concerning this survey. Please confirm that this is correct or, if not, provide the number of cases.

- Correct
 Incorrect

If incorrect, please provide the correct number of collections cases.

17. What percentage of collections cases filed in your court are disposed of through a default judgment under Code of Civil Procedure section 585 (clerk's or court judgment)?

18. What is your best estimate of the relative percentage of requests for default and default judgment in collections cases according to the two categories below? Please enter the percentages. (Note: The percentages should total to 100%.)

Clerk's judgments (Subdivision (a) of Code of Civil Procedure section 585):

Court judgments (Subdivision (c) of Code of Civil Procedure section 585):

19. Does the court conduct hearings in cases seeking a court default judgment?

- Yes
 No

Please explain.

Contact Information

20. So that Administrative Office of the Courts staff may contact you if there are questions about your responses on behalf of the court, please provide your name and contact information. No one will be identified in the report.

Name:

Court:

Title:

E-mail Address:

Phone Number:

**PROCEDURE FOR ENTRY OF DEFAULT
SUPERIOR COURT OF MENDOCINO COUNTY**

502.06 Procedure for Entry of Default

The clerk will not enter a defendant(s)' default *automatically*. The plaintiff must apply to the court clerk in order to have default entered in accordance with the following:

Verify time requirements. The request for entry of default must be filed within 10 days after expiration of the time for service of a responsive pleading unless an extension of time has been granted. Follow local court policy regarding the timeliness of receiving the plaintiffs request for entry of default;

Verify submitted documents or more commonly referred to as the "default packet." The application for entry of default normally consists of:

- 1) Request to enter default;
- 2) Proof of service of summons and complaint or proof of notice after order fixing time for further response after hearing on a motion;
- 3) If applicable – proof of service of *statement of nature and amount of damages* [see CCP 425.11(d)(1) Personal injury or wrongful death actions]. Similar *statements of damages* may also be necessary in *limited civil injury* actions, actions seeking *punitive damages* and *accounting* actions;
- 4) *Declaration of non-military* – required if judgment is being sought. However, a declaration of non-military is not required for entry of default only. [InterinsuranceExchange of Auto. Club of So. Calif v. Collins (1994) 30 CA4th1445. 1447, 37 CR2d 126,127]

Forms Adopted for Mandatory Use by Judicial Council of California:

CIV-100	Request for Entry of Default
POS-010	Proof of Service of Summons
CTV-050	Statement of Damages

Verify the Request for Entry of Default form for type of request that is being made to the clerk. The form is a "multi-purpose form." It can be used simply to request entry of a defendant's default or it can also be used to obtain a clerk's default judgment or to request a default judgment hearing by the court. When the form is used **solely** to obtain entry of a clerk's default the following requirements apply:

**PROCEDURE FOR ENTRY OF DEFAULT
SUPERIOR COURT OF MENDOCINO COUNTY**

- 1) **Request to clerk:** The form asks the clerk to enter default of the defendant(s) named in the complaint or cross-complaint. Make certain the appropriate box is marked, which constitutes the term “written application” for entry of default – see CCP §585(a), (b), (c);
- 2) **Verify for completeness of the form:** If at all possible, process the entry of default even if the judgment packet incomplete. The plaintiff would want the default entered to avoid an answer or other response filed while they are making the required corrections. Of course, if the request to enter default is incorrect, you will reject it with notations and with the other submitted documents;
- 3) **Verify defendant(s) is named as sued and served on the request for entry of default:** Make sure the name(s) on the summons, complaint and proof of service match exactly. If the defendant is named incorrectly in the complaint, the plaintiff will have to correct the complaint before they proceed seeking an entry of default;
- 4) **Verify if defendant(s) was sued and served as a “Doe” defendant:** The complaint should be amended to show the true name of the person served before applying for a default;
 - Is there good service? Check any previous proof of service on file.
 - Is the time to answer or otherwise respond passed? Remember 30 days personal service, 40 days sub-service.
 - Has an answer or other appropriate response been filed? If yes, return the request for default and any other supporting documents with notation.
 - Has a motion been filed that prevents default? If yes, return the request for default and any other supporting documents with notation.
 - Has a bankruptcy been filed? If yes, return the request for default and any other supporting documents with notation.
 - Has default been entered previously? If yes, then treat as a supplemental request updating the information.
- 5) **Verify venue declaration:** See paragraph “5” on the form. No default may be entered without a declaration showing whether the action is based on certain consumer contracts having special venue provisions. Verify the complaint was filed in the proper court jurisdiction.

