

Index

A

Abatement	
another action pending	674
Abuse of process, actions for	
venue	312
Accountings, actions seeking	
jurisdiction	261
venue	313
Actions by common interest development associations	
against contractors	
demurrers	671
Address, change of	
notice	531
Admissions	
<i>See also</i> Admissions, requests for.	
pleadings	389
subject matter jurisdiction	734
substitute for proof of service	466

use in motions 521

Admissions, requests for

 local rules 505

 time to respond, extension of 517

 time to respond, shortening 517

Adoptions

 jurisdiction 265

 superior court 265

 venue 323

Affidavits. *See* Declarations.

Affirmative defenses

See also Answers; Denials; Setoff.

 assumption of the risk 715

 breach of the implied warranty of habitability . . 718

 burden of proof 714

 challenging court’s subject matter jurisdiction . . 606

 civil actions 722

 collateral estoppel 725

 common counts 732

 common interest development associations against

 contractors, actions by 729

 comparative fault 715

compulsory cross-complaint rule	723
condemnation cases	719
contract cases	716
duress	716
equitable defenses	722, 725
estoppel	723
exceptions	729
failure to plead	733
fraud	716
illegality	729
inconsistent defenses	720
insurance cases	730
issues raised	714
laches	725
mistake	716
new matter	714
partial eviction	719
public policy	729
racially discriminatory motive	719
real property cases	718
release	723
res judicata	725

statute of frauds	716
statutes of limitations	723, 734
tort cases	715
unclean hands	725
unlawful detainer, actions for	718, 731
waiver	723
Alternative dispute resolution	
common interest development covenants and restrictions, actions to enforce	204
Amended complaints	
<i>See also</i> Amending pleadings.	
summonses	422
voluntary dismissal	780
Amending pleadings	
cross-complaints	755
Amount in controversy	
amendment of complaint to conform to jurisdictional limit	267
assignees of multiple claims	268
attorneys' fees	266
class actions	268

costs	266
cross-complaints	269, 761
Economic Litigation for Municipal and Justice Courts, rules for	266
frivolous pleading of excessive damages	267
interest	266
multiple claims	268, 270, 761
multiple defendants	268
multiple plaintiffs	269
personal injury, actions for	267
pleading	267
punitive damages	267
separate causes of action	268
waiving excess portion of claim	267
wrongful death, actions for	267
Another action pending	
special demurrers	771
voluntary dismissal	771
Answers	
<i>See also</i> Affirmative defenses; Denials.	
admissions	713
arbitration	704

attorney-client privilege	708
attorneys' fees	706
consequences of failure to plead	732
constituting appearance	528
content	709
costs	707
defective denials	733
defenses raised by denial	730
denials	709
filing	736
form	705
functions	703
immaterial allegations	733
inconsistent defenses	735
incorporation by reference	705
material allegations	733
municipal court actions	708
personal jurisdiction	245
pleading	734
prayer for relief	706
privilege against self-incrimination	708
proof of service	736

service	736
simultaneous demurrers	680
subscription	707
timing	686, 703
verification	376, 707
Answers to interrogatories	
use in motions	521
Appeal, notices of	
no extension of time for service by Express Mail	534
no extension of time for service by mail	532
no extension of time for service by overnight delivery	534
timing	509
Appeals	
<i>See also</i> Appeal, notices of.	
demurrer sustained, another action pending . . .	675
motions to strike	698
reconsideration, motions for	560
Appearances	
<i>See also</i> General appearances; Special appearances.	
answers	528

change of venue, motions for	528
demurrers	528
motions to strike	528
notices of	528
Applications to extend time	
ex parte applications	516
judge to whom presented	510
Applications to shorten time	
ex parte applications	516
Arbitration	
municipal court jurisdiction	259
petitions to compel	704
voluntary dismissal	785
Architects, engineers, and surveyors, actions against	
certificates of merit	695
demurrers	657, 671
motions to strike	695
Associations	
designation in pleadings	344
fictitious business names	83
fictitious names, suing under	83
foreign limited partnerships	84

index of unincorporated associations	432
joinder of parties	83
limited partnerships	84
members	85
partnerships	83
service of process	431, 434
summonses	417
venue	317–320
Assumption of the risk	
affirmative defense	715
At issue	
cross-complaints	761
Attachment	
personal jurisdiction	257
Attorney malpractice, actions for	
cross-complaints	750
Attorney-client privilege	
answers	708
Attorneys	
conspiracy	388
Attorneys' fees	
answers	706

change of venue, motions for	618
noncompliance with local rules	506
pleading	375
presuit consultation, failure to obtain	175
prevailing party	803, 805
SLAPP suits	193
statutes allowing recovery of attorneys' fees	805
voluntary dismissal	803–806
Automotive sales	
change of venue, motions for	628
B	
Boundaries, actions to reestablish	
service of process	447
summonses	419
Breach of contract, actions for	
affirmative defenses	729
demurrers	657, 666
duress	716
estoppel	723
fraud	716
illegality	729

mistake	716
parties	51
pleading	366
real party in interest	65
special demurrers	671
splitting cause of action	356
statute of frauds	716
venue	314–317
waiver	723
Breach of contracts	
general demurrers	665
Briefs	
applications to file long brief	516, 520
argument	519
argument, summary of	520
authorities, discussion of	519
authorities, tables of	520
contents, tables of	520
demurrers	678, 680
evidence	519
facts, statement of	519
law, statement of	519

length 519
 motions to strike 695

C

Cancellation of instruments, actions for
 venue 313
 Causes of action
 Form: Cause of Action—Breach of Contract . . . 407
 Form: Cause of Action—Common Counts 408
 Form: Cause of Action—Fraud 409
 Form: Cause of Action—General Negligence . . 399
 Form: Cause of Action—Intentional Tort 401
 Form: Cause of Action—Motor Vehicle 398
 Form: Cause of Action—Premises Liability . . . 402
 Form: Cause of Action—Products Liability . . . 403
 meanings 351, 674
 multiple independent acts causing multiple invasions
 of the same
 primary right 354
 primary right theory 351
 single event or transaction violating multiple primary
 rights 353

single injury to a single individual	353
splitting	58, 358
voluntary dismissal	778
Certiorari, petitions for writs of	
jurisdiction	271
Challenging court's subject matter jurisdiction	
affirmative defenses	606
amendment of pleadings to oust jurisdiction . . .	610
collateral attack on judgment	605
combination of claims	608
demurrers	606
discovery of lack of jurisdiction	608
judgment on the pleadings, motions for	606
motions to strike	606
summary judgment, motions for	606
timing	605
transfer to proper court. <i>See</i> Transfer of cases	
waiver	605
Change of venue, motions for	
<i>See also</i> Venue.	
generally	612–629
appellate review	622

attorneys, convenience of 620

attorneys' fees 618

automotive sales 628

burden of proof 613

codefendants 612

constituting appearance 528

consumer obligations 628

costs and fees 623, 627

dismissal for nonpayment of costs and fees . . . 624

employees, convenience of 620

evidence 614

experts, convenience of 620

fictitious defendants 614

grounds 612

impossibility of fair trial 612, 621

improper court 612

installment sales 628

local governments and agencies 625, 628

marital dissolution, proceedings for 613

mistake, inadvertence, surprise, or excusable neglect
 623

municipal court actions 629

no qualified judge 613

notice of filing 625

notice of transfer 625

parties, convenience of 620

personal jurisdiction 233, 245

plaintiff's dismissal of action 616, 624

plaintiff's standing 612

refusal of codefendants to join motion 615

regional agencies 625

renewal of motion 615

retransfer 625

sanctions 619

severance 615

state agencies, actions by 628

state, actions by 628

stay of proceedings 614

time to plead 614

timing 621

transfer of case 623

transferee court 617, 621

transferee court's jurisdiction 625

transferor court's jurisdiction 623

unlawful detainer, actions for	628
voluntary dismissal	773
witnesses, convenience of	613, 619
writs of mandate	622
wrong court	615
Child custody, proceedings for	
jurisdiction	265
voluntary dismissal	795
Child support, proceedings for	
jurisdiction	265
parties	97
venue	323
verification of complaint	378
Choice of forum	
municipal court versus superior court	284
small claims court versus municipal court	281
state court versus federal court	277–281
tactical considerations	277–284
Claims arising from exercise of constitutional right of	
free speech. See SLAPP suits	697
Class actions	
Consumers Legal Remedies Act	797

governmental entities, actions against	116
governmental entities, claims against	116
jurisdiction	268
municipal court	260
voluntary dismissal	795
Collateral estoppel	
affirmative defense	725
joinder of causes of action	360
municipal court judgments	284
small claims court judgments	281
voluntary dismissal	775
Common counts	
affirmative defenses	732
book account	732
demurrers	648
denials	732
pleading	366
setoff defenses	732
Common interest development builders, actions against	
application for stay	204
developer's rights to presuit discovery	200
developer's settlement offer	202

