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6-07/650.00 Fictitious Name (Doe)

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6-07/700.10 Personal Delivery

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6-07/700.50 Commercial Mail Receiving Agency (CMRA)

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6-07/800.00 Service on Federal Lands

6-07/810.00 Out-of-State Summons

6-07/810.10 Instructions

6-07/810.20 Affidavit of Service

6-07/820.00 Military Affidavit

6-07/830.00 Affidavit of Jurisdiction

6-07/840.00 Statement of Damages

6-07/850.00 Certificate of Service of Summons

6-07/860.00 Return of Lost Summons

6-07/870.00 Return as Evidence

6-07/900.00 Criminal Summons

References

BPC – Business and Professions Code

CC – Civil Code

CCP – Code of Civil Procedure

CRC – California Rules of Court

ELEC – Elections Code

FAM – Family Code

GC – Government Code

HNC – Harbors and Navigation Code

INS – Insurance Code

LAB – Labor Code

PC – Penal Code

PROB – Probate Code

RTC – Revenue and Taxation Code

UIC - Unemployment Insurance Code

VEH – Vehicle Code

WIC – Welfare and Institutions Code

Updated October 22, 2020

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• 6-07/100.00 Complaint

A civil action is commenced by filing a complaint with the court. A complaint must contain a statement of the facts constituting the cause of action and also a demand for judgment. A cross-complaint may be filed by a party against whom a cause of action has been asserted in a complaint. In actions for nullity, dissolution, legal separation, exclusive custody or support of minors without dissolution, a Petition (Family Law) is used instead of a complaint.

(CCP 411.10) (425.10) (422.30) (GOV 70613) (428.10) (CCP Title 7)

• • 6-07/100.10 Summons

A summons is a process issued in the course of judicial proceedings whereby the court acquires jurisdiction of the defendant from the time of its service. It also serves as a notice that the plaintiff will take judgment against the defendant unless he responds. (Pinon v. Pollard, 69CA2d 129; CCP 412.20) In actions for nullity, dissolution, legal separation, exclusive custody or support of minors without dissolution, a Summons (Family Law) is used instead of the regular civil summons.

(CCP 17 Words and Phrases) (CCP 410.50) (CCP 413.10)

• • 6-07/100.20 Issuance

CCP 412.10 After payment of all applicable fees, the plaintiff may have the clerk issue one or more summons for any defendant. The clerk shall keep each original summons in the court records and provide a copy of each summons issued to the plaintiff who requested issuance of the summons.

• • 6-07/100.30 Contents

The contents of the Summons are specified in CCP 412.20. A date is not prescribed and an erroneous date on a summons would not invalidate it. (Hibernia Savings and Loan Society v. Churchill, 128 C 633) Likewise, the issuing clerk's name is not required. Although CCP 153 requires the seal of the court to appear on a summons, the clerk shall retain the original (CCP 412.10).

• 6-07/110.00 Time to Respond

• • 6-07/110.10 General Summons

The summons (SUM-100) requires the defendant to respond to the complaint by filing a response with the court within 30 days after being served with the summons. This is specified (CCP 412.20 (6))

• • 6-07/110.20 Unlawful Detainer

CCP 1167 (a) The summons (SUM-130) shall be in the form specified in CCP 412.20 except that when the defendant is served, **the defendant's response shall be filed within five days**, excluding Saturdays and Sundays and other judicial holidays, after the complaint is served upon

him or her.

(b) In all other respects the summons shall be issued and served and returned in the same manner as a summons in a civil action.

• • 6-07/110.30 Libel/Slander

In any action for libel or slander, **for good cause** shown upon ex parte written application, **the court may order that the time to respond to the complaint is 20 days** after the service of summons on the defendant. The application shall be supported by an affidavit stating facts showing, among other things, that the alleged defamatory matter has been continuously published and that there is a reasonable likelihood that the publication will continue. The order shall direct the clerk to endorse the summons to show that the time to respond has been shortened pursuant to this section. A copy of the application, affidavit, and order shall be served with the summons. (CCP 460.5)

• 6-07/120.00 Joint Debtor Summons

Service of a Joint Debtor Summons is made in the same manner as the original summons, except that a copy of plaintiff's affidavit is served with the Joint Debtor Summons. A copy of the complaint need not be served.

CCP 989-994 provide for proceedings against joint debtors under a contract who were not served with a summons and did not appear in the action on the contract. Where a judgment has been entered against one joint debtor, a Joint Debtor Summons (SUM-120) may be issued summoning the unserved defendants to show cause why they should not be bound by the judgment. (Christina v. Baker, 28 CA 2d 412) An affidavit by the plaintiff or his agent is filed with the court clerk in order to obtain the summons.

• 6-07/130.00 Summons and Petition (Family Law)

• • 6-07/130.10 In Re Marriage

In an action for dissolution of marriage, legal separation, or annulment of marriage, the summons shall additionally contain temporary restraining orders. Upon the filing of a petition for dissolution of marriage, legal separation, or annulment of marriage by the petitioner and issuance of the summons and upon personal service of the petition and summons on the respondent or upon waiver of personal service by the respondent, a temporary restraining order shall be in effect against both parties until the final decree is entered or the petition is dismissed, or until further order of the court.

The summons shall state on its face that the order is enforceable in any place in this state by any law enforcement agency that has received mailed notice of the order or has otherwise received a copy of the order and any officer who has been shown a copy of the order.

(FAM 232) (FAM 233) (FAM 2040)

• • 6-07/130.20 Uniform Parentage Act

FAM 7700 In addition to the contents required by Section 412.20 of the Code of Civil Procedure, in a proceeding under this part the summons shall contain a temporary restraining order restraining all parties, without the prior written consent of the other party or an order of the court, from removing from the state any minor child for whom the proceeding seeks to establish a parent and child relationship.

• 6-07/200.00 Forms of Businesses

• 6-07/210.00 Sole proprietorship

A sole proprietorship is not a legal entity itself. The term refers to a natural person who directly owns the business and is responsible for its debts. The owner (sole proprietor) shares all profits and losses. The owner’s personal assets are at risk in a proprietorship. The owner has total management authority, but may act through agents or employees. Employees may incur liability for the owner under agency and respondent superior principles. No formalities are required to engage in business as a sole proprietor other than complying with any applicable licensing requirements. If the business is conducted under a name which does not show the owner's surname or implies the existence of additional owners, the owner is required to file a fictitious business name statement. (BP 17900 et seq.) The owner cannot sue for business debts until the fictitious business name statement is filed (BP 17918) The owner can sell the business at any time.

• 6-07/220.00 Partnerships

• • 6-07/220.10 General Partnerships

A general partnership is a form of business entity in which two or more co-owners engage in business for profit. (CORP 16202(a)) General partnerships are governed by the Uniform Partnership Act of 1994 (CORP 16100). A partnership is an entity distinct from its partners. (CORP 16201)

A general partnership has the following characteristics of a separate legal entity:

It can own property in the name of the partnership. (CORP 16203, 16204, 16302(a)(1))

It can sue and be sued in the partnership name. (CCP 369.5; CORP 16307(a))

One or more partners may buy out other partners rather than automatically dissolve the partnership. (CORP 16701-16705)

A general partnership is simply a form of co-ownership by several persons. The partners jointly own the business assets and, except in a limited liability partnership, are personally liable for all business debts. (CORP 16306(a))

A partnership agreement normally provides for the distribution of profits and losses disproportionately. In the absence of agreement, profits are shared equally after repayment of contributions to the partnership. (CORP 16401(b)) Each general partner risks the partners personal assets for debts and obligations of the partnership business. Each is jointly and severally liable to the partnership creditors. (CORP 16306(a)) Each general partner is deemed an agent of the partnership in dealings with third persons when carrying on partnership business. (CORP 16301(1)) Each partner may be jointly and severally liable for tortious acts committed by a copartner in the ordinary course of partnership business, including misapplication of another's money or property. (CORP 16305, 16306) Although the partners may agree among themselves to share losses or pay debts in differing proportions, third persons are not bound by those agreements. A creditor of the partnership is entitled to recover in full from any one or more of the partners, who would then be entitled to indemnification from the other partner according to the partnership agreement. (CORP 16401(b),(c))

As co-owners, each general partner has an equal right to participate in management and control of the business. Disagreements as to matters in the ordinary course of partnership business are decided by a majority of the partners. Disagreements over extraordinary matters and amendments to the partnership agreement require consent of all partners. (CORP 16103(a), 16401(f),(j))

No partner has the right to receive compensation for services performed for the partnership, unless the partners agree otherwise by written agreement or conduct. (CORP 16401(h)) Unless otherwise provided by the partnership agreement, no one can become a partner without the consent of all existing partners. (CORP 16401(i))

A partner may assign the partner’s share of the profits and losses and right to receive distributions (transferable interest.) (CORP 16502, 16503(a)) And a partner's judgment creditor may obtain an order charging the partner's transferable interest to satisfy the judgment and may also obtain any other appropriate orders, including appointment of a receiver. (CORP 16504) A foreclosing purchaser acquires only the debtor partner's interest in the partnership, i.e., the

debtor's share of partnership profits.

The purchaser obtains no right to specific partnership property or to participate in managing partnership business. (CORP 16503, 16504)

A partnership at will is dissolved by the express will to dissolve of at least half of the partners. (CORP 16801(1)) A partnership for a definite term or particular undertaking is dissolved before expiration of the term or completion of the undertaking by the express will of all partners or after 90 days following a partner's death, bankruptcy or wrongful dissociation unless a majority of the partners agree to continue the partnership. (CORP 16601(6)-(10), 16801(2)) Other grounds for dissolution are set forth in CORP 16801(3)-(6) relating to circumstances that make continuation of the partnership unlawful or impracticable. Events of dissociation that do not cause dissolution nevertheless trigger a mandatory buy-out. (CORP 16601, 16602, 16701)

No special formalities are required to form a general partnership, which may be created by an oral agreement.

A joint venture is a general partnership, but is typically a business formed to undertake a particular transaction or project rather than one intended to continue indefinitely. Joint ventures are commonly used in real estate matters when two or more persons or entities may form a joint venture to develop a specific parcel of property. A partnership for a definite term or particular undertaking is distinguished from a partnership at will (all other general partnerships) in that dissolution of a partnership for a definite term or particular undertaking requires the assent of all partners, while a partnership at will may be dissolved if only half of the partners so desire. (CORP 16801(1), (2)(B))

• • 6-07/220.20 Limited Partnership

A limited partnership is comprised of one or more general partners who manage the business and who are personally liable for partnership debts, and one or more limited partners who contribute capital and share in the profits, but who normally take no part in running the business and who incur no liability with respect to partnership obligations beyond their capital contribution. The purpose of a limited partnership is to encourage passive investors to invest in the enterprise, allowing them to reap a share of the profits if it succeeds, but without risking more than the capital contributed. (Evans v. Galardi 16 CA 3d 300) Limited Partnerships are governed by the Uniform Limited Partnership Act of 2008 (CORP 15900 – 15912.07) A limited partnership is an entity distinct from its partners. (CORP 15901.04)

Except as otherwise provided by law or agreement, the general partners of a limited partnership are subject to the same liabilities as partners of a general partnership, i.e., joint and several liability for all debts and obligations of the partnership. (CORP 15904.04) Every general partner is an agent of the limited partnership and may thus bind the partnership in matters concerning partnership business. Although general partners are jointly and severally liable to third parties, they are not liable to limited partners for another general partner's misdeeds unless they participated in the wrongdoing or negligently permitted it to occur.

(CORP 15904.02)

The limited partner is primarily a passive investor, and normally is not active in the management and control of the business on a day-to-day basis but has the right to information, reports, accountings, to inspect partnership records, and to attend partnership meetings. (CORP 15904.07) A limited partner is normally not liable for partnership debts, the limited partner's liability being limited to the partner's investment in the partnership. However, a limited partner who participates in control of the partnership business may be held personally liable to creditors who actually knew of such participation at the time of extending credit and who, based on the limited partner's conduct, reasonably believed the limited partner to be a general partner. (CORP 15903.03)

A limited partner has the right to assign his or her interest in whole or part to a third person. But such assignment merely transfers the right to receive distributions from the partnership. It does not entitle the assignee to become substituted as a limited partner, unless the partnership agreement expressly so provides or all partners consent. The partnership agreement may also impose restrictions on the transferability of the limited partners' interests. (CORP 15901.02)

A limited partnership comes into existence upon filing of a certificate of limited partnership with the Secretary of State. (CORP 15902.01, 15902.02) The certificate must state the name of the limited partnership, street address of the designated office, name and address for the agent for service of process, name and address of each partner, the mailing address of the limited partnership if different from the designated office.