**PROCEDURE FOR ENTRY OF DEFAULT
SUPERIOR COURT OF MENDOCINO COUNTY**

- 6) **Verify mailing declaration:** Verify that a copy of the application for entry of default was mailed to defendant(s) or defendant(s)' attorney at his or her last known address. If address is unknown, verify proper box is marked on the request for default form – see CCP §587;

Note: There is no length of notice required. The notice is sufficient if mailed before the request for default was filed.

- 7) **Verify the need for a “Statement of damages” in injury type actions:** Pursuant to CCP §425.11, (nature of the action is for personal injury or wrongful death) proof of service must accompany any request for entry of default to assure that defendant(s) was served a notice of their potential liability in personal injury/wrongful death actions prior to entry of default.

Note: Method of service must be served in the same manner as a summons.

Clerk's Entry of Default – Pursuant to CCP §585(a), (b), (c) and receipt of the documentation noted above from the plaintiff, a clerk is under a mandatory duty to enter default:

- 1) Entry of default – check mark the appropriate box on the plaintiff's request for entry of default, signing and date the form.
- 2) Reject an application for entry of default if:
 - Form incomplete;
 - Fails to show the defendant(s) was properly given notice of the default; or
 - There is an answer/response on file.

Note: Entry of default is the first step towards a default judgment.

Effect of Default Entry – Once the clerk has entered default, the defendant's right to appear in the action thereafter is cut off. The only motion that the defendant can file is a motion to be relieved from default under CCP §473. Generally, the court has no authority to consider any other pleading or motion.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
CIVIL DEFAULT JUDGMENT WORKSHEET
Central Justice Center – Court Default Judgment

Default Judgment Worksheets Instructions

Explanation: The intent of the worksheets is to provide a checklist of items reviewed by the clerk and to ensure that the packet of documents submitted to the judicial officer is consistently presented in the same manner and order.

The worksheets are designed to indicate which areas are reviewed by staff and which items may need further review by the judicial officer or other specially designated person such as a research attorney or intern.

The following sections define the areas on the attached worksheet. Page one of the worksheet is the primary worksheet and page two is related to the specific complaint in review.

The right side of the worksheet shows who is responsible for reviewing the document. It is recommended that the worksheet be initially used to discuss responsibility with the judicial officer.

Staff will check off the areas that are true. If a section does not apply or is not available, the box will be left blank. These areas will or may require additional judicial review.

Judgment Eligibility

- Staff - verify judgment eligibility.

Automatic rejection of documents

- Staff – reject documents as specified in this section.

Documents

- Staff – print or otherwise ensure that the documents are placed in order for judicial review.

Declaration in Lieu of Testimony (CCP 585 (d))

- Staff – conduct a cursory review of the declaration and check for items within the declaration.

Calculations

- To the extent that information is indicated within the conclusion of the 585 declaration, and in the proposed judgment, staff will complete all calculations.

Completion

The Judicial Officer can sign the judgment or deny the judgment. Case Processing will then reject the judgment packet.