dismissal	204
judicial review	204
notice to developer	199
rejection of developer's settlement offer	202
Common interest development covenants and restrictions, actions to enforce	
alternative dispute resolution	204
demurrers	672
failure to file certificate of attempted alternative dispute resolution	695
motions to strike	695
Common interest developments	
owners, liability of	86
Comparative fault	
affirmative defense	715
Complaints	
<i>See also</i> Amended complaints; Joinder of causes of action; Parties; Pleading; Format of court papers; Supplemental complaints; Verification.	
attorney's certification	349
attorney's duty of reasonable inquiry	349
causes of action	350

cover page	341
designation of the parties	342
errors in designation of parties	347
failure to sign	696
failure to verify	696
fictitious business names	343
Form: Civil Case Cover Sheet	413
Form: Complaint—Contract	405
Form: Complaint—Personal Injury, Property Damage, Wrongful Death	395
Form: Complaint—Unlawful Detainer	411
Form: Exemplary Damages Attachment	404
leave to amend	683–685
mechanics of pleading	361
misspelling of party’s name	347
one form of civil action	349
prayer for relief	373
preliminary injunctions, motions for	524
reasonable inquiry, attorneys’ duty of	515
subscription	376
venue	387
verification	709

verification by attorney	524
verification by officer	524
Compulsory cross-complaints	
<i>See also</i> Permissive cross-complaints; Cross-complaints.	
generally	752–757
another action pending	754
declaratory judgment actions	754
defaults	754, 769
indispensable parties	754
leave to amend	755
leave to file	755, 760
personal jurisdiction	753
preclusion of omitted claims	752
related causes of action	752
setoff	727, 752
small claims courts	754
special proceedings	754
statutes of limitations	756
subject matter jurisdiction	754
voluntary dismissal	792

Compulsory cross-complaints	
burden of pleading	723
burden of proof	723
Condemnation, actions for	
affirmative defenses	719
authority to condemn	720
compatible use	720
consent to acquisition	721
cross-complaints	750
disclaimer	722
excess condemnation	720
Federal Aid Highway Act of 1973	720
joint use	721
jurisdiction	265
loss of goodwill	719
more necessary public use	720
precondemnation actions	721
private injury	721
public good	721
public interest and necessity	721
public use	720
quasi-public entities	721

resolution of necessity	721
summonses	418
venue	321
Condominium owners' associations, actions against	
cross-complaints	751
Conservatorship, proceedings for	
jurisdiction	265
venue	331
Consolidated actions	
peremptory challenges to judge	551
Conspiracy	
pleading	379
Consumer obligations	
change of venue, motions for	628
Consumers Legal Remedies Act	
class actions	797
voluntary dismissal	797
Contempt	
reconsideration, motions for	563
renewed motions	563
Continuances	
ex parte applications	551

motions	545, 551
personal jurisdiction	245
preemptory challenges to judge	548
Contracts	
<i>See also</i> Breach of contract, actions for; Reformation; Rescission.	
illegal contracts	666
personal jurisdiction	231
Conversion, actions for	
pleading	366
venue	312, 314
Coordinated proceedings	
peremptory challenges to judge	551
Corporations	
agents for service of process	225
alter ego	237, 319
citizenship	275
designation in pleadings	344
dissolution	82, 378
dissolved corporations	82
domestic	318
domicile	241

foreign	79, 318
forfeiture of objection to lack of legal capacity . . .	82
legal capacity	79– 83
nonprofit	64, 65, 181, 182, 388
officers and directors	249, 254
parent	237
public	328
qualifying to do business	225
real party in interest	64
registration with secretary of state	345
religious corporations	187
restoration of suspended corporations	81
service of process	434
small claims court	282
subsidiaries	237
successor corporations	251
summonses	417
suspension	80
tort cases	319
venue	317– 320
Costs	
answer	707

court reporters, fees of	555
failure to return acknowledgment form	442
SLAPP suits	193
summonses, service of	425
voluntary dismissal	800–803
Cross-complaints	
<i>See also</i> Compulsory cross-complaints; Permissive cross-complaints.	
amount in controversy	761
case at issue	761
construction defects	757
delay in service	761
fast track rules	761
form	758
Form: Cross-Complaint Caption	764
Form: Cross-Complaint—Personal Injury, Property Damage, Wrongful Death	765
joinder of parties	751
jurisdiction	269
leave to amend	755
leave to file	517, 755

separate trials 749
 service 760
 severability of claims 747
 subject matter jurisdiction 761
 third-party cross-defendants 747
 timing 759
 unlawful detainer, actions for 750
 voluntary dismissal 790–793

D

Damages, statements of
 generally 373
 Form : Request for Statement of Damages 391
 Form : Statement of Damages (Personal Injury or
 Wrongful Death) 393
 service 375
 Decedents' estates, actions against
 designation of executor as party in complaint . . 343
 jurisdiction 237
 personal jurisdiction over representative 237
 venue 330

Decedents' estates, claims against

- generally 160– 166
- contents 163
- Form: Creditor's Claim 220
- insurance, exception for claims covered by . . . 161
- late claims, judicial relief for 165
- procedure 160
- public entities, exception for claims by 162
- real party in interest 61
- security interests, exception for enforcement of 162
- time limits 165, 166
- written demand in place of claim 164

Declarations

- compared to affidavits 523
- counsel, declarations of 523
- defined 522
- evidence, admissibility of 523
- information and belief, declarations on . . . 523, 524
- local rules 505
- motions 521, 522– 524
- personal knowledge 523
- required certification 522

service, proof of	532
Declaratory judgment, actions for	
compulsory cross-complaints	754
general demurrers	660
jurisdiction	261, 265
pleading	383
venue	332
voluntary dismissal	791
Defamation, actions for	
damages	355
one cause of action	355
venue	312
Default judgments	
misspelling of defendant's name	347
noncompliance with local rules	506
prayer for relief	374
Soldiers' and Sailors' Relief Act	438
statements of damages	374
Defaults	
challenging personal jurisdiction	768
compulsory cross-complaints	754, 769
demurrers	680

failure to answer	682
motions to quash service of the summons	768
motions to strike	697
tactical considerations	768
Demurrers	
<i>See also</i> General demurrers; Pleas in abatement; Special demurrers.	
generally	647–693
admission of well-pleaded facts	649
ambiguity	657
amended complaint, late filing of	686
another action pending	358, 681
appeals	689–693
briefs	680
common counts	648
compliance with Tort Claims Act	117
constituting appearance	528
default judgments	680
defaults	680
defendant's refusal to amend	693
discovery	685
dismissal of action without prejudice	690

dismissal, judgment of 688

entire complaint 678, 679

evidentiary materials 681

exhibits 649

failure to amend 516, 681

failure to file attorney’s certificate in an action against
 architect, engineer, or surveyor 657

failure to file certificate of alternative dispute
 resolution compliance 206, 672

failure to file presuit consultation certificate
 174, 177

failure to obtain court clearance 388

family law cases 647

form 678

general appearance 647

grounds 657

grounds for decision, statement of 682

hearing 681

hearing, notice of 680

improbability of plaintiff’s allegations 647

individual causes of action 679

judicial notice 648, 649–656

late filing	679
leave to amend	683– 685, 776
legal conclusions	649
mandate, writs of	692
matters considered	647
memoranda of points and authorities	512, 519
misjoinder of parties	57, 657
motions to dismiss	685
motions to strike and time to demur	680
municipal court actions	709
opposition	680
oral contracts	657
orders sustaining	558
personal jurisdiction	245
plaintiff not real party in interest	56
plaintiff’s dismissal of remaining causes of action	691
pleading	647
pleading around	648
preemptory challenges to judge	548
procedure	678– 693
reconsideration, motions for	685, 689

replies	681
res judicata	691
review by writ of mandate	690
ruling	682
ruling, notice of	559, 686
service, proof of	678
simultaneous answers	680
subject matter jurisdiction	657
superseded complaints	649
sustaining without leave to amend	684, 686
time to answer	686, 688
timing	509, 679, 689
uncertainty	657
unintelligible pleadings	657
voluntary dismissal	783
waiver of objections	657
whether contract is written or oral	386
Denials	
<i>See also</i> Affirmative defenses; Answers.	
burden of proof	714
common counts	732
contract cases	730

general denials	709
information and belief	710, 712
material allegations	709
matters ascertainable from public records	712
municipal court actions	709
negative pregnant	711
negligence cases	731
real property cases	731
specific denials	709
when demand does not exceed \$1,000	709
Depositions	
during first 20 days of case	516
scheduling	516
use in motions	521, 525
Destroyed land records, actions to reestablish	
service of process	447
summonses	419
Discovery	
after cutoff date	517
demurrers	685
personal jurisdiction	249

Dismissal
 motions to strike 699
 See also Voluntary dismissal.