• • 6-07/220.30 Limited Liability Partnership

Accountants, attorneys, and architects may operate as a limited liability partnership (LLP), is a hybrid form of a general partnership and a corporation. The partners can all participate in management (as in a general partnership) and yet share only limited liability (as in a limited partnership). Architects, lawyers and accountants cannot operate as a limited liability company but, so long as they satisfy a statutory security for claims requirement, may register their general partnership as a limited liability partnership. A limited liability partnership is a general partnership of architects, attorneys or accountants that elects to be treated as a limited liability partnership by registering as such with the Secretary of State. (CORP 16951-16962) A limited liability partnership is preferable to a professional corporation because partners are protected from vicarious liability, can operate more informally and flexibly than in a corporation, and enjoy partnership tax benefits.

Each partner is liable only for his personal misconduct or guarantees. (CORP 16306(c)) However, the limited liability partnership must provide security for malpractice claims. (CORP 16956 (a))

Accounting limited liability partnerships may provide the necessary security as covered by CORP 16956 (a) (1) (A) – (D).

Law firm limited liability partnerships may provide the necessary security as covered by CORP 16956 (a) (2) (A) – (D).

Architect limited liability partnerships may provide the necessary security as covered by CORP 16956 (a) (3) (A) – (D).

A domestic partnership, other than a limited partnership, may convert to a registered limited liability partnership by the vote of the partners possessing a majority of the interests of its partners in the current profits of the partnership or by a different vote as may be required in its partnership agreement. (CORP 16955)

Conversion to a limited liability partnership will not provide partners retroactive relief from vicarious liability for any partnership debts or obligations incurred or arising out of events occurring prior to attaining Limited liability partnership status. (CORP 16306)

A limited liability partnership registers by filing a written statement with the Secretary of State setting forth the name and principal office address of the partnership, the name and address of its agent for service of process in California, a brief statement of the partnership business, and a statement that the partnership is registering as a registered limited liability partnership. (CORP 16953)

A registered limited liability partnership need not comply with the fictitious business name statute, but must include "limited liability partnership" or another acceptable limited liability partnership designation as the last words or letters of its name. (CORP 16952, 16961, BPC 17900)

• 6-07/250.00 Limited Liability Company

The limited liability company is a hybrid business entity. Limited Liability Companies are governed by the California Revised Uniform Limited Liability Company (CORP 17701.01 – 17713.13) An LLC, or Limited Liability Company, combines the best parts of corporations, sole proprietorships, and partnerships into one business entity offering owners liability protection, flexible management structure, and certain tax advantages.

Licensed professionals (Accountants, architects, attorneys, chiropractors, clinical social workers, court reporters (shorthand reporters), dentists, dental hygienists, doctors, marriages and family counselors, nurses, optometrists, pharmacists, physical therapists, psychologists, and veterinarians, etc.) offering professional services . Licensed professionals are held to a higher standard and have a responsibility to uphold the public’s safety. Therefore, the California Legislature does not allow professionals to limit their personal liability for their mistakes and cannot form a LLC. Instead, Licensed professionals may form a Professional Limited Liability Company) PLLC). (Professional services pursuant to CORP 13401(a) and 13401.3)

A business that provides services requiring a license, certification, or registration pursuant to the Business and Professions Code may conduct its activities as a limited

liability company if the services rendered require only a nonprofessional, occupational license. (California Attorney General Opinion 04-103)

A limited liability company is a legal entity separate and apart from its members. Ordinarily, only the limited liability company can be held responsible for the entity's debts. Generally, a member is not personally liable for the entity's obligations and/or liabilities and share the same limited liability as a corporate shareholder. A member may be liable to the same extent as a shareholder may be liable for a corporation's liabilities, e.g., common law alter ego liability (hiding behind the corporate veil). (CORP 17701.04)

Unless the LLC is a manager-managed limited liability company, every member is an agent of the limited liability company for the purpose of its business or affairs, and the act of any member, including, but not limited to, the execution in the name of the limited liability company of any instrument, for the apparent purpose of carrying on in the usual way the business or affairs of the limited liability company of which that person is a member, binds the limited liability company in the particular matter, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter and the person with whom the member is dealing has actual knowledge of the fact that the member has no such authority. This is in contrast to general partners, whose acts could lead to personal liability on the part of other partners.

If the articles of organization indicate that the limited liability company is a manager-managed limited liability company, no member acting solely as a member, is an agent of the LLC and cannot bind or execute any instrument on behalf of the LLC. (CORP 17703.01) Managers need not be members. (CORP 17704.07 (6)) A limited liability company manager owes the same fiduciary duties of care and loyalty to the limited liability company and all its members. (CORP 17704.09(f))

A limited liability company is formed by filing of articles of organization with the Secretary of State on the prescribed form. (CORP 17702.01(a)) The articles of organization must have a statement of its purpose, the name of the limited liability company, the street address of the initial designated office and the mailing address of the limited liability company if different, the name and street address of the initial agent for service of process or if a corporate agent is designated, only the name of the agent shall be set forth, a statement if the limited liability company is to be manager-managed or only one manager. Articles of organization may also contain any other provision not inconsistent with law. (CORP 17702.01)

• 6-07/260.00 Corporation

A corporation is a separate legal entity created by state law. It has its own identity, separate and apart from the persons who created it and from its shareholders. It has the power to act in any way permitted by the law that created it and by its own charter, e.g., to contract, to own and convey property, to sue and to be sued. It is even capable of committing torts or crimes.

Although a corporation can sue or be sued in its name, it cannot appear in court in propria persona and must appear through an attorney. Nor can it appear on its own behalf as defendant in a criminal proceeding. However, any officer, director or employee may appear on the corporation's behalf in small claims court, or in superior court on a small claims appeal. (CCP 116.540(b), 116.770(c)) There are no other specific codes which determines how a corporation may appear in court. However logic dictates a natural person must represent the corporation whether it be an attorney or other representative determined by the corporation as indicated for small claims cases and examinations. (CCP 708.150 (b))

In forma pauperis (Fee Waiver) rights are limited to natural persons. Corporations and other artificial entities are not eligible to proceed in forma pauperis. (Rowland v. California Men's Colony, 506 US 194)

As a separate legal entity, the corporation is responsible for its own debts. Normally, the shareholders, directors or officers of the corporation are not legally responsible for corporate liabilities. If there are losses in the business, the corporation bears them to the extent of its own resources; the stockholders indirectly bear them as the value of their stock declines. However, shareholders may be held personally liable for corporate obligations if they have personally guaranteed them.

Normally, management and control is vested in the board of directors, elected by the shareholders of the corporation. The directors generally make policy and major decisions but do not individually represent the corporation in dealing with third persons. Rather, such dealings are conducted through officers and employees, to whom authority is delegated by the directors. The same person may be a stockholder, director and officer of the corporation, especially in small corporations. Although shareholders elect the board of directors, they do not directly control the board's activities or decisions.

A corporation can be created only by substantial compliance with the General Corporation Law, which requires filing of articles of incorporation containing certain essential provisions and the prepayment of certain fees.

As a separate legal entity, the corporation is capable of continuing indefinitely. Its existence is not affected by death or incapacity of its shareholders, officers or directors, or by transfer of its shares from one person to another.

A corporation may exercise some of the constitutional protections granted to natural persons. A corporation is not a citizen protected by the privileges and immunities clause of the Fourteenth Amendment to the U.S. Constitution, which prohibits states from abridging the privileges and immunities of U.S. citizens. However, corporations do have the right to equal protection and due process of law under the Fourteenth and Fifth Amendments and under the California Constitution. Corporations enjoy First Amendment freedom of speech protection.

Although a corporation cannot be imprisoned, a criminal action can result in fines and other penalties that could harm innocent shareholders, officers and other persons. A

corporate criminal defendant thus has a Sixth Amendment right to counsel. However, since a corporation faces no incarceration risk, it has no right to appointed counsel where it cannot afford to retain private counsel. On the other hand, corporations have no privilege against self-incrimination, e.g., to prevent disclosure of incriminating corporate records. Nor may individuals assert the Fifth Amendment privilege to avoid producing corporate records which they possess in a representative capacity as officer or director of the corporation. This is so even though the records may be personally incriminating and even though the person subpoenaed is the corporation's sole shareholder.

However, if the subpoenaed records are not in the officer's or director's possession, the Fifth Amendment privilege protects the individual from being compelled to disclose the records' location. The Fifth Amendment does not shield officers and directors from producing corporate records even where, prior to issuance of the records subpoena, the corporation dissolved or the officer's or director's relationship with the corporation terminated.

• 6-07/300.00 Persons Authorized to Serve

A summons may be served by any person who is at least 18 years of age and not a party to the action. (CCP 414.10) Custodians or keepers may serve the process as deputies. (Los Angeles County Counsel Opinion, May 6, 1952) The plaintiff may not serve the summons, but the plaintiff's attorney may properly do so. (Sheehan v. All Persons, 80 CA 393)

Generally, the sheriff may serve a summons or citation issued from courts in other states. But in some states the authorization for such services must be specifically given by the court, clerk or sheriff in that state. For further information, refer to **6-07/800.00 Out-of-State Summons**.

• 6-07/400.00 Time of Service

• 6-07/410.00 In General

A summons may be served on a Sunday or other legal holiday. (Strange v. Coryell, 3 CA 2d 635) But an officer has no duty to serve civil process on a holiday. (Whitney v. Butterfield, 13 C 336)

Generally a summons must be served within three (3) years after the action has commenced. A return shall be made within sixty (60) days after the time the summons and complaint must be served. (CCP 583.210) The time within which to complete service may be extended under certain conditions. Because of this possibility, a summons shall be served when so instructed, regardless of the time the suit was filed. (Barrington v. A.H. Robbins, 39 CA 3d 146)

• 6-07/420.00 Trial Court Case Management

CT RULE 3.110 and the Trial Court Delay Reduction Act (GC 68600 et seq.) alter the pace of a case toward trial. Litigants no longer control the pace of litigation, e.g., by continuing hearing dates. It is the court's responsibility to actively manage each case and to compel attorneys and litigants to prepare and resolve all litigation without delay. (GC 68607(a))

• • 6-07/420.10 Notice of Case Assignment

In several courts, a notice of case assignment is served with the summons. (L.A. Sup.Ct. Rule 3.3(c) – refer to other county Local Superior Court Rules of Court) Los Angeles Superior Court may require a Notice of Case Assignment Form (LACIV 190 – not searchable). If a trial court delay document, e.g., notice of case assignment, is received with the summons and complaint, the document shall be served without charge and service reflected in the certificate of service.