**Contract • Open Book Account • NSF Checks • Subrogation Claim • Auto Deficiency
Abandonment of Mobilehome**

Exhibits, Supporting Declarations, and/or Accounting Information									
Contract	<input type="checkbox"/> Original contract attached. <i>(Clerk flags attorney fee provision of contract unless other statutory provision applies.)</i> <input type="checkbox"/> Name and signature on contract does not apply to defendant: _____. Therefore, attorney fees only apply to defendant named in complaint and on the contract: _____								
Open Book Account	<input type="checkbox"/> Complaint states Open Book Account <input type="checkbox"/> Plaintiff is requesting attorney fees per CC 1717.5, therefore: <ul style="list-style-type: none"> <input type="checkbox"/> Declaration content from custodian of records in accordance with CCP 337a: The term "book account" means a detailed statement which constitutes the principal record of one or more transactions between a debtor and a creditor arising out of a contract or some fiduciary relation, and shows the debits and credits in connection therewith, and against whom in favor of whom entries are made, <i>is entered in the regular course of business as conducted by such creditor or fiduciary, and is kept in a reasonable permanent form and manner and is (1) in a bound book, or (2) on a sheet or sheet fastened in a book or backing but detachable but detachable therefrom, or (3) on a card or cards of a permanent character, or is kept in any other reasonable permanent form or manner.</i> <p style="text-align: center;">REJECT if the prove up package submitted does not contain proof in the form of a competent declaration or otherwise, showing that the provisions of CCP 337a have been complied with. Use the following statement on the (Reject) Notice to Filing Party:</p> <p style="text-align: center;">The court has denied attorneys fees under the open book account cause of action under Civil Code section 1717.5. This code section specifically states that the award must be upon an open book account as defined in Code of Civil Procedure section 337a.</p>								
Dishonored Check CC 1719	Attached are: <ul style="list-style-type: none"> <input type="checkbox"/> Demand for Payment <input type="checkbox"/> Certified mail receipt of Notice of Demand <input type="checkbox"/> Original returned check <input type="checkbox"/> Notice of Stop Payment/Good Faith Dispute <input type="checkbox"/> Address on Notice is same as address on check. 								
Subrogation Claim	Attached are: <ul style="list-style-type: none"> <input type="checkbox"/> Insured's declaration <input type="checkbox"/> Insurer's declaration <input type="checkbox"/> Insurance drafts <input type="checkbox"/> DMV proof of ownership 								
Auto Deficiency	Attached are: <ul style="list-style-type: none"> <input type="checkbox"/> Notice of Intent to Dispose, with proof of service <input type="checkbox"/> Address on Notice matches contract or declaration. <input type="checkbox"/> Declaration re CC 1799.91 or notice or declaration stating why notice is not required. Deficiency Breakdown: <ul style="list-style-type: none"> <input type="checkbox"/> Resale document <input type="checkbox"/> Declaration of Repossession Expenses <input type="checkbox"/> Bids <input type="checkbox"/> Vehicle condition report <input type="checkbox"/> Low Blue Book at time of Sale <input type="checkbox"/> Deficiency memorandum Proof of all debits and credits: <table style="width: 100%; border: none;"> <tr> <td style="padding-left: 20px;"><input type="checkbox"/> Bank collection charges</td> <td style="text-align: right; padding-right: 20px;">\$ _____</td> </tr> <tr> <td style="padding-left: 20px;"><input type="checkbox"/> Detailing costs</td> <td style="text-align: right; padding-right: 20px;">\$ _____</td> </tr> <tr> <td style="padding-left: 20px;"><input type="checkbox"/> Reconditioning/locksmith</td> <td style="text-align: right; padding-right: 20px;">\$ _____</td> </tr> <tr> <td style="padding-left: 20px;"><input type="checkbox"/> Interest rebated</td> <td style="text-align: right; padding-right: 20px;">\$ - _____</td> </tr> </table>	<input type="checkbox"/> Bank collection charges	\$ _____	<input type="checkbox"/> Detailing costs	\$ _____	<input type="checkbox"/> Reconditioning/locksmith	\$ _____	<input type="checkbox"/> Interest rebated	\$ - _____
<input type="checkbox"/> Bank collection charges	\$ _____								
<input type="checkbox"/> Detailing costs	\$ _____								
<input type="checkbox"/> Reconditioning/locksmith	\$ _____								
<input type="checkbox"/> Interest rebated	\$ - _____								

