

SPR08-24**Civil: Case Management** (amend Cal. Rules of Court, rule 3.1385)

Paraphrased comments are indicated by an asterisk; all other comments are verbatim.

	Commentator	Position	Comment	Committee Response
1.	Julie A. Goren, Esq. Lawdable Press Sherman Oaks	A	<p>I recommend some edits to correct a typo and for clarity:</p> <p>In (d) insert “a” between “with” and “disability”.</p> <p>In (e) do the following:</p> <p>(i) insert “the prescribed” between “within” and “45”</p> <p>(ii) delete “notify the court and the . . . alternative date for dismissal.” and insert the following in its place: “file with the court and serve on all parties a notice and a supporting declaration advising of that party’s inability to dismiss the case within the prescribed time, showing good cause for its inability to do so, and proposing an alternate date for dismissal.”</p>	<p>The committee has revised the text of the proposed rule in response to this comment. However, it has retained the terminology “serve and file” (see rule 1.21(b)) rather than the proposed language on that subject.</p>

SPR08-25**Civil Form: Case Management Conference Statement** (revise form CM-110)

Paraphrased comments are indicated by an asterisk; all other comments are verbatim.

	Commentator	Position	Comment	Committee Response
1.	Tina Allen Highland	N	I was not allowed to attend the mandatory settlement conference because plaintiff's brief contained a new statement of an alleged agreement.	This comment does not address the proposed revision to form CM-110.
2.	Julie A. Goren, Esq. Lawdable Press Sherman Oaks	A	1. Fix the typesetting error in the first box. 2. Question: Where parties jointly file the statement, would checking the box for telephone appearance mean that all parties agree to appear by phone? Should there be a way for one party, but not all parties, to indicate their intent to appear by phone?	1. The error has been corrected. 2. The proposed form has been revised to address this concern.

SPR08-21

Civil: Proof of Service (amend Cal. Rules of Court, rule 2.260; revise forms POS-040 and POS-040(P))

Paraphrased comments are indicated by an asterisk; all other comments are verbatim.

	Commentator	Position	Comment	Committee Response
1.	Julie A. Goren, Esq. Lawdable Press Sherman Oaks	AM	<p>[re form POS-040]</p> <p>1. Item 5b.: Replace “address of person served” with “address, fax number, or electronic notification of person served.”</p> <p>2. Item 5b(1): The address of the recipient is required in all cases except fax or electronic service. Saying that the address is required when service is by “personal delivery or mail” could be construed to not include messenger and overnight delivery. Therefore, saying instead that the address must be inserted if service was “not by fax or electronic service” is more accurate.</p> <p>3. Item 5c: There is no requirement that the exact time of service be stated when service is by personal service. Therefore, 5c should say that time of service must be entered if service was by “fax or electronic service.”</p> <p>4. Item 6a: When service is by personal delivery to an attorney’s office, delivery must be made between the hours of 9:00 and 5:00. When is by personal delivery to a party’s residence, delivery must be made between the</p>	<p>1. The proposed revisions to this section of the form have been modified.</p> <p>2. The proposed revisions to the form have been modified to distinguish between service by fax or electronic service, on the one hand, and all other methods of service on the other hand.</p> <p>3. The committee acknowledges this comment, but notes that there is a certain time frame in which personal service must occur. The form has been revised to add the permissible hours of service on an attorneys’ office to item 6a to the messenger declaration, both of which items already include the permissible timeframe for service on a residence. This eliminates any need to include time of service for service by personal delivery in item 5.</p> <p>4. The committee agrees. See above response.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree.

SPR08-21**Civil: Proof of Service** (amend Cal. Rules of Court, rule 2.260; revise forms POS-040 and POS-040(P))

Paraphrased comments are indicated by an asterisk; all other comments are verbatim.

	Commentator	Position	Comment	Committee Response
			<p>hours of 8:00 and 6:00. The language of 6a currently contains the 8:00–6:00 language for service at the party’s residence, but does contain the relevant time range for delivery at the attorney’s office. For consistency, and to obviate the need to state an exact time of service at 5c, 6a(1) should state that was made between the hours of 9:00 and 5:00.</p> <p>5. “Declaration of Messenger:” With respect to service “by messenger”—which is not different from “personal service” except that someone hands it to the messenger and there are 2 declarations—as currently drafted, the exact time is required if it’s personal service, but not if it’s service by messenger. Again, for consistency purposes, I suggest revising the “Declaration of Messenger” language so that (1) re service at attorney’s office says it was between 9:00 and 5:00.</p> <p>6. POS-040(P): Remove “personal” service from the heading of column for “Time of Service.”</p>	<p>5. The committee agrees. See response to point 3 above.</p> <p>6. Proposed form POS-040(P) has been revised in accordance with this comment.</p>
2.	Orange County Bar Association By Cathrine Castaldi, President Newport Beach	A	No specific comments.	Commentator’s agreement is noted.
3.	State Bar of California, Committee on Administrative Justice By Saul Bercovitch, Staff Attorney	AM	1. CAJ supports this proposal in general, but suggests some modifications to the form.	1. The support of the committee is noted.

Positions: A = Agree; AM = Agree if modified; N = Do not agree.