• • 6-07/420.20 Service Deadline

CT RULE 3.110 (b) requires service of the complaint in a civil action on all named defendants, and proof of service filed, within 60 days after filing of the complaint. If a complaint or cross-complaint is amended, an added party must be served and the proof of service filed within 30 days after filing. Where a cross-complaint adds new parties, the cross-complaint must be served on all parties and proof of service on the new parties filed within 30 days of filing the cross-complaint. The plaintiff may obtain an extension of time if service could not be made with due diligence. (GC 68616(a))

Failure to serve timely may result in the court issuing an Order to Show Cause why sanctions should not be imposed on counsel. A lawsuit may be dismissed for delay in prosecution if the action is not brought to trial or settled within two years after filing (CCP 583.410) or if the summons and complaint have not been served within three years. (CCP 583.210) *Because local court rules are subject to change, service should be attempted in compliance with a plaintiff's instructions that indicate that service is subject to a court rule deadline.*

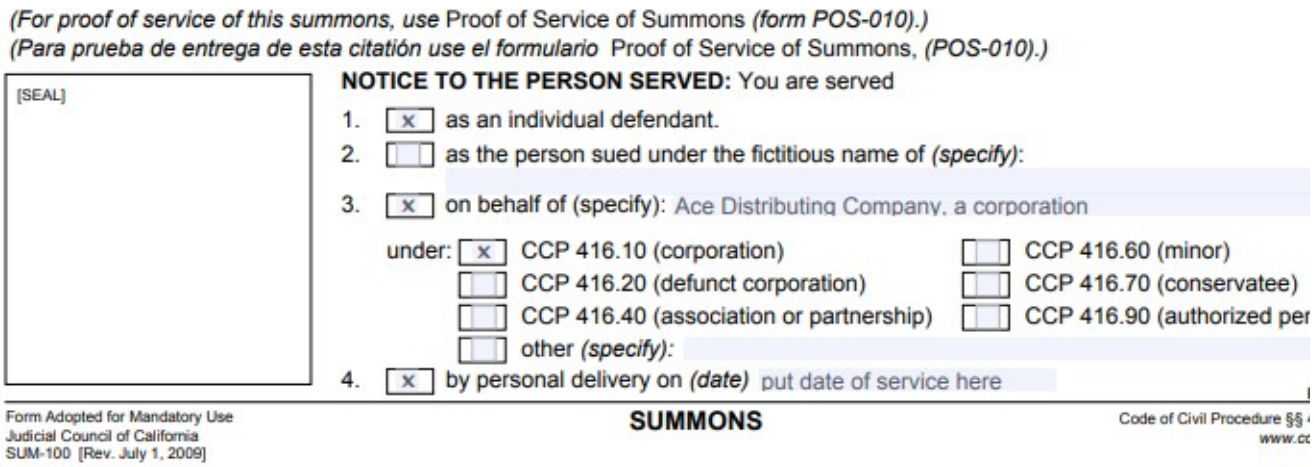
• 6-07/500.00 Service of Summons

• • 6-07/500.10 Multiple Capacity Summons

If only one copy of the process is served, charge only one service fee, regardless of the number of capacities in which that defendant is served. GOV 26721 authorizes the fee for serving each process. If instructed to serve several copies on the defendant,

charge for each process served. (Attorney General Opinion No. CV 75/307 IL, Feb. 3, 1976 (still being researched for hyperlink))

EXAMPLE: “Serve Tom Jones as an individual and Ace Distributing Company, a corporation, of which Tom Jones is the president.” On the bottom of the Summons mark #1 (individual defendant) and #3 (on behalf of: ACE DISTRIBUTING COMPANY, and mark under CCP 416.10 (corporation).



(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [x] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [x] on behalf of (specify): Ace Distributing Company, a corporation

under: [x] 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 (authorized per
[ ] other *(specify)*:

4. [x] by personal delivery on *(date)* put date of service here

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

SUMMONS

Code of Civil Procedure §§
www.c

• 6-07/510.00 Corporation

A summons against a corporation may be served by delivering a copy of the summons and complaint, with the required notice of capacity, to one of the following officers or agents (CCP 416.10):

1. Person designated as agent for service of process or a person authorized by the corporation to receive service of process (as listed with the Secretary of State) (CCP 416.10(a))
2. President, Chief Executive Officer, or other head of the corporation (416.10 (b))
3. Vice-President (416.10 (b))
4. Secretary or Assistant Secretary (416.10 (b))
5. Treasurer or Assistant Treasurer (416.10 (b))
6. Controller or Chief Financial Officer (CCP 416.10(b))
7. General Manager (NOT Office Manager) (416.10 (b))
8. Person authorized by the Corporation to receive civil process (CCP 416.10(b))
9. Cashier or Assistant Cashier of a bank (CCP 416.10 (c))

If a proper officer or agent cannot be found within the state after reasonable diligence, or if no

agent has been designated, the court may make an order that the service be made by delivering by hand to the Secretary of State, or an assistant or deputy, a copy of the process and a copy of the court order. The order may be from a court of another state or of any federal court if the proceeding has been filed in that court. (CORP 1702) Such service must be made personally and not by mail. (Hunstock v. Estate Development Co., 22 CA 2d 205)

Before a summons against a corporation is assigned out for service, the "Notice to the Person Served" at the bottom of the summons shall be completed. If the summons is served by the substitution method, both copies of the summons shall be completed in this manner.

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [ ] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [x] on behalf of (specify): Ace Distributing Company, a corporation
   under: [x] 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 (authorized per
   [ ] other *(specify)*:
4. [x] by personal delivery on *(date)* put date of service here

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

SUMMONS

Code of Civil Procedure §§
www.c

Notice of capacity in which a person is served on behalf of a defendant corporation must appear on the copy of the summons that is served. No default in a case may be taken against any corporation or against such person individually, as the case may be, unless the certificate of service of the summons recites that such notice appeared on the copy of the summons. (CCP 412.30) When service is intended to be made upon the person as an individual as well as on behalf of the corporation, said notice must so indicate.

When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: "Serve Ace Distributing Company, a corporation". Contact is made with Tom Jones who is the president (or other officer or agent per CCP 416.10)." The Proof of Service should state the party served: Ace Distributing Company, a corporation. Tom Jones, President, is listed as the person served on behalf of an entity (or as an authorized agent). The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).

3. a. Party served *(specify name of party as shown on documents served):*
Ace Distributing Company, a corporation

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3*
Tom Jones, President

4. Address where the party was served:
123 Main Street, Los Angeles, CA 90012

5. I served the party *(check proper box)*

a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* Date of service (2) at *(time):* Time of service

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the responsible party per CCP 416.10 must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served):*
Ace Distributing Company, a corporation

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3a*
Tom Jones, President

4. Address where the party was served:
123 Main Street, Los Angeles, CA 90012

5. I served the party *(check proper box)*

a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*

b. [x] **by substituted service.** on *(date):* Date of service at *(time):* time I left the documents listed in item 2 in the presence of *(name and title or relationship to person indicated in item 3):*
Lady Penelope Creighton-Ward, Receptionist

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

(3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

(4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* date of mailing from *(city):* city of mailing **or** [ ] a declaration of mailing is att

(5) [x] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

• • 6-07/510.10 Forfeited or Dissolved (Defunct) Corporations

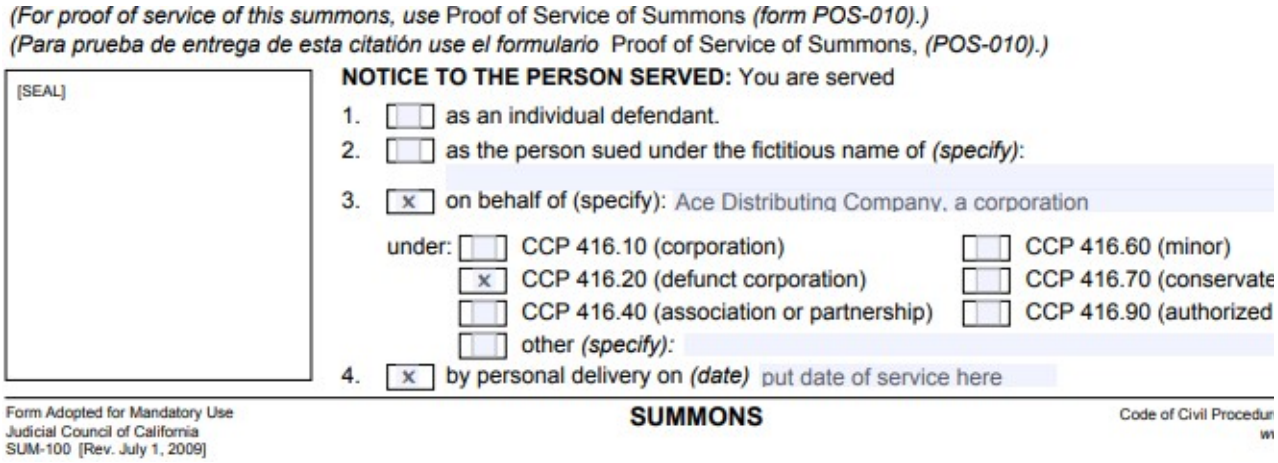
Where a corporation has forfeited its charter or right to do business in California or has

dissolved, a summons may be served on it by delivering a copy to one of the persons who have become the trustees of the corporation and of its stockholders or members. (CCP 416.20)

Notice of the capacity in which a person is served on behalf of a defendant forfeited or dissolved corporation must appear on the copy of the summons that is served. No default in a case may be taken against any corporation or against such person individually, as the case may be, unless the certificate of service of the summons recites that such notice appeared on the copy of the summons.

If no person having charge of the assets of a dissolved corporation can be found with due diligence, the court may order that the process, together with a copy of the order, be delivered to the Secretary of State or an assistant or deputy. (CORP 1702)

Before a summons against such a forfeited or dissolved corporation is assigned out for service, the "Notice to the Person Served" at the bottom of the summons shall be completed by (1) inserting the name of the defendant corporation after the words "on behalf of," (2) checking the box "CCP 416.20 (Defunct Corporation)" and, (3) when applicable, checking "as an individual defendant." This shall be done on the copy of the summons that is left with the defendant. If the summons is served using the substitute method, both copies of the summons shall be completed in this manner.



(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [ ] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [x] on behalf of (specify): Ace Distributing Company, a corporation

under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[x] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservate
[ ] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorized
[ ] other *(specify)*:

4. [x] by personal delivery on *(date)* put date of service here

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

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When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: "Serve Ace Distributing Company, a defunct corporation, by serving Tom Jones, Trustee of Ace Distributing Company, a corporation." Contact is made with Tom Jones. The Proof of Service should state the party served: Ace Distributing Company, a corporation. Tom Jones, Trustee, on behalf of Ace Distributing Company, a corporation. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).

3. a. Party served *(specify name of party as shown on documents served):*
Ace Distributing Company, a defunct corporation

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a pers under item 5b on whom substituted service was made) *(specify name and relationship to the party named in it*
Tom Jones, Trustee of Ace Distributing Company, a corpration

4. Address where the party was served:
123 Main Street, Los Angeles CA 90012

5. I served the party *(check proper box)*

a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* date of service (2) at *(time):* time of servi

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the responsible party per CCP 416.10 must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served):*
Ace Distributing Company, a defunct corporation

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3*
Tom Jones, Trustee of Ace Distributing Company, a corpration

4. Address where the party was served:
123 Main Street, Los Angeles CA 90012

5. I served the party *(check proper box)*

a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*

b. [x] **by substituted service.** on *(date):* date of service at *(time):* time I left the documents listed in item 2 in the presence of *(name and title or relationship to person indicated in item 3):*
Joan Smith, Secretary for Tom Jones, Trustee of Ace Distributing Compant, a corporation

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

(3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

(4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* date mailed from *(city):* city mailed from **or** [ ] a declaration of mailing is att

(5) [x] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

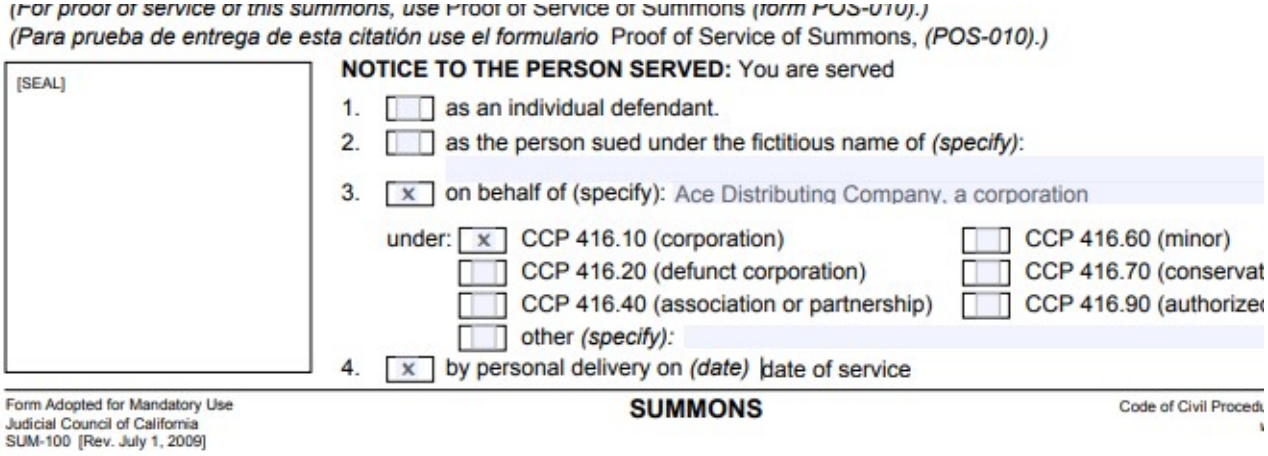
• • 6-07/510.20 Foreign Corporation or Company

Foreign Corporation means a corporation not incorporated under the laws of this State.

