

2006-2007 Cumulative Updates

to
The Registered Process Server's Guide to Service of Process in California, 3d Edition
and
The Registered Process Server's Guide to Service of Writs of Attachment and Writs of Execution, 2d Edition

Business and Professions Code

§ 22350 Registered Process Servers

Limits an attorney or employee of an attorney from serving under the exemption from registration as a process server to only service made when "related to cases for which the attorney is providing legal services."

Civil Code

§ 1189 Notary Acknowledgement

California certificate of acknowledgment must be in the exact form set forth in Civil Code section 1189, rather than "substantially" in the form set forth therein. The form set forth in Civil Code section 1189 did not change, but variations in the California form are no longer permitted. (The law regarding acknowledgments to be used with documents to be filed in other states has not changed (Civil Code § 1189(c)).

Code of Civil Procedure

§ 116.220 Small Claims Jurisdiction

Increases jurisdiction to \$7500 for small claims court brought by a natural person. (2 case over \$2500 per year limitation for actions remains)
Caps jurisdiction against guarantors at \$2500 and \$4000.

§ 116.230 Small Claims Filing Fees

Increases filing fees for Small Claims cases from \$30, \$50, and \$75 for cases involving amounts under \$1500, over \$1500, and for filing more than 12 in a calendar year.

§ 116.232 Small Claims Court Fees Service by Mail by Clerk Increases fee to \$10.

§ 116.330 Small Claims Proof Service

A Proof of Service in a small Claims action must be filed 5 days prior to the court hearing.

§ 116.540 Common Interest Development

Allows a Common Interest Development Association to file a Small Claims Action.

§ 116.610 Limited Recoverable Costs for \$7500 suits

The recoverable costs for serving a \$7500 claim are limited to the amount paid if service was by mail (\$10).

§ 411.20 Deficient Filing Fee

If the Clerk accept for filing a complaint or other first paper, and the check is returned, the Clerk shall give 20 day notice to cure before voiding the filing.

§ 412.10 Original Summons Filed

The original Summons shall be filed after issuance.

§ 416.10 Personal Service on a Corporation

Adds a person holding the title of Chief Executive Officer and Chief Financial Officer as persons upon a personal service may be made on behalf of a corporation.

§ 415.21 Gated Community Access

A process server shall be given access to a gated community for service of a subpoena in addition to a Summons.

§ 417.30 Lost Summons

Repeals provision for a Lost Summons because a Summons will be issued and filed for all new cases.

§ 491.150 Filing Fee for Examination of Debtor in Another County

The filing fee for filing documents to examine a debtor in another county increases from \$12 to the prevailing motion fee (\$40).

§ 491.160 Change in Procedure re Issuance of Warrant

Permits the court to issue a civil bench warrant.

§ 491.160 Change in Procedure re Issuance of Warrant

Permits the court to issue a civil bench warrant to a third party debtor and judgment debtor in a post-judgment examination for non appearance.

§ 708.70 Change in Procedure re Issuance of Warrant

Permits the court to issue a civil bench warrant to a third party debtor and judgment debtor in a post-judgment examination for non appearance.

§ 1283 Arbitrator may Order Letters Rogatory for Out-of-State Witness

An arbitrator may authorize a party seeking a deposition of an out-of-state witness to obtain a commission, letter rogatory or letter request from the Superior Court.

§1985.3 Consumer Notice to Client of Attorney

A Consumer Notice need not be served on the client of the attorney who subpoenas his or her own consumer records.

§1985.6 Employee Notice to Client of Attorney

An Employee Notice need not be served on the client of the attorney who subpoenas his or her own employment records.

§1993 Change in Procedure re Issuance of Warrant

Permits the court to issue a civil bench warrant to a witness for non appearance.

Evidence Code

§ 1560 Removes a Judge Where Subpoenaed Records may be Left

Subpoenaed business records are to be delivered to the clerk of the court only, not the judge.

Time for Production of Subpoenaed Business Records

Changes the wording relating to the time of production of subpoenaed business records. In criminal cases, the response time is now 5 days; In civil cases, the production is 15 days, or by agreement between to subpoenaing party and custodian of records.

Government Code

§ 26721.2 Increase in Fees for Service of a Summons in 2008

The fee for service of a summons increased to \$35.00 on January 1, 2008.

§ 267750 Increase in Fees for Service of an Earnings Withhold Order in 2008

The fee for service of a summons increased to \$30.00 on January 1, 2008.

