

# Chapter 6—The Summons and Service of Process

## § 6.01 The Summons

### [A] Form

In order to initiate his lawsuit, the plaintiff prepares a summons for issuance by the court clerk. The summons must be directed to the defendant, be signed by the clerk, be issued under the seal of the court, and contain:

- The title of the court
- The names of the parties to the action
- A direction that the defendant file with the court a written pleading in response to the complaint within 30 days after service of the summons
- A notice that, unless the defendant responds, the court will enter his {default} upon the plaintiff's application and that the plaintiff may apply to the court for the relief demanded in the complaint, which could result in garnishment of the defendant's wages, the taking of his money or property, or other relief
- The following statement in boldface type:  
**You may seek the advice of an attorney in any matter connected with the complaint or this summons. Such attorney should be consulted promptly so that your pleading may be filed or entered within the time required by this summons.**
- The following introductory legend at the top of the summons above all other matter, in boldface type, in English and Spanish<sup>1</sup>:

**Notice! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read information below.<sup>2</sup>**

Although the Code of Civil Procedure does not require inclusion of the date the summons is issued, the plaintiff should include this information, as the date of issuance affects the application of the dismissal statutes. A mistake as to the date does not invalidate the summons.<sup>3</sup>

Trivial errors or omissions in conforming a copy of the summons to the original do not invalidate the summons,<sup>4</sup> but substantial and misleading errors or omissions in the copy render the summons ineffective in establishing the court's **personal jurisdiction** over the defendant.<sup>5</sup> If the defendant's name is misspelled in the summons, the court nevertheless acquires personal jurisdiction over him if the defendant knows that he is the person named in the summons.<sup>6</sup>

The Judicial Council has promulgated the following forms:

- [Summons](#)
- [Summons \(Joint Debtor\)](#)

➡ [Joint Debtors](#)

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<sup>1</sup> Each county may, by ordinance, require that this legend be set forth in summonses issued by local courts in any additional foreign language. CODE CIV. PROC. § 412.20(b). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:21–:23 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 733–738, 740–742 (3d ed. 1985).

<sup>2</sup> CODE CIV. PROC. § 412.20(a).

<sup>3</sup> *Ystrom v. Handel*, 205 Cal. App. 3d 144, 152, 252 Cal. Rptr. 110, 114 (1988).

<sup>4</sup> *Hershenson v. Hershenson*, 205 Cal. App. 2d 382, 385, 23 Cal. Rptr. 185, 187 (1962).

<sup>5</sup> *Marriage of Van Sickle*, 68 Cal. App. 3d 728, 740, 137 Cal. Rptr. 568, 575 (1977).

<sup>6</sup> *Billings v. Edwards*, 91 Cal. App. 3d 826, 831, 154 Cal. Rptr. 453, 456 (1979).

➔ Dissolution of Marriage  
and Legal Separation

- [Summons \(Unlawful Detainer\)](#)
- [Summons \(Family Law\)](#)
- [Summons \(Joinder\)](#)
- [Summons \(Probate\)](#)

The [Plaintiff's Claim and Order to Defendant \(Small Claims\)](#) contains a built-in summons. A summons in any of these forms is deemed to comply with the Code of Civil Procedure.<sup>7</sup> A summons is effective only as to the persons named in the summons.<sup>8</sup> If the names of all the defendants will not fit on the Judicial Council form, one may include additional names on the [Additional Parties Attachment](#).

#### **[B] Special Cases**

##### **[1] Corporations, Partnerships, and Associations**

In an action against a corporation or an unincorporated association, including a partnership, the copy of the summons served on the defendant must contain this notice:

To the person served: You are hereby served in the within action (or special proceeding) on behalf of (here state the name of the corporation or the unincorporated association) as a person upon whom a copy of the summons and complaint may be delivered to effect service on said party under the provisions of (here state appropriate provisions of Chapter 4 (commencing with Section 413.10) of the Code of Civil Procedure).

If the plaintiff is also suing the recipient as an individual, the notice must indicate that service is being made on the recipient as an individual as well as on behalf of

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<sup>7</sup> CODE CIV. PROC. § 412.20.

<sup>8</sup> Lyman v. Milton, 44 Cal. 630, 634 (1876).

the corporation or the unincorporated association. If the required notice is omitted, the plaintiff may not take a default against the individual recipient or the entity.<sup>9</sup> Defects in the form of the notice will not invalidate the summons if the defendant knew from the summons that it was the party being sued.

**Example:** *D Bank*, a national bank, is the only party named in a summons. Using the Judicial Council form, *P* fails to include *D Bank*'s name on the "On behalf of" line and to check the box indicating that the recipient of the summons is being served on behalf of *D Bank*, but *P* checks the box indicating that the summons is being served on behalf of a corporation. The trial court grants *D Bank*'s [motion to quash](#).

The trial court erred. Service of the defective summons on an officer of *D Bank* sufficed to subject *D Bank* to the court's jurisdiction.<sup>10</sup>

## [2] Special Actions Affecting Title to Real Property

With respect to the common causes of action affecting title to real property—quite title,<sup>11</sup> partition,<sup>12</sup> and condemnation<sup>13</sup>—the normal rules regarding the con-

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<sup>9</sup> CODE CIV. PROC. § 412.30; *cf.* *Mannesmann DeMag, Ltd. v. Superior Court*, 172 Cal. App. 3d 1118, 1124, 218 Cal. Rptr. 632, 636 (1985) (plaintiff failed to name the defendant corporation or to check any of the boxes). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:25--28.3 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 745 (3d ed. 1985).

<sup>10</sup> *Cory v. Crocker Nat'l Bank*, 123 Cal. App. 3d 665, 670–71, 177 Cal. Rptr. 150, 154 (1981).

<sup>11</sup> CODE CIV. PROC. § 763.010(a).

<sup>12</sup> CODE CIV. PROC. § 872.310(a).

<sup>13</sup> CODE CIV. PROC. § 1250.120(a).

tents of the summons apply.<sup>14</sup> With respect, however, to certain special statutory action affecting title to real property, special rules apply:

- In an action to reestablish land records or to equitably reestablish boundaries, the summons must contain “a particular description of the real property involved,” must be directed to “all persons claiming any interest in, or lien upon, the real property herein described, or any part thereof,” and must include an attached memorandum listing the name of any person claiming an interest in the property.<sup>15</sup>
- In an action to determine adverse interests in real property arising out of a public improvement assessment, the summons must contain a description of the property and a statement of the object of the action.<sup>16</sup>
- In an action for determining rights in tax-deeded property, the summons must contain a description of the property, a statement of the object of the suit, and designation of the unknown defendants as they are designated in the complaint.<sup>17</sup>
- In an action to determine rights in jointly used water facilities, the summons must contain an order to show cause why the relief prayed for in the complaint should not be granted.<sup>18</sup>

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<sup>14</sup> In partition and condemnation actions, if the plaintiff serves the summons by **publication**, the publication must describe the property that is the subject of the action. CODE CIV. PROC. §§ 872.310(c), 1250.120(b). *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 743 (3d ed. 1985).

<sup>15</sup> CODE CIV. PROC. §§ 751.05, 751.07, 751.54.

<sup>16</sup> CODE CIV. PROC. § 801.6.

<sup>17</sup> REV. & TAX. CODE § 3957.

### [3] Validating Actions by Public Agencies

California statutes provide that public agencies may bring actions to determine the validity of certain matters.<sup>19</sup> The summons in such an action must be directed to “all persons interest in the matter of [specifying the matter]” and must notify all interested parties to appear and answer the complaint not later than the date specified in the summons, which must be ten or more days after the completion of publication of the summons.<sup>20</sup> If the agency does not bring proceedings, an interested person may do so, in which case the summons must also be directed to the public agency.<sup>21</sup>

### [4] Joint Debtors

In an action against two or more persons who are jointly, jointly and severally, or severally liable on a contract, the court in which the action is pending has jurisdiction to proceed against such of the defendants as are served as if they were the only defendants.<sup>22</sup> When the plaintiff recovers a judgment, the court may summon those who were not originally served with the summons to appear before the court to show cause why the judgment should not bind them. The summons must describe the judgment and require the person summoned to show cause why the judgment should not bind him.<sup>23</sup>

➔ [Form: Summons \(Joint Debtor\)](#)

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<sup>18</sup> WATER CODE § 7008.

<sup>19</sup> CODE CIV. PROC. § 860.

<sup>20</sup> CODE CIV. PROC. § 861.1. *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 744 (3d ed. 1985).

<sup>21</sup> CODE CIV. PROC. § 863.

<sup>22</sup> CODE CIV. PROC. § 410.70.

**[5] Dissolution of Marriage and Legal Separation**

To initiate a proceeding for dissolution of marriage or for legal separation, a person must file a petition of dissolution or legal separation.<sup>24</sup> The Code of Civil Procedure requires the use of the Judicial Council form of petition and summons.<sup>25</sup> The Rules of Court also prescribe a special form of summons in marital proceedings to effect the joinder of third parties.<sup>26</sup>

- ➔ [Form: Summons \(Family Law\)](#)
- ➔ [Form: Summons \(Joinder\)](#)

**§ 6.02 Issuance**

After payment of all applicable fees, the plaintiff may have the clerk issue a summons for any defendant.<sup>27</sup> A copy of the summons is served on the defendant, and the original is filed in the clerk's office with the proof of service form completed. If the original summons is lost, the plaintiff may have the clerk issue additional summonses.<sup>28</sup>

- ➔ [The Return of Service](#)

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<sup>23</sup> CODE CIV. PROC. § 990. *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 746 (3d ed. 1985).

<sup>24</sup> FAM. CODE § 2330. *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 748 (3d ed. 1985).

<sup>25</sup> FAM. CODE § 2331; *cf.* RULES OF CT. 1283.

<sup>26</sup> RULES OF CT. 1291.40.

<sup>27</sup> CODE CIV. PROC. § 412.20. *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:13, :20 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 749, 751 (3d ed. 1985).

<sup>28</sup> CODE CIV. PROC. § 412.20.

**§ 6.03 Amendment of the Complaint**

If the plaintiff has served the defendant with a summons and the original complaint, the court acquires **personal jurisdiction** over the defendant, and if the plaintiff {amends} the complaint, he does not need to serve another summons on the defendant.<sup>29</sup> If the plaintiff amends the complaint before serving the defendant, he may nevertheless serve the defendant with the original summons and the amended complaint,<sup>30</sup> though the better practice is to obtain a summons on the amended complaint. The same is true upon the filing of a supplemental complaint.<sup>31</sup>

**§ 6.04 Service of the Summons and Complaint****[A] Constitutional Requirements**

In order to confer upon a court the power to alter the rights and relations of a defendant, due process requires that the plaintiff notify the defendant of the potential adverse consequences of the proceeding against him.<sup>32</sup> The plaintiff provides such notice by means of service of a summons and a copy of the plaintiff's complaint upon the defendant. Due process does not require service of the summons and complaint upon the defendant personally; it requires merely that the plaintiff employ a method of service reasonably likely to provide notice.<sup>33</sup> Although the Supreme

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<sup>29</sup> *Cyrus v. Haveson*, 65 Cal. App. 3d 306, 315–16, 135 Cal. Rptr. 246, 252 (1976). See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶ 4:17–:19 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 750 (3d ed. 1985).

<sup>30</sup> *Gillette v. Burbank Community Hosp.*, 56 Cal. App. 3d 430, 434, 128 Cal. Rptr. 636, 638 (1976).

<sup>31</sup> *Koeper v. Koeper*, 125 Cal. App. 2d 118, 119, 269 P.2d 905, 906 (1954).

<sup>32</sup> *Greene v. Lindsey*, 456 U.S. 444, 449 (1982); *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).



Court has not established a hierarchy of forms of [substituted service](#), the court has held that if the plaintiff knows or could readily ascertain the defendant's address, the plaintiff may not rely upon [service by publication](#) of the summons in a newspaper or by [posting](#) it on the defendant's property instead of [service by mail](#) or by other means as certain to ensure actual notice.<sup>34</sup>

One must bear in mind that the plaintiff's service of the summons by a constitutionally means does not establish that the service of the summons satisfied California statutory requirements.

#### **[B] Who May Serve**

Anyone who is at least 18 years old and not a party to the action may serve a summons and complaint.<sup>35</sup> This includes any duly qualified and acting constable,

<sup>33</sup> *Greene v. Lindsey*, 456 U.S. 444, 449–50 (1982); *M. Lowenstein & Sons, Inc. v. Superior Court*, 80 Cal. App. 3d 762, 768, 145 Cal. Rptr. 814, 817 (1978), *disapproved on other grounds*, *Johnson & Johnson v. Superior Court*, 38 Cal. 3d 243, 254–55, 695 P.2d 1058, 1065 n.7, 211 Cal. Rptr. 517, 524 n.7 (1985).

<sup>34</sup> *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 799 (1983). A defendant's address is reasonably ascertainable if the local public records contain it. If the public records do not disclose the defendant's address, the plaintiff need not make "extraordinary efforts" to discover the defendant's identity and address. The Supreme Court has implied that if the plaintiff does not know the defendant's street address but does know the city or county in which the defendant resides, he must mail the summons to the defendant, addressing the envelope to the defendant's city or county, relying on "the well-known skill of postal officials and employees in making proper delivery of letters defectively addressed." *Id.* at 798 n.4. It is unclear to which planet the Supreme Court was referring when making this suggestion.

<sup>35</sup> CODE CIV. PROC. § 414.10. See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:31–:36 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 752–753 (1996).

marshal, or county sheriff<sup>36</sup> or a private party, whether or not engaged in business as a process server.<sup>37</sup> The plaintiff's own lawyer can serve the papers on the defendant, though this is an unwise practice, as it may involve the lawyer in a factual dispute about the manner in which he served process.<sup>38</sup>

Service of the summons and complaint by a party does not confer upon the court **personal jurisdiction** over the recipient of the papers.<sup>39</sup> A named person for whose benefit the court has entered a temporary restraining order is treated as a party to the action and may not serve process in the case.<sup>40</sup>

**Example:** *H* sues *W* for a divorce. In the presence of their daughter, *H* hands *W* his summons and complaint, saying, "I would just have to pay somebody to bring them up, and this is the same thing." The court enters an interlocutory decree of divorce by default. A year later, *W* moves the court to vacate the judgment and to quash the service of the summons. The court grants the motion.

The court ruled correctly. Although *H* could have handed the papers to his daughter to hand to *W*, *H* failed to accomplish service of the summons and complaint by handing the papers to *W* himself. The fact that the daughter witnessed the event makes no difference.<sup>41</sup>

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<sup>36</sup> Gov. CODE § 26665. If the sheriff is a party to the action, the county coroner may serve process on the sheriff. CODE CIV. PROC. § 262.6.

<sup>37</sup> *Hibernia Sav. & Loan Soc'y v. Clarke*, 110 Cal. 27, 31–32, 42 P. 425, 427 (1895).

<sup>38</sup> *Sheehan v. All Persons*, 80 Cal. App. 393, 398, 252 P. 337, 339 (1927).

<sup>39</sup> *Sullivan v. Sullivan*, 256 Cal. App. 2d 301, 304, 64 Cal. Rptr. 82, 85 (1967).

<sup>40</sup> *Caldwell v. Coppola*, 219 Cal. App. 3d 859, 865, 268 Cal. Rptr. 453, 456 (1990).

Any person who makes more than 10 services of process within California during one calendar year must file a verified certificate of registration as a process server with the county clerk of the county in which he resides or has his principal place of business.<sup>42</sup> The fact that the process server failed to comply with the statutory registration requirements does not invalidate an otherwise proper service of process.<sup>43</sup>

### [C] Fees

The current fee for service of a summons by a sheriff is \$25.<sup>44</sup> The fees of private process servers are not set by statute. The sheriff's service fee is recoverable as an item of costs.<sup>45</sup> If service was by a registered process server, the recoverable cost is the amount actually incurred in effecting service, including a stake-out or other means employed in locating the person to be served.<sup>46</sup> The defendant, however, may challenge the fees of a registered process server on the ground that his services were not reasonably necessary to the conduct of the litigation or that his fees are unreasonable.<sup>47</sup>

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<sup>41</sup> *Sullivan v. Sullivan*, 256 Cal. App. 2d 301, 304, 64 Cal. Rptr. 82, 85 (1967).

<sup>42</sup> BUS. & PROF. CODE § 22350(a). The statute does not apply to government employees, attorneys and their employees, court-appointed process servers, employees and independent contractors hired by registered process servers, licensed private investigators, and persons who serve process for no fee on behalf of nonprofit or fraternal organizations.

<sup>43</sup> CODE CIV. PROC. § 413.40.

<sup>44</sup> GOV. CODE §§ 26720.9, 26721. *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:37–:38 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 754 (3d ed. 1985).

<sup>45</sup> CODE CIV. PROC. § 1033.5(a)(4)(A).

<sup>46</sup> CODE CIV. PROC. § 1033.5(a)(4)(B).

**[D] Who May Be Served****[1] Agents for Service of Process**

One may appoint an agent with actual or implied authority to receive service of process,<sup>48</sup> and service upon the agent constitutes service upon the principal.<sup>49</sup> A lawyer retained to represent the defendant with respect to a matter does not have authority to receive service of the summons unless the defendant has specifically given him that authority.<sup>50</sup>

➡ Service on Corporations  
➡ Service on Associations

Various statutes condition a foreign or domestic corporation's or association's right to do business in California on the entity's appointment of an agent for service of process and, in default of such an appointment, designate a state official, usually the secretary of state, as the entity's agent for service of process. Service upon the statutorily designated agent for service of process is valid, provided that the designated agent forwards the papers to the defendant.<sup>51</sup>

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<sup>47</sup> CODE CIV. PROC. § 1033.5(c)(2), (3).

<sup>48</sup> Warner Bros. Records, Inc. v. Golden W. Music Sales, 36 Cal. App. 3d 1012, 1018, 112 Cal. Rptr. 71, 75 (1974). See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:46–47.2 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 813 (3d ed. 1985).

<sup>49</sup> CODE CIV. PROC. § 416.90.