Abandonment of Mobilehome CC 798.61 (Limited Civil)	<input type="checkbox"/> Amounts paid to creditor \$ - _____ <input type="checkbox"/> Response time of 15 days has lapsed. Default may be entered 15 days after service of the petition "by mail." Declaration in Lieu of Testimony re: CCP 585 (d) includes: <input type="checkbox"/> Notice of (Belief of) Abandonment posted at least 30 days <input type="checkbox"/> Mailed to homeowner and to any known registered owner by registered or certified mail, return receipt <input type="checkbox"/> Petition for Abandonment of Mobilehome filed 30 days after posting of Notice of (Belief of) Abandonment <input type="checkbox"/> Return receipts or unopened envelopes with Notice of Abandonment intact
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SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
WORKSHEET – Page 2
Assessments Lien and Foreclosure – CC 1367, et seq

Assessments Lien; CC 1367.1(a)		[HOA = Home Owners Association]
Notice of Lien	<input type="checkbox"/>	Notice of Lien is attached: _____ (staff)
		Notice includes: <input type="checkbox"/> HOA notified owner of record in writing by certified mail, at 30 days prior to recording of lien, the following in 14-point boldface type or in capital letters if typed: “IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.” <input type="checkbox"/> Description of the HOA’s general collection practices used by the association, including the rights of the association to the reasonable costs of collection. <input type="checkbox"/> Owner has right to inspect the association records. <input type="checkbox"/> Itemized statement of each charge owed, including assessments, fees, costs of collection, attorneys’ fees, late charges, and interest. <input type="checkbox"/> A statement that the owner will not be liable for charges, interest, and collection costs if the assessment was paid on time to the association. <input type="checkbox"/> A statement that the owner’s right to dispute the debt and request to meet with HOA board for Alternative Dispute Resolution or “meet and confer.”
Recorded Notice of Delinquent Assessment CC 1367.1 (d)	<input type="checkbox"/>	Notice of Delinquent Assessment is attached. (staff) Notice content reviewed: _____ (Review by: _____) <input type="checkbox"/> Amount of assessment and other collection costs, late charges and interest. <input type="checkbox"/> Legal description of owner’s interest in HOA. <input type="checkbox"/> The record owner’s name. <input type="checkbox"/> Itemized statement of charges (may be separate document). Notification: <input type="checkbox"/> Certified mail to every person who is an owner per the association’s records, no later than 10 calendar days after recordation.
Liens recorded after January 1, 2006		(Review by: _____)
		Notice that HOA board of directors voted to foreclose: <input type="checkbox"/> If owner occupies interest, then HOA must personally serve. <input type="checkbox"/> If owner does not occupy interest, then HOA may serve by using first class mail.
Notice of Default	<input type="checkbox"/>	Notice of default must be served on the owner by the association in the same manner as a summons and complaint.
Judgment/Order of Foreclosure, CC 1367.1(b), CC 1367.4	<input type="checkbox"/>	At least 30 days have past after the recording of lien. <input type="checkbox"/> Assessments are over \$1800 and are 12 months delinquent: <ul style="list-style-type: none"> ▪ Offer the property owner ADR ▪ Decision made by HOA Board by majority vote at least 30 days prior to public sale ▪ Notice by personal service to an owner.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
WORKSHEET Attachment Page 2 for:
Mechanic's Lien (CC 3110)