Service of a summons against a foreign corporation or a nonresident joint stock company or association doing business in California is provided by 2100-2116 of the Corporations Code and CCP 416.10 (refer to 6-07/510.00). In addition to its officers and agents that can be served, a foreign corporation may be served by serving its general manager in this State. Service on a person who is the general manager of the area involved is good service where there is no one general manager functioning throughout the State. (Eclipse Fuel v. Superior Court (1957) 148 CA 2d 736)

If no officer or agent can be found, the court may order service to be made on the Secretary of State, or an assistant or deputy. No court order is required when the foreign corporation has surrendered its right to transact intrastate business pursuant to the Corporations Code. (CORP 2114)

Before a summons against such a foreign corporation or a nonresident joint stock company or association is assigned out for service, the “Notice to the Person Served” at the bottom of the summons shall be completed by (1) inserting the name of the defendant foreign corporation or a nonresident joint stock company or association after the words “on behalf of,” (2) checking the box “CCP 416.10 (Corporation)” and, (3) when applicable, checking “as an individual defendant.” This shall be done on the copy of the summons that is left with the defendant. If the summons is served using the substitute method, both copies of the summons shall be completed in this manner.



(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify)*:
3. ☒ on behalf of (specify): Ace Distributing Company, a corporation

under: ☒ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservat
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorize
☐ other *(specify)*:

4. ☒ by personal delivery on *(date)* date of service

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

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When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: “Serve Ace Distributing Company, a by serving Tom Jones, General Manager of Ace Distributing Company, a corporation.” Contact is made with Tom Jones. The Proof of Service should state the party served: Ace Distributing Company, a corporation. Tom Jones, General Manager on behalf of Ace Distributing Company, a corporation. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).

3. a. Party served *(specify name of party as shown on documents served):*
Ace Distributing Company, a corporation

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3*
Tom Jones, General Manager of Ace Distributing Company, a corpration

4. Address where the party was served:
123 Main Street, Los Angeles CA 90012

5. I served the party *(check proper box)*

a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* date of service (2) at *(time):* time

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the responsible party per CCP 416.10 must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served):*
Ace Distributing Company, a corporation

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item*
Tom Jones, General Manager of Ace Distributing Company, a corpration

4. Address where the party was served:
123 Main Street, Los Angeles CA 90012

5. I served the party *(check proper box)*

a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*

b. [x] **by substituted service.** on *(date):* date of service at *(time):* time I left the documents listed in item in the presence of *(name and title or relationship to person indicated in item 3):*
Susan Jones, wife

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

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

(3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

(4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* date mailed from *(city):* city mailed from **or** [ ] a declaration of mailing is a

(5) [x] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

• • 6-07/510.30 Joint Stock Company or Association

A summons may be served on a joint stock company or association by delivering a copy of the summons and of the complaint, as provided by CCP 416.10 (corporation) or CCP 416.20 (forfeited or dissolved corporation). (CCP 416.30)

Before a summons against such a joint stock company or association is assigned out for service, the "Notice to the Person Served" at the bottom of the summons shall be completed by (1) inserting the name of the defendant joint stock company after the words "on behalf of," (2) checking the box "CCP 416.10 (Corporation) or CCP 416.20 (Defunct Corporation)" and, (3) when applicable, checking "as an individual defendant." This shall be done on the copy of the summons that is left with the defendant. If the summons is served using the substitute method, both copies of the summons shall be completed in this manner. It is completed in the same manner as example in 6-07/510.00.

When completing the Proof of Service, complete appropriately in the same manner as example in 6-07/510.00.

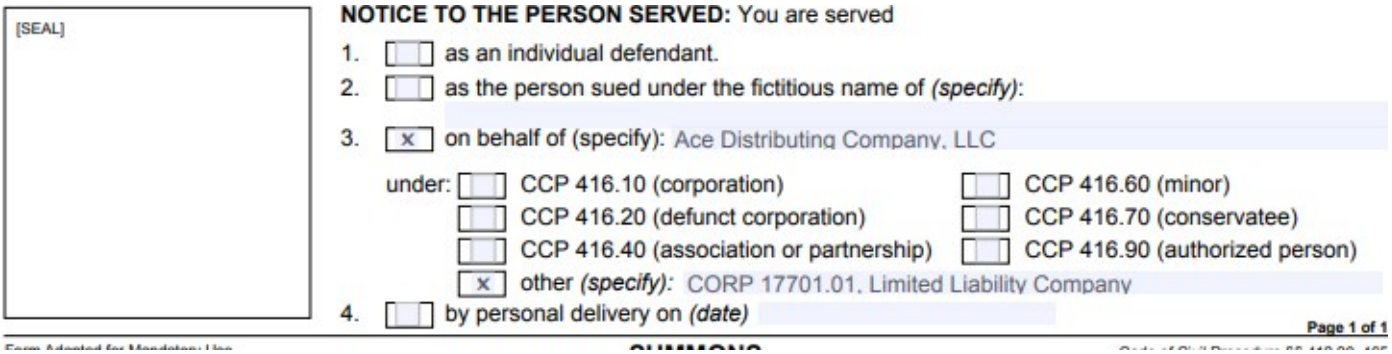
• 6-07/520.00 Limited Liability Company

In 1995, the Legislature created a new legal entity, the limited liability company (LLC). A limited liability company may sue or be sued in its own name. The business must be designated in the caption as a partnership, limited liability company, or unincorporated association. No award may be made against the firm unless it is named in the caption and designated in the body of the complaint as a party. (Hildebrand v. Stonecrest Corp., 174 CA 2d 158) If a judgment is against both the individual members and the business, the members and the business must be separately named as defendants. Thus, where the caption named defendants Meads, Doe, Cox, and Ray individually and as copartners under the name of Petaluma Transportation Company, it was held to be only against the members and not against the firm, i.e., the descriptive language as copartners did not make the partnership a defendant. (Maclay Co. v. Meads, 14 CA 363)

Service on a limited liability company is effected by serving the person designated as its agent for service of process. If its designated agent is a corporation, service must be made on the person listed as the corporation's agent for service of process on its information return filed with the Secretary of State. (CORP 17701.13 (c) The designated agent may be served either by personal service (CCP 415.10), substitute service (CCP 415.20 (a)), or service by mail with acknowledgment of receipt (CCP 415.30 (a)). A limited liability company, like a corporation, is required to annually designate an agent for service of process with the Secretary of State. (CORP 17702.09 (c)) If an affidavit shows that the designated agent has resigned or cannot be located or that service cannot otherwise be effected, the court may order service on a limited liability company by delivery to the

Secretary of State, together with a copy of the order authorizing such service.(CORP 1702 (a))

Before a summons against a limited liability company is assigned out for service, the "Notice to the Person Served" at the bottom of the summons shall be completed by (1) inserting the name of the defendant limited liability company after the words "on behalf of," (2) checking the box "other" and inserting "CORP 17701.01 (limited liability company)" and, (3) when applicable, checking the box "as an individual defendant." This shall be done on the copy of the summons that is left with the defendant. If the summons is served using the substitute method, both copies of the summons shall be completed in this manner.



[SEAL]

NOTICE TO THE PERSON SERVED: You are served

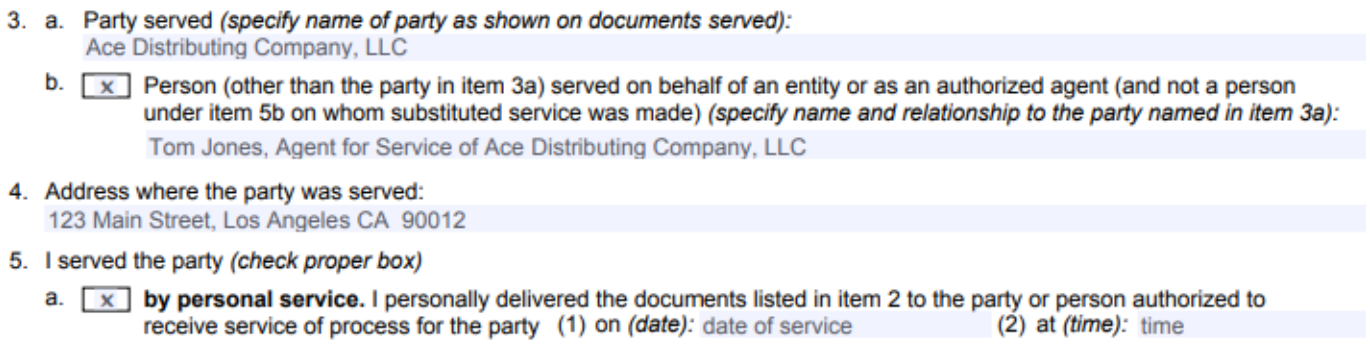
1. [ ] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [x] on behalf of (specify): Ace Distributing Company, LLC

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 (authorized person)
[x] other *(specify)*: CORP 17701.01, Limited Liability Company

4. [ ] by personal delivery on *(date)*

Page 1 of 1

When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: "Serve Ace Distributing Company, LLC." The agent for service is listed as Tom Jones and instructions for service request service on Tom Jones, Authorized Agent for Service. Contact is made with Tom Jones. The Proof of Service should state the party served: Ace Distributing Company, LLC. Tom Jones, Agent for Service of Ace Distributing Company, LLC. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).



3. a. Party served *(specify name of party as shown on documents served)*:
   Ace Distributing Company, LLC
   b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3a)*:
   Tom Jones, Agent for Service of Ace Distributing Company, LLC
4. Address where the party was served:
   123 Main Street, Los Angeles CA 90012
5. I served the party *(check proper box)*
   a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date)*: date of service (2) at *(time)*: time

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the responsible party per CCP 416.10 must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of

diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served):*
   Ace Distributing Company, LLC
   b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a p
   under item 5b on whom substituted service was made) *(specify name and relationship to the party named i*
   Tom Jones, Agent for Service of Ace Distributing Company, LLC
4. Address where the party was served:
   123 Main Street, Los Angeles CA 90012
5. I served the party *(check proper box)*
   a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorizec
   receive service of process for the party (1) on *(date):* (2) at *(time):*
   b. [x] **by substituted service.** on *(date):* date of service at *(time):* time I left the documents listed i
   in the presence of *(name and title or relationship to person indicated in item 3):*
   Susan Jones, secretary to Tom Jones
   (1) [ ] **(business)** a person at least 18 years of age apparently in charge at the office or usual place of bu
   of the person to be served. I informed him or her of the general nature of the papers.
   (2) [x] **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or u
   place of abode of the party. I informed him or her of the general nature of the papers.
   (3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual
   address of the person to be served, other than a United States Postal Service post office box. I info
   him or her of the general nature of the papers.
   (4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be se
   at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on
   (date): date mailed from *(city):* city mailed from **or** [ ] a declaration of maili
   (5) [x] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

• 6-07/530.00 Partnerships or Other Unincorporated Associations

• • 6-07/530.10 Properly Named Defendant

Plaintiffs often inadvertently fail to name both the firm and partners as defendants in the summons. For example, if the only defendants sued are “AB and CD copartners doing business under the firm name of ABCD,” the individuals are the only defendants in the action and the firm is not a defendant. (Maclay Co. v. Meads, 14 CA 363; Potts v. Whitson, 52 CA 2d 199) Similarly, where the defendants were designated as “A B and C D doing business as W L”, it was held that the association W L was not a party defendant. (Bums v. Downs, 42 CA 2d 322) Conversely, where the suit is against a firm name, the statement that the firm consists of certain named persons does not render such persons defendants liable individually. Phrases such as “d.b.a. XY Company”, or “composed of AB and CD partners thereof”, or “partners doing business under the fictitious name of XY Company” and the like have been held to be merely descriptive words of the defendants specifically named and they do not add to the number of defendants. (Billings v. Finn, 55 Cal.App. 134, 136 [202 P. 938])