<sup>50</sup> Zirbes v. Stratton, 187 Cal. App. 3d 1407, 1414, 232 Cal. Rptr. 653, 657 (1986); Warner Bros. Records, Inc. v. Golden W. Music Sales, 36 Cal. App. 3d 1012, 1018, 112 Cal. Rptr. 71, 75 (1974).

<sup>51</sup> National Equip. Rental v. Szukhent, 375 U.S. 311, 318 (1964).

**[2] Minors**

One may serve a summons on a minor by delivering a copy of the summons and of the complaint to his parent, guardian, conservator, or similar fiduciary. If the plaintiff cannot with reasonable diligence find any such person, he may deliver the documents to any person having the care or control of the child, with whom the child resides, or by whom the child is employed. If the child is at least 12 years old, the plaintiff must also deliver copies to the child.<sup>52</sup> When double delivery is required, the plaintiff's failure to deliver the summons and complaint either to the child or to the responsible adult renders the service ineffective.<sup>53</sup>

**[3] Incompetents**

One may serve a summons on a person (other than a minor) for whom a guardian, conservator, or similar fiduciary has been appointed by delivering a copy of the summons and of the complaint to his guardian, conservator, or similar fiduciary and to the defendant. For good cause shown, the court may dispense with delivery of the documents to the defendant.<sup>54</sup> If, however, a person having a guardian or conservator who resides in California has an interest in an estate, [personal service](#) on the

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<sup>52</sup> CODE CIV. PROC. § 412.60. *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶ 4:41 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 810 (3d ed. 1985).

<sup>53</sup> *Fanning v. Foley*, 99 Cal. 336, 338, 33 P. 1098, 1098 (1893) (delivery to child omitted); *Bank of Am. v. Carr*, 138 Cal. App. 2d 727, 737–38, 292 P.2d 587, 593–94 (1956) (service on mother as an individual rather than as guardian of the defendant child held invalid). *But see* *Miller v. Superior Court*, 56 Cal. 2d 49, 52–53, 362 P.2d 497, 499, 13 Cal. Rptr. 673, 675 (1961) (service on parents as individuals instead of as parents of the defendant minor held effective when coupled with simultaneous service on minors).

guardian or conservator or any process, notice, or court order concerning the estate is treated as service on the ward or conservatee.<sup>55</sup>

#### [4] Corporations

One may serve a summons on a corporation by delivering a copy of the summons and of the complaint to:

- the agent for service of process designated in its articles of incorporation,<sup>56</sup> annual statement,<sup>57</sup> or statement of a foreign corporation<sup>58</sup>
- the president or other head of the corporation, a vice president, a secretary or assistance secretary, a treasurer or assistant treasurer, a general manager,<sup>59</sup> or a person the corporations has authorized to receive service of process<sup>60</sup>

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<sup>54</sup> CODE CIV. PROC. § 416.70. *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:42–44 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 811 (3d ed. 1985).

<sup>55</sup> PROB. CODE § 1210.

<sup>56</sup> CODE CIV. PROC. § 416.10(a); CORP. CODE § 202(c). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:49–:71 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 797–803 (3d ed. 1985).

<sup>57</sup> CORP. CODE §§ 1502(b), 1701.

<sup>58</sup> CORP. CODE §§ 2105(a)(4), 2107(b). Principles of ostensible agency may qualify as an agent for service of process a person who does not have express authority to receive process. *Pasadena Medi-Center Assocs. v. Superior Court*, 9 Cal. 3d 773, 777, 511 P.2d 1180, 1183, 108 Cal. Rptr. 828, 831 (1973).

<sup>59</sup> A corporate representative is a “general manager” if he “is of sufficient character and rank to make it reasonably certain that the defendant will be apprised of the service made.” *Eclipse Fuel Eng’g Co. v. Superior Court*, 148 Cal. App. 2d 736, 745–46, 307 P.2d 739, 745–46 (1957).

<sup>60</sup> CODE CIV. PROC. § 416.10(b); CORP. CODE § 1701.

- a cashier or assistant cashier, if the corporation is a bank.<sup>61</sup>

One may also serve a summons on a foreign corporation by delivering by hand a copy of the summons and of the complaint to any officer of the corporation, its general manager in California,<sup>62</sup> or, if the corporation is a bank, a cashier or an assistant cashier.<sup>63</sup>

If (1) a designated agent for service of process of a domestic corporation has resigned and has not been replaced, or if the plaintiff cannot, with reasonable diligence, find the agent at the address designated for personally delivering the process, or if no agent has been designated, and (2) it is shown by affidavit to the satisfaction of the court that one cannot, with reasonable diligence, serve process against the corporation upon the designated agent by [personal service](#), by [substituted service](#), or by [mail](#), or upon the corporation by personal service on the persons identified above or by substituted service on the corporation, then the court may order that the plaintiff may serve process upon the corporation by delivering by hand to the secretary of state one copy of the process together with a copy of the order authorizing such service. The secretary of state is required to forward the papers to the corporation. Service in this manner is deemed complete on the tenth day after delivery of the process to the secretary of state.<sup>64</sup> In the case of a foreign corporation, one may serve pro-

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<sup>61</sup> CODE CIV. PROC. § 416.10(c).

<sup>62</sup> A general manager of a region within the state may qualify. *Eclipse Fuel Eng'g Co. v. Superior Court*, 148 Cal. App. 2d 736, 745–46, 307 P.2d 739, 745–46 (1957). Even an independent contractor may qualify as a general manager. *Cosper v. Smith & Wesson Arms Co.*, 53 Cal. 2d 77, 83, 346 P.2d 409, 414 (1959).

<sup>63</sup> CORP. CODE § 2110.

cess by the same method (1) if one cannot, with due diligence, find the designated agent for the service of process at the address stated in the designation, or if the designated agent no longer has authority to act, or if no agent has been designated and one cannot, after a diligent search, find any officer of the corporation, its general manager in this California, or, if the corporation is a bank, a cashier or an assistant cashier, and (2) these facts are shown by affidavit to the satisfaction of the court.<sup>65</sup>

One may serve a summons on a corporation that has forfeited its charter or right to do business or has dissolved by delivering a copy of the summons and of the complaint to a person who is a trustee of the corporation and of its shareholders or members.<sup>66</sup> One may also deliver the documents to an officer, director, or person having charge of its assets or, if no such person can be found, to any agent upon whom process might be served at the time of dissolution. If the plaintiff cannot, with due diligence, find any of these persons and it is so shown by affidavit to the satisfaction of the court, then the court may order that the plaintiff may serve the summons on the dissolved corporation by personally delivering a copy of the documents, together with a copy of the order, to the secretary of state. Service in this manner is deemed complete on the tenth day after delivery of the process to the secretary of state.<sup>67</sup> One may serve a foreign corporation that has surrendered its right to transact intrastate business with a summons in any action based upon a liability or obligation incurred within California before such surrender by delivering the documents to the

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<sup>64</sup> CORP. CODE § 1702.

<sup>65</sup> CORP. CODE § 2111(a).

<sup>66</sup> CODE CIV. PROC. § 416.20(a).

<sup>67</sup> CODE CIV. PROC. § 416.20(b); CORP. CODE § 2011.



secretary of state. No court order authorizing such service is required. If a foreign corporation qualified to transact business in California has its right to transact business forfeited by the franchise tax board or by the secretary of state, service of process on the corporation may be effected as if the right to transact intrastate business had not been forfeited. The fact that a corporation ceases to transact business in California without filing a certificate of surrender does not revoke the appointment of any agent for the service of process.<sup>68</sup>

The rules set forth in this section likewise apply to service of a summons on a joint stock company or association.<sup>69</sup>

#### [5] Partnerships and Unincorporated Associations

One may serve a summons on a general or limited partnership by delivering a copy of the summons and of the complaint to the person designated as agent for service of process,<sup>70</sup> a general partner, or the general manager of the partnership.<sup>71</sup> One may serve a foreign partnership by personal delivery to the secretary of state of the summons and complaint, together with a written statement signed by the plaintiff or the plaintiff's attorney setting forth the last known address of the partnership if

- the partnership has not designated an agent for service of process

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<sup>68</sup> CODE CIV. PROC. § 416.20(b); CORP. CODE § 2114.

<sup>69</sup> CODE CIV. PROC. § 416.30.

<sup>70</sup> CORP. CODE § 24003(e).

<sup>71</sup> CODE CIV. PROC. § 416.40(a). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:64–:68 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 804–805 (3d ed. 1985).

- the designated agent is an individual who cannot be found with due diligence at the address stated in the designation
- the designated agent is a corporation and no person can be found with due diligence to whom delivery may be made for the purpose of delivery to the corporate agent<sup>72</sup> or
- the designated agent is not longer authorized to receive service of process.<sup>73</sup>

One may serve a summons on an unincorporated association by delivering a copy of the summons and of the complaint to the person designated as agent for service of process,<sup>74</sup> the president or other head of the association, a vice president, a secretary or assistant secretary, a treasurer or assistant treasurer, a general manager, or a person authorized by the association to receive service of process.<sup>75</sup>

If a domestic unincorporated association has not designated an agent for service of process,<sup>76</sup> or if the designated agent cannot with reasonable diligence be found at the address specified in the index of unincorporated associations,<sup>77</sup> and if the plaintiff files an affidavit showing to the satisfaction of the court that he cannot serve process on the association by delivery to the designated agent, by [personal service](#),<sup>78</sup> by [substituted service](#),<sup>79</sup> or by [mail](#),<sup>80</sup> the court may order that the plaintiff may serve

<sup>72</sup> CORP. CODE §§ 1505, 24003(e).

<sup>73</sup> CODE CIV. PROC. § 416.40(c); CORP. CODE § 15800.

<sup>74</sup> CORP. CODE § 24003.

<sup>75</sup> CODE CIV. PROC. § 416.40(b).

<sup>76</sup> CORP. CODE § 24003.

<sup>77</sup> CORP. CODE § 24004(b).

<sup>78</sup> CODE CIV. PROC. § 415.10.

the association by delivering a copy of the summons and of the complaint to one or more of the association's members designated in the order and by mailing a copy of the process to the association at its last known address.<sup>81</sup>

#### [6] Fictitious Defendants

Code of Civil Procedure section 474 provides a means by which a plaintiff may preserve his right, despite the running of the statute of limitations, to join a defendant whose identity the plaintiff does not know. If the plaintiff does not know a defendant's name, he must state that fact in the complaint. He may thereafter designate the defendant in any pleading by a fictitious name. The summons served upon the fictitiously named defendant must contain a notice stating in substance: "To the person served: You are hereby served in the within action (or proceedings) as (or on behalf of) the person sued under the fictitious name of (designating it)." The certificate or affidavit of service must state the fictitious name under which the defendant was served and the fact that notice of identity was given by endorsement upon the document served as required by this section. If the plaintiff fails to follow these procedures, he may not obtain a default or a default judgment against the defendant.<sup>82</sup> A

► Parties: Fictitious Defendants

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<sup>79</sup> CODE CIV. PROC. § 415.20(a).

<sup>80</sup> CODE CIV. PROC. § 415.30.

<sup>81</sup> CODE CIV. PROC. § 416.40(c); CORP. CODE § 24007.

<sup>82</sup> CODE CIV. PROC. § 474. These rules do not apply to cases in which the plaintiff has sued a known defendant by an erroneous name or to cases in which entry of a default or default judgment is based on service of an amended pleading designating the defendant by his true name. *Id.* See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:29–:30.1 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 747 (3d ed. 1985).

► Errors in the Designation of Parties

failure to comply with these rules deprives the court of [personal jurisdiction](#) over the defendant.<sup>83</sup>

If the plaintiff intends to sue a corporation or unincorporated association as a fictitiously named defendant, the summons must notify the recipient both that the defendant is being sued under a fictitious name and that the recipient is being served on behalf of the fictitiously named defendant.

**Example:** *P* sues a supplier of an allegedly defective drug and names “DOE I” as a fictitiously named defendant identified as a physician. *P*’s process server serves a summons and complaint on the assistant branch manager of *D Corp.*, a wholesaler of the drug. The summons indicates that the summons is being served on “DOE I” and that the recipient is being served on behalf of a corporation, but the summons does not indicate that *D Corp.* is the fictitiously named defendant. *D Corp.* moves to dismiss the action on the ground that *P* has not made a valid service of the summons within three years of its issuance. The trial court denies the motion.

The court erred. The summons was defective, and the trial court did not acquire personal jurisdiction over the defendant.<sup>84</sup>

#### [7] Public Entities

One serves a summons in an action against the state by serving the attorney general.<sup>85</sup> In actions for the taking or damaging of private property for public use aris-

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<sup>83</sup> *Armstrong v. Superior Court*, 144 Cal. App. 2d 420, 424, 301 P.2d 51, 54 (1956).

<sup>84</sup> *Schering Corp. v. Superior Court*, 52 Cal. App. 3d 737, 742, 125 Cal. Rptr. 337, 340 (1975).

ing out of work done by the Department of Transportation or by the Department of Water Resources, one may also serve the summons on the director of transportation or on the director of water resources, respectively.<sup>86</sup> In actions against the State Lottery Commission or its director, one must serve the summons on the director at the lottery headquarters in Sacramento.<sup>87</sup>

One may serve a summons on a political subdivision of the state by delivering a copy of the summons and of the complaint to the clerk, secretary, president, presiding officer, or other head of its governing body.<sup>88</sup>

#### [8] Political Candidates

Whenever any candidate files a declaration of candidacy, nomination paper, or any other paper evidencing an intention to run for any public office at any election in California with either the secretary of state or a county elections official, the candidate irrevocably appoints the secretary of state or the county elections official as the

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<sup>85</sup> Gov. CODE § 955.4(a). See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:69--71 (1996);

<sup>86</sup> Gov. CODE §§ 955.6(a), 955.8(a).

<sup>87</sup> Gov. CODE § 8880.72. The address is: 600 North Tenth Street, Sacramento, California 95814.

<sup>88</sup> CODE CIV. PROC. § 416.50(a). Government Code section 53051 requires that public agencies file a statement in the Roster of Public Agencies maintained in the office of the secretary of state and of the county clerk of each county in which the public agency maintains an office. The statement includes the names and addresses of the chairman, president, or presiding officer of the governing body of the agency and of the clerk or secretary. *Id.* § 53051(a)(4). The Code of Civil Procedure provides a method of service via the secretary of state if a public agency fails to maintain an up-to-date statement or if the agency's officials cannot, with due diligence, be served at the addresses set forth in the statement. Gov. CODE §§ 960.2--5.

candidate's agent for service of process in any action or proceeding concerning his candidacy or the election laws. The appointment continues until the day of the election. If it is shown by affidavit to the satisfaction of a court that **personal service** of process against the candidate cannot be made with the exercise of due diligence, the court may make an order that the service be made upon the candidate by delivering by hand to the secretary of state or the county elections official one copy of the process together with a copy of the order authorizing the service. Service in this manner constitutes personal service upon the candidate. The secretary of state and the county elections officials are required to keep a record of all process served upon them. Upon the receipt of service of process, the secretary of state or the county elections official are to give notice of the service of the process to the candidate by mailing the copy of the process by special delivery registered mail, return receipt requested, to the candidate at the address shown on his filed declaration, nomination paper, affidavit, or other evidence of intention to be a candidate.<sup>89</sup>

#### [9] Prisoners

One may serve a summons directed to a prisoner by delivering a copy of the summons and of the complaint to the sheriff or jailer having custody of the prisoner.<sup>90</sup>

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<sup>89</sup> ELEC. CODE § 12; CODE CIV. PROC. § 416.80. *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶ 4:45 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 812 (3d ed. 1985).

<sup>90</sup> *Cf.* PENAL CODE § 4013 (sheriff or jailer must deliver legal papers to a prisoner in his custody). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL § 4:48 (1996).

**[E] Service Upon a Party Within California****[1] Personal Service**

One may serve a summons upon a defendant by personally delivering a copy of the summons and of the complaint to the defendant. Service is deemed complete at the moment of delivery. The server is required to write on the face of the copy of the summons, at the time of its delivery, the date on which the process server makes personal delivery. Omission of the date does not, however, affect the validity of the service.<sup>91</sup>

A defendant who knows that a person within speaking distance of him is attempting service of process may not avoid service by moving away or by refusing to receive the summons and complaint.<sup>92</sup> A defendant who knows of an action against him may avoid the court's **personal jurisdiction** by concealing himself from the plaintiff's process server. If he is successful, the plaintiff may have no alternative except to utilize one of the alternatives to personal service. One who helps a defendant avoid service of a summons is subject to liability for contempt of court.<sup>93</sup>

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<sup>91</sup> CODE CIV. PROC. § 415.10. *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:76--:81 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 761 (3d ed. 1985).

<sup>92</sup> *Trujillo v. Trujillo*, 71 Cal. App. 2d 257, 260, 162 P.2d 640, 641 (1945) (process service achieved service upon a defendant, who had locked himself in a car, by loudly stating the nature of the document and placing it under the windshield wiper).

<sup>93</sup> CODE CIV. PROC. § 1209(a)(8); *cf. In re Holmes*, 145 Cal. App. 3d 934, 942, 193 Cal. Rptr. 790, 795 (1983) (assistance in evasion of service of subpoena punishable as contempt).

The Soldiers' and Sailors' Relief Act<sup>94</sup> protects members of the military by prohibiting entry of a default judgment unless the plaintiff files an affidavit showing that the defendant is not a member of the military. If instructed to do so, a sheriff, when serving a summons, must inquire whether the person served is a member of the military and must provide the plaintiff with a certificate satisfying the Act.<sup>95</sup>

### [2] Substituted Service

In lieu of personal delivery of the summons on a corporation, association, or public entity, one may serve the summons by leaving a copy of the summons and of the complaint during usual office hours in the recipient's office with the person who is apparently in charge and by afterwards mailing a copy of the summons and complaint (by first-class mail, postage prepaid) to the person to be served at the place where the copies of the summons and complaint were left.<sup>96</sup> Service of the summons is deemed complete on the tenth day after the mailing.<sup>97</sup> Without the mailing, service is invalid.<sup>98</sup>

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<sup>94</sup> 50 U.S.C. § 520.

