

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT SPR11-__

Title

Family Law: Postjudgment Address
Verification and Governmental Motions for
Modifying or Enforcing Child Support

Action Requested

Review and comment

Proposed Effective Date

January 1, 2012

Proposed Rules, Forms, Standards, or Statutes

Adopt form FL-686; revise forms FL-335,
FL-640, FL-661, FL-662, FL-676, FL-677,
FL-679, FL-680, and FL-685; and approve
form FL-334

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Proposed by

Family and Juvenile Law Advisory
Committee
Hon. Kimberly Nystrom-Geist, Cochair
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Discussion

Effective January 1, 2011, Assembly Bill 939 (Assembly Committee on Judiciary; Stats. 2010, ch. 352) amended Family Code section 215 to allow a party to serve a postjudgment motion to modify a child custody, visitation, or child support judgment or permanent order on the other party or parties by first-class mail or airmail, postage prepaid. The law also provides that, for any party served by mail, the proof of service must include an address verification.

To implement the above statutory changes, the Family and Juvenile Law Advisory Committee recommends the following:

1. Revision of

- *Proof of Service by Mail* (form FL-335);
- *Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income (Governmental)* (form FL-640);
- *Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action* (form FL-661);
- *Responsive Declaration to Motion for Joinder of Other Parent—Consent Order of Joinder (Governmental)* (form FL-662);

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- *Request for Judicial Determination of Support Arrearages or Adjustment of Arrearages Due to Incarceration or Involuntary Institutionalization (Governmental)* (form FL-676);
 - *Notice of Opposition and Notice of Motion on Claim of Exemption (Governmental)* (form FL-677);
 - *Request for Telephone Appearance (Governmental)* (form FL-679), *Notice of Motion (Governmental)* (form FL-680); and
 - *Response to Governmental Notice of Motion or Order to Show Cause* (form FL-685)
2. *Approval of Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334); and
 3. *Adoption of Proof of Service by Mail (Governmental)* (form FL-686)

Family Law Forms

Proof of Service by Mail (form FL-335) would be revised to include a new item with a check box to specify that service of a request to modify a child custody, visitation, or child support judgment or permanent order must include a declaration verifying the address of the party being served. The form would reference proposed new form *Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334) as an optional declaration form that may be used and attached to the proof of service.

Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order (form FL-334) would serve as an optional address verification declaration that is required under Family Code section 215. Modeled after the existing form *Declaration in Support of Attorney’s Motion to Be Relieved as Counsel—Civil* (form MC-052), form FL-334 would require that the declarant verify the current address of the party being served within the 30 days immediately preceding the signing of the declaration and specify how he or she verified that address. Also, as with form MC-052, the declarant would be able to provide a service address that is the last known address of the party being served. Additional space would be provided for the declarant to state the efforts made to obtain the other party’s current address, and the form would also include a notice to the declarant that failure to diligently try to locate the other party’s current address may result in the court not hearing the motion.

Postjudgment motions filed by the local child support agency will have a different address verification procedure because of the automated verification process used by the local child support agency as discussed below. A proof of service for use by the local child support agency is discussed below.

Governmental Child Support Forms

Currently there is no Judicial Council governmental proof of service form for motions filed by the local child support agency. The local child support agencies (LCSAs) provide services in over 1.5 million child support cases statewide. The LCSAs generate all pleadings from a federally certified statewide child support case management system. This case management

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system is programmed to verify addresses through interfaces with various state and federal data bases including the Federal Case Registry (FCR), National Directory of New Hires (NDNH), National Change of Address (NCOA), and New Employee Registry (NER from state Employment Development Department). The process for verifying addresses is standard for all LCSAs and does not vary from case to case.

Given the highly automated process for address verifications for cases with services provided by the local child support agency, developing a governmental proof of service form with standardized language regarding the address verifications for these cases is the most effective way to comply with the requirements of Family Code section 215.

Thus, in order to implement the provision of AB 939, the Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt *Proof of Service by Mail (Governmental)* (form FL-686). This would serve as a mandatory form for use by the local child support agencies and would include a standard address verification declaration that references that the address was verified using the Department of Child Support Services' statewide automated child support enforcement system.

In addition to adopting a new governmental proof of service by mail form, a number of other governmental Judicial Council forms would be revised to comply with the requirements of AB 939. The Judicial Council has adopted a number of governmental forms that include a proof of service as part of the form. These governmental forms are routinely filed by parents whose support obligation is being enforced by the local child support agency. These forms would be revised to parallel the language and declaration process proposed for the family law forms.

Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income (form FL-640) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new form, *Declaration Re Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order* (form FL-334).

Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action (form FL-661) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new declaration, form FL-334.

Responsive Declaration to Motion for Joinder of Other Parent—Consent Order of Joinder (form FL-662) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new declaration, form FL-334.

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Request for Judicial Determination of Support Arrearages or Adjustment of Arrearages Due to Incarceration or Involuntary Institutionalization (form FL-676) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new declaration, form FL-334.

Notice of Opposition and Notice of Motion on Claim of Exemption (form FL-677), which is a form only filed by the local child support agency, would be revised to delete the existing proof of service by mail. The LCSA will then be able to attach the new *Proof of Service by Mail (Governmental)* (form FL-686), which would meet the requirements of AB 939.

Request for Telephone Appearance (form FL-679) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new declaration, form FL-334.

Notice of Motion (Governmental) (form FL-680), which is only filed by the local child support agency, would be revised to include a standard address verification declaration that references the address was verified using the Department of Child Support Services' statewide automated child support enforcement system.

Response to Governmental Notice of Motion or Order to Show Cause (form FL-685) would be revised to include a section that specifies that the service of the motion included an address verification declaration and would reference the proposed new declaration, form FL-334.

The proposed new and revised forms are attached at pages 5–31.

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