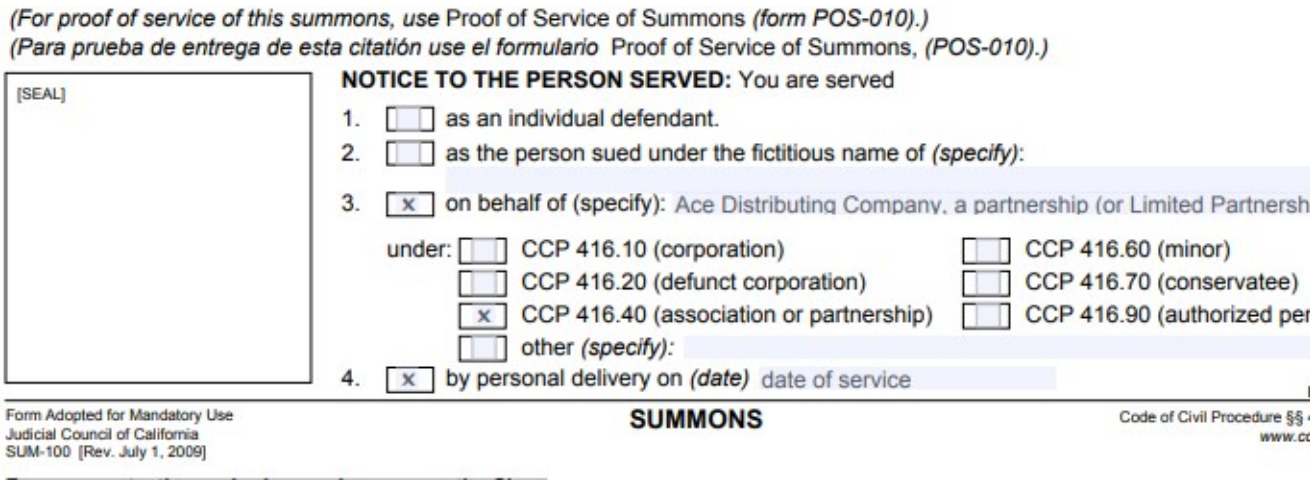
(CCP 369.5)

• • 6-07/530.20 General or Limited Partnership

Service on a general or limited liability company is effected by serving the person designated as its agent for service of process. If its designated agent is a corporation, service must be made on the person listed as the corporation's agent for service of process on its information return filed with the Secretary of State. Service on a partnership may be made by delivery to:

1. The person designated as an agent for service with Secretary of State, (CCP 416.40 (a))
2. A general partner, (CORP 15901.16 (b)),
3. To the party designated by court order. (CORP 18200), (CCP 413.30)
4. Secretary of State or any employee of the Secretary of the State by court order (CORP 16310)
5. A general manager. (CCP 416.40 (c))

Before a summons against a partnership is assigned out for service, the " Notice to the Person Served" at the bottom of the summons shall be completed by (1) inserting the name of the defendant partnership or unincorporated association after the words "on behalf of," (2) checking the box "CCP 416.40 (Association or Partnership)" and, (3) when applicable, checking the box "as an individual defendant." This shall be done on the copy of the summons that is left with the defendant. If the summons is served using the substitute method, both copies of the summons shall be completed in this manner.


(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [ ] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [x] on behalf of (specify): Ace Distributing Company, a partnership (or Limited Partnersh

under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservatee)
[x] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorized per
[ ] other *(specify)*:

4. [x] by personal delivery on *(date)* date of service

Form Adopted for Mandatory Use
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When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: "Serve Ace Distributing Company, a partnership." The agent for service is listed as Tom Jones and instructions for service request service on Tom Jones, Authorized Agent for Service.

Contact is made with Tom Jones. The Proof of Service should state the party served: Ace Distributing Company, a partnership. Tom Jones, Agent for Service of Ace Distributing Company, a partnership. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).

3. a. Party served *(specify name of party as shown on documents served):*
   Ace Distributing Company, a partnership
   b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a
   under item 5b on whom substituted service was made) *(specify name and relationship to the party named*
   Tom Jones, Athorized Agent
4. Address where the party was served:
   123 Main Street, Los Angeles California, 90012
5. I served the party *(check proper box)*
   a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorize
   receive service of process for the party (1) on *(date):* date of service (2) at *(time):* time of s

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the responsible party per CCP 416.10 must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served):*
   Ace Distributing Company, a partnership
   b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a pers
   under item 5b on whom substituted service was made) *(specify name and relationship to the party named in ite*
   Tom Jones, Athorized Agent
4. Address where the party was served:
   123 Main Street, Los Angeles California, 90012
5. I served the party *(check proper box)*
   a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to
   receive service of process for the party (1) on *(date):* (2) at *(time):*
   b. [x] **by substituted service.** on *(date):* date of service at *(time):* time I left the documents listed in ite
   in the presence of *(name and title or relationship to person indicated in item 3):*
   Susan Smith, secretary to Tom Jones, Authorized Agent
   (1) [x] **(business)** a person at least 18 years of age apparently in charge at the office or usual place of busin
   of the person to be 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 usu
   place of abode of the party. I informed him or her of the general nature of the papers.
   (3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mai
   address of the person to be served, other than a United States Postal Service post office box. I inform
   him or her of the general nature of the papers.
   (4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be serve
   at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on
   (date): date mailed from *(city):* city mailed from **or** [ ] a declaration of mailing i
   (5) [x] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

• • 6-07/530.30 Association

Service on an association not a general or limited partnership may be by delivery to:

1. The person designated as an agent for service as filed with the Secretary of State (CCP 416.40 (a))
2. President or other head of the association,
3. Vice president,
4. Secretary or Assistant Secretary,
5. Treasurer or Assistant Treasurer,
6. General manager, or
7. Authorized person by the association to receive process

The court may order that service be made upon the unincorporated association by delivery of a copy of the process to any 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. Service in this manner constitutes personal service upon the unincorporated association. (CORP 18220) The service can be effectively made even after dissolution of the partnership. (Cotton v. Perishable Air Conditioners, 18 CA 2d 575)

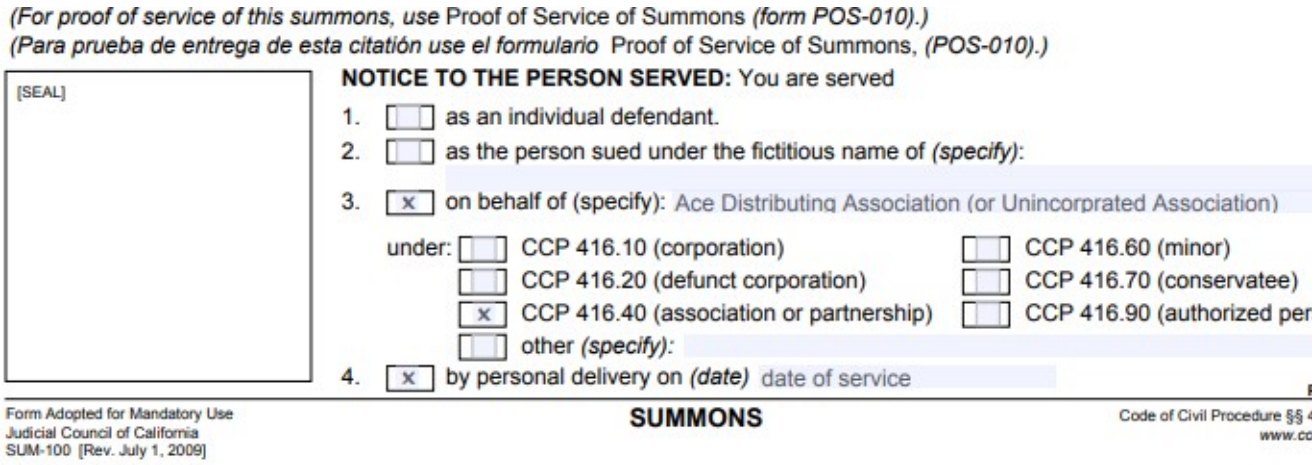
An unincorporated association is a group of members who share a common purpose and who function under a common name, including churches, labor unions, political parties, professional or trade associations, social clubs, and homeowners' associations. (Barr v. United Methodist Church, 90 CA 3d 259; Tenants Association of Park Santa Anita v. Southers, 222 CA 3d 1293)

Service of only one copy of the summons and complaint on a partner is sufficient to bind both the partnership and the partner served where both the partnership and the partner are named defendants. (Bruhnke v. Wilson, Los Angeles Superior Court App. Dept., Civ. App. 4538, citing Colquhoun v. Pack, 28 CA 319, and Morrisey v. Gray, 162 C 638, 644-7). However, the notice to the person served on the copy of the summons must also indicate that service is made upon the person as an individual as well as on behalf of the associates, and the certificate of service must recite such notification. (CCP 412.30)

Notice of the capacity in which a person is served on behalf of a partnership or other unincorporated association in the manner prescribed by CCP 412.30 must appear on the copy of the summons that is served. No default in a case may be taken against any partnership or other such association unless the certificate of service of the summons recites that such notice appeared on the copy of the summons. (CCP 412.30) When service is intended to be made upon the person as an individual as well as on behalf of the associates, the notice must so indicate.

Before a summons against an unincorporated association is assigned out for service, the "Notice to the Person Served" at the bottom of the summons shall be completed by

(1) inserting the name of the defendant partnership or unincorporated association after the words "on behalf of," (2) checking the box "CCP 416.40 (Association or Partnership)" and, (3) when applicable, checking the box "as an individual defendant." This shall be done on the copy of the summons that is left with the defendant. If the summons is served using the substitute method, both copies of the summons shall be completed in this manner.



(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [ ] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [x] on behalf of (specify): Ace Distributing Association (or Unincorprated Association)

under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservatee)
[x] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorized per
[ ] other *(specify)*:

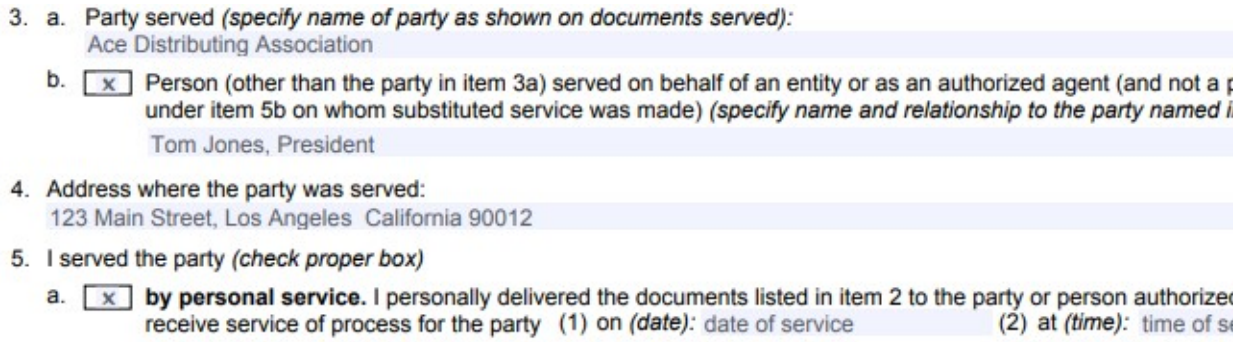
4. [x] by personal delivery on *(date)* date of service

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Judicial Council of California
SUM-100 [Rev. July 1, 2009]

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Code of Civil Procedure §§ 4
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When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: "Serve Ace Distributing Association (or other unincorporated association)." The process server discovers the president of the association is Tom Jones and instructions for service request service on Tom Jones, President. Contact is made with Tom Jones. The Proof of Service should state the party served: Ace Distributing Association by serving Tom Jones, President. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).



3. a. Party served *(specify name of party as shown on documents served)*:
Ace Distributing Association

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a p
under item 5b on whom substituted service was made) *(specify name and relationship to the party named i*
Tom Jones, President

4. Address where the party was served:
123 Main Street, Los Angeles California 90012

5. I served the party *(check proper box)*

a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorize
receive service of process for the party (1) on *(date)*: date of service (2) at *(time)*: time of s

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the responsible party per CCP 416.10 must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served):*
   Ace Distributing Association
   b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a under item 5b on whom substituted service was made) *(specify name and relationship to the party named*
   Tom Jones, President
4. Address where the party was served:
   123 Main Street, Los Angeles California 90012
5. I served the party *(check proper box)*
   a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authoriz receive service of process for the party (1) on *(date):* (2) at *(time):*
   b. [x] **by substituted service.** on *(date):* date of service at *(time):* time I left the documents listed in the presence of *(name and title or relationship to person indicated in item 3):*
   Susan Smith, receptionist
   (1) [x] **(business)** a person at least 18 years of age apparently in charge at the office or usual place of of the person to be 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 o place of abode of the party. I informed him or her of the general nature of the papers.
   (3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usua address of the person to be served, other than a United States Postal Service post office box. I ir him or her of the general nature of the papers.
   (4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be s at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* date mailed from *(city):* city mailed from **or** [ ] a declaration of ma
   (5) [x] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

• • 6-07/530.40 Limited Liability Partnership

Service on a Limited Liability Partnership may be made by delivery to:

The person designated as an agent for service as indicated by the Secretary of State,

A general partner,

A general manager,

Any natural person designated by it as an agent, or

Any person named in the latest certificate of the corporate agent filed pursuant to Section 1505 at the office of that corporate agent if a corporate agent has been designated.