Dissolution of marriage, proceedings for
 inconvenient forum, motions to stay or dismiss for
 642
 venue 322
 voluntary dismissal 791

Diversity of citizenship jurisdiction
 assigned claims 275
 collusive joinder 275
 corporations 275
 events occurring after filing of action 275
 fictitious defendants 276

Documents
 See also Documents, requests for production of.
 best evidence rule 526
 destroyed 526
 lost 526
 meaning 526
 public records 527
 use in motions 525

Documents, requests for production of
 motions to extend time for responding 517
 motions to shorten time for responding 517
 Doe defendants. *See* Fictitious defendants
 Duress
 affirmative defense 716

E

Ejectment, actions for
 pleading 365
 Eminent domain proceedings. *See* Condemnation,
 actions for.
 Equitable relief against judgments
 venue 313
 Estates. *See* Decedents' estates, actions against;
 Decedents' estates, claims against.
 Estoppel
 affirmative defense 723
 Evidence
 See also Declarations; Documents; Judicial Notice.
 admissibility 523, 542
 admissions 521

affidavits	521
answers to interrogatories	521
best evidence rule	526
copies, use of	525
discovery materials	525
documents	525
foundation	525
judicial notice	527
objections	542
opponent’s failure to object	524
supporting motions	521–527
Ex parte applications	515–519
continuances	551
declaration required	517
deposition scheduling	516
depositions during first 20 days of case	516
dismissal after failure to amend	516
extensions of time	516
guardians ad litem, appointment of	516
interrogatories served within first ten days of case	516

motions to extend time for responding to
interrogatories 517

motions to extend time for responding to requests for
admissions 517

motions to extend time for responding to requests for
physical examinations
. 517

motions to extend time for responding to requests for
production of documents
. 517

motions to extend time to plead 517

motions to file late cross-complaints 517

motions to pursue discovery after discovery cutoff
date 517

motions to shorten time for responding to
interrogatories 517

motions to shorten time for responding to requests for
admissions 517

motions to shorten time for responding to requests for
physical examinations
. 517

motions to shorten time for responding to requests for
 production of documents 517
 orders shortening time 510
 personal jurisdiction 248
 service by publication 516
 time, extensions of 516
 to file long briefs 516, 520
 to insert the true name of a fictitiously named
 defendant 516
 to shorten time 516
 Executors. *See* Decedents' estates, actions against;
 Decedents' estates, claims against.
 Exhaustion of administrative remedies
 special demurrers 771
 Expert witnesses
 exchange of lists 505
 Express Mail
 time, extension of 509
 Extension of time, applications for
 personal jurisdiction 248

Extension of time, stipulations for special appearance	586
Extraordinary writs verification of petition	378
F	
Failure to exhaust administrative remedies voluntary dismissal	771
Failure to file a required certificate voluntary dismissal	771
False imprisonment, actions for venue	311
Family law cases demurrers	647
joinder of third parties	421
jurisdiction	262, 265
motions to strike	696
summonses	421
Fast track rules cross-complaints	761
dismissal of action without prejudice	690
medical malpractice, actions for	184

peremptory challenges to judge	549
voluntary dismissal	779
Fax, filing by	
confidentiality	538
directly with court	537
documents, authenticity of	540
exhibits	537
fees	537, 539
format	537
late transmission	538
rejection of credit card charge	539
through private entity	537
transmission record	538
transmission, proof of	539
Fax, service by	
agreement	534
service, proof of	536
time, extension of	509
Federal courts	
amount in controversy	275
ancillary jurisdiction	276
concurrent state and federal jurisdiction	273

diversity of citizenship	274
exclusive jurisdiction	272
federal question jurisdiction	274
pendent jurisdiction	276
removal jurisdiction	276
Fictitious business names	
associations	83
fictitious business name statements	345
naming in complaint	343
Fictitious defendants	
generally	101–108
associations	83
change of venue, motions for	614
claims against government employees	107
complaint, amendment of	102
diversity of citizenship	276
ex parte application to insert true name	516
failure to amend complaint	103
failure to name right party	105
government entities	157
motions to amend complaint	102
motions to dismiss for failure to serve summons	592

plaintiff's duty to investigate 107
 public entities 107
 service of process 433
 statutes of limitations 102, 157
 venue 108, 310, 335
 Forcible detainer, actions for. *See* Unlawful detainer,
 actions for.
 Forcible entry, actions for. *See* Unlawful detainer,
 actions for.
 Format of court papers
 line spacing 340
 local rules 348
 margins 340
 nonconforming papers 342
 numbered lines 340
 recycled paper 340
 type size 340
 Forum non conveniens, motions to dismiss or stay for
 personal jurisdiction 233, 238
 Forum selection agreements
 inconvenient forum, motions to stay or dismiss for
 639

Foster Family Home and Small Family Home Insurance Fund
 Roster of Public Agencies 207

Foster parents
See also Foster parents, actions against
 Foster Family Home and Small Family Home Insurance Fund 206

Foster parents, actions against
 claim filing requirement 206
 designated contract agency 207
 statutes of limitations 207
 substantial compliance with claim requirement . 207
 Tort Claims Act claims as substantial compliance 207

Fraud
 affirmative defense 716

Fraud, actions for
 pleading 381
 venue 312

G

General appearances
See also Appearances; Special appearances.

acknowledging service of the summons and complaint 245

answering interrogatories in representative capacity 594

answers 245

appearance, notices of 245

appearing in consolidated action 594

change of venue, motions for 245

continuances, motions for 245

demurrers 245, 647

discovery, initiating and responding to 246

inconvenient forum, motions to stay or dismiss for 641

motions to dismiss for failure to serve summons 593

motions to disqualify opposing counsel 245

motions to quash service of the summons 593

motions to set aside default judgments 593

motions to strike 245, 694

observing court proceedings 594

participation in role other than as a party	244
providing evidence	594
responding to cross-complaint	245, 594
stipulations to extend time	593
time, extensions of	594
unauthorized appearances	246
General demurrers	
<i>See also</i> Demurrers; Special demurrers.	
ambiguities	659
conclusions of law	660
contract defenses	666
declaratory judgment, actions for	660
defenses disclosed on face of pleading	663–668
difficulty of proving facts alleged	658
exhibits	661
factual conclusions	658
failure to state facts sufficient to constitute a cause of action	363, 657, 658–668
illegal contracts	666
improbability of facts alleged	658
inconsistencies	660–662
interpretation of ambiguous instruments	662

issues raised by motion to strike	693
judicial notice	661
laches	666, 725
lack of subject matter jurisdiction	771
legal conclusions	658
objections, waiver of	669
omission of element of cause of action	663
oral contracts	665, 666
pleading in the alternative	662
portion of claim	659
privilege	668
real party in interest	667
res judicata	667
statute of frauds	666
statutes of limitations	663
subject matter jurisdiction, lack of	668–669
superseded pleadings	661
uncertainties	659
voluntary dismissal	771
wrong legal theory	659
wrong remedy	659

General denials
See also Denials; Specific denials. 376
 barred by verified complaint 376

Governmental entities
See also Late claims, relief from.
 accrual of cause of action against 136
 actions on judgments against local public entities
 128
 agencies, claims by 118
 amended claims 132, 156
 bonds, claims on 118
 California Fair Employment and Housing Act causes
 of action 119
 claim requirement 114
 claims procedure 113–117
 class actions against 116
 co-employees, claims against 116
 constitutionality of claims requirements 115
 contents of claim against 129–133
 criminal defendants, claims of 138
 defective claims against 130
 defective submissions 135

defendants 113– 159

designation in pleadings 344

duplicative claims, exception for 121

duress, exception for 126

employees, claims against 107

employer and employee claims 121

employment, scope of 114

equitable indemnity claims 137

estoppel, exception for 124

exceptions to claim filing requirements . . . 117– 128

federal statutes, exception for 120

fictitious defendants 107, 157

forfeitures 118

Form: Application for Permission to Present a Late
Claim 210

Form: Claim Against Public Entity 209

Form: Petition for Relief from Claim Requirements
. 211

forms for claims against 133

ignorance of defendant’s status, exception for . 119

ignorance of public employee’s identity 132

indemnity, cross-claims for 127

installment payment of claims 139
 intentional torts 116
 intimidation, exception for 126
 inverse condemnation, exception for 123
 judicial relief from late claims, petitions for 146
 laborers' liens 117
 legal capacity 89
 letterheads and identification cards 125
 limitations period 154
 local public entities, claims by 118
 local public entities, claims by public entities against
 127
 mandate, writs of 116
 materialmen's liens 117
 mechanics' liens 117
 noncompliance with claims procedure 114
 nuisance claims 116
 omitted categories of damage 131
 omitted theories of recovery 131
 partial indemnity, claims for 116
 partial payment, exception for 123
 penalties 117, 118

pleading 117

property, actions for the recovery of 116

public assistance, claims for 118

rejection of claims 140

response to claim 138–143

retirement benefits, claims for 118

Roster of Public Agencies 122, 159, 435

settlement of claims 139

sovereign immunity 113

special claims requirements 128

special local claims procedures 118, 133

State Board of Control 134

State Compensation Insurance Fund, exception for
 120

state, claims by 118

statute of limitations for claims against . . . 154–159

statute of limitations, tolling of 158

stop notices 117

submission of claims against 134

subrogation claims against 122

substantial compliance with claims requirements
 130

tax refunds, claims for	117
unemployment insurance benefits, claims for . .	118
unidentified entities, exception for	122
verification of pleadings	379
wages of public employees	118
worker's compensation	118
Governmental officials	
designation in pleadings	344
Guardians	
designation as parties	343
Guardians ad litem	
authority	78
distinguished from general guardians	77
ex parte applications for appointment	516
motions to dismiss for failure to serve summons	600
procedure for appointment	77
qualifications	78
Guardianship proceedings	
jurisdiction	265
venue	331
voluntary dismissal	795