Recorded Mechanic's Lien – CC 3110	
CCP 392(a)(2)	<input type="checkbox"/> Property is subject to the Lien in Orange County (staff)
Notice to Property Owner CC 3097	<input type="checkbox"/> Notice attached. (staff)
	Notice Content Reviewed (Review by:)
	Preliminary 20-day Notice (private work) called Notice to Property Owner. A written notice given prior to the recording of a mechanic's lien IS NOT required when there is a direct contract between the property owner and the contractor/laborer. A notice IS required if a subcontractor or materials supplier intends to record a lien. <input type="checkbox"/> Yes <input type="checkbox"/> No
	If YES: Notice Contents: <input type="checkbox"/> Description of the labor, service, equipment, or materials and an estimate of the total price. <input type="checkbox"/> Name/address of the person provided labor, service, equipment, etc. <input type="checkbox"/> Name of the person who contracted for labor, service, equipment, etc. <input type="checkbox"/> A description of the jobsite <input type="checkbox"/> Boldface type statement: NOTICE TO PROPERTY OWNER <p>If bills are not paid in full for the labor, services, equipment, or materials furnished or to be furnished, a mechanic's lien leading to the loss, through court foreclosure proceedings, of all or part of your property being so improved may be placed against the property even though you have paid your contractor in full. You may wish to protect yourself against this consequence by (1) requiring your contractor to furnish a signed release by the person or firm giving you this notice before making payment to your contractor, or (2) any other method or device that is appropriate under the circumstances. Other than residential homeowners of dwellings containing fewer than five units, private project owners must notify the original contractor and any lien claimant who has provided the owner with a preliminary 20-day lien notice in accordance with Section 3097 of the Civil Code that a notice of completion or notice of cessation has been recorded within 10 days of its recordation. Notice shall be by registered mail, certified mail, or first-class mail, evidenced by a certificate of mailing. Failure to notify will extend the deadlines to record a lien.</p>
Proof of Service	<input type="checkbox"/> Proof of Service of Notice to Property Owner is attached (staff)
	Notice Content Reviewed (Review by:)
Timing CC 3115	<input type="checkbox"/> Recorded lien must have been done <i>before</i> the expiration of 90 days after the completion of the work, when owner began using the improvement, or when owner accepted the improvement; or 60 days after recordation of a notice of completion/cessation.
Recorded	<input type="checkbox"/> Must be recorded with the Orange County Recorder's Office.
Foreclosure of Mechanic's Lien CC – 3144	
	Notice Content Reviewed (Review by:)
Timing CC 3144	<input type="checkbox"/> Action to foreclose the lien commenced within 90 days after recording of the lien.
Contents of Application	<input type="checkbox"/> Amount of the debt owed <input type="checkbox"/> Laborer is a person entitled to enforce a mechanic's lien <input type="checkbox"/> Statutory requirements for the mechanic's lien are met <input type="checkbox"/> Priority of the lien in relation to other liens on the property (if exist)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
Clerk's WORKSHEET Attachment Page 2 for:

UNLAWFUL DETAINER

Notice to Pay or Quit/ Proof of Service:

3 Day Notice 30 Day Notice 60 Day Notice

Original or Copy of written or oral lease agreement filed.			
Rent Amount \$	Payable on:	Amt. Per Day \$	
Rent Increase \$ _____	Effective: _____	Amt. Per Day \$ _____	
Is Defendant in Possession: <input type="checkbox"/> Yes <input type="checkbox"/> No		Date Vacated:	_____
Partial Payments \$	_____	Date Payment Tendered:	_____

RENT	FROM/TO	Deposits \$	Refund \$
\$ _____	_____	_____	_____
_____	_____		
_____	_____		Attorney Fees (CCP 585(d)) \$ _____
_____	_____		Attorney Fees (per fee schedule) \$ _____
Other: _____			

Default Judgment includes:		<input type="checkbox"/> All named defendants		
Other: _____				
For: \$		Principal \$		Atty Fees \$

Approved **Denied** **Judicial Officer:** _____

**CIVIL DEFAULT JUDGMENT PACKAGES – PROCESSING INSTRUCTIONS
SUPERIOR COURT OF PLUMAS COUNTY**

8/6/2012

Effective immediately, the turn-around time for processing **all** civil (including small claims, family law, probate and UD cases) requests for default, default judgments, other judgments, writs of execution, abstracts of judgment and renewals of judgment is a minimum of 24 hours. (If the file is in storage or in a judge's office it could be longer)

These cannot be processed properly unless the documents are carefully reviewed for completeness and accuracy. The file must be pulled and specific facts (i.e. proof of service, judgment entered, amount of judgment) are confirmed.

Before copies can be returned to counsel or parties, the documents must be checked by a supervisor.

Instructions on how to process default judgment, see below.