<sup>95</sup> Gov. CODE § 26608.1.

<sup>96</sup> CODE CIV. PROC. § 415.20(a). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶ 4:82--91 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 763–764 (3d ed. 1985).

<sup>97</sup> CODE CIV. PROC. § 415.20(a). For purposes of the statutes dealing with dismissal for delay in service of the summons, service of the summons is deemed to occur when delivery and mailing occur, not ten days later. *Ginns v. Shumate*, 65 Cal. App. 3d 802, 805–06, 135 Cal. Rptr. 604, 606 (1977).

<sup>98</sup> *Tsakos Shipping & Trading, S.A. v. Juniper Garden Town Homes, Ltd.*, 12 Cal. App. 4th 74, 85, 15 Cal. Rptr. 2d 585, 590 (1993).

➔ Mandatory Dismissal  
for Failure to Serve  
Summons

➔ Discretionary  
Dismissal for Failure to  
Serve Summons



**Example:** *D Corp.* maintains its corporate offices in Room 1210 of a certain office building. One can reach Room 1210 only through Room 1200. *P* leaves a copy of the summons and of the complaint in Room 1200, where someone throws them in the waste basket. *P* mails a copy of the summons and complaint to Room 1200. *D Corp.* does not respond to the summons, and *P* takes a default. The court denies *D Corp.*'s motion to set aside the default.

The court ruled correctly. *P* accomplished service of the summons on *D Corp.*<sup>99</sup>

If a copy of the summons and of the complaint cannot with reasonable diligence<sup>100</sup> be personally delivered to an individual (or to an authorized representative or guardian of an individual), one may serve the summons in a similar manner by leaving a copy of the summons and of the complaint at the person's "dwelling house, usual place of abode,"<sup>101</sup> usual place of business, or usual mailing address

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<sup>99</sup> *Ludka v. Athana Corp.*, 25 Cal. App. 3d 316, 321, 101 Cal. Rptr. 615, 618 (1972). *See also* *Khourie, Crew & Jaeger v. Sabek*, 220 Cal. App. 3d 1009, 1013, 269 Cal. Rptr. 687, 689 (1990) (a corporation cannot defeat service by locking the process server out of its office).

<sup>100</sup> *See* *Bein v. Brechtel-Jochim Group, Inc.*, 6 Cal. App. 4th 1387, 1391–92, 8 Cal. Rptr. 2d 351, 353 (1992) (several unsuccessful attempts at [personal service](#) constituted reasonable diligence, permitting service on gate guard); *Espindola v. Nunez*, 199 Cal. App. 3d 1389, 1392, 245 Cal. Rptr. 596, 598 (1988) (same).

The plaintiff bears the burden of proving that he exercised reasonable diligence to serve the defendant personally. *Evartt v. Superior Court*, 89 Cal. App. 3d 795, 802, 152 Cal. Rptr. 836, 840 (1979) (plaintiff who delayed almost three years before attempting service on a defendant who normally resided in the forum but was away on vacation did not exercise reasonable diligence).

other than a United States Postal Service post office box,” in the presence of a competent member of the household<sup>102</sup> or a person apparently in charge of his office, place of business, or usual mailing address, at least 18 years old, who must be informed of the contents of the documents, and by afterwards mailing a copy of the summons and complaint (by first-class mail, postage prepaid) to the person to be served at the place where the summons and complaint were left. Service of the summons is deemed complete on the tenth day after the mailing.<sup>103</sup>

### [3] Service by Mail

One may serve a summons by mail by mailing a copy of the summons and of the complaint by first-class mail or airmail, postage prepaid) to the person to be served, together with two copies of the notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender.<sup>104</sup>

➡ Form: Notice and Acknowledgment of Receipt

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<sup>101</sup> See *Zirbes v. Stratton*, 187 Cal. App. 3d 1407, 1418, 232 Cal. Rptr. 653, 659 (1986) (service at defendant’s parents’ home and at estranged husband’s restaurant were ineffective).

<sup>102</sup> See *Bein v. Brechtel-Jochim Group, Inc.*, 6 Cal. App. 4th 1387, 1393, 8 Cal. Rptr. 2d 351, 354 (1992) (the guard at a gated community is considered a “competent member of the household” if he controls access to the residence); cf. CODE CIV. PROC. § 415.21 (any appropriately identified process server shall be granted access to a gated community for a reasonable period of time for the purpose of serving process, but this statute does not abrogate *Bein*).

<sup>103</sup> CODE CIV. PROC. § 415.20(b).

<sup>104</sup> CODE CIV. PROC. § 415.30(a). A post office box is a sufficient address for service by mail. *Transamerica Title Ins. Co. v. Hendrix*, 34 Cal. App. 4th 740, 745, 40 Cal. Rptr. 2d 614, 617 (1995). See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:92–:105.3, :134–:139 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 765–769 (3d ed. 1985).

The Judicial Council form is deemed to comply with the requirements of the Code of Civil Procedure.<sup>105</sup> A notice and acknowledgment drafted from scratch must be in substantially the following form<sup>106</sup>:

(Title of court and cause, with action number, to be inserted by the sender prior to mailing)

NOTICE

To: (Here state the name of the person to be served.)

This summons is served pursuant to Section 415.30 of the California Code of Civil Procedure. Failure to complete this form and return it to the sender within 20 days may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons upon you in any other manner permitted by law. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, this form must be signed in the name of such entity by you or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. Section 415.30 provides that this summons is deemed served on the date of execution of an acknowledgment of receipt of summons.

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Signature of sender

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<sup>105</sup> CODE CIV. PROC. § 415.30(e).

<sup>106</sup> CODE CIV. PROC. § 415.30(b).

ACKNOWLEDGMENT OF RECEIPT OF SUMMONS

This acknowledges receipt on (insert date) of a copy of the summons and of the complaint at (insert address).

Date: \_\_\_\_\_  
(Date this acknowledgment is executed)

\_\_\_\_\_  
Signature of person acknowledging receipt,  
with title if acknowledgment is made on  
behalf of another person

Service of the summons is deemed complete on the date a written acknowledgment of receipt of summons is executed, if the acknowledgment is returned to the sender.<sup>107</sup> If the recipient does not sign the acknowledgment form, service of the summons is not effective, and the plaintiff must serve the summons by some other means. If, however, the recipient does not complete and return the acknowledgment form within 20 days from the date of mailing, the recipient is liable for the plaintiff's reasonable expenses incurred in serving or attempting to serve that party by another method of service.<sup>108</sup> Signing a postal return receipt does not constitute acknowledgment of receipt of the summons.<sup>109</sup> Execution of the acknowledgment of receipt by a nonresident does not constitute consent to the **personal jurisdiction** of the court.<sup>110</sup>

➡ Jurisdiction: Consent

<sup>107</sup> CODE CIV. PROC. § 415.30(c).

<sup>108</sup> CODE CIV. PROC. § 415.30(d).

<sup>109</sup> Tandy Corp. v. Superior Court, 117 Cal. App. 3d 911, 913, 173 Cal. Rptr. 81, 82 (1981).

<sup>110</sup> Marriage of Merideth, 129 Cal. App. 3d 356, 362, 180 Cal. Rptr. 909, 912 (1982).

If the plaintiff serves the summons by mail, the provisions of section 1013 of the Code of Civil Procedure that extend the time for exercising a right or doing an act do not extend the time for the defendant to respond to service of the summons.<sup>111</sup>

**[4] Service by Publication**

If a plaintiff cannot serve a summons on a defendant by any other means, he may serve it by publishing it in a newspaper.<sup>112</sup> In order to serve a summons by publication, the plaintiff must make an application to the court for an order authorizing service by publication. The plaintiff must support his application with an affidavit (or declaration) showing that the defendant cannot with reasonable diligence be served in another manner specified in the Code of Civil Procedure.<sup>113</sup> If a defendant's address is ascertainable, the plaintiff must employ a method of service superior to publication because constitutional principles of due process of law, as well as the authorizing statute, require that service by publication be utilized only as a last resort.<sup>114</sup> The affidavit must also show either that:

- ➔ Form: Application for Leave to Serve Summons by Publication
- ➔ Form: Declaration in Support of Application to Serve Summons by Publication

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<sup>111</sup> Witkin contends that if the defendant has already appeared in the action and is served with a cross-complaint by mail, section 1013 applies. 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 769, at 770 (3d ed. 1985). In support of this proposition, he cites only Code of Civil Procedure section 428.60(2), which provides merely that if a party has appeared in the action, a cross-complaint may be served upon him or upon his attorney in the manner provided for service of a summons or in the manner provided for the service of a motion. It would seem to this writer that section 1013 would apply to the service of a cross-complaint only if the cross-complaint is served in the manner of a motion.

<sup>112</sup> CODE CIV. PROC. § 415.50. See generally ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:106–:122.2 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 783–795 (3d ed. 1985).

<sup>113</sup> CODE CIV. PROC. § 415.50(a).

- ➔ Service of the Summons and Complaint: Constitutional Requirements

- ➡ Necessary Parties
- ➡ Persons Who May Be Joined as Parties
- ➡ Form: Order for Service of Summons by Publication

- A cause of action exists against the party upon whom service is to be made, or
- The defendant is a necessary or proper party to the action, or
- The defendant has or claims an interest in real or personal property in California that is subject to the court,<sup>115</sup> or
- The relief demanded in the action consists wholly or in part in excluding the party from any interest in the property.<sup>116</sup>

If the plaintiff makes the requisite showing, the court must order that the summons be published in “a named newspaper, published in this state, that is most likely to give actual notice to the party to be served” and that a copy of the summons, the complaint, and the order for publication be mailed forthwith to the defendant if his address is ascertained before the expiration of the time prescribed for publication of the summons.<sup>117</sup> Even though the court has authorized service by publication, the plaintiff may still serve the summons in any manner permitted by the Code of Civil Procedure; if the plaintiff accomplishes service of the summons by another method, that service supersedes any published summons.<sup>118</sup>

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<sup>114</sup> *Watts v. Crawford*, 10 Cal. 4th 743, 749 n.5, 896 P.2d 807, 811 n.5, 42 Cal. Rptr. 2d 81, 85 n.5 (1995). Due process requires that the plaintiff utilize some other method of service as to a defendant whose whereabouts he knows. *Mennonite Bd. of Missions v. Adams*, 462 U.S. 791, 795 (1983).

<sup>115</sup> This provision appears to be directed to establishing [in rem or quasi in rem jurisdiction](#).

<sup>116</sup> CODE CIV. PROC. § 415.50(a)(1), (2).

<sup>117</sup> CODE CIV. PROC. § 415.50(b). *See Olvera v. Olvera*, 232 Cal. App. 3d 32, 43, 283 Cal. Rptr. 271, 278 (1991) (publication in a Riverside newspaper was not publication in a newspaper which is “most likely to give actual notice” where the plaintiff knew that the defendant had moved to Pismo Beach).

<sup>118</sup> CODE CIV. PROC. § 415.50(d).

The plaintiff's affidavit supplies the jurisdictional basis for the court's order of publication; if the affidavit is flawed, the order of publication is void, the court does not acquire **personal jurisdiction** over the defendant, and any default judgment taken is subject to collateral attack.<sup>119</sup> The affidavit must be made on personal knowledge.<sup>120</sup> An affidavit by the plaintiff's lawyer does not suffice unless the attorney has personal knowledge of the matters stated.<sup>121</sup> The affidavit must state facts, not legal conclusions: "It is not sufficient to state generally, that after due diligence the defendant cannot be found within the State, or that the plaintiff has a good cause of action against him, or that he is a necessary party; but the acts constituting due diligence or the facts showing that he is a necessary party should be stated."<sup>122</sup>

**Example:** *P*'s attorney supports an application for an order authorizing service by publication with his own affidavit stating, "I verily believe that my client has a good cause of action." The trial court issues the requested order, *P* serves the summons upon *D* by publication, and takes *D*'s default.

*P*'s default judgment is void and subject to collateral attack.<sup>123</sup>

The affidavit should be executed shortly before the application for the order of publication, so that the affidavit describes conditions existing when the order is

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<sup>119</sup> *Harris v. Cavasso*, 68 Cal. App. 3d 723, 726–27, 137 Cal. Rptr. 410, 411–12 (1977). A verified complaint is not a substitute for a proper affidavit. *Olvera v. Olvera*, 232 Cal. App. 3d 32, 42 n.9, 283 Cal. Rptr. 271, 278 n.9 (1991).

<sup>120</sup> *Behymer v. Schrader*, 130 Cal. App. 200, 204, 19 P.2d 829, 830–31 (1933).

<sup>121</sup> *Harris v. Cavasso*, 68 Cal. App. 3d 723, 726, 137 Cal. Rptr. 410, 411 (1977).

<sup>122</sup> *Ricketson v. Richardson*, 26 Cal. 149, 153 (1864).

issued.<sup>124</sup>

In order to show that the defendant cannot with reasonable diligence be served in another manner, the affidavit should describe in detail the plaintiff's thorough, good faith search for the defendant,<sup>125</sup> including the details of the plaintiff's inquiries of the defendant's neighbors, relatives, friends, and employer and search of public directories and records.<sup>126</sup> In order to exercise diligence, the plaintiff must take "those steps a reasonable person would have taken under the circumstances."<sup>127</sup>

To serve the summons by publication, the plaintiff must publish the summons once a week for four successive weeks. Four publications in a newspaper regularly

<sup>123</sup> *Forbes v. Hyde*, 31 Cal. 342, 353 (1866). Said the court:

[S]uch an averment is neither the statement of an ultimate fact, such as is required to be stated in a pleading, nor of a probative fact from which such ultimate fact may be deduced, nor a fact of any sort which in any way legally tends to prove such ultimate or probative fact, or from which it may be inferred. It is not the statement of a fact at all. It is merely the statement of the opinion of the witness in relation to a point upon which the Judge is required to form his own opinion from facts which appear by affidavit.

*Id.*

<sup>124</sup> *Forbes v. Hyde*, 31 Cal. 342, 351 (1866).

<sup>125</sup> *Sanford v. Smith*, 11 Cal. App. 3d 991, 1001, 90 Cal. Rptr. 256, 262–63 (1970).

<sup>126</sup> *Vorburg v. Vorburg*, 18 Cal. 2d 794, 796–97, 117 P.2d 875, 876–77 (1941); *Olvera v. Olvera*, 232 Cal. App. 3d 32, 42, 283 Cal. Rptr. 271, 278 (1991).

<sup>127</sup> *Kott v. Superior Court*, 45 Cal. App. 4th 1126, 1139, 53 Cal. Rptr. 2d 215, 221–22 (1996); *Donel, Inc. v. Badalian*, 87 Cal. App. 3d 327, 333, 150 Cal. Rptr. 855, 859 (1978); *cf. Monterey S.P. Partnership v. W.L. Bangham, Inc.*, 49 Cal. 3d 454, 461 n.4, 777 P.2d 623, 627 n.4, 261 Cal. Rptr. 587, 591 n.4 (1989) (in an action against 252 beneficiaries of a deed of trust the plaintiff "might have . . . request[ed] permission from the trial court to serve a summons on the beneficiaries by publication").



published once a week or more often, with at least five days intervening between the respective publication dates not counting such publication dates, are sufficient. The court may, in its discretion, order publication for a longer period.<sup>128</sup> Service is deemed complete as provided in Government Code section 6064, which provides that notice is complete after the 28th day of the publication period.<sup>129</sup>

Several statutes dealing with service of process by publication alter the general rules in particular cases:

- In an action to reestablish destroyed land records or to reestablish the boundaries of parcels disturbed by earth movement, no affidavit is necessary; to each publication the plaintiff must append a statement of the first date of publication.<sup>130</sup>
- In an action to quiet title, the plaintiff's affidavit must show that the plaintiff has used reasonable diligence to ascertain the identity and residence of and to serve a summons on the persons named as unknown defendants and persons joined as testate or intestate successors of a person known or believed to be dead; the court may appoint a referee to investigate whether the plaintiff has used reasonable diligence to ascertain the identity and residence of persons sought to be served by publication, and the court may rely on the referee's report instead of the plaintiff's affidavit in making the order for service by publication.<sup>131</sup>

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<sup>128</sup> CODE CIV. PROC. § 415.50(b).

<sup>129</sup> CODE CIV. PROC. § 415.50(c); GOV. CODE § 6064; *Watts v. Crawford*, 10 Cal. 4th 743, 747 n.4, 896 P.2d 807, 810 n.4, 42 Cal. Rptr. 2d 81, 84 n.4 (1995).

<sup>130</sup> CODE CIV. PROC. §§ 751.06, 751.54.

- In an action concerning real property titles affected by public improvement assessments, the plaintiff's affidavit must show that the plaintiff used reasonable diligence to ascertain the identity and residence of the unknown defendants and of any persons sued as heirs and devisees.<sup>132</sup>
- In partition actions, the order for service by publication must provide (1) that the plaintiff shall post a copy of the summons and complaint on the real property that is the subject of the action within 10 days after the date the order is made, (2) that the plaintiff shall record a notice of the pendency of the action, and (3) that the publication shall describe the property.<sup>133</sup>
- In condemnation actions, the publication must describe the condemned property in a manner reasonably calculated to give persons with an interest in the property actual notice of the proceeding.<sup>134</sup>
- In an action to determine adverse claims to or to remove clouds upon tax-deeded property, the plaintiff's affidavit must show that the plaintiff used reasonable diligence to ascertain the identity of the unknown defendants and to ascertain the identity of any persons sued as heirs and devisees.<sup>135</sup>

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<sup>131</sup> CODE CIV. PROC. § 763.010.

<sup>132</sup> CODE CIV. PROC. § 801.9

<sup>133</sup> CODE CIV. PROC. § 872.320.

<sup>134</sup> CODE CIV. PROC. § 1250.120(b).

<sup>135</sup> REV. & TAX. CODE § 3960.