H

Hearings

- court reporters 554
- nonappearance of party 553
- oral testimony 521, 555
- telephonic 556

Holidays

- effect on time 508, 704
- summonses, service of 588

I

Illegality

- affirmative defense 729

Immunity

- attorneys 461
- diplomats 461
- legislators 461
- litigants 461
- members of Congress 461
- witnesses 460

Implied warranty of habitability

- affirmative defense 718

In propria persona	
vexatious litigants	187, 188
In rem proceedings	
voluntary dismissal	793
Incompetents	
service of process	427
Inconvenient forum	
voluntary dismissal	772
Inconvenient forum, motions to stay or dismiss for	
generally	629–643
access to sources of proof	632
burden of proof	630
child custody proceedings	643
corporations	635
court congestion	638
dismissals	629
dissolution of marriage	642
factors	636
forum selection agreements	639
general appearances	640, 641
locus of the alleged culpable conduct	638
motions to quash service of the summons	640

nonresident plaintiffs	634
personal jurisdiction	248
private and public interests	631
procedure	640
residents	633
special appearances	585
stay vs. dismissal	634, 641
suitable alternative forum	630–631
unfavorable foreign law	638
voluntary dismissal	771
Inconvenient forum, motions to stay or dismiss for for personal jurisdiction	238
Indemnity, claims for voluntary dismissal	777
Indemnity, cross-actions for jurisdiction	261
Indispensable parties compulsory cross-complaints	754
Injunctions jurisdiction	260, 264
venue	313

Installment sales
 change of venue, motions for 628

Intentional infliction of emotional distress, actions for
 venue 312

Interference with contract, actions for
 venue 312

Interpleader
 jurisdiction 262

Interrogatories
 during first ten days of case 516
 extending time to respond 517
 general appearances 594
 shortening time for responding 517

Intervention
 voluntary dismissal 791

Inverse condemnation
 Tort Claims Act 123
 venue 321

J

Joinder of causes of action
 See also Complaints.

joint trial, motions for	361
motions to consolidate	361
motions to coordinate	361
separate trials, motions for	361
Joinder of parties	
<i>See also</i> Permissive joinder.	
actions by parents for personal injuries to their children	100
assignees of leases	97
charitable trusts	99
child support proceedings	97
claimants to common fund	97
cross-complaints	751
indispensable parties	95
innocent improvers to remove fixtures, actions by	99
licenses, actions to compel issuance of	97
mandatory joinder	99
minority shareholders	98
motor vehicle owners	99
necessary parties	94– 95
paternity suits	99
pleading in the alternative	55– 56

spouses	100
unwilling plaintiffs	101
wrongful death cases	99
Joint trials, motions for	361
Judges	
appointment of replacement when all judges disqualified	613
Judgment on the pleadings, motions for	
challenging court’s subject matter jurisdiction . .	606
no need for evidentiary support	521
peremptory challenges to judge	548
Judgment, confessions of	
service of process	462
Judgment, entry of	
reconsiderations, motions for	561
Judgments	
expiration	728
voluntary dismissal	779
Judgments, enforcement of	
jurisdiction	261
municipal courts	259
venue	313

Judicial Council	
forms	338
Rules of Court	504
Judicial notice	
case law	650, 651
common knowledge	651
court records	527, 651, 652–654
court rules	650, 651
demurrers	648, 649–656, 661
discretionary	651
general knowledge	650
international organizations	651
legal capacity	657
mandatory	650, 652
meanings of words	650
motions to strike	694
official acts	651, 654
procedure	655–656
regulations	650, 651
Roster of Public Agencies	654
rules of professional conduct	650
statutes	650, 651

subjects 650
 Jurisdiction. *See* Amount in controversy; Diversity of
 citizenship jurisdiction; Federal courts; Limited
 personal jurisdiction; Personal jurisdiction; Subject
 matter jurisdiction

L

Laches
 affirmative defense 725
 Lack of capacity to sue
 special demurrers 771
 voluntary dismissal 771
 Late claims, relief from
 applications to present 133, 134
 death of claimant 145
 delay in serving petition for relief 154
 grounds 145
 incapacity 151
 judicial relief 146– 153
 mentally incapacitated persons 145
 minors 145
 misaddressed applications 144

mistake, inadvertence, surprise or excusable neglect
 145, 148, 152
 public entity permission to file a late claim 144
 showing required 152
 time limits 144, 147, 153
 tolling of statute of limitations 144
 Legal and equitable actions
 prayer for relief 375
 Legal capacity
 See also Associations; Corporations; Guardians ad
 litem; Minors.
 aliens 92
 associations 83– 85
 contractors 86
 corporations 79– 83
 disabled persons 79
 emancipated minors 75
 enemy aliens 92
 foreign nations 91
 governmental entities 89
 guardians ad litem 75
 illegal aliens 93

incompetents	75
Indian tribes	93
Indians	93
minor's right to disaffirm judgment	76
minors	75
owners of common interest developments	86
prisoners	94
representatives appointed in sister states	90
sovereign immunity	90
state	89
subcontractors	87
United States	91
Liens	
governmental entities	117
Limited personal jurisdiction	
acceptance of payment	231
acts committed outside California	235
assignments of contracts	251
choice of law clauses	252
conduct of third parties	229
contracts	231, 249
events occurring outside California	226

factors	233
insurers	229
introduction of products into stream of commerce	229, 232
knowledge of effects in forum	228
minimum contacts	226
publications, national distribution of	229
purchases of goods from California residents	251
purposeful availment of the privilege of conducting activities within the forum	228
reasonableness	232
successor corporations	251
Local court policies	
<i>See also</i> Local rules.	
legal authority	506
Local rules	
bluebacks	512
conflicts with statutes	504
exhibits	512
limitations on timing of motions	509
lodging of motion papers	512
motions	504

motions, form of	511
official forms	339
orders shortening time, applications for	511
paragraph numbering	512
separate motions, separate filing of	512
M	
Mail, service by	
generally	440, 458, 465, 466
no extension of time to answer	443
Notice and Acknowledgment of Receipt	440
parties located in another state	456
return receipts	442
small claims court cases	463
time to respond, extension of	509
Malicious prosecution, actions for	192
voluntary dismissal	773
cross-complaints	748
venue	312
voluntary dismissal	772

Mandate, writs of	
demurrers, review of	690
jurisdiction	271
motions to strike	698
Tort Claims Act	116
Marriage, dissolution of	
jurisdiction	265
Medical malpractice, actions for	
attorney’s notice	167
fast track courts	184
Form: Notice of Intention to Commence Action	
Against Health Care Provider	
.	213
punitive damages	184
settlement demands	170
statute of limitations, extension of	168
Minors	
emancipation	75
legal capacity	75
service of process	427
statutes of limitations	75

Misjoinder of parties
 demurrers 657, 676
 special demurrers 771
 voluntary dismissal 771

Mistake
 affirmative defense 716

Mistake, inadvertance, surprise, or excusable neglect
 voluntary dismissal 808

Mistake, inadvertence, surprise, or excusable neglect
 time limits 808

Mistake, inadvertence, surprise, or excusable neglect,
 motions for relief from
 change of venue, motions for 623
 personal jurisdiction 249
 special appearance 586

Motion to quash service of the summons
 challenging court’s personal jurisdiction 605

Motion, notice of
 motions to strike 695

Motions

See also Declarations; Evidence; Fax, filing by;
 Hearings; Motions, notice of; Orders;
 Reconsideration, motions for.

calendar, call of	553
commissioners	564
continuances	545, 551
delivery, manner of	530–536
demurrers	678
depositions supporting	525
evidentiary support, admissibility of	525
failure to sign	696
fax, filing by. See Fax, filing by	
fees	540
filing	536
form	511
Form 7.1: Application for Order Shortening Time	568
Form 7.2: Notice of Motion	570, 702
Form 7.3: Proof of Service by Personal Delivery	571
Form 7.4: Proof of Service by Mail	572
Form 7.5: Proof of Service by Express Mail . . .	573

Form 7.6: Proof of Service by Overnight Delivery
 Service 574

Form 7.7: Proof of Service by FAX 575

Form 7.8: Facsimile Transmission Cover Sheet 576

Form 7.9: Application for Order Extending Time 577

Form 7.10: Notice of Telephone Appearance . . 579

Form 7.11: Order 580

Form 7.12: Notice of Ruling 581

inadmissible evidence 523

late papers 544

lodging copies with court 540

meet and confer requirements 506

memoranda of points and authorities. *See* Briefs

nonopposition, statements of 543

notice of motion 678

notices of. *See* Motions, notices of.