1. The person designated as an agent for service with Secretary of State, (CORP 16309 (a)).
2. A general partner, (CORP 15901.16 (b)),
3. Secretary of State if Foreign Limited Liability Partnership (CORP 16959 (k))
4. To the party designated by court order. (CORP 18200), (CCP 413.30)
5. Secretary of State or any employee of the Secretary of the State by court order (CORP 16962 (f))

6. General Manager. (CCP 416.40 (c))

The court may make an order that the service be made upon the registered limited liability partnership or foreign limited liability partnership by delivering by hand to the Secretary of State, or to any person employed in the Secretary of State's office in the capacity of assistant or deputy, one copy of the process for each defendant to be served, together with a copy of the order authorizing that service. The Secretary of State who receives the process, or the person employed in the Secretary of State's office in the capacity of assistant or deputy who receives the process, is required to accept such process. (CORP 16962 (f))

Notice of the capacity in which a person is served on behalf of a partnership or other unincorporated association in the manner prescribed by CCP 412.30 must appear on the copy of the summons that is served. No default in a case may be taken against any partnership or other such association unless the certificate of service of the summons recites that such notice appeared on the copy of the summons. (CCP 412.30) When service is intended to be made upon the person as an individual as well as on behalf of the limited liability partnership, the notice must so indicate.

Before a summons against a limited liability partnership is assigned out for service, the “Notice to the Person Served” at the bottom of the summons shall be completed by (1) inserting the name of the defendant limited liability partnership after the words “on behalf of,” (2) checking the box “CCP 416.40 (Association or Partnership)” and, (3) when applicable, checking the box “as an individual defendant.” This shall be done on the copy of the summons that is left with the defendant. If the summons is served using the substitute method, both copies of the summons shall be completed in this manner. Use 6-07/530.20 General or Limited Partnership as an example in completing the Summons.

When completing the Proof of Service, follow the examples provided in 6-07/530.20 General or Limited Partnership.

• 6-07/540.00 Franchises

Section 31420 of the Corporations Code provides for service of process on the Corporations Commissioner when personal jurisdiction over a franchisor or sub-franchisor cannot otherwise be obtained in this state. Such service may be made by leaving a copy of the process in the office of the Commissioner.

Before a summons against a Franchise is assigned out for service, the “Notice to the Person Served” at the bottom of the summons shall be completed by (1) inserting the name of the defendant Franchise after the words “on behalf of,” (2) checking the box “CCP 416.10 (Corporation) ” and, (3) when applicable, checking the box “as an individual defendant.” This shall be done on the copy of the summons that is left with the defendant. If the summons is served using the substitute method, both copies of the summons shall be completed in this manner. Refer to example in 6-07/510.00 Corporation - for completing the bottom of the Summons and completion of the Proof of Service.

• 6-07/550.00 Vessel Defendant

A chapter authorizing suits against vessels is found in Harbors and Navigation Code 490-505. Service of summons in this seldom used procedure in California courts is set out in HNC 495. Completion of the bottom of the Summons and the Proof of Service should be handled appropriately if this section is used to serve process against a vessel.

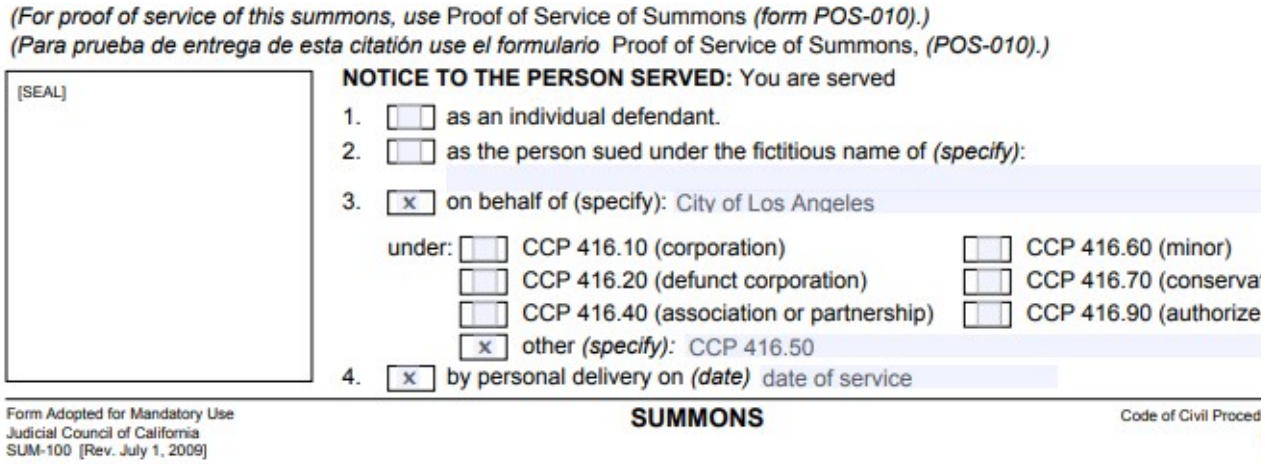
• 6-07/560.00 Public Entities

The term “public agency,” means a district, public authority, public agency, and any other political subdivision or public corporation in the state, and includes the state or a county, city and county, or city. The Secretary of State maintains a Roster of Public Agencies, and every public entity is required to submit the names and addresses of its governing board members and officers for inclusion in said roster. The county clerk of each county is required to maintain a similar roster for those public agencies having offices within the county. (GC 53051(c))

Service on a Public Entity may be made by delivery to: (CCP 416.50)

1. Clerk
2. Secretary
3. President
4. Presiding officer
5. Other head of its governing body

Before a summons against a public entity is assigned out for service, the “Notice to the Person Served” at the bottom of the summons shall be completed by (1) inserting name of the defendant after the words “on behalf of,” (2) checking the box “other” and inserting “CCP 416.50 (public entity) and, (3) when applicable, checking the box “as an individual defendant.” This shall be done on the copies of the summons that are left with defendant. If the summons is served using the substitute method, all copies of the summons shall be completed in this manner.



(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [ ] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [x] on behalf of (specify): City of Los Angeles

under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conserva
[ ] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorize
[x] other *(specify)*: CCP 416.50

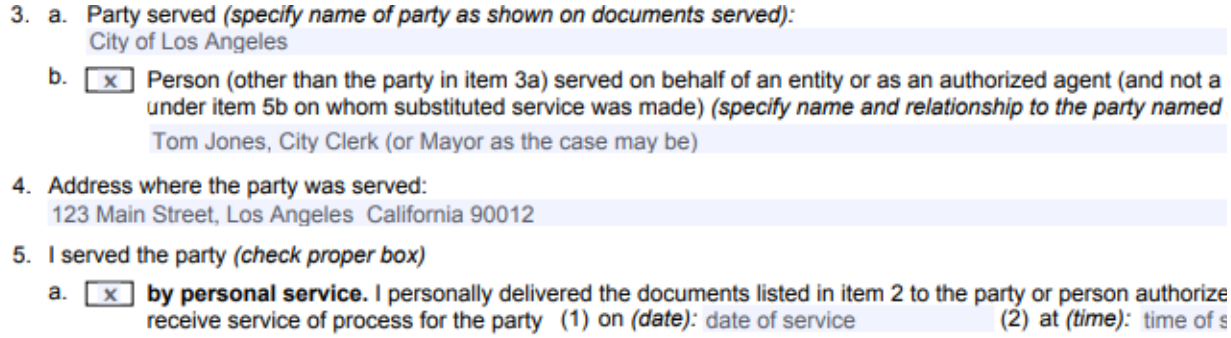
4. [x] by personal delivery on *(date)* date of service

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When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: "Serve City of Los Angeles." The process server discovers the City Clerk is Tom Jones and instructions for service request service on Tom Jones, City Clerk. Contact is made with Tom Jones. The Proof of Service should state the party served: City of Los Angeles by serving Tom Jones, City Clerk. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).



3. a. Party served *(specify name of party as shown on documents served)*:
City of Los Angeles

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a under item 5b on whom substituted service was made) *(specify name and relationship to the party named*
Tom Jones, City Clerk (or Mayor as the case may be)

4. Address where the party was served:
123 Main Street, Los Angeles California 90012

5. I served the party *(check proper box)*

a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorize receive service of process for the party (1) on *(date)*: date of service (2) at *(time)*: time of s

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served):*
City of Los Angeles

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3*
Tom Jones, City Clerk (or Mayor as the case may be)

4. Address where the party was served:
123 Main Street, Los Angeles California 90012

5. I served the party *(check proper box)*

a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*

b. [x] **by substituted service.** on *(date):* date of service at *(time):* time I left the documents listed in item 2 in the presence of *(name and title or relationship to person indicated in item 3):*
Susan Smith, receptionist

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

(3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

(4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* date mailed from *(city):* city mailed from **or** [ ] a declaration of mailing is at

(5) [x] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

• • 6-07/560.10 State of California

In general, service of summons in all actions on claims against the state shall be made on the Attorney General. (GOV 955.4)

Completion of the bottom of the Summons and the Proof of Service should be completed accordingly using the example in 6-07/560.00 Public Entities.

• • 6-07/560.20 Judges or Other Officers

If serving Judges, subordinate judicial officers, and court executive officers are state officers, including court employees, service should be made on the Administrative Office of the Courts (AOC). (GOV 811.9) In cases involving the taking or damage of private property for public use arising out of work done by:

a. The Department of Transportation, a summons may also be served on the Director of Transportation. (GOV 955.6)

b. The Department of Water resources, service may be made on the legal counsel of the

department, if authorized by the Attorney General. (GOV 955.8)

Completion of the bottom of the Summons and the Proof of Service should be completed accordingly using the example in 6-07/560.00 Public Entities.

• • 6-07/560.30 Judicial Branch Entities

If service is to be made on a judicial branch entity, service should be made on (GOV 955.9):

a. The court executive officer, in actions against a superior court or a judge thereof.
b. The Clerk/Executive Officer of the Court of Appeal, in actions on claims against the court of appeal or judge thereof.
c. The Clerk/Executive Officer of the Supreme Court, in actions against the Supreme Cour or judge thereof.
d. Administrative Director of the Judicial Council, in actions against the Judicial Council or the Administrative Office of the Courts.

Completion of the bottom of the Summons and the Proof of Service should be completed accordingly using the example in 6-07/560.00 Public Entities.

• • 6-07/560.40 Department of Motor Vehicles

All civil process in actions brought against the director and the Department of Motor Vehicles and all subpoenas for the production of department records shall be served upon the director or his appointed representatives at the department's headquarters. (VEH 24.5)

Use the guidelines and mailing address below for serving process to DMV. Do not accept the process if you cannot meet the service deadlines. In each case where a DMV process is received for mailing ensure that the process is prepared and mailed immediately.

– Civil or criminal subpoenas calling for a personal appearance by a DMV employee must be served at the specified local office.

– Criminal subpoenas for records shall be sent by certified mail to DMV headquarters and must be received at least five days prior to the hearing date.

– Civil subpoenas for records shall be sent by certified mail to DMV headquarters and must be received at least ten days prior to the hearing date.

– Civil subpoenas for depositions shall be sent by certified mail to DMV headquarters and must be received at least fifteen days prior to the hearing date.

Department of Motor Vehicles

Legal Department E-128

2415 First Avenue

Sacramento, California 95818

Questions can be referred to the DMV Legal Department at (916) 657-6469.

Completion of the bottom of the Summons and the Proof of Service should be completed accordingly using the example in 6-07/560.00 Public Entities.