## [5] Special Service Rules

## [a] Unlawful Detainer

➔ Form: Summons  
(Unlawful Detainer)

➔ Form: Application for  
Leave to Serve  
Summons by Posting

➔ Form: Declaration in  
Support of Application  
for Leave to Serve  
Summons by Posting

In an action for unlawful detainer, a landlord may apply to the court for leave to serve a summons on his tenant by posting the summons on the premises.<sup>136</sup> The landlord must support his application with an affidavit (or declaration) showing that the tenant cannot with reasonable diligence be served in any manner specified in the Code of Civil Procedure except service by posting and that:

- a cause of action exists against the tenant or he is a necessary or proper party to the action, or
- the tenant has or claims an interest in real property in California that is subject to the jurisdiction of the court or the relief demanded in the action consists wholly or in part in excluding him from any interest in the property.<sup>137</sup>

➔ Form: Order for  
Service of Summons  
by Posting

The court's order must provide that the summons be posted on the premises in a manner most likely to give actual notice to the tenant and direct that a copy of the summons and of the complaint be mailed forthwith by certified mail to the tenant at his last known address.<sup>138</sup> Service of the summons is deemed complete on the tenth day after posting and mailing.<sup>139</sup> After the court has issued an order for posting, the

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<sup>136</sup> CODE CIV. PROC. § 415.45. *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:24, 4:123–:131 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 772, 796 (3d ed. 1985).

<sup>137</sup> CODE CIV. PROC. § 415.45(a).

<sup>138</sup> CODE CIV. PROC. § 415.45(b).

<sup>139</sup> CODE CIV. PROC. § 415.45(c).

landlord may still serve the summons by any other method authorized by the Code of Civil Procedure, in which case such service supersedes any posted summons.<sup>140</sup>

➡ [Form: Notice of Belief of Abandonment](#)

If a tenant defaults in the payment of rent for 14 days and the landlord reasonably believes that the tenant has abandoned the property, the landlord may establish the fact of abandonment and the termination of the lease by giving the tenant written notice of his belief of abandonment. The property is deemed abandoned and the lease is terminated unless the tenant gives the landlord written notice, before the date of termination specified in the landlord's notice, stating that he does not intend to abandon the property.<sup>141</sup> If the tenant gives the landlord written notice of his intent not to abandon the property, the landlord may serve the [summons in an action for unlawful detainer](#) by certified mail, postage prepaid, addressed to the tenant at the address stated in the tenant's notice if the landlord deposits the summons in the mail within 60 days from the he received the tenant's notice.<sup>142</sup> If the tenant fails to include in the notice an address at which he may be served, the landlord may serve the summons on the tenant by certified mail, postage prepaid, addressed to the tenant at

- the same address or addresses to which the landlord's notice of belief of abandonment was addressed if the landlord gave that notice by mail, or
- the address of the real property if the landlord's notice of belief of abandonment was personally served on the tenant.

The landlord must deposit the summons in the mail within 60 days from the date he received the tenant's notice of intent not to abandon.<sup>143</sup> Service is deemed complete

<sup>140</sup> CODE CIV. PROC. § 415.45(d).

<sup>141</sup> CIV. CODE § 1951.3.

<sup>142</sup> CODE CIV. PROC. § 415.47(a).

on the tenth day after mailing.<sup>144</sup>

In an unlawful detainer action the tenant has five days in which the respond, instead of the normal 30 days.<sup>145</sup>

**[b] Nonresidents**

The California statutes provide a number of special service rules for various categories of nonresidents.

**[i] Motorists, Boat Owners, and Pilots**

By operating<sup>146</sup> a vehicle in California or by allowing another to operate one's vehicle in California, a nonresident<sup>147</sup> is deemed to appoint the director of the Department of Motor Vehicles as his agent for service of process in any action arising out of an accident or collision resulting from the operation of the vehicle in California.<sup>148</sup> The "consent" of the nonresident motorist is binding on the personal repre-

<sup>143</sup> CODE CIV. PROC. § 415.47(b).

<sup>144</sup> CODE CIV. PROC. § 415.47(a), (b).

<sup>145</sup> CODE CIV. PROC. § 1167.

<sup>146</sup> Operation of a motor vehicle in California includes renting a vehicle to a third party for use in California, *McDonald v. Superior Court*, 43 Cal. 2d 621, 624, 275 P.2d 464, 466 (1954), as well as loading and unloading the vehicle, *Schefke v. Superior Court*, 136 Cal. App. 2d 715, 717, 289 P.2d 542, 544 (1955).

<sup>147</sup> A person is not a nonresident if his stay in California is "of such length coupled with an intention to remain long enough, that the presence in the state cannot be classified as merely temporary." *Briggs v. Superior Court*, 81 Cal. App. 2d 240, 246, 183 P.2d 758, 763 (1947).

<sup>148</sup> VEH. CODE § 17451. *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:140-:145 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 776-782 (3d ed. 1985).

sentative of his estate.<sup>149</sup> The plaintiff may serve a nonresident motorist defendant by delivering or mailing (by certified or registered mail, addressee only, return receipt requested) a copy of the summons and complaint to the director.<sup>150</sup> Service is effective as of the day the return receipt is received from the director's office. The plaintiff must pay a fee of \$2.00 for each nonresident to be served.<sup>151</sup> The plaintiff must also send a notice of service and a copy of the summons and complaint to the defendant by registered mail. Alternatively, the plaintiff may personally serve the document.<sup>152</sup> Any deviation from the required procedure renders service ineffective.<sup>153</sup> When service is effected through the director, the defendant has 60 days to respond.<sup>154</sup> Service upon the director is an alternative method of service; the plaintiff may choose to serve the nonresident motorist by some general method of service, such as [service by mail](#).<sup>155</sup>

Substantially the same rules apply to nonresidents who operate boats in California<sup>156</sup> or who land their airplanes at California airports.<sup>157</sup>

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<sup>149</sup> VEH. CODE §§ 17451–17453.

<sup>150</sup> P.O. Box 932328, Sacramento, California 94232-3280.

<sup>151</sup> VEH. CODE § 17454.

<sup>152</sup> VEH. CODE § 17455.

<sup>153</sup> *Coulston v. Cooper*, 245 Cal. App. 2d 866, 869, 54 Cal. Rptr. 302, 303 (1966).

<sup>154</sup> VEH. CODE § 17462.

<sup>155</sup> *Anderson v. Sherman*, 125 Cal. App. 3d 228, 237, 178 Cal. Rptr. 38, 42–43 (1981).

<sup>156</sup> HARB. & NAV. CODE §§ 601–608.

<sup>157</sup> PUB. UTIL. CODE § 21414.

**[ii] Estate Representatives**

A nonresident personal representative's acceptance of appointment as personal representative of an estate constitutes an appointment of the secretary of state as his agent for service of process with respect to the estate or his acts or omissions as a personal representative.<sup>158</sup> A plaintiff may serve the nonresident personal representative through the secretary of state by delivering to the secretary of state two copies of the summons and complaint and a copy of the representative's statement of address<sup>159</sup> or, if the representative has not filed the statement, a copy of the letters issued to the representative with a written statement signed by the plaintiff or his attorney setting forth an address for use by the secretary of state.<sup>160</sup> The secretary of state is then to mail by registered mail one copy of the summons and complaint to the representative.<sup>161</sup> The secretary of state provides the plaintiff a certificate of mailing, which the plaintiff files in court.<sup>162</sup>

**[iii] Unlicensed Insurers**

A foreign insurer that is not licensed to do business in California is deemed to appoint the insurance commissioner as its agent for service of process in an action by an insured or beneficiary arising out of the insurer's sale of an insurance policy to a California resident by doing any of the following:

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<sup>158</sup> PROB. CODE § 8572. *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 775 (3d ed. 1985).

<sup>159</sup> PROB. CODE § 8573.

<sup>160</sup> PROB. CODE § 8574(a).

<sup>161</sup> PROB. CODE § 8574(b).

<sup>162</sup> PROB. CODE § 8575(a).

- issuing or delivering to a California resident or a corporation authorized to do business in California a policy insuring the “lives or persons” of California residents present in California at the time of issuance or delivery or insuring property or operations located in California
- soliciting applications for such policies
- collecting premiums, membership fees, assessments, or other consideration for such policies
- transacting any other business arising out of such policies.<sup>163</sup>

The plaintiff must deliver to the commissioner two copies of the summons and complaint and pay \$12.<sup>164</sup> The commissioner is then to mail one of the copies by certified mail (or by registered mail if the defendant is located in a place outside the United States where certified mail service is not available) to the defendant’s last principal place of business known to the commissioner from national directories or reference books or other reliable information available to the commissioner’s office.<sup>165</sup> The plaintiff must also send the defendant notice of service on the commissioner and a copy of the summons and complaint within ten days; service is complete if the plaintiff files with the court clerk the receipt for the documents and an affidavit of compliance.<sup>166</sup> The commissioner may utilize a similar procedure to

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<sup>163</sup> INS. CODE § 1610, 1611. *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 774 (3d ed. 1985).

<sup>164</sup> INS. CODE § 12931(a).

<sup>165</sup> INS. CODE § 12931(c).

<sup>166</sup> INS. CODE § 12931(d).



serve an unauthorized foreign insurer<sup>167</sup> for violating the Unfair Trade Practices Act.<sup>168</sup>

#### [iv] Taxpayers

Every foreign corporation and nonresident individual who either incurs any liability to California under any tax law of the state or who is a guardian, conservator, receiver, or fiduciary of any individual, estate or trust, or corporation, or a member of a partnership, incurring any such liability, must file with the secretary of state a designation of a natural person as its or his agent for the purpose of service of process in any action to enforce such liability. The delivery to such agent of a copy of any process in any such action constitutes valid service on the individual or entity.<sup>169</sup> The same is true of a resident who leaves California for more than a year.<sup>170</sup> If the agent cannot be found with due diligence at the address given, or if the agent is no longer authorized to act, or if no person has been designated, and if **personal service** of process upon the corporation or individual cannot be made in California with the exercise of due diligence, then the state may serve the defendant by delivering the process to the secretary of state. The attorney representing the state must inform the secretary of state of the address of the corporation or individual. The secretary of state must forthwith give notice to the corporation or individual by telegraph,

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<sup>167</sup> INS. CODE § 1620.5.

<sup>168</sup> INS. CODE §§ 790 *et seq.*

<sup>169</sup> CODE CIV. PROC. § 1018(a). *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 771 (3d ed. 1985).

<sup>170</sup> CODE CIV. PROC. § 1018(b).

charges prepaid, of the service of the summons and complaint and must forward by registered mail, a copy of such summons and complaint.<sup>171</sup>

**[v] Real Estate Agents and Subdividers**

Every nonresident applicant for a real estate license must file with the real estate commissioner an irrevocable consent that if, in any action commenced against him in California, the plaintiff cannot effect **personal service** of process upon him in California after the exercise of due diligence, the plaintiff may effect service upon the applicant by delivering the process to the secretary of state.<sup>172</sup> The same is true of actions against nonresident subdividers.<sup>173</sup> The rules relating to service of process on the secretary of state in **tax cases**<sup>174</sup> apply in actions against nonresident real estate agents and subdividers.

**[F] Service Upon a Party in Another State**

One may serve a defendant located in a state other than California by any of the methods authorized for service within California or by a method prescribed by the law of the place where the defendant is served.<sup>175</sup>

The plaintiff also may serve the summons by sending a copy of the summons and of the complaint to the person to be served by first-class mail, postage prepaid, re-

<sup>171</sup> CODE CIV. PROC. § 1018(d).

<sup>172</sup> BUS. & PROF. CODE § 10151.5.

<sup>173</sup> BUS. & PROF. CODE § 11007.

<sup>174</sup> CODE CIV. PROC. § 1018.

<sup>175</sup> CODE CIV. PROC. § 413.10(b). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:133, :146 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 758 (3d ed. 1985).

quiring a return receipt. Service of a summons by this method is deemed complete on the tenth day after mailing.<sup>176</sup> The defendant need not sign a separate acknowledgment form. The plaintiff may employ this method of service even if the defendant has designated a resident agent for service of process who would be amenable to **personal service** of the summons and complaint.<sup>177</sup> If someone other than the defendant signs the return receipt, the plaintiff must prove that the defendant authorized the signer to receive his mail or that the defendant actually received the summons.<sup>178</sup>

### [G] Service Upon a Party in a Foreign Country

One may serve a defendant outside the United States by any of the methods authorized for service within California, as directed by the court in which the action is pending, or, if the court before or after service finds that the service is reasonably calculated to give actual notice, as prescribed by the law of the place where the person is served or as directed by the foreign authority in response to a letter rogatory.<sup>179</sup> If the ultimate success of the litigation will depend on a foreign forum's

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<sup>176</sup> CODE CIV. PROC. § 415.40.

<sup>177</sup> *M. Lowenstein & Sons, Inc. v. Superior Court*, 80 Cal. App. 3d 762, 767, 145 Cal. Rptr. 814, 816–17 (1978), *disapproved on other grounds*, *Johnson & Johnson v. Superior Court*, 38 Cal. 3d 243, 254–55, 695 P.2d 1058, 1065 n.7, 211 Cal. Rptr. 517, 524 n.7 (1985).

<sup>178</sup> CODE CIV. PROC. § 417.20(a); *Taylor-Rush v. Multitech Corp.*, 217 Cal. App. 3d 103, 110–11, 265 Cal. Rptr. 672, 675 (1990).

<sup>179</sup> CODE CIV. PROC. § 413.10(c). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:146–:147.3 (1996); 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* § 759 (3d ed. 1985).

enforcement of a California judgment, the plaintiff may wish to conform to the foreign forum's service rules in order to assure the enforceability of the judgment.

The rules on service of process abroad are subject to the provisions of the "Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters," known as the "Hague Service Convention."<sup>180</sup> If the defendant is located in a country that has signed the Hague Convention, the plaintiff must attempt service pursuant to the Convention.<sup>181</sup> If the plaintiff fails to comply with the Convention when required to do so, the service is invalid, and the California court does not acquire [personal jurisdiction](#) over the defendant, even if the defendant has actual notice of the lawsuit.<sup>182</sup>

The easiest way to comply with the Hague Convention is by "sending" the summons and complaint by mail to the defendant.<sup>183</sup> There are, however, two stumbling blocks. First, there is a split of authority whether "sending" includes service of process by mail.<sup>184</sup> Second, one may not serve process by "sending" if the foreign nation objects.<sup>185</sup> Alternatively, one may effect service through diplomatic or consular agents of the United States, unless the foreign national objects to service by this means on persons other than United States citizens.<sup>186</sup> Or, one may forward the doc-

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<sup>180</sup> CODE CIV. PROC. § 413.10(c). One may find the text of the Convention and a list of the signatories in an appendix to Rule 4, FED. R. CIV. P., in *Suzuki Motor Co. v. Superior Court*, 200 Cal. App. 3d 1476, 1486, 249 Cal. Rptr. 376, 383 (1988), or in the last volume of the Martindale-Hubbell Law Directory.

<sup>181</sup> *Quaranta v. Merlini*, 192 Cal. App. 3d 22, 29, 237 Cal. Rptr. 179, 184 (1987), *disapproved on other grounds*, *Watts v. Crawford*, 10 Cal. 4th 743, 761, 896 P.2d 807, 819, 42 Cal. Rptr. 2d 81, 93 (1995).

<sup>182</sup> *Balcom v. Hiller*, 46 Cal. App. 4th 1758, 1763, 54 Cal. Rptr. 2d 536, 539 (1996); *Dr. Ing. H.C.F. Porsche, A.G. v. Superior Court*, 123 Cal. App. 3d 755, 762, 177 Cal. Rptr. 155, 159 (1981).

<sup>183</sup> Hague Service Convention, art. 10(a), 20 U.S.T. 361.

uments through consular or diplomatic channels to the authorities that the foreign nation has designated for service of process.<sup>187</sup> Or, one may effect service through judicial officials of the foreign nation, provided that the foreign nation does not object.<sup>188</sup> Finally, one may effect service through the “Central Authority” that signatories to the Convention are required to maintain to receive foreign requests for service upon their citizens.<sup>189</sup> Forms for requesting service abroad are available from the marshall’s office in each federal courthouse.

➡ [Form: Request for Service Abroad of Judicial or Extrajudicial Documents](#)

One should bear in mind that the Convention does not apply to service of a summons on a foreign defendant unless local law requires transmission of the summons abroad. If the means exist to serve a foreign defendant without transmitting the summons abroad, then the Convention does not preempt the use of that method.<sup>190</sup>

<sup>184</sup> Compare *Shoei Kako Co. v. Superior Court*, 33 Cal. App. 3d 808, 821–22, 109 Cal. Rptr. 402, 411–12 (1973) (“sending” includes [service by mail](#)) with *Honda Motor Co. v. Superior Court*, 10 Cal. App. 4th 1043, 1046–47, 12 Cal. Rptr. 2d 861, 862–63 (1992) (“sending” does not include service by mail), and *Suzuki Motor Co. v. Superior Court*, 200 Cal. App. 3d 1476, 1483–84, 249 Cal. Rptr. 376, 381 (1988) (same).

<sup>185</sup> Hague Service Convention, art. 10(a), 20 U.S.T. 361. One may determine whether a nation objected to a method of service when the nation ratified the Convention by referring to the last volume of the Martindale-Hubbell Law Directory or by checking with the Department of State, Treaty Affairs Section, Office of the Legal Advisor ((202) 647–1345).

<sup>186</sup> Hague Service Convention, art. 8, 20 U.S.T. 361.

<sup>187</sup> Hague Service Convention, art. 9, 20 U.S.T. 361.

<sup>188</sup> Hague Service Convention, art. 10(b)–(c), 20 U.S.T. 361; *Balcom v. Hiller*, 46 Cal. App. 4th 1758, 1764, 54 Cal. Rptr. 2d 536, 540 (1996).

<sup>189</sup> Hague Service Convention, arts. 2–6, 20 U.S.T. 361. The Martindale-Hubbell Law Directory also includes the addresses of Central Authorities of the ratifying states.