“off calendar” distinguished from denial 554

opposition. *See* Opposition.

oral argument 554

outer time limit 509

peremptory challenges to judge. *See* Peremptory
 challenges to judge.

proposed orders 520, 521

reconsideration, motions for. *See* Reconsideration,
 motions for.

referees. *See* Referees.

renewal of. *See* Renewed motions.

reply papers. *See* Reply papers.

rulings, notices of 558

sanctions 553

service 528

service by Express Mail 533, 534

service by fax 534

service by leaving at attorney’s residence 530

service by leaving at party’s residence 530

service by leaving with receptionist 530

service by mail 507, 531

service by mail, proof of 532

service by personal delivery 530

service on defendant who has not appeared . . . 528

service on parties represented by counsel 529

service on parties whose attorneys have no known
 office in California 529

service on parties without attorneys living outside	
California	529
service, proof of	541
submission on papers	553
tentative rulings	552
time, computation of	508, 704
Motions to change venue	
evidentiary support	524
Motions to consolidate	361
Motions to coordinate	
causes of action, joinder of	361
Motions to dismiss	
common interest development builders, actions	
against	204
delay in service of summons	438
demurrers sustained without leave to amend	685
failure to amend	516, 685
failure to serve summons	460
lack of personal jurisdiction	247
lack of prosecution	249
lack of subject matter jurisdiction	249
noncompliance with local rules	506

Motions to dismiss for delay in bringing a case to trial
 motions to dismiss for failure to serve summons 603

Motions to dismiss for failure to serve summons

- amended complaints 591
- burden of proof 600
- defendant not amenable to court process 598
- discretionary dismissal 602
- employee’s intervention in employer’s action . . 594
- employer’s intervention in employee’s action . . 594
- estoppel 595, 596
- fictitious defendants 592
- financial inability to prosecute 603
- general appearances 593
- new defendants 592
- plaintiff’s incompetence 600
- stays of prosecution 599
- time, extensions of 595
- tolling 598
- voluntary dismissal 771
- waiver 598

Motions to disqualify opposing counsel

- personal jurisdiction 245

Motions to extend time
 ex parte applications to plead after expiration of time
 517

Motions to quash service of summons 583
 appellate review 585
 discovery 586
 extension of defendant’s time to plead 584
 general appearances 586, 593
 hearing date 584
 special appearances 585
 time 583
 unlawful detainer, actions for 587

Motions to quash service of the summons
 defaults 768
 voluntary dismissal 771

Motions to set aside default for late service of summons
 personal jurisdiction 249

Motions to set aside default judgments
 general appearances 593

Motions to set aside defaults
 special appearance 586

Motions to strike

- generally 693– 699
- amended complaint, late filing of 686
- amendment 698
- appellate review 698
- briefs 695
- complaint not drawn or filed in conformity with
 - California law, a court rule, or a court order . . 694
- conclusions of law 695
- constituting appearance 528
- defaults 697
- demurrers compared 693
- denial 698
- dismissal 699
- evidentiary facts 364, 367, 695
- failure to file certificate of alternative dispute
 - resolution compliance
 - 206, 672
- failure to file presuit consultation certificate
 - 174, 177
- failure to sign complaint 696
- failure to sign motion 696

failure to state facts sufficient to constitute a cause of
 action 694
 failure to verify complaint 696
 family law cases 696
 general appearances 694
 grounds 694–697
 immaterial allegations 733
 irrelevant, false, or improper matter 694
 judicial notice 694
 late pleading 680
 legal conclusions 364
 mandate, writs of 698
 memorandum of points and authorities 512
 municipal courts 696
 noncompliance with local rules 506
 notice of motion 695
 omissions of mandatory verifications 379
 personal jurisdiction 245
 prayer for specific amount of damages in action for
 personal injury or wrongful death 696
 punitive damage claims against health care providers
 696

punitive damage claims against religious corporations 696

refiled complaints 691

ruling 698

sham pleadings 691

SLAPP suits 191, 697

subject matter jurisdiction, lack of 694

superfluous allegations 385

superfluous facts 696

time to answer 697

time to demur 697

timing 509, 697

treated as motion for judgment on the pleadings 693

treated as motion for summary judgment 695

violation of the local rules 696

voluntary dismissal 771

Motions to transfer 260, 267, 269

 cross-complaints exceeding municipal court

 jurisdictional limit 270, 761

 preemptory challenges to judge 548

 small claims courts 282

 voluntary dismissal 771

Motions to vacate judgment

- no extension of time from overnight delivery . . . 534
- no extension of time from service by Express Mail
 534
- no extension of time from service of motion by mail
 532
- timing 509

Motions, notices of

- generally 507–515
- applications to extend time 516
- applications to shorten time 516
- content 513
- date and time 513
- defective 508
- department 513
- service by Express Mail 508
- service by fax 508
- service by overnight delivery 508

Municipal courts

- accountings 261
- arbitrations 259, 261
- assessment liens 262

class actions 260

collateral estoppel 284

delinquent unsecured property taxes 260

demurrers 669, 709

denials 709

enforcement of judgments 259

equitable actions 260

equitable defenses 262

forcible entry 259

indemnity, cross-actions for 261

interpleader actions 262

judgments, actions to enforce 261

judgments, vacation of 262

jurisdictional limit 259

legal actions 259

liability based on equitable principles 262

Long-Term Care, Health, Safety, and Security Act of
1973, actions under 260

mechanics' liens 262

mobilehome abandonment 262

motions to strike 696

personal property liens 262

personal property, determination of ownership of 261

preliminary injunctions 261

receivers 261

rescission of contracts 262

subject matter jurisdiction 259

temporary restraining orders 261

unlawful detainer 259

waiving excess portion of claim 258

N

Negligence

 pleading 365

New trial, motions for

 no extension of time from overnight delivery . . . 534

 no extension of time from service by Express Mail

 534

 no extension of time from service by mail 532

 timing 509

Notice of Claims. See Decedents' estates, claims against; Government entity defendants; Medical malpractice, actions for; Notice, causes of action requiring.

Notice, causes of action requiring

- benefits conferred by mistake 198
- breach of warranty 197
- Consumers Legal Remedies Act 198
- defamation 198
- demand instruments 197
- Form: Notice of Breach of Warranty 217
- Form: Notice of Rescission 216
- rescission of contracts 197

Nuisance, actions for

- causes of action 355
- continuing 355
- governmental entities 116
- permanent 355

O

Official forms

- local rules 339

Opposition	
extensions of time	544
filing	543, 544
form	543
grounds	541
late filing	543
service, proof of	544
summary judgment, motions for	543
waiver of defects in notice	542
Orders	
<i>See also</i> Orders shortening time.	
approval as to form	557
demurrers sustained	558
findings of fact	558
proposed orders	520, 557
summary judgment, motions for	558
Orders shortening time	
generally	510–511
ex parte applications	510
extended notice of motion	509
Overnight delivery	
time, extension of	509

P

Partial eviction
 affirmative defense 719

Parties
 See also Capacity to sue and defend; Joinder of
 parties; Permissive joinder; Real party in interest.
 common interest development owners 86
 conservators 343
 corporations 344
 executors 343
 governmental entities 344
 governmental officials 344
 guardians 343
 indispensable parties 676
 individuals 343
 misjoinder of defendants 676
 necessary parties 676
 partnerships 344
 receivers 343
 trustees 343
 unincorporated associations 344
 widows 343

Partition, actions for	
service of process	448
summonses	418
Partnerships	
designation in pleadings	344
service of process	431
summonses	417
Peremptory challenges to trial judge	
personal jurisdiction	249
Permissive cross-complaints	
<i>See also</i> Compulsory cross-complaints; Cross-complaints.	
generally	748–752
attorney malpractice, actions for	750
condemnation proceedings	750
condominium owners’ associations, actions against	751
employer’s concurrent negligence	750
malicious prosecution	748
related causes of action	749
Permissive joinder	
common interest in subject matter	52

common issues of law or fact	51, 53, 676
concurrent tortfeasors	53
contracts	51
defendants	53, 54
defendants' separate interests	53
insurers	54
plaintiffs	50–53
property transactions	51
same transaction or occurrence	50–52, 53, 676
separate interests of plaintiffs	52
successive tortfeasors	53
tort claims	51
Personal injury, actions for	
damages, pleading	267
statements of damages	373
venue	313, 326, 330
Personal jurisdiction	
<i>See also</i> General appearances; Limited personal jurisdiction; Special appearances.	
advertising in California	225
alter ego	237
amended pleadings	247