• 6-07/570.00 Minors

In general, a summons may be served on a minor by delivering a copy of the summons and complaint to his/her parent, guardian, conservator, or similar fiduciary. If none of these can be found, serve:

1. Anyone who's in charge of the care or control of the child, or
2. The person the child lives with, or
3. The person who employs the child.

If the minor is more than 12 years old, a copy of the summons and complaint must also be served on the minor. (CCP 416.60) When receiving the summons from the plaintiff, knowledge of the age of the minor should be attempted. If the minor is more than 12 years old, a second copy of the summons and complaint must be obtained. If the summons is sub-served, four copies should be requested; the second set is for mailing.
Before a summons against a minor is assigned out for service, the "Notice to the Person Served" at the bottom of the summons shall be completed by (1) inserting name of the defendant minor after the words "on behalf of," (2) checking the box "CCP 416.60 (Minor)" and (3) when applicable checking the box "as an individual defendant." This shall be done on the copies of the summons that are left with the guardian and the minor. If the summons is served using the substitute method, all copies of the summons shall be completed in this manner.

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [ ] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [x] on behalf of (specify): Tom Jones

   under: [ ] CCP 416.10 (corporation) [x] CCP 416.60 (minor)
   [ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservatee)
   [ ] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorized person)
   [ ] other *(specify)*:
4. [x] by personal delivery on *(date)* date of service

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When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: "Serve Tom Jones, a minor, by serving his mother, Susan Jones." The process server makes contact with Susan Jones. The process server should attempt to verify the age of the minor. In this example, Tom Jones is 13 years old. The Proof of Service should state the party served: Tom Jones, by serving his mother, Susan Jones. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).

3. a. Party served *(specify name of party as shown on documents served):*
   Tom Jones, a 13 year old minor
   b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3*
   Susan Jones, mother - and a copy to Tom Jones pursuant to CCP 416.60
4. Address where the party was served:
   123 Main Street, Los Angeles California 90012.
5. I served the party *(check proper box)*
   a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* date of service (2) at *(time):* time of servies

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the responsible party per CCP 416.60 must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served):*
Tom Jones, a 13 year old minor

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a p under item 5b on whom substituted service was made) *(specify name and relationship to the party named i*
Susan Jones, mother - and a copy to Tom Jones pursuant to CCP 416.60

4. Address where the party was served:
123 Main Street, Los Angeles California 90012.

5. I served the party *(check proper box)*

a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized receive service of process for the party (1) on *(date):* (2) at *(time):*

b. [x] **by substituted service.** on *(date):* date of service at *(time):* time I left the documents listed i in the presence of *(name and title or relationship to person indicated in item 3):*
Jane Smith, housekeeper

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

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

(3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual address of the person to be served, other than a United States Postal Service post office box. I inf him or her of the general nature of the papers.

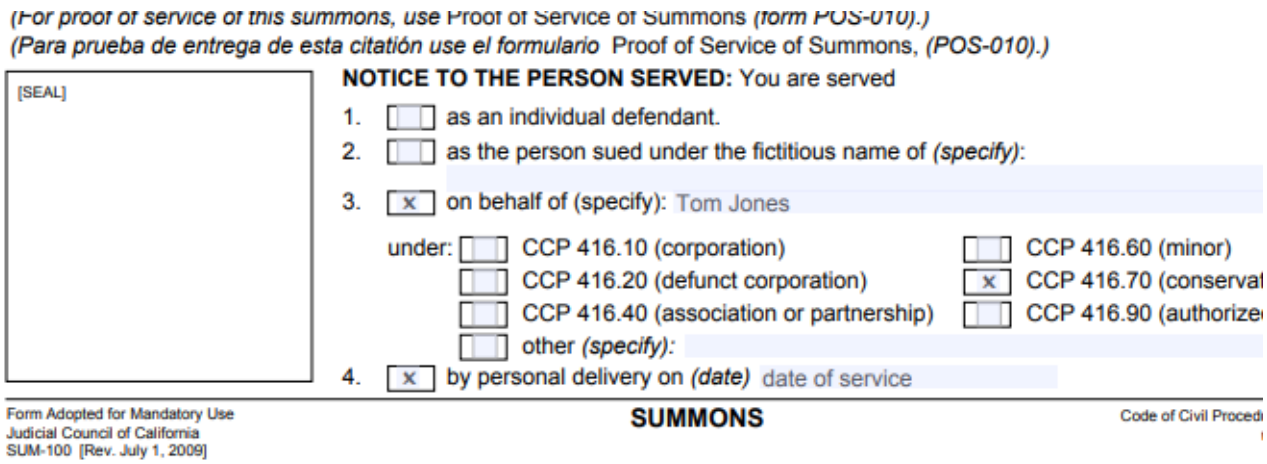
(4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be se at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* date mailed from *(city):* city mailed from **or** [ ] a declaration of maili

(5) [x] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

• 6-07/610.00 Incompetent or Where Guardian or Conservator Appointed

A summons may be served 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 such person, but, for good cause shown, the court in which the action is pending may dispense with delivery to such person. (CCP 416.70)

Before a summons against an incompetent is assigned out for service, the “Notice to the Person Served” at the bottom of the summons shall be completed by (1) inserting the name of the defendant incompetent after the words “on behalf of,” (2) checking the box “CCP 416.70 (conservatee)” and (3) when applicable, checking the box “You are served as an individual defendant.” This shall be done on the copy of the summons that is left with the guardian or conservator. If the summons is served using the substitute method, all copies of the summons shall be completed in this manner.



(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010).)

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [ ] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [x] on behalf of (specify): Tom Jones

under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[ ] CCP 416.20 (defunct corporation) [x] CCP 416.70 (conservat
[ ] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorize
[ ] other *(specify)*:

4. [x] by personal delivery on *(date)* date of service

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Where no guardian has been appointed, personal service upon an alleged incompetent is sufficient. (Olivera v. Grace, 19 CA 2d 570; Briggs v. Briggs 160 CA 2d 312) A conservator is often appointed by the superior court to handle property of older people.

When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: "Serve Tom Jones, by serving Joseph Smith, court appointed conservator." The process server makes contact with Joseph Smith. The Proof of Service should state the party served: Tom Jones, by serving Joseph Smith, conservator. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).

3. a. Party served *(specify name of party as shown on documents served)*:
Tom Jones

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3*
Joseph Smith, court appointed conservator

4. Address where the party was served:
123 Main Street, Los Angeles California 90012

5. I served the party *(check proper box)*

a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date)*: date of service (2) at *(time)*: time of service

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the responsible party per CCP 416.70 must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served):*
Tom Jones

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3a):*
Joseph Smith, court appointed conservator

4. Address where the party was served:
123 Main Street, Los Angeles California 90012

5. I served the party *(check proper box)*

a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*

b. [x] **by substituted service.** on *(date):* date of service at *(time):* time I left the documents listed in item 2 with
in the presence of *(name and title or relationship to person indicated in item 3):*
Jane Bilingsly, secretary to Joseph Smith, conservator

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

(3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

(4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* date mailed from *(city):* city mailed from **or** [ ] a declaration of mailing is attached

(5) [x] I attach a **declaration of diligence** stating actions taken first to attempt personal service.

• 6-07/620.00 Political Candidates

In the case of a lawsuit involving the candidacy of a political candidate, treat the service as you would for service on an individual. Refer to 6-07/640.00 Individuals and All Other Defendants. If the candidate cannot be served after reasonable diligence, the court may authorize service of the summons on the Secretary of State or county clerk. (ELEC 12) If the court makes such order, a copy of the order must also be served on the Secretary of State or county clerk. Service in this manner constitutes personal service.

• 6-07/630.00 Person Sued in Representative Capacity

Often a defendant is sued in a representative capacity, e.g., trustee of a trust, executor of an estate. In making service, a deputy's sole duty in that respect, is to deliver to the defendant a copy of the summons and complaint and make return of that fact. It is not necessary in making service that the sheriff shall announce to a defendant the capacities in which he is sued or in what capacity he is served. He is informed of that by the complaint and summons. (Morrisey v. Gray, 162 CA 638 (1912)) The return of service should specifically show all the capacities in which the defendant is served.

Although most persons (natural or artificial) have the capacity to sue or defend a civil action (American Alternative Energy Partners II v. Windridge, Inc. 42 CA 4th 551), there are certain exceptions, including the following:

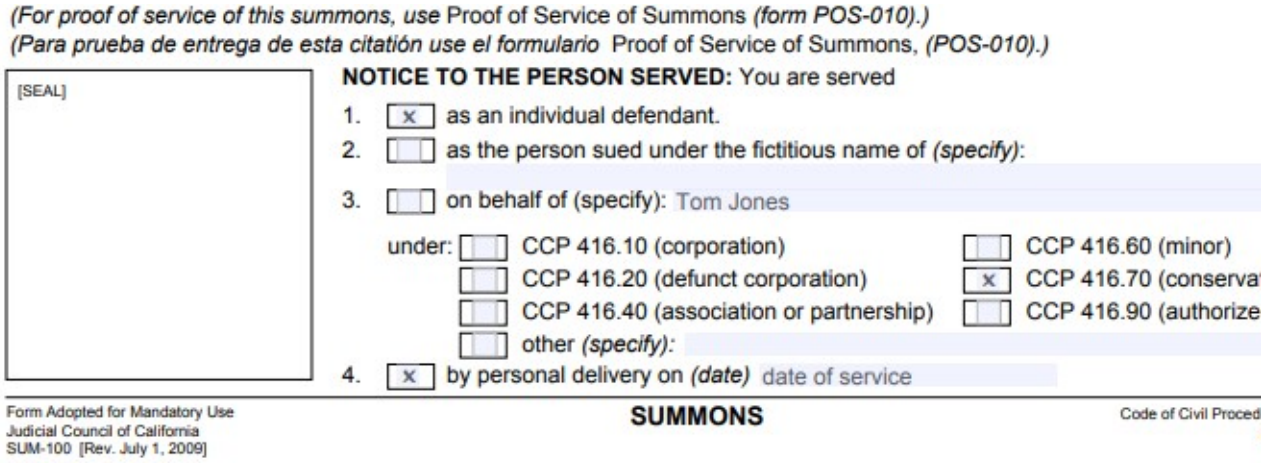
Minors and incompetents lack capacity to sue in their own names or to defend an action brought against them. Litigation must be conducted through a guardian, conservator of the estate or guardian ad litem. (CCP 372(a))

A probate or trust estate is not a legal entity, but a collection of assets and liabilities. Having no capacity to sue or be sued, litigation must be maintained by or against the executor or administrator of the estate. (Tanner v. Best 40 CA 2d 442; CCP 369; Estate of Bright v. Western Air Lines 104 CA 2d 827) In an action filed against "Estate of Jones," the complaint was amended to substitute the executors of the estate as defendants. (Lazar v. Estate of Lazar, 208 CA 2d 561)

Service of process on a trustee under deed of trust or mortgage does not impose any obligation on the trustee to notify the trustor or beneficiary of the action. (CC 2937.7)

An action to establish the decedent's liability for which the decedent was protected by insurance may be commenced or continued against the decedent's estate without the need to join as a party the decedent's personal representative or successor in interest. (PROB 550; PROB 552).

Before a summons against an individual sued in a representative capacity is assigned out for service, the "Notice to the Person Served" at the bottom of the summons shall be completed by (1) marking the box "as an individual defendant." If the summons is served using the substitute method, both copies of the summons shall be completed in this manner.



(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [x] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [ ] on behalf of (specify): Tom Jones

under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[ ] CCP 416.20 (defunct corporation) [x] CCP 416.70 (conserva
[ ] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorize
[ ] other *(specify)*:

4. [x] by personal delivery on *(date)* date of service

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When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: "Serve Tom Jones, as Trustee of Jones Family Trust No. 5." The process server makes contact with Tom Jones. The Proof of Service should state the party served: Tom Jones, as Trustee of Jones Family Trust No. 5. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).