§70603 Uniform Filing Fees, et seq. (Riverside, San Bernardino, and San Francisco excepted, not to exceed \$50)

§ 70611 Plaintiff's First Appearance Unlimited Civil Case \$320

§ 70612 Defendant's First Appearance Unlimited Civil Case \$320

§ 70613 Plaintiff's First Appearance Limited Civil Case \$300

§ 70613(b) Plaintiff's First Appearance Limited Civil Case Under \$10,000 \$180

§ 70614 Defendant's First Appearance Limited Civil Case \$300

§ 70614(b) Defendant's First Appearance Limited Civil Case Under \$10,000 \$180

§ 70617 Filing fees for Motions \$40

§ 70617(c) Filing fees for Applications and Motions not Requiring an Appearance \$20

§ 70626 Fee to Issue a Writ, Abstract of Judgment, Certify a Copy \$15

§ 70627(a) Copies \$.50

Penal Code

§ 602 Trespass

Adds to trespass a passenger vessel terminal and intentionally avoiding submission to screening and inspection at a courthouse

§ 4013 Service on a Prisoner

Authorizes service on an incarcerated person by anyone lawfully authorized to serve process.

California Rules of Court

1.21 Service

Requires that a proof of service of a document on a party designate the name(s) of the attorney and the party they represent.

1.37 Use of Forms

Requires the use of the current version of the Judicial Council form.

1.42 Forms not to be rejected

Adds to the list of forms not to be rejected : "(9) The form is not the latest version of the form adopted or approved by the Judicial Council."

2.150 Authorization for computer-generated or typewritten forms for proof of service of summons and complaint

Revises the sentence that describes the text that may be omitted on a computer-generated proof of service; also renumbers the CRC that relates to a computer-generated proof of service POS-010.

California Judicial Forms

2006

Notice to Consumer or Employee and Objection
Civil Case Cover Sheet
Abstract of Judgment—Civil and Small Claims
Writ of Execution
Summons (Family Law)
Substitution of Attorney—Civil
Plaintiff's Claim and ORDER to go to Small Claims
Court (Small Claims)
Other Plaintiffs or Defendants (Small Claims)
Attorney Fee Dispute (After Arbitration) (attachment
to claim and ORDER to go to small claims court)
Fictitious Business Name (Small Claims)
Proof of Service (Small Claims)
Proof of Mailing (Substituted Service) (Small Claims)
What Is "Proof of Service"? (Small Claims)
How to Serve a Business
Defendant's Claim and ORDER to Go to Small
Claims Court (Small Claims)
Other Plaintiffs or Defendants (Small Claims)

2007

(partial list of forms affecting process servers)

Civil Case Cover Sheet
Notice Of Related Case
Application And Order For Appointment Of Guardian Ad
Litem-Civil
Application And Order For Reissuance Of Order To Show
Cause And Temporary Restraining Order
Statement of Damages (Personal Injury or Wrongful Death)
Request For Entry Of Default (Application to Enter Default)
Request for Dismissal
Notice of Entry Of Dismissal And Proof of Service
Notice of Renewal of Judgment
Declaration Under Uniform Child Custody Jurisdiction And
Enforcement Act (UCCJEA)
Stipulation And Waiver Of Final Declaration Of Disclosure
Income And Expense Declaration
Property Declaration
Declaration For Default Or Uncontested Dissolution or
Legal Separation
Judgment
Summons (Uniform Parentage-Petition for Custody and
Support)
Order To Show Cause
Notice Of Motion
Application For Order And Supporting Declaration
Summons And Complaint Or Supplemental Complaint
Regarding Parental Obligations
Notice And Acknowledgment Of Receipt
Notice Regarding Payment Of Support
Declaration Of Obligor's Income During Judgment Period-
Presumed Income Set-Aside Request
Notice Of Opposition And Notice Of Motion On Claim Of
Exemption
Request For Telephone Appearance
Request For Telephone Appearance - Spanish
Application To Be Relived As Counsel Upon Completion Of
Limited Scope Representation