appearances 244– 249

burden of proof 584

challenging 605

compulsory cross-complaints 753

consent 242

corporations 236

decedents’ estates, actions against 237

defamation 253

defaults 768

defendant’s acts as cause of plaintiff’s injury . . 227

defendant’s connection with the plaintiff 227

deliveries of goods to California 225

designating agent for service of process 225

designing products to be used in California . . . 229

directors and officers 249, 254

domicile 241

effects outside California 235

effects within California 235

employees 236

family support 252

federal law limitations 255

fiduciary shield doctrine 254

First Amendment	253
foreign nationals	236
forum selection clauses	242, 243, 244
general appearances	593
general personal jurisdiction	223, 224–225
immunity	240
in rem	256
limited personal jurisdiction	226–236
long arm statute	223
meaning	222
multiple defendants	236
out-of-state torts arising out of contracts made in California	232
out-of-state witnesses and parties	241
parent corporations	237
plaintiffs	238
pleading	388
presence of defendant in California	238
presence of defendant’s property within California	239
principals and agents	237
purchases in California	225

purchasing shares in a California business 230
 qualifying to do business 225
 quasi in rem 256
 regulated businesses 254
 repairing products to be used in California 229
 representatives in California 225, 230
 representatives of decedents' estates 237
 separate analysis for each defendant 236
 servicing products to be used in California 229
 single acts 227
 sister states 90
 sister states, jurisdiction over 238
 subsidiaries 237
 toll-free telephone numbers 225
 voluntary dismissal 771
 waiver of objections 242
 Personal property, recovery of
 pleading 365
 Physical examinations, requests for
 ex parte applications to extend time for responding
 517

ex parte applications to shorten time for responding
 517

Pleading

- allegations on information or belief 367
- avoiding defenses 385
- avoiding the statute of frauds 386
- commercial torts 382
- compliance with statutes 344
- conspiracy 379
- court permission, actions requiring 388
- declaratory relief 383
- defendant's duty to control third party 380
- evidentiary facts 363, 367, 734
- fraud 381
- legal conclusions 363, 364, 734
- punitive damages 383
- ultimate facts 363, 734
- venue 325

Pleading in the alternative

- demurrers 677

Pleadings

See also Pleadings, amendment of.

admissions	389
applications to extend time	516
applications to shorten time	516
demurrers	647
ex parte applications to insert the true name of a fictitiously named defendant	516
failure of proof	389
incorporating documents by reference	368
incorporating earlier allegations by reference . .	370
pleading in the alternative	55, 371
role	388
variance	389
Pleadings, amendment of	
demurrers	683
ex parte applications to insert true name of fictitiously named defendant	516
fictitious defendants	102
leave to amend, denial of	684
omitted defenses	734
to avoid admissions	389
to conform to jurisdictional limit	267

to conform to proof	389
to correct misspellings	347
to cure defective verification	379
Pleas in abatement	
<i>See also</i> Special demurrers.	
another action pending	674–676
indispensable parties	676
lack of capacity to sue	673
misjoinder of defendants	676
misjoinder of parties	676
misjoinder of plaintiffs	676
necessary parties	676
real party in interest	673
Political candidates	
service of process	435
Prayers for relief	
<i>See also</i> Complaints.	
legal and equitable actions	375
punitive damages	374
Preemptory challenges to judge	
assignment to department	548
assignment to judge “for all purposes”	549

cause, challenging for 546

consolidated actions 551

contested fact issues relating to merits 547

continuance, motions for 548

coordinated proceedings 547, 551

declarations, contents of 547

demurrers 548

direct calendar system 549

disqualifications 546

judgment on the pleadings, motions for 548

motions to transfer 548

multiple challenges 550

multiple parties 550

prejudice, declarations of 546

preliminary injunctions, motions for 548

race based challenges 546

referees 545

summary judgment, motions for 548

temporary restraining order, applications for . . . 548

ten-day five-day rule 548

tentative rulings 548

timing 547

Prejudgment interest	
pleading	375
Preliminary injunctions, motions for	
evidentiary support	524
jurisdiction	261
preemptory challenges to judge	548
Presuit consultation	
architects, actions against	171
attorney discipline	174
common interest development associations, actions	
by	175, 671
consultant's qualifications	172
contents of certificate	172, 176
demurrers	177
engineers, actions against	171
exceptions	173
Form: Certificate of Merit	214
motions to strike	177
non-compliance, consequences of	174
privilege not to disclose consultant's identity . .	173
sanctions	175
sexual abuse of minors, actions for	176

surveyors, actions against 171

Presuit court clearance

See also Vexatious litigants.

 generally 178– 187

 attorney conspiracy claims 178

 claims arising from a person’s exercise of the
 constitutional right of petition or free speech . 191

 negligence claims against officers and directors of
 nonprofit corporations 388

 officers and directors of nonprofit corporations,
 negligence claims against 181

 punitive damages claims against health care
 providers 182

 religious corporations, punitive damage claims
 against 187

 SLAPP suits 191

 vexatious litigants, actions by 187

Prisoners

 service of process 436

Probate proceedings

 jurisdiction 265

 voluntary dismissal 794

Prohibition, petitions for writs of
 jurisdiction 271

Proof of service

- admissions of service 466
- amended proofs of service 467
- defective 467
- fictitious defendants 465
- Form 6.8: Notice and Acknowledgment of Receipt
 482
- Form 6.17: Proof of Service (Summons) 501
- Form 6.18: Proof of Service of Summons (Family Law)
 502
- general appearances 464
- posting, service by 465
- proof in a manner prescribed by the court order 467
- proof in a manner prescribed by the law of the place
 where the defendant was served 467
- publication, service by 465
- summonses 464–468
- time limits 467

Property damage, actions for
 venue 313, 326, 330

Provisional remedies
 personal jurisdiction 248

Public entities
 service of process upon 434

Publication, service by
 generally 443– 448, 465
 actions concerning real property titles affected by
 public improvement assessments 448
 actions to determine adverse claim to or to remove
 clouds upon tax-deeded property 448
 boundaries of parcels, actions to reestablish . . 447
 condemnation, actions for 448
 destroyed land records, actions to reestablish . 447
 ex parte applications 516
 newspapers 444
 partition, actions for 448
 publication schedule 446
 quiet title, actions to 447
 reasonable diligence 446
 supporting affidavit 443, 445

Punitive damages
 employers 384

Form: Exemplary Damages Attachment 404
 fraud 384
 health care providers 696
 malice 383
 medical malpractice, actions for 184
 oppression 384
 pleading 267, 383
 prayer for relief 374
 presuit court clearance for claims against health care
 providers 182
 presuit court clearance for claims against religious
 corporations 187
 reservation of right to seek 374

Q

Quiet title, actions to
 jurisdiction 261, 265
 pleading 365
 real party in interest 62
 service of process 447
 summonses 418
 verification of complaint 378

R

Racially discriminatory motive	
affirmative defense	719
Real party in interest	
generally	56– 66
actions by parents for personal injuries to children	
.	66
actions by public officials for private parties	67
agents	65
assignees	57
assignments for security	57
associations	71
bankrupts, exception for	70
beneficiaries' claims against trustees	63
charitable trusts	63
child support	67
claims against estates	61
collective bargaining agreements	65
common interest developments	72
conservators	73
contracts	65
corporations	64

deeds of trust 63

defendant’s death while action pending 60

demurrers 667

employees 66

estates 59

exceptions 66– 74

Form: Application for Appointment of Guardian ad
 Litem 111

Form: Declaration by Successor in Interest . . . 109

guardians 73

heirs 59

holders of negotiable instruments 73

injuries to employees 73

insurance policies 65

labor unions 72

mandamus proceedings 68

nonprofit corporations 64, 65

parents 73

partial assignments 58

partial subrogation 59

paternity suits 67

penalty statutes 74

personal representatives	59
powers of attorney	65
receivers	71
shareholder derivative suits	64
shareholders	64, 67
subrogation	59
successors in interest to decedents' claims	61
taxpayer suits	67
third-party beneficiaries	65
transfer of interest	58
trust beneficiaries	62, 63
trusts	62
undisclosed principals	66
unfair business practice cases	73
unions	65
unpaid wages	67
wrongful death cases	69
Receivers	
naming in complaints	343
Reconsideration, motions for	558
contempt	563
declaration required	560

demurrers	685, 689
interim orders	562
judge	559
judgment, entry of	561
jurisdiction	561
later enacted statutes	560
law, changes of	561
notices of ruling	558
sanctions	563
Referees	
appointment by agreement	564
authority	564
bias	566
conflicts of interest	565
fees	566
financial resources of parties	565
law, issues of	564
objections to	565
qualifications	565
reports of decision	566
reports, effect of	566

Reformation	
jurisdiction	262, 263
Release	
affirmative defense	723
Religious corporations	
punitive damage claims	696
Renewed motions	
contempt	563
declaration required	560
jurisdiction	561
sanctions	563
Replevin, actions for	
venue	312
Replies	
demurrers	681
Reply papers	
additional evidence	545
filing	545
new issues	545
serving	545
Res judicata	
affirmative defense	725

another action pending 674, 676
 demurrers 667, 691
 pleading 366
 splitting causes of action 359
 voluntary dismissal 772, 775
 Rescission, actions seeking
 jurisdiction 262, 263
 venue 316, 319
 Restitution, actions seeking
 jurisdiction 263
 venue 316, 319
 Return of summons. See Proof of service.
 Roster of Public Agencies
 Foster Family Home and Small Family Home
 Insurance Fund 207
 judicial notice 654