**[H] Time Limits**

➔ Dismissal for Failure to  
Serve Summons

The plaintiff must serve the summons and complaint upon a defendant within three years after the complaint is filed.<sup>191</sup> If the plaintiff fails to comply with this requirement, the court must dismiss his action. The court has discretion to dismiss the action if the plaintiff fails to serve the summons and complaint within two years after filing the complaint.<sup>192</sup>

The {fast track rules} also limit the time within which the plaintiff must effect service.

**[I] Immunity from Service of Process**

The common law formerly provided that a nonresident witness is immune from service of process if he voluntarily comes to the forum to give evidence.<sup>193</sup> With the advent of expansive rules on [personal jurisdiction](#), the common law rule of immunity of witnesses has been abrogated.<sup>194</sup> A similar immunity extending to nonresi-

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<sup>190</sup> Volkswagenwerk Aktiengesellschaft v. Schlunk, 486 U.S. 694, 707 (1988) (service on foreign corporation by service of summons on local subsidiary) ; Kott v. Superior Court, 45 Cal. App. 4th 1126, 1136, 53 Cal. Rptr. 2d 215, 220 (1996) (the only method of service under California law which does not require the transmission of documents abroad, and consequently does not implicate the Hague Service Convention, is [service of summons by publication](#) where the party's address remains unknown during the publication period despite the exercise of reasonable diligence).

<sup>191</sup> CODE CIV. PROC. § 583.210(a). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:10–:10.4 (1996).

<sup>192</sup> CODE CIV. PROC. §§ 583.410(a), 583.420(a)(1).

<sup>193</sup> Velkov v. Superior Court, 40 Cal. 3d 289, 291, 253 P.2d 25, 26 (1953). *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 722–732 (3d ed. 1985).

dent who come to California to participate as litigants has likewise been abrogated.<sup>195</sup> A criminal defendant who is extradited to California, or who waives extradition to California, is immune from service of process “in civil actions arising out of the same facts as the criminal proceeding for which he is returned, until he has been convicted . . . or, if acquitted, until he has had reasonable opportunity to return to the State from which he was extradited.”<sup>196</sup> There is some suggestion that immunity from service of process may extend to a nonresident who comes to California to perform a public duty during a public emergency<sup>197</sup> and to a nonresident attorney who comes to California to represent a litigant in a California case.<sup>198</sup>

Members of the California legislature are immune from service of process “during a session of the Legislature or for 5 days before and after a session.”<sup>199</sup> Members of Congress do not enjoy similar immunity.<sup>200</sup>

Representatives of foreign countries having diplomatic rank are immune from service of process.<sup>201</sup>

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<sup>194</sup> *Severn v. Adidas Sportschuhfabriken*, 33 Cal. App. 3d 754, 762, 109 Cal. Rptr. 328, 333 (1973).

<sup>195</sup> *Silverman v. Superior Court*, 203 Cal. App. 3d 145, 149, 249 Cal. Rptr. 724, 727 (1988).

<sup>196</sup> PENAL CODE § 1555.

<sup>197</sup> *Murrey v. Murrey*, 216 Cal. 707, 710–11, 16 P.2d 741, 742 (1932).

<sup>198</sup> *Tadge v. Byrnes*, 179 Cal. 275, 276, 176 P. 439, 440 (1918).

<sup>199</sup> CAL. CONST. art. IV, § 14.

<sup>200</sup> *Long v. Ansell*, 293 U.S. 76, 82 (1934).

<sup>201</sup> 22 U.S.C. § 254d.

**[J] Waiver**

The requirements regarding service of the summons exist for the benefit of the defendant. He may waive service of the summons, or defects in the service of the summons, if he does so knowingly and voluntarily.<sup>202</sup> If the defendant makes a **general appearance** in the action, he submits to the court's jurisdiction and forfeits any objection to defects in service.<sup>203</sup>

One may obviate the need for service of process by appointing an agent with authority to stipulate to or "confess" judgment against the defendant, provided that certain requirements are met:

- the defendant's independent counsel must certify that he has examined the proposed judgment, advised the defendant regarding the waiver of rights and defenses under the confession of judgment procedure, and advised the defendant to utilize the confession of judgment procedure<sup>204</sup>
- the defendant must sign a verified statement authorizing the entry of judgment for a specified sum, stating the facts out of which his debt arose, and showing that the amount of the judgment is justly due.<sup>205</sup>

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<sup>202</sup> D.H. Overmyer Co. v. Frick Co., 405 U.S. 174, 185 (1972). *See generally* ROBERT I. WEIL & IRA A. BROWN, JR., CALIFORNIA PRACTICE GUIDE: CIVIL PROCEDURE BEFORE TRIAL ¶¶ 4:12.1-:12.5 (1996).

<sup>203</sup> CODE CIV. PROC. § 417.30(a).

<sup>204</sup> CODE CIV. PROC. § 1132(b). Certification by a lawyer who has a conflict of interest does not satisfy the statute. Rivercourt Co. Ltd. v. Dyna-Tel, Inc., 41 Cal. App. 4th 1477, 1481, 49 Cal. Rptr. 2d 279, 282 (1996).

<sup>205</sup> CODE CIV. PROC. § 1133.



**[K] Service of Process in Small Claims Court Cases**

The plaintiff may serve his [Plaintiff's Claim and Order to Defendant \(Small Claims\)](#) by any of the following methods:

- The clerk may mail a copy of the claim and order to the defendant by any form of mail providing for a return receipt.
- ➡ [Personal Service](#)
  - The plaintiff may cause a copy of the claim and order to be delivered to the defendant in person.
  - The plaintiff may serve the claim and order by [substituted service](#). The plaintiff, however, need not first attempt personal service on the defendant. The plaintiff may serve a copy of the claim and order at the office of the sheriff or marshal, who must deliver a copy to any person who is at least 18 years old and is authorized to receive service. The sheriff or marshal then mails a copy to the defendant's usual mailing address.<sup>206</sup>
- ➡ [Agents for Service of Process](#)

Service is deemed complete on the date that the defendant signs the return receipt, when substituted service is accomplished, or “as established by other competent evidence,” whichever applies to the method of service used.<sup>207</sup> Service of the claim and order must be completed at least ten days before the hearing if the defendant lives in the county in which the plaintiff filed the action, or at least 15 days before the hearing if the defendant lives outside the county.<sup>208</sup> The defendant must be served within California except the following two cases:

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<sup>206</sup> CODE CIV. PROC. § 116.340(a).

<sup>207</sup> CODE CIV. PROC. § 116.340(c).

<sup>208</sup> CODE CIV. PROC. § 116.340(b).

➔ Nonresident Motorists

- The owner of record of California real property who lives in another state and does not have a local agent for service of process may be served outside California if the claim relates to that property.<sup>209</sup>
- Service on the director of the Department of Motor Vehicles and notice to the defendant, if made by any of the methods described above, constitutes constructive service on a nonresident owner or operator of a motor vehicle involved in an accident in California.<sup>210</sup>

§ 6.05 The Return of the Summons

Unless the defendant makes a [general appearance](#) (thereby waiving service of the summons), the plaintiff, in order to establish the court’s jurisdiction over the defendant, must file the summons accompanied by an affidavit, called a “proof of service,” showing that the plaintiff was properly served with the summons.<sup>211</sup> The Judicial Council’s [form summonses](#) include proof of service provisions.<sup>212</sup> There are two separate Judicial Council proof of service forms:

- [Proof of Service \(Summons\)](#)
- [Proof of Service of Summons \(Family Law\)](#)

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<sup>209</sup> CODE CIV. PROC. § 116.340(e).

<sup>210</sup> CODE CIV. PROC. § 116.340(f).

<sup>211</sup> CODE CIV. PROC. § 417.30(a). *See generally* 3 B.E. WITKIN, CALIFORNIA PROCEDURE, *Actions* §§ 814–820 (3d ed. 1985).

<sup>212</sup> “All proof of [personal service](#) shall be made on a form adopted by the Judicial Council.” CODE CIV. PROC. § 417.10(f).

If the plaintiff served the defendant in California by [personal service](#), [substituted service](#), or [service by mail](#), the plaintiff, to prove that a summons was served, must file an affidavit of the person who served the defendant showing the time, place, and manner of service and the facts showing that service was made in accordance with the Code of Civil Procedure. The affidavit must state the name of the recipient of the summons and complaint, his title or the capacity in which he was served, and, in the case of a defendant corporation or association, that the “notice to the person served” appeared on the copy of the summons. If the defendant was served as a fictitious “Doe” defendant, the affidavit must state the fictitious name under which the defendant was served and the fact that notice of identity was given by endorsement on the summons.<sup>213</sup> If service was made by [mail](#), the proof of service must include the [acknowledgment of receipt](#) of summons.<sup>214</sup> If the summons was served by [publication](#),<sup>215</sup> the plaintiff must prove service by means of an affidavit of the publisher or printer, or his foreman or principal clerk, showing the time and place of publication and an affidavit showing the time and place copies of the summons and of the complaint were mailed to the defendant.<sup>216</sup> If the summons was served by [posting](#),<sup>217</sup> the plaintiff must prove service by means of an affidavit of the person who posted the premises, showing the time and place of posting, and an affidavit showing the time and place copies of the summons and complaint were mailed to the defen-

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<sup>213</sup> CODE CIV. PROC. § 474.

<sup>214</sup> CODE CIV. PROC. § 417.10(a).

<sup>215</sup> CODE CIV. PROC. § 415.50.

<sup>216</sup> CODE CIV. PROC. § 417.10(b).

<sup>217</sup> CODE CIV. PROC. § 415.45.

dant.<sup>218</sup> If the summons was served in some other manner authorized by statute, the plaintiff must prove service in the manner prescribed by that statute or, if no manner is prescribed, in the manner described above for proof of a similar manner of service.<sup>219</sup> The same affidavits are required if the plaintiff served an **out-of-state defendant** by any of the means referred to above.<sup>220</sup> Certain ancient decisions hold that the affidavit must also recite that the process server was over 18 years old when service was made.<sup>221</sup> The defendant's written admission of service is a valid substitute for the required affidavits.<sup>222</sup>

If the plaintiff served an out-of-state defendant by **mail**,<sup>223</sup> a proof of service must include evidence satisfactory to the court establishing actual delivery to the defendant, by a signed return receipt or other evidence.<sup>224</sup> (If someone other than the defendant signed the receipt, the proof of service must include evidence that the recipient was authorized to receive the defendant's mail<sup>225</sup> or that the defendant actually received the summons and complaint.<sup>226</sup>) The plaintiff may also prove service

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<sup>218</sup> CODE CIV. PROC. § 417.10(e).

<sup>219</sup> CODE CIV. PROC. § 417.10(c).

<sup>220</sup> CODE CIV. PROC. § 417.20(a).

<sup>221</sup> *E.g.*, Lyons v. Cunningham, 66 Cal. 42, 44, 4 P. 938, 939 (1884).

<sup>222</sup> CODE CIV. PROC. §§ 417.10(d), 417.20(d).

<sup>223</sup> CODE CIV. PROC. § 415.40.

<sup>224</sup> CODE CIV. PROC. § 417.20(a).

<sup>225</sup> *Compare* Neadeau v. Foster, 129 Cal. App. 3d 234, 237, 180 Cal. Rptr. 806, 807 (1982) (office manager authorized to sign for defendant's mail) *with* Taylor-Rush v. Multitech Corp., 217 Cal. App. 3d 103, 110, 265 Cal. Rptr. 672, 675 (1990) (neighbors not authorized to sign for defendant's mail).

in a manner prescribed by the law of the place where the defendant was served for proof of service in an action in its courts of general jurisdiction; the court in which the action is pending may, however, impose additional requirements.<sup>227</sup> If the plaintiff served an **out-of-state defendant** pursuant to court order,<sup>228</sup> the plaintiff must prove service in the manner prescribed by the court order.<sup>229</sup>

If a summons is lost after service has been made but before the summons is returned, the plaintiff may substitute for the missing summons an affidavit of the process server showing the time, place, and manner of service and the facts showing that service was made in accordance with the Code of Civil Procedure.<sup>230</sup> If service of the summons was proper but the plaintiff filed a defective proof of service, the plaintiff may cure the defect by filing an amended proof of service.<sup>231</sup>

The plaintiff must file the proof of service “within 60 days after the time the summons and complaint must be served upon a defendant,”<sup>232</sup> *i.e.*, within three years

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<sup>226</sup> *Marriage of Tusigner*, 170 Cal. App. 3d 80, 82–83, 215 Cal. Rptr. 838, 839 (1985). *But cf.* *Tsakos Shipping & Trading, S.A. v. Juniper Garden Town Homes, Ltd.*, 12 Cal. App. 4th 74, 85, 15 Cal. Rptr. 2d 585, 590 (1993) (defendant’s general knowledge of the lawsuit is not a substitute for actual receipt of the summons and complaint).

<sup>227</sup> CODE CIV. PROC. § 417.20(c).

<sup>228</sup> CODE CIV. PROC. § 413.10(c).

<sup>229</sup> CODE CIV. PROC. § 417.20(b).

<sup>230</sup> CODE CIV. PROC. § 417.30(b).

<sup>231</sup> *M. Lowenstein & Sons, Inc. v. Superior Court*, 80 Cal. App. 3d 762, 770–71, 145 Cal. Rptr. 814, 818–19 (1978), *disapproved on other grounds*, *Johnson & Johnson v. Superior Court*, 38 Cal. 3d 243, 254–55, 695 P.2d 1058, 1065 n.7, 211 Cal. Rptr. 517, 524 n.7 (1985).

<sup>232</sup> CODE CIV. PROC. § 583.210(b).

and 60 days after the action was commenced against the defendant. In order to avoid [dismissal](#), the proof need only show that the plaintiff performed every act required to effect service before expiration of the three-year period, even though the plaintiff cannot prove the defendant's actual receipt of the summons and complaint.<sup>233</sup>

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<sup>233</sup> Johnson & Johnson v. Superior Court, 38 Cal. 3d 243, 254–55, 695 P.2d 1058, 1065, 211 Cal. Rptr. 517, 524 (1985).

# SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: *(Aviso a Acusado)*

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**YOU ARE BEING SUED BY PLAINTIFF:**  
*(A Ud. le está demandando)*

You have **30 CALENDAR DAYS** after this summons is served on you to file a typewritten response at this court.

A letter or phone call will not protect you; your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

*Después de que le entreguen esta citación judicial usted tiene un plazo de 30 DIAS CALENDARIOS para presentar una respuesta escrita a máquina en esta corte.*

*Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.*

*Si usted no presenta su respuesta a tiempo, puede perder el caso, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.*

*Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).*

The name and address of the court is: *(El nombre y dirección de la corte es)*

CASE NUMBER: *(Número del Caso)*

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
*(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)*

DATE:  
*(Fecha)*

Clerk, by \_\_\_\_\_, Deputy  
*(Actuario) (Delegado)*

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served

- as an individual defendant.
- as the person sued under the fictitious name of *(specify)*:
- on behalf of *(specify)*:

under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (individual)  
 other:

- by personal delivery on *(date)*:

**PROOF OF SERVICE – SUMMONS**  
*(Use separate proof of service for each person served)*

1. I served the
- a.  summons  complaint  amended summons  amended complaint  
 completed and blank Case Questionnaires  Other (specify):
- b. on defendant (name):
- c. by serving  defendant  other (name and title or relationship to person served):
- d.  by delivery  at home  at business  
(1) date:  
(2) time:  
(3) address:
- e.  by mailing  
(1) date:  
(2) place:
2. Manner of service (check proper box):
- a.  **Personal service.** By personally delivering copies. (CCP 415.10)
- b.  **Substituted service on corporation, unincorporated association (including partnership), or public entity.** By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))
- c.  **Substituted service on natural person, minor, conservatee, or candidate.** By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) **(Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)**
- d.  **Mail and acknowledgment service.** By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) **(Attach completed acknowledgment of receipt.)**
- e.  **Certified or registered mail service.** By mailing to an address outside California (by first-class mail, postage prepaid, requiring a return receipt) copies to the person served. (CCP 415.40) **(Attach signed return receipt or other evidence of actual delivery to the person served.)**
- f.  Other (specify code section):  
 additional page is attached.
3. The "Notice to the Person Served" (on the summons) was completed as follows (CCP 412.30, 415.10, and 474):
- a.  as an individual defendant.
- b.  as the person sued under the fictitious name of (specify):
- c.  on behalf of (specify):  
under  CCP 416.10 (corporation)  CCP 416.60 (minor)  other:  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (individual)
- d.  by personal delivery on (date):
4. At the time of service I was at least 18 years of age and not a party to this action.
5. Fee for service: \$
6. Person serving:
- a.  California sheriff, marshal, or constable. f. Name, address and telephone number and, if applicable, county of registration and number:
- b.  Registered California process server.
- c.  Employee or independent contractor of a registered California process server.
- d.  Not a registered California process server.
- e.  Exempt from registration under Bus. & Prof. Code 22350(b).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

**(For California sheriff, marshal, or constable use only)**  
I certify that the foregoing is true and correct.

Date:

Date:

▶ \_\_\_\_\_  
(SIGNATURE)

▶ \_\_\_\_\_  
(SIGNATURE)



NAME AND ADDRESS OF ATTORNEY:	TELEPHONE NO:	FOR COURT USE ONLY:
ATTORNEY FOR (Name):		
Insert name of court, judicial district or branch court, if any, and Post Office and Street Address:		
PLAINTIFF:		
DEFENDANT:		
<b>SUMMONS (JOINT DEBTOR)</b>		CASE NUMBER:

**NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.**

**¡AVISO! Usted ha sido demandado. El tribunal puede decidir contra Ud. sin audiencia a menos que Ud. responda dentro de 30 días. Lea la información que sigue.**

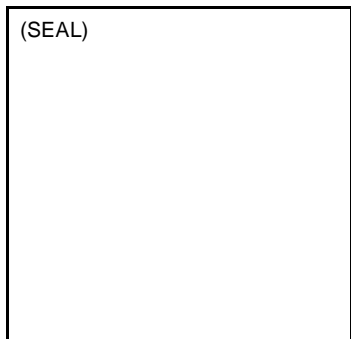
If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be filed on time.