**CIVIL DEFAULT JUDGMENT PACKAGES
Processing Instructions**

REQUIRED DOCUMENTS:

- Request for Entry of Default (Form 982(a)(6))
- Request for Clerk's or Court Judgment (Form 982(a)(6))
- Request for Dismissal (Form 982(a)(5))
- Declaration setting forth interest computation and attorney's fees (pleading)
- Judgment (Form JUD-100)

DO THIS:

_____ Pull file jacket

PROCESSING:

- Request for Entry of Default (Form 982(a)(6))
- ➔ Caveat: Sometimes default will have already been entered. If so, only the Judgment boxes will be checked)

DO THIS:

_____ See separate instructions for entering Defaults
_____ If needed, reference Civil Defaults & Default Judgment binder in Office Library

_____ If party is requesting the default be taken and a clerk or court judgment entered but did not provide the judgment for the clerk/judicial officer to sign, take the default if appropriate and on the form write NOT PROVIDED in the caption

**CIVIL DEFAULT JUDGMENT PACKAGES – PROCESSING INSTRUCTIONS
SUPERIOR COURT OF PLUMAS COUNTY**

underneath Clerk's Judgment

REQUEST FOR (Application)	<input type="checkbox"/> Entry of Default <input type="checkbox"/> Court Judgment	<input checked="" type="checkbox"/> Clerk's Judgment	CASE NUMBER:
<div style="border: 1px solid black; padding: 2px; display: inline-block;">NOT PROVIDED</div>			

_____ Return conformed copies to submitting party.

PROCESSING:

Request for Clerk's or Court Judgment (Form 982(a)(6))

➔ **Caveat:** Clerk's can only enter judgment on cases where the dollar figure is fixed. Reference Civil Default and Default Judgment binder in Office Library if unsure about entering the Judgment.

CHECK:

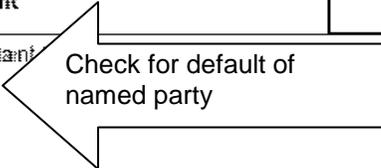
_____ Submitted on current Judicial Council form

_____ Original signatures

_____ Default has been entered
 Look at #1a on Request for Clerk's or Court Judgment – check Document Screen in Sustain to verify default has been previously taken for party listed.

REQUEST FOR (Application)	<input type="checkbox"/> Entry of Default <input type="checkbox"/> Court Judgment	<input type="checkbox"/> Clerk's Judgment	CASE NUMBER:
--------------------------------------	--	---	--------------

1. TO THE CLERK: On the complaint or cross-complaint by (name):
 a. Enter default of defendant (names):



_____ All appropriate boxes are completed on the Request for Clerk's or Court Judgment
 _____ #1 b or c

_____ All of Number 2

2. Judgment to be entered.	<u>Amount</u>	<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint	\$	\$	\$
b. Statement of damages *			
(1) Special	\$	\$	\$
(2) General	\$	\$	\$
c. Interest	\$	\$	\$
d. Costs (see reverse)	\$	\$	\$
e. Attorney fees	\$	\$	\$
f. TOTALS	\$	\$	\$

_____ All of #5 #6 #7 & #8 on back of form

DO THIS:

_____ File in Request for Clerk's or Court Judgment if completed correctly. Conform

**CIVIL DEFAULT JUDGMENT PACKAGES – PROCESSING INSTRUCTIONS
SUPERIOR COURT OF PLUMAS COUNTY**

copies.

_____ If a default is also being requested with the same form and the default cannot be taken, reject it - do not file it in

_____ Limited Civil cases: Make entry into Document screen in CMS:

PROCESSING:

Request for Dismissal (Form 982(a)(5))

➔ Caveat: These instructions are for dismissing DOES only.

CHECK:

_____ Submitted on current Judicial Council form

_____ Original signatures

_____ 1 a (1) or (2) completed

1. **TO THE CLERK:** Please **dismiss** this action as follows:

a. (1) With prejudice (2) Without prejudice

_____ 1 b (1) & b (6) completed, stating dismissal is for DOES

b. (1) Complaint (2) Petition

(3) Cross-complaint filed by (name): _____ on (date):

(4) Cross-complaint filed by (name): _____ on (date):

(5) Entire action of all parties and all causes of action

(6) Other (specify):* DOES 1 - 10 only

_____ Dated & Signed

Date: 02/16/05

.....
(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.