Objection To Application To Be Relived As Counsel Upon
Completion Of Limited Scope Representation
Facsimile Transmission Cover Sheet (Fax Filing)
Memorandum Of Costs On Appeal
Attachment to Judicial Council Form
Notice Of Change Of Address
Substitution Of Attorney-Civil (Without Court Order)
Notice Of Motion And Motion To Be Relived As Counsel-
Civil
Declaration In Support Of Attorney's Motion To Be Relived
As Counsel-Civil
Complaint-Contract
Cause Of Action-Breach of Contract; Common Counts;
Fraud
Answer-Contract
COMPLAINT-Personal Injury, Property Damage, Wrongful
Death
Cause Of Action-Motor Vehicle; General Negligence;
Intentional Tort; Premises Liability; Products Liability
Exemplary Damages Attachment
Cross-Complaint-Personal Injury, Property Damage,
Wrongful Death
ANSWER-Personal Injury, Property Damage, Wrongful
Death
General Denial
Proof of Service of Summons
Plaintiff's Claim and ORDER to Go to Small Claims Court
Attorney Fee Dispute (After Arbitration) (Attachment to
Plaintiff's Claim and ORDER to Go to Small Claims Court)
Other Plaintiffs or Defendants (Attachment to Plaintiff's
Claim and ORDER to Go to Small Claims Court)
Attorney Fee Dispute (After Arbitration) (Attachment to
Plaintiff's Claim and ORDER to Go to Small Claims Court)
Proof of Service
How to Serve a Business or Public Entity
Request for Court Order and Answer
Order on Request for Court Order
Request to Correct or Cancel Judgment and Answer
Order on Request to Correct or Cancel Judgment
Authorization to Appear
Defendant's Claim and ORDER to Go to Small Claims
Court
Other Plaintiffs or Defendants (Attachment to Defendant's
Claim and ORDER to Go to Small Claims Court)
Notice of Entry of Judgment
Attorney-Client Fee Dispute (Attachment To Notice Of
Entry Of Judgment)
Application And Order To Produce Statement Of Assets
And To Appear For Examination
Notice Of Motion To Vacate Judgment And Declaration
Notice Of Appeal
Request To Pay Judgment To Court
Civil Subpoena For Personal Appearance At Trial Or
Hearing
Civil Subpoena (Duces Tecum) For Personal Appearance
And Production Of documents And Things At Trial or
Hearings And Declaration
Deposition Subpoena For Production of Business Records
Deposition Subpoena For Personal Appearance
Deposition Subpoena For Personal Appearance And
Projection Of Documents And Things
Notice To Consumer Or Employee And Objection
Additional Parties Attachment (Attachment to Summons)
Declaration Of Lost Summons After Service
Application For Earnings Withholding Order
Earnings Withholding Order

Employee Instructions
Earnings Withholding Order For Support
Employer's Return
Claim Of Exemption
Financial Statement
Notice Of Filing Of Claim Of Exemption
Notice of Opposition To Claim Of Exemption
Notice Of hearing On Claim Of Exemption
Order Determining Claim Of Exemption
Notice of Termination Or Modification Of Earnings
Withholding Order

California Judicial Council Web Site posting all new forms:
<http://www.courtinfo.ca.gov/forms/latest.htm>

Federal Witness Fee

The Federal witness fees are calculated on a \$40.00 per diem plus the mileage rate designated by the IRS. That rate is 48½¢ per mile, round trip and is added to the \$40 per diem rate to result in the total witness fee.

2006 CASES

US Supreme Court

Jones v. Flowers, 547 U.S. ____ (2006) *In a foreclosure case, "additional reasonable steps" are required after a mailed notice is returned undelivered. The Court noted that the Due Process Clause does not require that every property owner receive actual notice, but the government must make a sincere effort.*

California Court of Appeal

Barfield v. Washington Mutual Bank, 2006 DJDAR 1427 – Opposing party timely who served Motion by Federal Express and added 2 days to the notice period was timely.

Thornburg v. El Centro Regional Medical Center - *Company that contracts with hospital to respond to subpoenas is bound by the \$.10 per page limitation for charges.*

Summers v. McClanahan 6/06 – *Service on defendant's personal manager pursuant to CCP 416.90, without defendant's authority, is improper*

Cooley v. Superior Court (Greenstein) 6/06 – *Motion to enforce deposition subpoena duces tecum against DA's office was improper because DA's office was not custodian of subpoenaed records*

Hawks v. Hawks 8/06 – *Trail court's discretionary dismissal in reliance on CCP 583.410(a) of Plaintiff's case is improper for failure to serve the defendant*

within 2 months. The court may dismiss after lack of service for 2 years after filing.

Moghadden v. Bone, 8/2006 – *When notice of motion to set aside default is addressed improperly, without a proper zip code, party lacked proper notice and order vacating default was void*

Thornburg (II) v. El Centro Regional Medical Center 48 Cal.Rptr.3d 840, CA 4th No. D047004, September 22, 2006 *Patient has a Private Right of Action to Enforce non-compliance to a Evidence Code § 1158*

Katz v. Campbell School District, 11/2006 – *Plaintiff's published summons did not specify a date when a response was due, so service was not effected and case was dismissed.*

Wilmer v. v. Willmer, 11/2006 – *Order confirming registration of foreign judgment for child and spousal support is proper where Germany is a reciprocating state*

Slayton v. Superior Court (Slayton), CA 3d, No. C053780, 12/28/06 – *In camera review of Deputy Sheriff personnel records are warranted to substantiate wife's domestic violence claims*

Cruz v. Fagor America, CA3d, No. D048064, 1/3/07 – *Plaintiff met requirements for service on out-of-state defendant when summons and complaint were mailed via certified mail and signed for by a mailroom clerk, a person authorized to accept mail for the corporation*

Process Server Institute

667 Folsom St., 2d Floor
San Francisco, CA 94107
800/696-4631
Fax: 415/495-8730
psinstitute@juno.com
psinstitute.com

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