Si Usted desea solicitar el consejo de un abogado en este asunto, debería hacerlo inmediatamente, de esta manera, su respuesta escrita, si hay alguna, puede ser registrada a tiempo.

**1. TO THE DEFENDANT (Name):**

You are hereby directed to file in this court, within **30** days after this summons is served on you, a written response to the Declaration or Affidavit accompanying this summons, giving any legal reason why you should not be required to pay the unpaid amount of: \$ . . . . . on the judgment rendered by this court on (Date): . . . . . against: . . . . . Unless you do so, your default will be entered on application of the plaintiff and the court may enter a judgment against you for the unpaid amount due on the judgment, which could result in the garnishment of wages, taking of money or property, or other relief.

DATED: . . . . . Clerk, By \_\_\_\_\_, Deputy



**2. NOTICE TO THE PERSON SERVED: You are served**

- a.  As an individual defendant.
  - b.  As (or on behalf of) the person sued under the fictitious name of: . . . . .
  - c.  On behalf of: . . . . .
- Under:  CCP 416.10 (Corporation)                       CCP 416.60 (Minor)
- CCP 416.20 (Defunct Corporation)                       CCP 416.70 (Incompetent)
- CCP 416.40 (Association or Partnership)                       CCP 416.90 (Individual)
- Other:
- d.  By personal delivery on (Date): . . . . .

A written response must be in the form prescribed by the California Rules of Court. It must be filed in this court with the proper filing fee and proof of service of a copy on each plaintiff's attorney and on each plaintiff not represented by an attorney. The time when a summons is deemed served on a party may vary depending on the method of service. For example, see CCP 413.10 through 415.50. The word "complaint" includes cross-complaint, "plaintiff" includes cross-complaint, "defendant" includes cross-defendant, the singular includes the plural.

PROOF OF SERVICE

(Use separate proof of service for each person served)

- 1. I served the
a. Summons and declaration or affidavit
b. On defendant (Name):
c. By serving (1) Defendant (2) Other (Name and title or relationship to person served):
d. By delivery at home business (1) Date of: (2) Time of: (3) Address:
e. By mailing (1) Date of: (2) Place of:
2. Manner of service: (Check proper box)
a. Personal service. By personally delivering copies. (CCP 415.10)
b. Substituted service on corporation, unincorporated association (including partnership), or public entity. By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))
c. Substituted service on natural person, minor, incompetent, or candidate. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)
d. Mail and acknowledgment service. By mailing (by first-class mail or airmail) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (Attach completed acknowledgment of receipt.)
e. Certified or registered mail service. By mailing to address outside California (by registered or certified airmail with return receipt requested) copies to the person served. (CCP 415.40) (Attach signed return receipt or other evidence of actual delivery to the person served.)
f. Other (Specify code section):
Additional page is attached.
3. The notice to the person served (Item 2 on the copy of the summons served) was completed as follows (CCP 412.30, 415.10, and 474):
a. As an individual defendant.
b. As the person sued under the fictitious name of:
c. On behalf of:
Under CCP 416.10 (Corporation) CCP 416.60 (Minor) Other:
CCP 416.20 (Defunct Corporation) CCP 416.70 (Incompetent)
CCP 416.40 (Association or partnership) CCP 416.90 (Individual)
d. By personal delivery on (Date):
4. At the time of service I was at least 18 years of age and not a party to this action.
5. Fee for service: \$
6. Person serving:
a. Not a registered California process server.
b. Registered California process server.
c. Employee or independent contractor of a registered California process server.
d. Exempt from registration under Bus. & Prof. Code 22350(b)
e. California sheriff, marshal, or constable.
f. Name, address and telephone number and if applicable, county of registration and number:

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on (Date): at (Place): , California.

(For California sheriff, marshal or constable use only) I certify that the foregoing is true and correct and that this certificate is executed on (Date): at (Place): , California.

(Signature)

(Signature)

# SUMMONS (CITATION JUDICIAL)

UNLAWFUL DETAINER-EVICTION  
(PROCESO DE DESAHUCIO-EVICCION)

NOTICE TO DEFENDANT: *(Aviso a acusado)*

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**YOU ARE BEING SUED BY PLAINTIFF:**  
*(A Ud. le está demandando)*

You have **5 DAYS** after this summons is served on you to file a typewritten response at this court. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays.)

A letter or phone call will not protect you. Your typewritten response must be in proper legal form if you want the court to hear your case.

If you do not file your response on time, you may lose the case, you may be evicted, and your wages, money and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office *(listed in the phone book)*.

*Después de que le entreguen esta citación judicial usted tiene un plazo de 5 DIAS para presentar una respuesta escrita a máquina en esta corte. (Para calcular los cinco días, cuente el sábado y el domingo, pero no cuente ningún otro día feriado observado por la corte.)*

*Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte escuche su caso.*

*Si usted no presenta su respuesta a tiempo, puede perder el case, le pueden obligar a desalojar su casa, y le pueden quitar su salario, su dinero y otras cosas de su propiedad sin aviso adicional por parte de la corte.*

*Existen otros requisitos legales. Puede que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).*

The name and address of the court is: *(El nombre y dirección de la corte es)*

CASE NUMBER: *(Número del caso)*

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

*(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)*

DATE:  
*(Fecha)*

Clerk, by \_\_\_\_\_, Deputy  
*(Actuario) (Delegado)*

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served

- as an individual defendant.
- as the person sued under the fictitious name of *(specify)*:
- on behalf of *(specify)*:

under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (individual)  
 other:

- by personal delivery on *(date)*:  
(See reverse for Proof of Service)

PLAINTIFF:	CASE NUMBER:
DEFENDANT:	

**PROOF OF SERVICE**

1. At the time of service I was at least 18 years of age and not a party to this action, and **I served copies** of the *(specify documents)*:

2. a. Party served *(specify name of party as shown on the documents served)*:

b. Person served:  party in item 2a  other *(specify name and title or relationship to the party named in item 2a)*:

c. Address:

3. I served the party named in item 2

a.  **by personally delivering** the copies (1) on *(date)*: \_\_\_\_\_ (2) at *(time)*: \_\_\_\_\_

b.  **by leaving** the copies with or in the presence of *(name and title or relationship to person indicated in item 2b)*:

(1)  **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.

(2)  **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the person served. I informed him or her of the general nature of the papers.

(3) on *(date)*: \_\_\_\_\_ (4) at *(time)*: \_\_\_\_\_

(5)  A **declaration of diligence** is attached. *(Substituted service on natural person, minor, conservatee, or candidate.)*

c.  **by mailing** the copies to the person served, addressed as shown in item 2c, by first-class mail, postage prepaid,

(1) on *(date)*: \_\_\_\_\_ (2) from *(city)*: \_\_\_\_\_

(3)  with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me.

(4)  to an address outside California with return receipt requested. ← *(Attach completed form.)* ↗

d.  **by** causing copies to be mailed. A declaration of mailing is attached.

e.  **other** *(specify other manner of service and authorizing code section)*:

4. The "Notice to the Person Served" (on the summons) was completed as follows:

a.  as an individual defendant.

b.  as the person sued under the fictitious name of *(specify)*:

c.  on behalf of *(specify)*:

under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  other:

CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)

CCP 416.40 (association or partnership)  CCP 416.90 (individual)

5. **Person serving** *(name, address, and telephone No.)*:

a. **Fee** for service \$ \_\_\_\_\_

b.  Not a registered California process server.

c.  Exempt from registration under B&P § 22350(b).

d.  Registered California process server.

(1)  Employee or independent contractor.

(2) Registration No.: \_\_\_\_\_

(3) County: \_\_\_\_\_

6.  **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7.  **I am a California sheriff, marshal, or constable and** I certify that the foregoing is true and correct.

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

\_\_\_\_\_  
(SIGNATURE)

# SUMMONS—FAMILY LAW

# CITACION JUDICIAL—DERECHO DE FAMILIA

## NOTICE TO RESPONDENT (Name):

AVISO AL DEMANDADO (Nombre):

You are being sued. A usted le estan demandando.

## PETITIONER'S NAME IS:

EL NOMBRE DEL DEMANDANTE ES:

CASE NUMBER: (Número del Caso)

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

You have **30 CALENDAR DAYS** after this Summons and Petition are served on you to file a Response (form 1282) at the court and serve a copy on the petitioner. A letter or phone call will not protect you.

If you do not file your Response on time, the court may make orders affecting your marriage, your property, and custody of your children. You may be ordered to pay support and attorney fees and costs. If you cannot pay the filing fee, ask the clerk for a fee waiver form.

If you want legal advice, contact a lawyer immediately.

*Usted tiene **30 DIAS CALENDARIOS** después de recibir oficialmente esta citación judicial y petición, para completar y presentar su formulario de Respuesta (Response form 1282) ante la corte. Una carta o una llamada telefónica no le ofrecerá protección.*

*Si usted no presenta su Respuesta a tiempo, la corte puede expedir órdenes que afecten su matrimonio, su propiedad y que ordenen que usted pague mantención, honorarios de abogado y las costas. Si no puede pagar las costas por la presentación de la demanda, pida al actuario de la corte que le dé un formulario de exoneración de las mismas (Waiver of Court Fees and Costs).*

*Si desea obtener consejo legal, comuníquese de inmediato con un abogado.*

**NOTICE** *The restraining orders on the back are effective against both husband and wife until the petition is dismissed, a judgment is entered, or the court makes further orders. These orders are enforceable anywhere in California by any law enforcement officer who has received or seen a copy of them.*

**AVISO** *Las prohibiciones judiciales que aparecen al reverso de esta citación son efectivas para ambos cónyuges, tanto el esposo como la esposa, hasta que la petición sea rechazada, se dicte una decisión final o la corte expida instrucciones adicionales. Dichas prohibiciones pueden hacerse cumplir en cualquier parte de California por cualquier agente del orden público que las haya recibido o que haya visto una copia de ellas.*

1. The name and address of the court is: *(El nombre y dirección de la corte es)*

2. The name, address, and telephone number of petitioner's attorney, or petitioner without an attorney, is:

*(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)*

[SEAL]

Date (Fecha):

Clerk (Actuario), by \_\_\_\_\_, Deputy

### NOTICE TO THE PERSON SERVED: You are served

a.  as an individual.

b.  on behalf of respondent

under:  CCP 416.60 (minor)

CCP 416.70 (ward or conservatee)

CCP 416.90 (individual)

other:

c.  by personal delivery on (date):

(Read the reverse for important information)

*(Lea el reverso para obtener información de importancia)*

**WARNING:** California law provides that, for purposes of division of property upon dissolution of marriage or legal separation, property acquired by the parties during marriage in joint form is presumed to be community property. If either party to this action should die before the jointly held community property is divided, the language of how title is held in the deed (i.e., joint tenancy, tenants in common, or community property) will be controlling and not the community property presumption. You should consult your attorney if you want the community property presumption to be written into the recorded title to the property.

**ADVERTENCIA:** Para los efectos de la división de bienes al momento de una separación legal o de la disolución de un matrimonio, las leyes de California disponen que se presuman como bienes de la sociedad conyugal aquéllos adquiridos en forma conjunta por las partes durante el matrimonio. Si cualquiera de las partes de esta acción muriese antes de que se dividan los bienes en tenencia conjunta de la sociedad conyugal, prevalecerá el lenguaje relativo a la tenencia de los derechos de propiedad contenido en la escritura – como, por ejemplo, copropiedad con derechos de sucesión (joint tenancy), tenencia en común (tenants in common) o bienes de la sociedad conyugal (community property) – y no la presunción de que los bienes son de la sociedad conyugal. Usted debe consultar a su abogado o abogada si desea que la presunción de que los bienes son de la sociedad conyugal se especifique en el título de propiedad inscrito.

## **STANDARD RESTRAINING ORDERS—FAMILY LAW**

### **PROHIBICIONES JUDICIALES ESTANDARES—DERECHO DE FAMILIA**

#### **STANDARD FAMILY LAW RESTRAINING ORDERS**

**Starting immediately, you and your spouse are restrained from**

1. removing the minor child or children of the parties, if any, from the state without the prior written consent of the other party or an order of the court;
2. cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage including life, health, automobile, and disability held for the benefit of the parties and their minor child or children; and
3. transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life.

You must notify each other of any proposed extraordinary expenditures at least five business days prior to incurring these extraordinary expenditures and account to the court for all extraordinary expenditures made after these restraining orders are effective. However, nothing in the restraining orders shall preclude you from using community property to pay reasonable attorney fees in order to retain legal counsel in the action.

#### **PROHIBICIONES JUDICIALES ESTANDARES—DERECHO DE FAMILIA**

**A usted y a su cónyuge se les prohíbe**

1. que saquen del estado al hijo o hijos menores de las partes, si los hay, sin el consentimiento previo por escrito de la otra parte o sin una orden de la corte; y
2. que cobren en efectivo, usen como colateral para préstamos, cancelen, transfieran, descontinúen o cambien los beneficiarios de, cualquier póliza de seguro u otras coberturas de seguro, inclusive los de vida, salud, automóvil e incapacidad mantenido para el beneficio de las partes y su hijo o hijos menores; y
3. que transfieran, graven, hipotequen, escondan o de cualquier otra manera enajenen cualquier propiedad mueble o inmueble, ya sean bienes de la sociedad conyugal, quasi conyugales o bienes propios de los cónyuges, sin el consentimiento por escrito de la otra parte o sin una orden de la corte, excepto en el curso normal de los negocios o para atender a las necesidades de la vida.

Ustedes deben notificarse entre sí sobre cualquier gasto extraordinario propuesto, por lo menos con cinco días de antelación a la fecha en que se van a incurrir dichos gastos extraordinarios y responder ante la corte por todo gasto extraordinario hecho después de que estas prohibiciones judiciales entren en vigor. Sin embargo, nada de lo contenido en las prohibiciones judiciales le impedirá que use bienes de la sociedad conyugal para pagar honorarios razonables de abogados con el fin de obtener representación legal durante el proceso.

ATTORNEY OR UNREPRESENTED PARTY:	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name):		
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>		
MARRIAGE OF		
PETITIONER:		CASE NUMBER:
RESPONDENT:		
CLAIMANT:		
<b>SUMMONS (JOINDER)</b>		

**NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.**

**¡AVISO! Usted ha sido demandado. El tribunal puede decidir contra Ud. sin audiencia a menos que Ud. responda dentro de 30 días. Lea la información que sigue.**

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response or pleading, if any, may be filed on time.

Si Usted desea solicitar el consejo de un abogado en este asunto, debería hacerlo inmediatamente, de esta manera, su respuesta o alegación, si hay alguna, puede ser registrada a tiempo.

1.  TO THE  PETITIONER  RESPONDENT  CLAIMANT

A pleading has been filed pursuant to an order joining (Name of claimant):

as a party in this proceeding. If you fail to file an appropriate pleading within **30** days of the date this summons is served on you, your default may be entered and the court may enter a judgment containing the relief requested in the pleading, court costs and such other relief as may be granted by the court, which could result in the garnishment of wages, taking of money or property or other relief.

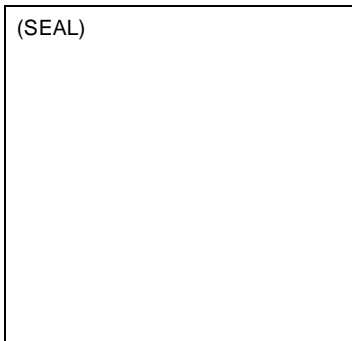
2.  TO THE CLAIMANT EMPLOYEE PENSION BENEFIT PLAN

A pleading on joinder has been filed pursuant to the clerk's order joining (Name of employee pension benefit plan):

as a party claimant in this proceeding. If the Employee Pension Benefit Plan fails to file an appropriate pleading within **30** days of the date this summons is served on it, a default may be entered and the court may enter a judgment containing the relief requested.

Dated:

Clerk, By \_\_\_\_\_, Deputy



3. NOTICE TO THE PERSON SERVED: You are served

- a.  As an individual.
- b.  As (or on behalf of) the person sued under the fictitious name of: . . . . .
- c.  On behalf of: . . . . .
- Under:  CCP 416.10 (Corporation)  CCP 416.60 (Minor)
- CCP 416.20 (Defunct Corporation)  CCP 416.70 (Incompetent)
- CCP 416.40 (Association or Partnership)  CCP 416.90 (Individual)
- Other:  CCP 4363.1 (Employee Pension Benefit Plan)
- d.  By personal delivery on (Date):. . . . .

A written pleading must be in the form required by the California Rules of Court. It must be filed in this court with any necessary filing fee and proof of service of a copy on each party to the proceeding. The time when a summons is deemed served on a party may vary depending on the method of service. For example, see CCP 413.10 through 415.50. (See reverse for proof of service)

**PROOF OF SERVICE-SUMMONS (JOINDER)**  
(Use separate proof of service for each person served)

1. I served the
- a. Summons and (1)  Request for Joinder of Employee Pension Benefit Plan and Order, Pleading on Joinder- Employee Pension Benefit Plan, blank Notice of Appearance and Response of Employee Pension Benefit Plan (2)  Notice of Motion and Declaration Re Joinder (3)  Order Re Joinder (4)  Pleading-Joinder (Specify title): (5)  Other:
  - b. On (Name of party or claimant):
  - c. By serving (1)  Party or claimant. (2)  Other (Name and title or relationship to person served):
  - d.  By delivery at  home  business (1) Date of: (2) Time of: (3) Address:
  - e.  By mailing (1) Date of: (2) Place of:

2. Manner of service: (Check proper box)
- a.  **Personal service.** By personally delivering copies. (CCP 415.10)
  - b.  **Substituted service on corporation, unincorporated association (including partnership), or public entity.** By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a))
  - c.  **Substituted service on natural person, minor, incompetent, or candidate.** By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) **(Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)**
  - d.  **Mail and acknowledgment service.** By mailing (by first-class mail or airmail) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) **(Attach completed acknowledgment of receipt.)**
  - e.  **Certified or registered mail service.** By mailing to address outside California (by registered or certified airmail with return receipt requested) copies to the person served. (CCP 415.40) **(Attach signed return receipt or other evidence of actual delivery to the person served.)**
  - f.  Other (Specify code section):  
 Additional page is attached.