(SIGNATURE)

Attorney or party without attorney for:

Plaintiff/Petitioner Defendant/Respondent
 Cross-complainant

DO THIS:

_____ Complete bottom of Request for Dismissal

(To be completed by clerk)

3. Dismissal entered as requested on (date):

4. Dismissal entered on (date):

5. Dismissal **not entered** as requested for the following reasons (specify):

6. a. Attorney or party without attorney notified on (date):

b. Attorney or party without attorney not notified. Filing party, _____, provided to provide _____
 a copy to conform means to return conformed copy

Date:

_____, Deputy

**CIVIL DEFAULT JUDGMENT PACKAGES – PROCESSING INSTRUCTIONS
SUPERIOR COURT OF PLUMAS COUNTY**

_____ File stamp with date Dismissal was received. Conform copies.

_____ Limited Civil cases: Make entry into Document screen:

PROCESSING:

Declaration setting forth interest computation and attorney's fees (pleading)

CHECK:

_____ Original signatures

_____ If the party is asking for prejudgment interest (box 2c), the party must provide a declaration signed under penalty of perjury which sets forth the figures and calculations the party used in reaching the interest amount

_____ Verify that a declaration contains the interest computation

_____ If the party is requesting Attorney Fees, a declaration must be provided stating attorney fees are requested.

_____ Verify that a declaration contains a request for attorney fees

DO THIS:

_____ File and conform all declarations

➔ Caveat: Sometimes an Order is attached to a declaration (e.g.: copies instead of originals needs an order). If an order is attached, must be sent to judicial officer for signature before filing.

_____ Limited Civil cases: Make entry into Document screen in CMS:

PROCESSING:

Judgment (Form JUD-100)

CHECK:

_____ All appropriate boxes are completed on the Judgment

JUDGMENT			CASE NUMBER:
<input type="checkbox"/> By Clerk	<input type="checkbox"/> By Default	<input type="checkbox"/> After Court Trial	
<input type="checkbox"/> By Court	<input type="checkbox"/> On Stipulation	<input type="checkbox"/> Defendant Did Not Appear at Trial	

_____ Number 1 d or e

CIVIL DEFAULT JUDGMENT PACKAGES – PROCESSING INSTRUCTIONS SUPERIOR COURT OF PLUMAS COUNTY

1. **BY DEFAULT**
- a. Defendant was properly served with a copy of the summons and complaint.
 - b. Defendant failed to answer the complaint or appear and defend the action within the time allowed by law.
 - c. Defendant's default was entered by the clerk upon plaintiff's application.
 - d. **Clerk's Judgment** (Code Civ. Proc., § 585(a)). Defendant was sued only on a contract or judgment of a court of this state for the recovery of money.
 - e. **Court Judgment** (Code Civ. Proc., § 585(b)). The court considered
 - (1) plaintiff's testimony and other evidence.
 - (2) plaintiff's written declaration (Code Civ. Proc., § 585(d)).

_____ **Number 5**

5. **Parties.** Judgment is
- a. for plaintiff (*name each*)
 - c. for cross-complainant (*name each*):
- and against defendant (*names*):
- and against cross-defendant (*name each*):

_____ **Number 6**

_____ Verify amounts listed in Number 6 against the prayer of the complaint, the Request for Clerk's or Court Judgment, and the declaration for interest & attorney fees. All amounts should match.

6. **Amount.**
- a. Defendant named in item 5a above must pay plaintiff on the complaint:

(1)	<input type="checkbox"/> Damages		\$	
(2)	<input type="checkbox"/> Prejudgment interest at the annual rate of	%	\$	
(3)	<input type="checkbox"/> Attorney fees		\$	
(4)	<input type="checkbox"/> Costs		\$	
(5)	<input type="checkbox"/> Other (<i>specify</i>):		\$	
(6)	TOTAL		\$	

DO THIS:

_____ Clerk's Default Judgment
 _____ Date, CEO stamp, and sign the original judgment, conform copies
 _____ File and conform judgment