S

Sanctions
 change of venue, motions for 619
 motions based on inadmissible evidence 524
 nonappearance at hearing 553

reconsideration, motions for 563
 renewed motions 563
 voluntary dismissal 806–807

Separate trials
 cross-complaints 749

Separate trials, motions for
 demurrers 677
 joinder of causes of action 361

Service of process
 See also Immunity; Mail, service by; Publication,
 service by.
 absent residents 455
 actions concerning real property titles affected by
 public improvement assessments 448
 agents for service of process 426, 428
 associations 431, 432, 434
 avoidance 437
 boat owners, nonresident 451
 boundaries of parcels, actions to reestablish . . 447
 Central Authority 459
 condemnation, actions for 448
 conservators 427

constables, service by 423

constitutional requirements 422

Convention on the “Service Abroad of Judicial and
Extrajudicial Documents” in Civil or Commercial
Matters (Hague Service Convention) 458

coroners, service by 424

corporations 428, 429, 434

costs 425

cross-complaints 760

defendant’s knowledge of the lawsuit from
independent sources 590

Department of Transportation 435

Department of Water Resources 435

designated agents for service of process 457

destroyed land records, actions to reestablish . 447

diplomatic or consular agents, service through . 458

director of motor vehicles, service through 451

dissolved corporations 430

elections officials, service through 436

estate representatives, nonresident 453

ex parte applications for service by publication . 516

fast track rules 588

fees 425, 452

fictitious defendants 433, 434, 465

fiduciaries 427

foreign corporations 429, 430, 455

foreign partnerships 431

Form 6.9: Application for Leave to Serve Summons by
Publication 484

Form 6.10: Declaration in Support of Application to
Serve Summons by Publication 487

Form 6.11: Order for Service of Summons by
Publication 489

Form 6.12: Application for Leave to Serve Summons
by Posting 491

Form 6.13: Declaration in Support of Application for
Leave to Serve Summons by Posting 494

Form 6.14: Order for Service of Summons by Posting
. 496

Form 6.16: Request for Service Abroad of Judicial or
Extrajudicial Documents
. 498

general appearances 244, 462, 586, 593

guardians 427

incompetents 427

insurance commissioner, service through 453

joint stock companies 431

judgment, confession of 462

lawyers for parties 426

lawyers, service by 424

leaving at home or office, service by
 429, 438, 463, 465

marshals, service by 424

minors 427

nonresidents 463

nonresident fiduciaries 455

nonresident motorists 451, 464

nonresident partners 455

nonresident pilots 451

nonresident property owners 464

nonresident real estate agents 456

nonresident real estate subdividers 456

nonresident taxpayers 455

parties in a foreign country 457

parties in another state 456, 466

parties within California 437–456

parties, service by 424

partition, actions for 448

partnerships 431

personal service 429, 437, 463, 465

political candidates 435

posting, service by 449, 465

prisoners 436

private process servers, service by 424, 425

public entities 434

quiet title, actions to 447

registered process servers, service by 425

secretary of state, service through
 426, 429, 431, 436, 453, 455

service on parties in a foreign country pursuant to
 court order 457

sheriffs, service by 424, 425, 438

small claims court cases 463

Soldiers' and Sailors' Relief Act 438

State Lottery Commission 435

state, service on 434

statements of damages 375

substituted service. See leaving at home or office,
 service by

summons, return of 590

time limits 460

Unfair Trade Practices Act 455

unlawful detainer, actions for 449

unlicensed insurers, nonresident 453

voluntary dismissal 772

waiver 462

who may serve 423

Setoff

affirmative defense 726, 732

assigned claims 727

common counts 732

compulsory cross-complaints 727

compulsory cross-complaints, omission of 752

employee debt 728

insured claims 728

money judgments 728

statutes of limitations 726

Severance

change of venue, motions for 615

Severance, motions for	
demurrers	677
Shareholder derivative suits	
voluntary dismissal	798
SLAPP suits	192
attorneys' fees	193
costs	193
discovery, stays of	192
hearings	193
malicious prosecution, actions for	192
motions to strike	191, 697
persons protected	196
plaintiff's showing	196
private statements	195
public issues	193
Small claims courts	
advantages and disadvantages	281
attorneys excluded	281
collateral estoppel	281
compulsory cross-complaints	754
corporations	282
delinquent unsecured personal property taxes	263

Form: Additional Plaintiffs and Defendants (Small Claims) 292

Form: Attorney-Client Fee Dispute (Attachment to Notice of Entry of Judgment) (Small Claims) . 299

Form: Attorney-Client Fee Dispute (Attachment to Plaintiff’s Claim) (Small Claims) 289

Form: Declaration for Subpena Duces Tecum (Small Claims) 297

Form: Defendant’s Claim and Order to Plaintiff (Small Claims) 295

Form: Fictitious Business Name Declaration (Small Claims) 293

Form: Information for the Plaintiff (Small Claims) 285

Form: Judgment Debtor’s Statement of Assets (Small Claims) 304

Form: Notice of Appeal (Small Claims) 306

Form: Notice of Entry of Judgment (Small Claims) 298

Form: Notice of Motion and Declaration (Small Claims) 296

Form: Notice of Motion to Vacate Judgment and Declaration (Small Claims) 303

Form: Plaintiff’s Claim and Order to Defendant (Small Claims) 287

Form: Proof of Service (Small Claims) 294

Form: Request to Correct or Vacate Judgment (Small Claims) 300

Form: Request to Pay Judgment to Court (Small Claims) 307

guarantors, actions against 263

hotel keepers, actions by 263

jurisdictional limit 263

jury trials 281

leaving at home or office, service by 463

mail, service by 463

malicious prosecution 282

motions to transfer 282

nonresidents, service on 463

nonresident motorists, service on 464

nonresident property owners, service on 464

partnerships 282

personal service 463

reformation of contracts 263

rescission of contracts 263

restitution 263

service of process 463

sole proprietorships 282

specific performance 263

trials de novo 271, 281

voluntary dismissal 782

Special appearances

See also General appearances.

 acknowledgments of receipt of summons 248, 442

 appearances at hearings for ex parte relief 248

 extension of time to plead, applications for 248

 forum non conveniens, motions to stay or dismiss for
 248

 initiating or responding to discovery requests on
 jurisdictional issues 249

 mistake, inadvertence, surprise, or excusable
 neglect, motions for relief from
 249

 motions to dismiss for lack of prosecution 249

motions to dismiss for lack of subject matter
 jurisdiction 249
 motions to quash service of summons for lack of
 personal jurisdiction 247
 motions to set aside default for late service of
 summons 249
 peremptory challenges to trial judge 249
 Special demurrers
 See also Demurrers; General demurrers; Pleas in
 Abatement.
 generally 669– 677
 actions to enforce common interest development
 covenants and restrictions 672
 ambiguities 669
 another action pending 657, 771
 appeal 675
 attorney’s certificates 671
 exhaustion of administrative remedies 672
 failure to exhaust administrative remedies 771
 forfeiture of objections 669
 lack of capacity to sue 771
 misjoinder of parties 771

municipal courts	669
oral contracts	671
pleading in the alternative	677
pleas in abatement	672
separate trials, motion for	677
severance, motions for	677
uncertainty	669
voluntary dismissal	771
Specific performance	
jurisdiction	263
Splitting causes of action. <i>See</i> Causes of action.	
Spousal support, actions for	
jurisdiction	265
State Compensation Insurance Fund	
claims against	120
Statute of frauds	
affirmative defense	716
avoiding	386
demurrers	666
Statutes of limitations	
<i>See also</i> Tolling.	
accrual of cause of action	136

affirmative defense 723, 734

amended cross-complaints 757

construction defects 757

cross-complaints 756

demurrers 386

fictitious defendants 102

foster parents, actions against 207

government entity defendants 154

medical malpractice 168

minors 75

pleading 734

setoff 726

suspension of corporation 81

Stays

 common interest development builders, actions
 against 204

 motions to dismiss for failure to serve summons 599

Stipulations to extend time

 general appearances 593

Subject matter jurisdiction

See also Amount in controversy; Municipal courts;
 Small claims courts; Superior courts.

assigned claims 264

cases concerning the same subject matter 265

certiorari, petitions for writs of 271

challenging. *See* Challenging court’s subject matter
jurisdiction

church property disputes 270

compulsory cross-complaints 754

consent 258

courts of appeal 271

cross-complaints 761

declaratory judgments 261

delay in objecting 258

family law cases 262, 265

federal courts, exclusive jurisdiction of 272

injunctions 260

mandamus, petitions for writs of 271

meaning 222

motions to transfer 270, 761

partnerships, dissolution of 262

pleading 388

prayer for relief 375

prohibition, petitions for writs of 271

quiet title actions	261
superior court appellate departments	271
supreme court	271
transfer of actions	260, 267
uninsured motorist arbitrations	259
voluntary dismissal	772
Summary adjudication, motions for	
voluntary dismissal	785
Summary judgment, motions for	
admissible evidence	523
challenging court's subject matter jurisdiction	606
evidence accompanying reply papers	521
filing fees	540
local rules	505
memoranda of points and authorities, length of	519
motion to strike treated as	695
objections to evidence	524, 542
opposition papers	543
orders denying	558
orders granting	558
preemptory challenges to judge	548
timing	508

voluntary dismissal 784

Summones, return of

time to file 588

Summons, service of

motions to quash 583

Summonses

See also Service of process.