3. The notice to the person served (Item 3 on the copy of the summons served) was completed as follows (CCP 412.30, 415.10 and 474):
- a.  As an individual
  - b.  As the person sued under the fictitious name of:
  - c.  On behalf of:  
Under:  CCP 416.10 (Corporation)  CCP 416.60 (Minor)  
 CCP 416.20 (Defunct corporation)  CCP 416.70 (Incompetent)  
 CCP 416.40 (Association or partnership)  CCP 416.90 (Individual)  
 CCP 4363.1 (Employee Pension Benefit Plan)
  - d.  By personal delivery on (Date):

4. At the time of service I was at least 18 years of age and not a party to this action.  
5. Fee for service: \$ . . . . .

6. Person serving
- a.  Not a registered California process server.
  - b.  Registered California process server.
  - c.  Exempt from registration under Bus. & Prof. Code 22350(b).
  - d.  California sheriff, marshal, or constable.
  - e. Name, address and telephone number, and, if applicable, county of registration and number:

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on (Date): . . . . . at (Place): . . . . ., California.

(For California Sheriff, Marshal, or Constable use only)  
I certify that the foregoing is true and correct and that this certificate is executed on (Date): . . . . . at (Place): . . . . ., California



# SUMMONS (CITATION JUDICIAL)

PROBATE (JUICIO TESTAMENTARIO)

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

NOTICE TO: *(Aviso a)*

FROM: *(De)*

ESTATE OF: *(Herencia de)*

A court proceeding has been started which may affect your interests in the estate. Read the document delivered with this *Summons*.

You have **30 CALENDAR DAYS** after this summons is served on you to file at this court a typewritten response if you want to be heard by the court.

A letter or phone call will not protect you. Your typewritten response must be in proper legal form if you want the court to consider it.

If you do not file your response on time, you may lose your right to participate in the proceeding or present your evidence. You will not receive another warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may call an attorney referral service or a legal aid office (listed in the phone book).

*La corte ha comenzado a tramitar una acción judicial testamentaria que puede afectar sus intereses sucesorios. Lea el documento enviado con esta citación judicial.*

*Después de que le entreguen esta citación usted tiene un plazo de 30 DIAS CALENDARIOS para presentar en esta corte una respuesta escrita a máquina, si desea una audiencia ante la corte.*

*Una carta o una llamada telefónica no le ofrecerá protección; su respuesta escrita a máquina tiene que cumplir con las formalidades legales apropiadas si usted quiere que la corte considere su caso.*

*Si usted no presenta su respuesta a tiempo, puede perder su derecho a participar en el proceso judicial o a presentar sus pruebas. Usted no recibirá notificación adicional por parte de la corte.*

*Existen otros requisitos legales. Es posible que usted quiera llamar a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de referencia de abogados o a una oficina de ayuda legal (vea el directorio telefónico).*

The name and address of the COURT is: *(El nombre y dirección de la CORTE es)*

CASE NUMBER: *(Número del caso)*

The name, address, and telephone number of the filing party's attorney, or the party without an attorney, is:  
*(El nombre, la dirección y el número de teléfono del abogado del accionante, o del accionante que no tiene abogado, es)*

DATE:  
*(Fecha)*

Clerk, by \_\_\_\_\_, Deputy  
*(Actuario) (Delegado)*

[SEAL]

**NOTICE TO THE PERSON SERVED:** You are served

a.  as an individual.

b.  on behalf of *(specify)*:

under:  CCP 416.10 (corporation)

CCP 416.20 (defunct corporation)

CCP 416.40 (association or partnership)

other:

CCP 416.60 (minor)

CCP 416.70 (conservatee)

CCP 416.90 (individual)

c.  by personal delivery on *(date)*:

See reverse for Proof of Service

ESTATE OF (NAME): _____	CASE NUMBER: _____
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**PROOF OF SERVICE  
SUMMONS  
(Probate)**

1. At the time of service I was at least 18 years of age and not a party to this action, and I **served copies** of the *(specify documents)*:

2. a. Party served *(specify name of party as shown on the documents served)*:

b. Person served:  party in item 2a  other *(specify name and title or relationship to the party named in item 2a)*:

c. Address:

3. I served the party in item 2

a.  **by personally delivering** the copies (1) on *(date)*: \_\_\_\_\_ (2) at *(time)*: \_\_\_\_\_

b.  **by leaving** the copies with or in the presence of *(name and title or relationship to person indicated in item 2b)*:

(1)  **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.

(2)  **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the person served. I informed him or her of the general nature of the papers.

(3) on *(date)*: \_\_\_\_\_ (4) at *(time)*: \_\_\_\_\_

(5)  A **declaration of diligence** is attached. *(Substituted service on a natural person, minor, or conservatee.)*

c.  **by mailing** the copies to the person served, addressed as shown in item 2c, by first-class mail, postage prepaid,

(1) on *(date)*: \_\_\_\_\_ (2) from *(city, state)*: \_\_\_\_\_

(3)  with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. *(Attach completed form.)*

(4)  to an address outside California with return receipt requested. *(Attach completed form.)*

d.  **by** causing copies to be mailed. A declaration of mailing is attached.

e.  **other** *(specify other manner of service and authorizing code section)*:

4. The "Notice to the Person Served" (on the *Summons*) was completed as follows: You are served

a.  as an individual.

b.  on behalf of *(specify)*:

under:  CCP 416.10 (corporation)

CCP 416.60 (minor)

CCP 416.20 (defunct corporation)

CCP 416.70 (conservatee)

CCP 416.40 (association or partnership)

CCP 416.90 (individual)

other:

5. **Person serving** *(name, address, and telephone No.)*

a. **Fee** for service: \$

b.  Not a registered California process server.

c.  Exempt from registration under B&P § 22350(b).

d.  Registered California process server.

(1)  Employee or independent contractor.

(2) Registration No.:

(3) County:

6.  **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7.  **I am a California sheriff, marshal, or constable and** I certify that the foregoing is true and correct.

Date:



\_\_\_\_\_  
(SIGNATURE)

SHORT TITLE: _____	CASE NUMBER: _____
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INSTRUCTIONS FOR USE

- ▶ This form may be used as an attachment to any summons if space does not permit the list of all parties on the summons.
- ▶ If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached."

List additional parties (Check only one box. Use a separate page for each type of party.):

Plaintiff       Defendant       Cross-Complainant       Cross-Defendant

NAME AND ADDRESS OF <b>SENDER</b> :	TELEPHONE NO.:	For Court Use Only:
Insert name of court, judicial district or branch court, if any, and Post Office and Street Address:		
PLAINTIFF:		
DEFENDANT:		
<b>NOTICE AND ACKNOWLEDGMENT OF RECEIPT</b>		Case Number:

TO: ..... (Insert name of individual being served) .....

This summons and other document(s) indicated below are being served pursuant to Section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it to me within 20 days may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. Section 415.30 provides that this summons and other document(s) are deemed served on the date you sign the Acknowledgment of Receipt below, if you return this form to me.

Dated: ..... \_\_\_\_\_  
(Signature of sender)

**ACKNOWLEDGMENT OF RECEIPT**

This acknowledges receipt of: (To be completed by sender before mailing)

1.  A copy of the summons and of the complaint.
2.  A copy of the summons and of the Petition (Marriage) and:
  - Blank Confidential Counseling Statement (Marriage)
  - Order to Show Cause (Marriage)
  - Blank Responsive Declaration
  - Blank Financial Declaration
  - Other: (Specify)

(To be completed by recipient)

Date of receipt: ..... \_\_\_\_\_  
(Signature of person acknowledging receipt, with title if acknowledgment is made on behalf of another person)

Date this form is signed: ..... \_\_\_\_\_  
(Type or print your name and name of entity, if any, on whose behalf this form is signed)

1 John Hobart  
Hobart, Colfax & Wheeler  
2 441 Bauchet Street  
Los Angeles, California 90012  
3 (213) 680-9600  
State Bar No. 70032  
4  
Attorney for Plaintiff  
5 \_\_\_\_\_ [name]

6  
7

8 Superior Court of the State of California  
9 County of Los Angeles

10

11 \_\_\_\_\_ [name], )  
 ) Case No. \_\_\_\_\_  
12 Plaintiff, )  
 ) Plaintiff \_\_\_\_\_'s Application  
13 v. ) For Leave to Serve Summons by  
 ) Publication  
14 \_\_\_\_\_ [name], )  
 ) (Code Civ. Proc. § 450.50)  
15 Defendant. )  
 )  
16 \_\_\_\_\_ )

17 Plaintiff \_\_\_\_\_ hereby applies to the Court for leave to serve the  
18 summons in this action upon defendant \_\_\_\_\_ by publication pursuant to  
19 section 450.50 of the Code of Civil Procedure.

20 Plaintiff \_\_\_\_\_ makes this application on the ground that defendant  
21 \_\_\_\_\_ cannot with reasonable diligence be served by personal delivery  
22 (Code Civ. Proc. § 415.10), by leaving the summons and complaint at his office  
23 or home (id. § 415.20), by mail (id. §§ 415.30, .40, .47), or by posting (id.  
24 § 415.45) and that [a cause of action exists against defendant \_\_\_\_\_] or  
25 [defendant \_\_\_\_\_ is a proper or necessary party to the action] or [defen-  
26 dant \_\_\_\_\_ has or claims an interest in real or personal property in Cali-  
27 fornia that is subject to the Court's jurisdiction] or [the relief demanded in  
28 this action consists wholly or in part in excluding defendant \_\_\_\_\_ from

1 any interest in the property].

2 This application is based on the accompanying Declaration of \_\_\_\_\_,  
3 the accompanying Memorandum of Points and Authorities, and the documents filed  
4 in this action.

5 Dated: \_\_\_\_\_

\_\_\_\_\_  
[name]  
Attorney for Plaintiff  
[name]

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1 John Hobart  
Hobart, Colfax & Wheeler  
2 441 Bauchet Street  
Los Angeles, California 90012  
3 (213) 680-9600  
State Bar No. 70032  
4  
Attorney for Plaintiff  
5 \_\_\_\_\_ [name]

6  
7

8 Superior Court of the State of California  
9 County of Los Angeles

10

11 \_\_\_\_\_ [name], )  
 ) Case No. \_\_\_\_\_  
12 Plaintiff, )  
 ) Declaration of \_\_\_\_\_ in Support  
13 v. ) of Plaintiff \_\_\_\_\_'s  
 ) Application for Leave to Serve  
14 \_\_\_\_\_ [name], ) Summons by Publication  
 )  
15 Defendant. )  
 )  
16 \_\_\_\_\_ )

17 I, \_\_\_\_\_, declare under penalty of perjury as follows:

18 1. I observed the matters described in this declaration, have personal  
19 knowledge of the facts set forth in this declaration, and would be competent to  
20 testify as to those facts if called and sworn as a witness.

21 2. Defendant \_\_\_\_\_ cannot with reasonable diligence be served by  
22 personal delivery (Code Civ. Proc. § 415.10), by leaving the summons and com-  
23 plaint at his office or home (id. § 415.20), by mail (id. §§ 415.30, .40, .47),  
24 or by posting (id. § 415.45).

25 a. I made the following attempts to serve the summons by personal  
26 delivery pursuant to section 415.10:

27  
28

1 [State facts showing the plaintiff's diligence in attempting, or exploring the possibility of, service  
2 by personal delivery (e.g., attempts to locate the defendant through relatives, neighbors, colleagues,  
3 employer, and public records and to deliver the summons and complaint to the defendant person-  
4 ally).]

5 To the best of my knowledge, no one else is likely to know defendant  
6 \_\_\_\_\_'s whereabouts, and I know of no other source of information  
7 likely to disclose his whereabouts.

8 b. I made the following attempts to serve the summons by leaving  
9 the summons and complaint at defendant \_\_\_\_\_'s office or home:

10 [State facts showing the plaintiff's diligence in attempting, or exploring the possibility of, substi-  
11 tuted service.]

12 c. I made the following attempts to serve the summons by mail:

13 [State facts showing the plaintiff's diligence in attempting, or exploring the possibility of, service  
14 by mail, including the defendant's failure to return the Acknowledgment of Receipt of Summons  
15 and the return of the plaintiff's letter or of the return receipt showing that the letter was not deliv-  
16 ered to the defendant.]

17 [In unlawful detainer actions, add:

18 d. I made the following attempts to serve the summons by posting,  
19 pursuant to Code of Civil Procedure section 415.45:

20 [State facts showing the plaintiff's diligence in attempting, or exploring the possibility of, service  
21 by posting.]

22 3. I filed my Complaint in this action on \_\_\_\_\_. Paragraphs \_\_  
23 through \_\_ of the Complaint [state a cause of action against defendant  
24 \_\_\_\_\_ for \_\_\_\_\_ [state the nature of the cause of action] \_\_\_\_\_] [or] [show that defendant  
25 \_\_\_\_\_ is a necessary or proper party to the action] and are incorporated in  
26 this declaration by reference. I know of my own personal knowledge that the  
27 facts stated in those paragraphs are true.

28 [or]

29 3. Defendant \_\_\_\_\_ claims an interest in real or personal property  
30 in California that is subject to the jurisdiction of the Court, as follows:



1 \_\_\_\_\_ [state the nature of the defendant's interest or claim] \_\_\_\_\_ .

2 \_\_\_\_\_ [or]

3 3. The relief demanded in this action consists wholly or in part in  
4 excluding defendant \_\_\_\_\_ from any interest in real or personal property in  
5 California that is subject to the jurisdiction of the Court.

6 4. \_\_\_\_\_ is a newspaper of general circulation published  
7 in \_\_\_\_\_, California, and is the newspaper that is most likely to give  
8 actual notice of this action to defendant \_\_\_\_\_ in that \_\_\_\_\_ [state facts support-  
9 ing this conclusion, e.g., that the place of publication coincides with the defendant's last known whereabouts] \_\_\_\_\_ .

10 I declare under the laws of the State of California that the matters  
11 stated in this declaration are true.

12 Dated: \_\_\_\_\_  
13 \_\_\_\_\_ [name]

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1 John Hobart  
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2 441 Bauchet Street  
Los Angeles, California 90012  
3 (213) 680-9600  
State Bar No. 70032  
4  
Attorney for Plaintiff  
5 \_\_\_\_\_ [name]

6  
7

8 Superior Court of the State of California  
9 County of Los Angeles

10

11 \_\_\_\_\_ [name], )  
 ) Case No. \_\_\_\_\_  
12 Plaintiff, )  
 ) Order for Service of Summons by  
13 v. ) Publication  
 )  
14 \_\_\_\_\_ [name], ) (Code Civ. Proc. § 450.50)  
 )  
15 Defendant. )  
 )  
16 \_\_\_\_\_ )

17 Based on plaintiff \_\_\_\_\_'s Application for Leave to Serve Summons by  
18 Publication, the supporting Declaration of \_\_\_\_\_, plaintiff \_\_\_\_\_'s  
19 Memorandum of Points and Authorities, and the other documents on file in this  
20 action, the Court finds that defendant \_\_\_\_\_ cannot with reasonable dili-  
21 gence be served in any other manner specified in sections 415.10 through 415.47  
22 of the Code of Civil Procedure, that [a cause of action exists against defendant  
23 \_\_\_\_\_] [or] [defendant \_\_\_\_\_ is a necessary or proper party to the  
24 action] [or] [defendant \_\_\_\_\_ claims an interest in real or personal prop-  
25 erty in California that is subject to the jurisdiction of the Court] [or] [the  
26 relief demanded in this action consists wholly or in part in excluding defendant  
27 \_\_\_\_\_ from any interest in real or personal property in California that is  
28 subject to the jurisdiction of the Court], and that \_\_\_\_\_ is the

1 newspaper published in California that is most likely to give actual notice to  
2 defendant \_\_\_\_\_.

3 Therefore, it is hereby ordered that:

4 1. Plaintiff \_\_\_\_\_ may serve the summons in this action of defendant  
5 \_\_\_\_\_ by publishing it in \_\_\_\_\_ newspaper once a week for  
6 four successive weeks.

7 2. A copy of the summons, the complaint, and this Order shall forthwith  
8 be mailed to defendant \_\_\_\_\_ if his address is ascertained before expira-  
9 tion of the time prescribed above for publication of the summons.

10 Dated: \_\_\_\_\_

\_\_\_\_\_

Judge

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1 John Hobart  
Hobart, Colfax & Wheeler  
2 441 Bauchet Street  
Los Angeles, California 90012  
3 (213) 680-9600  
State Bar No. 70032  
4  
Attorney for Plaintiff  
5 \_\_\_\_\_ [name] \_\_\_\_\_

6

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Superior Court of the State of California

9

County of Los Angeles

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11 \_\_\_\_\_ [name] \_\_\_\_\_, )  
 ) Case No. \_\_\_\_\_  
12 Plaintiff, )  
 ) Plaintiff \_\_\_\_\_'s Application  
13 v. ) For Leave to Serve Summons by  
 ) Posting  
14 \_\_\_\_\_ [name] \_\_\_\_\_, )  
 ) (Code Civ. Proc. § 450.45)  
15 Defendant. )  
 )  
16 \_\_\_\_\_ )

17 Plaintiff \_\_\_\_\_ hereby applies to the Court for leave to serve the  
18 summons in this action upon defendant \_\_\_\_\_ by posting pursuant to  
19 section 450.45 of the Code of Civil Procedure.

20 Plaintiff \_\_\_\_\_ makes this application on the ground that defendant  
21 \_\_\_\_\_ cannot with reasonable diligence be served by personal delivery  
22 (Code Civ. Proc. § 415.10), by leaving the summons and complaint at his office  
23 or home (id. § 415.20), by mail (id. §§ 415.30, .40, .47) and that [a cause of  
24 action exists against defendant \_\_\_\_\_] [or] [defendant \_\_\_\_\_ is a  
25 proper or necessary party to the action] [or] [defendant \_\_\_\_\_ has or claims  
26 an interest in real or personal property in California that is subject to the  
27 Court's jurisdiction] [or] [the relief demanded in this action consists wholly or  
28 in part in excluding defendant \_\_\_\_\_ from any interest in the property].