Date: _____

JUDICIAL OFFICER
 Clerk, by Your signature _____, Deputy

Date: Date Judgment Rcvd

_____ In Sustain, case screen - enter the disposition code and disposition date (date Clerk's Judgment filed).

**CIVIL DEFAULT JUDGMENT PACKAGES – PROCESSING INSTRUCTIONS
SUPERIOR COURT OF PLUMAS COUNTY**

_____ Limited Civil cases: Make entry into Document screen in CMS:

_____ Original Clerk's Judgment to file

_____ In Sustain, scheduled events - check to see if any upcoming events can be deleted (except Law & Motion hearings)

_____ Only if the Clerk's Judgment is for all defendants

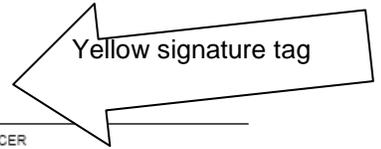
_____ Court Default Judgment

_____ Place signature tag on Judgment

_____ Place in Judicial Officer's signature stamp

Date:

JUDICIAL OFFICER



Date:

Clerk, by _____, Deputy

_____ Send all conformed copies & s.a.s.e. with file to Judicial Officer. Cal clerk will conform Judgment, then send back all copies.

**JUDGMENT CHECKLIST – DEFAULT BY CLERK
SHASTA COUNTY SUPERIOR COURT**

Case Number _____

1. Submit an original Proof of Service for all defendants to be defaulted (JC form #POS-010)
 - a. The defendant's name, including "a.k.a.'s" must match the names on the complaint.
 - b. The name and title of the person authorized to accept service on behalf of a business/entity must be indicated on the proof of service.
 - c. The Declaration of Due Diligence for substituted service must be in the file.
2. Submit a Request for Dismissal of "Doe" defendants, if "Does" are listed on the complaint (JC form #CIV-110)
3. Submit a Request for Entry of Default (/Application to Enter Default)(JC form #CIV-100)
 - a. The time to answer must have expired before default can be entered.
 - b. The names of the plaintiff(s) and defendant(s), including "a.k.a.'s" must match the names on the complaint.
 - c. The Declaration of Mailing must be complete
 - d. The Declaration of Military Status must be dated within six months of filing the Request for Entry of Default.
 - e. All defendants named on the judgment have been defaulted before judgment can be entered.
 - f. All defendants **not** named on the judgment have been dismissed.
4. Submit a Memorandum of Costs (JC form #MC-010 or CIV-100)
 - a. Evidence must be submitted to support all fees requested.
 - b. Service fees for dismissed defendants cannot be included.
 - c. For assigned debts of \$5000 and under (business) or \$7500 and under (individual): submit a declaration stating that a demand letter was mailed to the defendant, notifying them that they are liable for court costs. (CCP Section 1033)
5. Interest claimed on judgment:
 - a. If interest is included on the judgment, a declaration must be submitted indicating the rate of interest, dates used in the calculation, and total amount requested.
 - b. If the interest rate is higher than the legal rate, the contract or disclosure statement must allow for interest in excess of the legal rate. Need the original contract or a Declaration and separate Order for the Court to accept copies in lieu of the original.
6. Attorney Fees claimed on judgment:
 - a. Attorney fees claimed on the judgment must comply with CCP Section 1717, et seq.
 - b. If attorney fees are based on a written agreement, the contract or disclosure statement must allow for the fees.
7. If the judgment is based on an Open Book Account:
 - a. Submit a declaration that states, "No written agreement exists."
 - b. Submit a ledger or the most recent invoice showing the amount due.
 - c. Late fees are not allowed.
8. If there is a written Agreement:
 - a. Submit the original contract or a copy of the contract with a declaration stating why the original contract cannot be submitted. CRC Rule 3.1806.
 - b. If the disclosure statement is submitted alone, the required activation language, "Use of your card constitutes acceptance of the terms and conditions of this statement," must exist in the disclosure statement.
 - c. A waiver of security interest must be submitted if the contract indicated a collateral or security clause involving personal property.