actions for determining rights in tax-deeded property

. 419

actions to determine adverse interests in real

property arising out of a public improvement

assessment 419

actions to determine rights in jointly used water

facilities 419

amended complaints 422

associations 417

boundaries, actions to reestablish 419

condemnation, actions for 418

copies 416

corporations 417

dates 416

destroyed land records, actions to reestablish . 419

errors 416, 418

family law 421

fictitious defendants 433

foreign languages 416

form 415

Form 6.1: Summons 469

Form 6.2: Summons (Joint Debtor) 471

Form 6.3: Summons (Unlawful Detainer) 473

Form 6.4: Summons (Family Law) 475

Form 6.5: Summons (Joinder) 477

Form 6.6: Summons (Probate) 479

Form 6.7: Additional Parties Attachment 481

issuance 421

joint debtors 420

Judicial Council forms 416

lost summonses 421, 467

mandatory dismissal for failure to serve 588

misspellings 416

partition, actions for 418

partnerships 417

quiet title, actions to 418

service 588

special actions affecting title to real property . . .	418
supplemental complaints	422
validating actions by public agencies	420
Superior courts	
adoptions	265
child custody	265
child support	265
condemnation, actions seeking	265
conservatorship proceedings	265
declaratory judgments	265
dissolution of marriage	265
ejectment, actions for	259
guardianship proceedings	265
injunctions	264
jurisdictional limit	264
probate proceedings	265
quiet title actions	265
spousal support	265
tax cases	260
Supplemental complaints	
summonses	422

Supreme court	
extraordinary writs	272
jurisdiction	271
T	
Temporary restraining orders, applications for	
jurisdiction	261
preemptory challenges to judge	548
Testimony	
use in motions	521
Time	
holidays	508, 704
motions	509
opposition papers	544
orders shortening	509
summary judgment, motions for	508
Time, extensions of	
by overnight delivery	509
by service by Express Mail	509
by service by fax	509
by service by mail	509
general appearances	594

Tolling

- attorney conspiracy claims, presuit court clearance for 181
- minors 75
- negligence claims against officers and directors of nonprofit corporations, presuit court clearance for 182

Tort Claims Act. *See* Governmental entities.

Transfer of cases

- appellate review 610
- commencement date 608
- costs and fees 611
- dismissal for nonpayment of costs and fees . . . 611
- prior proceedings 607
- subject matter jurisdiction, lack of 607
- time to answer 608
- transfer to municipal court for lack of jurisdictional amount 609
- transferee court, authority of 607

Trial setting conferences

- telephonic appearances 556

Trusts and trustees
 naming trustee as a party 343

U

Unclean hands
 affirmative defense 725

Unlawful detainer, actions for
 abandonment of premises 450
 affirmative defenses 718, 731
 change of venue, motions for 628
 cross-complaints 750
 demurrers 689
 forcible detainer, actions for 689
 forcible entry, actions for 689
 Form 6.15: Notice of Belief of Abandonment . . . 497
 implied warranty of habitability 718
 motions to quash service of summons 587
 partial eviction 719
 racially discriminatory motive 719
 retaliatory eviction 719
 service of process 449
 three-day notice 731

time to answer 451, 689, 704
 venue 325
 verification of complaint 378

V

Venue

See also Corporations; Change of venue, motions for.
 mixed actions 332– 336
 abuse of process, actions for 312
 accountings, actions seeking 313
 additional venues 313– 320
 adoptions 323
 alternative venues 320– 332
 amendment of complaint 310
 anticipatory breach of contract 319
 associations 317– 320
 automobile conditional sale contracts 324
 cancellation of deeds 321
 cancellation of instruments 313
 child support, petitions for 323
 complaint’s failure to state a cause of action . . 334
 condemnation, actions seeking 321, 326

consent 325

conservatorship, proceedings for 331

consumer contracts 324

contract cases 314–317

contract modifications 315

contracts, place of execution 315

contracts, place of performance 315

conversion, actions for 312, 314

corporations 317–320

decedents' estates, actions against 330

declaratory judgment actions 331, 332

defamation, actions for 312

defendant's imminent departure from state 311

defendant's residence 310

disinterested stakeholders 335

dissolution of corporations 332

dissolution of marriage 322

domestic corporations 318

eminent domain 321

equitable relief against judgments 313

equitable remedies 312

executors, actions against 312

false imprisonment, actions for 311

fictitious defendants 108, 335

foreclosures 320

foreign corporations 318

fraud, actions for 312, 316

general rules 309–311

guardianship proceedings 331

improperly joined defendant 334

individual and corporate defendants 335

injunctions, suits for 313

intentional infliction of emotional distress, actions for
 312

interference with contract, actions for 312

inverse condemnation 321

judgments, enforcement of 313

judicial districts 336

legal separation, proceedings for 322

local actions combined with transitory actions . 333

local governments and agencies, actions against . .
 330

local governments and agencies, actions against
 329, 330

local governments and agencies, actions by . . . 326

main relief rule 312, 321, 332

malicious prosecution, actions for 312

meaning 309

multiple causes of action 333

multiple defendants 333

multiple remedies 332

municipal courts 336

national banks 317

nullity of marriage, proceedings for 322

objection, forfeiture of 309

oral contracts 315

partition, actions for 321

paternity, actions to establish 323

penalties, actions seeking 326

personal injury cases 313, 317, 326, 330

place of performance 318

pleading 325, 387, 388

property damage cases 313, 326, 330

public corporations 328

public officials, actions against 328

real property 320

replevin	312
rescission	312, 316, 319
residence, meaning of	311
restitution	316, 319
retail installment contracts	316, 324
special contracts	315
state agencies, actions against	328
state agencies, actions by	328
state and corporate defendants	335
state, actions against	326
state, actions by	328
statutory liability	317
transitory actions	321
trustees, actions against	312
trusts, actions relating to	330
unlawful detainer	325
unrelated causes of action	335
wrongful death cases	313, 326
Verification	
answers	707
by attorney	377
by person other than plaintiff	377

complaints	709
corporations	377
defective	379
facts within knowledge of another	377
governmental entities	379
mandatory	378
plaintiff absent from county	377
pleading in the alternative	372, 376
public officials	379
Vexatious litigants	
Form: Prefiling Order—Vexatious Litigant	219
meritless motions, pleadings, or other papers	188
prefiling orders	187
presuit court clearance of new actions	187
security	190
unnecessary discovery	188
Vicarious liability	
pleading	365
Voluntary dismissal	
absolute right to dismiss	780, 788–790
actual commencement of trial	780
after adverse arbitration award	785

after commencement of trial 781, 798–799

after demurrer sustained 783

after reversal of judgment 788

after summary adjudication of issues 785

after summary judgment granted 784

another action pending 771

attorneys’ fees 803–806

by amending complaint 780

causes of action 778

change of venue, motions for 773

child custody, proceedings for 795

class actions 795

clerk’s register 779

collateral estoppel 775

compulsory cross-complaints 792

consent of other parties required 782

costs 800–803

counts 778

cross-complaints 790–793

declaratory judgment, actions for 791

defendants 778

demurrers 771

dissolution of marriage, proceedings for 791

entry of dismissal, notice of 778

failure to exhaust administrative remedies 771

failure to file a required certificate 771

fast track rules 779

favorable termination 772, 773

Form:Notice of Entry of Dismissal and Proof of
 Service 812

Form: Request for Dismissal 810

guardianship proceedings 795

in rem proceedings 793

inconvenient forum 772

indemnity, claims for 777

intervention 791

judgments 779

lack of capacity to sue 771

malicious prosecution, causes of action for . . . 772

misjoinder of parties 771

mistake, inadvertance, surprise, or excusable neglect
 808

motions to dismiss for failure to serve the summons
 771

motions to quash service of the summons 771
 motions to stay or dismiss for inconvenient forum
 771
 motions to strike 771
 motions to transfer for lack of subject matter
 jurisdiction 771
 orders 779
 pending motion to dismiss with prejudice 786
 personal jurisdiction 771
 probate proceedings 794
 procedure 777–780
 refiling 773, 774
 relief from dismissal 808
 representative actions 793
 requests for 777
 res judicata 772, 775
 retraxit 775
 sanctions 806–807
See also Motions to dismiss.
 service of summons 772
 shareholder derivative suits 798
 small claims cases 782

subject matter jurisdiction	772
timing	780–788
with prejudice	775
without prejudice	774
W	
Waiver	
affirmative defense	723
Wrongful death, actions for	
damages	267
joinder of parties	99
real party in interest	69
venue	313, 326