1           This application is based on the accompanying Declaration of \_\_\_\_\_,  
2 the accompanying Memorandum of Points and Authorities, and the documents filed  
3 in this action.

4           Dated: \_\_\_\_\_

\_\_\_\_\_  
[name]  
Attorney for Plaintiff  
[name]

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1 John Hobart  
Hobart, Colfax & Wheeler  
2 441 Bauchet Street  
Los Angeles, California 90012  
3 (213) 680-9600  
State Bar No. 70032  
4  
Attorney for Plaintiff  
5 \_\_\_\_\_ [name] \_\_\_\_\_

6  
7

8 Superior Court of the State of California  
9 County of Los Angeles

10

11 \_\_\_\_\_ [name] \_\_\_\_\_, )  
 ) Case No. \_\_\_\_\_  
12 Plaintiff, )  
 ) Declaration of \_\_\_\_\_ in Support  
13 v. ) of Plaintiff \_\_\_\_\_'s Applica-  
 ) tion for Leave to Serve Summons by  
14 \_\_\_\_\_ [name] \_\_\_\_\_, ) Posting  
 )  
15 Defendant. ) (Code Civ. Proc. § 450.45)  
 )  
16 \_\_\_\_\_ )

17 I, \_\_\_\_\_, declare under penalty of perjury as follows:

18 1. I observed the matters described in this declaration, have personal  
19 knowledge of the facts set forth in this declaration, and would be competent to  
20 testify as to those facts if called and sworn as a witness.

21 2. This is an action for unlawful detainer of real property.

22 3. Defendant \_\_\_\_\_ cannot with reasonable diligence be served by  
23 personal delivery (Code Civ. Proc. § 415.10), by leaving the summons and com-  
24 plaint at his office or home (id. § 415.20), or by mail (id. §§ 415.30, .40,  
25 .47).

26 a. I made the following attempts to serve the summons by personal  
27 delivery pursuant to section 415.10:

28

1 [State facts showing the plaintiff's diligence in attempting, or exploring the possibility of, service  
2 by personal delivery (e.g., attempts to locate the defendant through relatives, neighbors, colleagues,  
3 employer, and public records and to deliver the summons and complaint to the defendant person-  
ally).]

4 To the best of my knowledge, no one else is likely to know defendant  
5 \_\_\_\_\_'s whereabouts, and I know of no other source of information  
6 likely to disclose his whereabouts.

7 b. I made the following attempts to serve the summons by leaving  
8 the summons and complaint at defendant \_\_\_\_\_'s office or home:

9 [State facts showing the plaintiff's diligence in attempting, or exploring the possibility of, substi-  
10 tuted service.]

11 c. I made the following attempts to serve the summons by mail:

12 [State facts showing the plaintiff's diligence in attempting, or exploring the possibility of, service  
13 by mail, including the defendant's failure to return the Acknowledgment of Receipt of Summons  
14 and the return of the plaintiff's letter or of the return receipt showing that the letter was not deliv-  
ered to the defendant.]

15 4. I filed my Complaint in this action on \_\_\_\_\_. Paragraphs \_\_  
16 through \_\_ of the Complaint [state a cause of action against defendant  
17 \_\_\_\_\_ for unlawful detainer of real property] [or] [show that defendant  
18 \_\_\_\_\_ is a necessary or proper party to this action] and are incorporated  
19 in this declaration by reference. I know of my own personal knowledge that the  
20 facts stated in those paragraphs are true.

21 [or]

22 4. Defendant \_\_\_\_\_ claims an interest in real or personal property  
23 in California that is subject to the jurisdiction of the Court, as follows:

24 \_\_\_\_\_ [state the nature of the defendant's interest or claim] \_\_\_\_\_.

25 [or]

26 4. The relief demanded in this action consists wholly or in part in  
27 excluding defendant \_\_\_\_\_ from any interest in real or personal property in  
28 California that is subject to the jurisdiction of the Court.





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Los Angeles, California 90012  
3 (213) 680-9600  
State Bar No. 70032  
4  
Attorney for Plaintiff  
5 \_\_\_\_\_ [name]

6  
7

8 Superior Court of the State of California  
9 County of Los Angeles

10

11 \_\_\_\_\_ [name], )  
 ) Case No. \_\_\_\_\_  
12 Plaintiff, )  
 ) Order for Service of Summons by  
13 v. ) Posting  
 )  
14 \_\_\_\_\_ [name], ) (Code Civ. Proc. § 450.45)  
 )  
15 Defendant. )  
 )  
16 \_\_\_\_\_ )

17 Based on plaintiff \_\_\_\_\_'s Application for Leave to Serve Summons By  
18 Posting, the supporting Declaration of \_\_\_\_\_, plaintiff \_\_\_\_\_'s Memo-  
19 randum of Points and Authorities, and the other documents on file in this  
20 action, the Court finds that this in an action for unlawful detainer of real  
21 property, that defendant \_\_\_\_\_ cannot with reasonable diligence be served  
22 in any other manner specified in sections 415.10 through 415.47 of the Code of  
23 Civil Procedure, that [a cause of action exists against defendant \_\_\_\_\_]  
24 [or] [defendant \_\_\_\_\_ is a necessary or proper party to the action] [or]  
25 [defendant \_\_\_\_\_ claims an interest in real or personal property in Cali-  
26 fornia that is subject to the jurisdiction of the Court] [or] [the relief demanded  
27 in this action consists wholly or in part in excluding defendant \_\_\_\_\_ from  
28 any interest in real or personal property in California that is subject to the

1 jurisdiction of the Court], that \_\_\_\_\_ is the manner of posting  
2 most likely to give actual notice to defendant \_\_\_\_\_, and that \_\_\_\_\_  
3 \_\_\_\_\_ is defendant \_\_\_\_\_'s last known address.

4 Therefore, it is hereby ordered that:

5 1. Plaintiff \_\_\_\_\_ may serve the summons in this action on defendant  
6 \_\_\_\_\_ by posting it in the following manner: \_\_\_\_\_ [describe manner of posting] \_\_\_\_\_.

7 2. A copy of the summons and the complaint shall forthwith be mailed by  
8 certified mail to defendant \_\_\_\_\_ at his last known address.

9 Dated: \_\_\_\_\_  
\_\_\_\_\_ Judge

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Notice of Belief of Abandonment

To: \_\_\_\_\_  
[name of lessee/tenant]

\_\_\_\_\_   
[address of lessee/tenant]

This notice is given pursuant to Section 1951.3 of the Civil Code concerning the real property leased by you at \_\_\_\_\_  
[state location of the property by address or other sufficient description]\_\_\_\_\_. The rent on this property has been due and unpaid for 14 consecutive days and the lessor/landlord believes that you have abandoned the property.

The real property will be deemed abandoned within the meaning of Section 1951.2 of the Civil Code and your lease will terminate on \_\_\_\_\_  
[insert a date not less than 15 days after this notice is served personally or, if mailed, not less than 18 days after this notice is deposited in the mail]\_\_\_\_\_ unless before such date the undersigned receives at the address indicated below a written notice from you stating both of the following:

(1) Your intent not to abandon the real property.

(2) An address at which you may be served by certified mail in any action for unlawful detainer of the real property.

You are required to pay the rent due and unpaid on this real property as required by the lease, and your failure to do so can lead to a court proceeding against you.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(signature of lessor/landlord)

\_\_\_\_\_  
(type or print name of lessor/landlord)

\_\_\_\_\_  
(address to which lessee/tenant is to send notice)

REQUEST

FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

DEMANDE

AUX FINS DE SIGNIFICATION OU DE NOTIFICATION A L'ÉTRANGER
D'UN ACTE JUDICIAIRE OU EXTRAJUDICIAIRE

Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.

Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye, le 15 Novembre 1965.

Identity and address of the applicant
Identité et adresse du requérant

Address of receiving authority
Adresse de l'autorité destinataire

The undersigned applicant has the honor to transmit—in duplicate—the documents listed below and, in conformity with article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e., (identity and address)

Le requérant soussigné a l'honneur de faire parvenir—en double exemplaire—a l'autorité destinataire les documents ci-dessous énumérés, en la priant conformément à l'article 5 de la Convention précitée, d'en faire remettre sans retard un exemplaire au destinataire, savoir: (identité et adresse)

- (a) in accordance with the provisions of sub-paragraph (a) of the first paragraph of article 5 of the Convention.\*
(b) in accordance with the following particular method (sub-paragraph (b) of the first paragraph of article)\*:
(c) by delivery to the addressee, if he accepts it voluntarily (second paragraph of article 5)\*.

The authority is requested to return or to have returned to the applicant a copy of the documents—and of the annexes\*—with a certificate as provided on the reverse side. Cette autorité est priée de renvoyer ou de faire renvoyer au requérant un exemplaire de l'acte—et de ses annexes —avec l'attestation figurant au verso.

List of documents
Énumération des pièces

Blank lines for listing documents

Done at , the
Fait à , le
Signature and/or stamp.
Signature et/ou cachet.

\*Delete if inappropriate. Rayer les mentions inutiles.

**CERTIFICATE**  
*ATTESTATION*

**The undersigned authority has the honour to certify, in conformity with article 6 of the Convention,**  
*L'autorité soussignée a l'honneur d'attester conformément à l'article 6 de ladite Convention,*

**1) that the document has been served \***

*1. que la demande a été exécutée*

– **the (date)**

– *le (date)* \_\_\_\_\_

– **at (place, street, number)**

– *à (localité, rue numéro)* \_\_\_\_\_

– **in one of the following methods authorised by article 5 –**

– *dans une des formes suivantes prévues à l'article 5:*

**(a) in accordance with the provision of sub-paragraph (a) of the first paragraph of article 5 of the Convention\*.**

*a) selon les formes légales (article 5, alinéa premier, lettre a).*

**(b) in accordance with the following particular method\*:**

*b) selon la forme particulière suivante :* \_\_\_\_\_

**(c) by delivery to the addressee, who accepted it voluntarily.\***

*c) par remise simple*

**The documents referred to in the request have been delivered to:**

*Les documents mentionnés dans la demande ont été remis à:*

– **(identity and description of person)**

– *(identité et qualité de la personne)* \_\_\_\_\_

– **relationship to the addressee (family, business or other):**

– *liens de parenté, de subordination ou autres, avec le destinataire de l'acte:* \_\_\_\_\_

**2) that the document has not been served, by reason of the following facts\*:**

*2. que la demande n'a pas été exécutée, en raison des faits suivants :*

**In conformity with the second paragraph of article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement.\***

*Conformément à l'article 12, alinéa 2, de ladite Convention, le requérant est prié de payer ou de rembourser les frais dont le détail figure au mémoire ci-joint.*

**Annexes**

*Annexes*

**Documents returned:**

*Pièces renvoyées:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**In appropriate cases, documents establishing the service:**

*Le cas échéant, les documents justificatifs de l'exécution:*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Done at** \_\_\_\_\_, **the**

*Fait à* \_\_\_\_\_, *le* \_\_\_\_\_

**Signature and/or stamp.**

*Signature et/ou cachet.*

\_\_\_\_\_

**\*Delete if inappropriate.**  
*Rayer les mentions inutiles.*

**SUMMARY OF THE DOCUMENTS TO BE SERVED**  
*ELEMENTS ESSENTIELS DE L'ACTE*

**Convention on the service abroad of judicial and extrajudicial documents in civil or commercial matters, signed at The Hague, November 15, 1965.**

*Convention relative à la signification et à la notification à l'étranger des actes judiciaires et extrajudiciaires en matière civile ou commerciale, signée à La Haye, le 15 Novembre 1965.*

**(article 5, fourth paragraph)**

*(article 5, alinéa 4)*

**Name and address of the requesting authority:**

*Nom et adresse de l'autorité requérante:* \_\_\_\_\_

**Particulars of the parties\*:**

*Identité des parties:* \_\_\_\_\_

**JUDICIAL DOCUMENT\*\***

*ACTE JUDICIAIRE*

**Nature and purpose of the document:**

*Nature et objet de l'acte:* \_\_\_\_\_

**Nature and purpose of the proceedings and, where appropriate, the amount in dispute:**

*Nature et objet de l'instance, le cas échéant, le montant du litige:* \_\_\_\_\_

**Date and place for entering appearance\*\*:**

*Date et lieu de la comparution:* \_\_\_\_\_

**Court which has given judgment\*\*:**

*Jurisdiction qui a rendu la décision:* \_\_\_\_\_

**Date of judgment\*\*:**

*Date de la décision:* \_\_\_\_\_

**Time limits stated in the document\*\*:**

*Indication des délais figurant dans l'acte:* \_\_\_\_\_

**EXTRAJUDICIAL DOCUMENT\*\***

*ACTE EXTRAJUDICIAIRE*

**Nature and purpose of the document:**

*Nature et objet de l'acte:* \_\_\_\_\_

**Time limits stated in the document\*\*:**

*Indication des délais figurant dans l'acte:* \_\_\_\_\_

**\* If appropriate, identity and address of the person interested in the transmission of the document.**

*S'il y a lieu, identité et adresse de la personne intéressée à la transmission de l'acte.*

**\*\* Delete if inappropriate.**

*Rayer les mentions inutiles.*

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name and Address</i> ):		TELEPHONE NO.:		<b>FOR COURT USE ONLY</b>	
ATTORNEY FOR ( <i>Name</i> ):		Ref. No. or File No.			
Insert name of court and name of judicial district and branch court, if any:					
SHORT TITLE OF CASE:					
<b>PROOF OF SERVICE (Summons)</b>		DATE:	TIME:	DEPT./DIV.:	CASE NUMBER:

1. At the time of service I was at least 18 years of age and not a party to this action, and I **served copies** of the (*specify documents*):

2. a. Party served (*specify name of party as shown on the documents served*):

b. Person served:  party in item 2a  other (*specify name and title or relationship to person indicated in item 2a*):

c. Address:

3. I served the party named in item 2

a.  **by personally delivering** the copies (1) on (*date*): \_\_\_\_\_ (2) at (*time*): \_\_\_\_\_

b.  **by leaving** the copies with or in the presence of (*name and title or relationship to person indicated in item 2b*):

(1)  (**business**) a person at least 18 years of age apparently in charge at the office or usual place of business of the person served. I informed him or her of the general nature of the papers.

(2)  (**home**) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the person served. I informed him or her of the general nature of the papers.

(3) on (*date*): \_\_\_\_\_ (4) at (*time*): \_\_\_\_\_

(5)  A **declaration of diligence** is attached. (*Substituted service on natural person, minor, conservatee, or candidate.*)

c.  **by mailing** the copies to the person served, addressed as shown in item 2c, by first-class mail, postage prepaid,

(1) on (*date*): \_\_\_\_\_ (2) from (*city*): \_\_\_\_\_

(3)  with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me.

(4)  to an address outside California with return receipt requested. ← (*Attach completed form.*) ↗

d.  **by causing copies to me mailed**. A declaration of mailing is attached.

e.  **other** (*specify other manner of service and authorizing code section*):

4. The "Notice to the Person Served" (on the summons) was completed as follows:

a.  as an individual defendant.

b.  as the person sued under the fictitious name of (*specify*):

c.  on behalf of (*specify*):

under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  other:

CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)

CCP 416.40 (association or partnership)  CCP 416.90 (individual)

5. **Person serving** (*name, address, and telephone No.*):

a. **Fee** for service: \$

b.  Not a registered California process server.

c.  Exempt from registration under B&P § 22350(b).

d.  Registered California process server.

(1)  Employee or independent contractor.

(2) Registration No.:

(3) County:

6.  I **declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

7.  I **am a California sheriff, marshal, or constable** and I certify that the foregoing is true and correct.

Date:



(SIGNATURE)

MARRIAGE OF (last name, first name of parties):

CASE NUMBER:

Serve a copy of the documents on the person to be served. Complete the proof of service. Attach it to the original documents. File them with the court.

PROOF OF SERVICE OF SUMMONS (Family Law)

1. I served the Summons with Standard Restraining Orders (Family Law), blank Response, and Petition (Family Law) on respondent (name):

- a. with (1) blank Confidential Counseling Statement (4) completed and blank Income and Expense Declarations
(2) Order to Show Cause and Application
(3) blank Responsive Declaration (5) completed and blank Property Declarations
(6) Other (specify):

b. By leaving copies with (name and title or relationship to person served):

c. By delivery at home business
(1) Date of: (3) Address:
(2) Time of:

d. By mailing (1) Date of: (2) Place of:

2. Manner of service: (Check proper box)

- a. Personal service. By personally delivering copies to the person served. (CCP 415.10)
b. Substituted service on natural person, minor, incompetent. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) (Attach separate declaration stating acts relied on to establish reasonable diligence in first attempting personal service.)
c. Mail and acknowledge service. By mailing (by first-class mail or airmail) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) (Attach completed acknowledgment of receipt.)
d. Certified or registered mail service. By mailing to address outside California (by registered or certified airmail with return receipt requested) copies to the person served. (CCP 415.40) (Attach signed return receipt or other evidence of actual delivery to the person served.)
e. Other (specify code section):
Additional page is attached.

3. The NOTICE TO THE PERSON SERVED on the summons was completed as follows (CCP 412.30, 415.10, and 474):

- a. as an individual
b. on behalf of Respondent under CCP 416.90 (Individual) CCP 416.70 (Ward or Conservatee) CCP 416.60 (Minor)
Other (specify):
c. by personal delivery on (date):

4. At the time of service I was at least 18 years of age and not a party to this action.

5. Fee for service: \$

6. Person serving:

- a. Not a registered California process server. e. California sheriff, marshal, or constable.
b. Registered California process server. f. Name, address, and telephone number and, if applicable, county of registration and number:
c. Employee or independent contractor of a registered California process server.
d. Exempt from registration under Bus. & Prof. Code section 22350(b).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(SIGNATURE)

(For California sheriff, marshal, or constable use only)

I certify that the foregoing is true and correct.

Date:

(SIGNATURE)