3. a. Party served *(specify name of party as shown on documents served):*
Tom Jones, Trustee of Jones Family Trust No. 5

b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3*

4. Address where the party was served:
123 Main Street, Los Angeles California 90012.

5. I served the party *(check proper box)*

a. ☒ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* date of Service (2) at *(time):* time of service

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the party must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served):*
Tom Jones, Trustee of Jones Family Trust No. 5

b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a pers under item 5b on whom substituted service was made) *(specify name and relationship to the party named in ite*

4. Address where the party was served:
123 Main Street, Los Angeles California 90012.

5. I served the party *(check proper box)*

a. ☐ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*

b. ☒ **by substituted service.** on *(date):* date of service at *(time):* time I left the documents listed in ite in the presence of *(name and title or relationship to person indicated in item 3):*
Jane Smith, housekeeper

(1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of busin of the person to be 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 usu place of abode of the party. I informed him or her of the general nature of the papers.

(3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mai address of the person to be served, other than a United States Postal Service post office box. I inform him or her of the general nature of the papers.

(4) ☒ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be serve at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* date mailed from *(city):* city mailed from **or** ☐ a declaration of mailing i

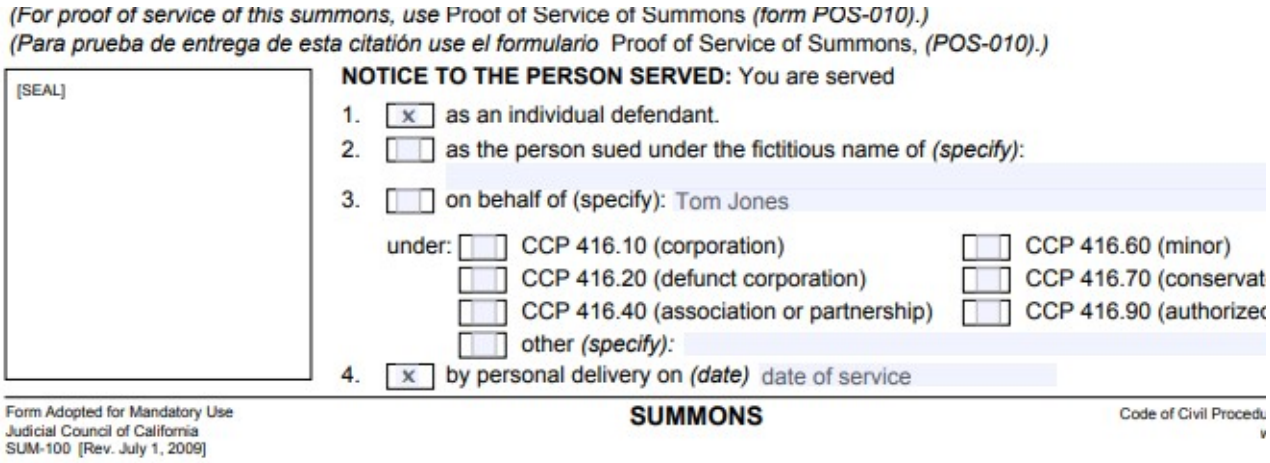
(5) ☒ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

• 6-07/640.00 Individuals and All Other Defendants

ARTICLE 4 of the Code of Civil Procedure - Persons Upon Whom Summons May Be Served [416.10 - 416.90] – covers parties to whom a summons is to be served. However, a Natural Person is not specifically mentioned. Therefore, service on a Natural person or

any other defendant not specifically mentioned is covered under CCP 416.90.

Before a summons against an individual is assigned out for service, the "Notice to the Person Served" at the bottom of the summons shall be completed by checking the box "as an individual defendant."



(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [x] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [ ] on behalf of (specify): Tom Jones

under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservat
[ ] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorize
[ ] other *(specify)*:

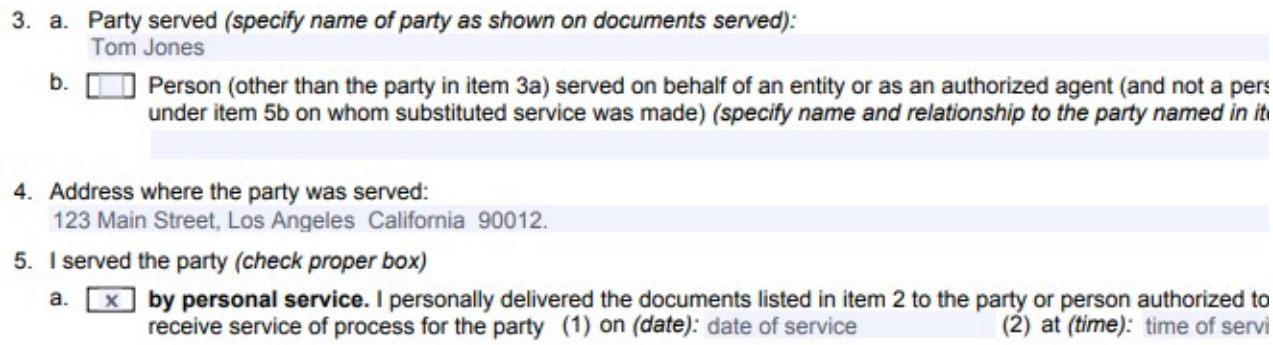
4. [x] by personal delivery on *(date)* date of service

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When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: "Serve Tom Jones." The process server makes contact with Tom Jones. The Proof of Service should state the party served: Tom Jones. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).



3. a. Party served *(specify name of party as shown on documents served)*:
Tom Jones

b. [ ] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a pers
under item 5b on whom substituted service was made) *(specify name and relationship to the party named in it*

4. Address where the party was served:
123 Main Street, Los Angeles California 90012.

5. I served the party *(check proper box)*

a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to
receive service of process for the party (1) on *(date)*: date of service (2) at *(time)*: time of servi

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the party must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page.

3. a. Party served *(specify name of party as shown on documents served)*:
Tom Jones

b. ☐ Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a pers
under item 5b on whom substituted service was made) *(specify name and relationship to the party named in ite*

4. Address where the party was served:
123 Main Street, Los Angeles California 90012.

5. I served the party *(check proper box)*

a. ☐ **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date)*: (2) at *(time)*:

b. ☒ **by substituted service.** on *(date)*: date of service at *(time)*: time I left the documents listed in ite
in the presence of *(name and title or relationship to person indicated in item 3)*:
Jane Smith, housekeeper

(1) ☐ **(business)** a person at least 18 years of age apparently in charge at the office or usual place of busin
of the person to be 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 usu
place of abode of the party. I informed him or her of the general nature of the papers.

(3) ☐ **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mai
address of the person to be served, other than a United States Postal Service post office box. I inform
him or her of the general nature of the papers.

(4) ☒ I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be serve
at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on
(date): date mailed from *(city)*: city mailed from **or** ☐ a declaration of mailing i

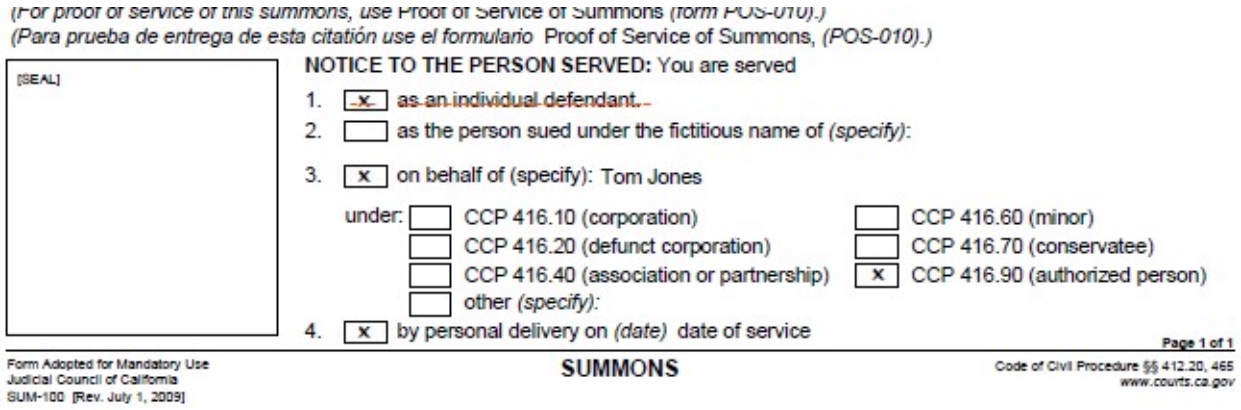
(5) ☒ I attach a **declaration of diligence** stating actions taken first to attempt personal service.

Where a summons is served on an individual by serving a person authorized by that person to receive service of process is somewhat tricky matter and care should be made when completing service. A May 14, 1990, opinion from County Counsel stated service of an “authorized person” in reference to CCP 416.90 should only be used after cautious determination as to who is authorized to accept service of process for another. Each situation will require a determination by the process server. Although a relationship with the defendant may be close there may not be such an authorization to accept service. An attorney is not necessarily considered an agent authorized to accept service on behalf of his client. (Wilson v. Eddy, 2 CA APP 3d 613) However, based on facts, the attorney may be. (Warner Brothers Records, Inc. v. Golden West Music Sales, 36 CA APP 3d 1012, 112 CA APP 71) Similarly, a wife cannot be determined to be authorized even if she promises to give the process to the husband. (Steinbeck v. Buck, 307 CA App 2d 970)

Do not solicit a party to be authorized. If the plaintiff’s instructions specifically mention a person authorized to accept service on behalf of the individual, you must still establish facts to validate the authorization. If the party with whom you make contact specifically indicates they were authorized to accept service on behalf of the individual, service may be completed by leaving the summons with the authorized person. Service by this method is considered personal service. Please note: an authorized person in reference to CCP 416.90 is not an Authorized Agent. An Authorized Agent is one designated by an artificial person and is registered with the Secretary of State.

If service is made by serving an authorized person, the process server must amend the “Notice to the Person Served” at the bottom of the summons. The amendment must

line through 1. As an individual defendant, and shall be completed by (1) inserting the name of the defendant individual after the words “on behalf of” and (2) checking the box “CCP 416.90 (Individual).” If such notice does not appear on the copy of the summons served, no default may be taken against such corporation or unincorporated association or against such person individually, as the case may be. (MJS Enterprises, Inc. v. Superior Court (Serpa) (1984) 153 Cal.App.3d 555 , 200 Cal.Rptr. 286)



(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [x] as an individual defendant.
2. [ ] as the person sued under the fictitious name of *(specify)*:
3. [x] on behalf of (specify): Tom Jones

under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservatee)
[ ] CCP 416.40 (association or partnership) [x] CCP 416.90 (authorized person)
[ ] other *(specify)*:

4. [x] by personal delivery on *(date)* date of service

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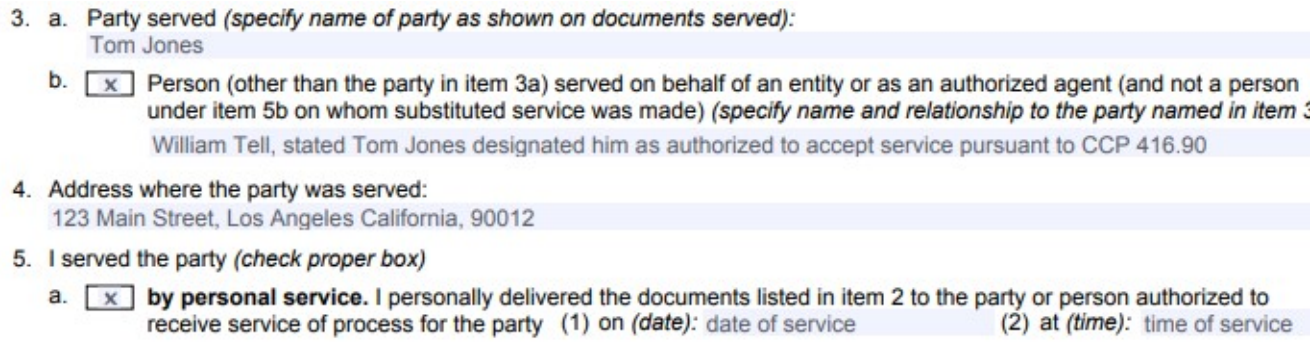
SUMMONS

Code of Civil Procedure §§ 412.20, 465
www.courts.ca.gov

When serving an “authorized person”, the following information must be included in the Proof of Service.

- Full name of the person who states he/she is authorized to accept service of process;
- Relationship to the individual defendant; and
- Statement that he/she is authorized to accept service of process and why

Include all information regarding the person served and the manner of such service. EXAMPLE: “Serve Tom Jones. Tom Jones has authorized William Tell to accept service on his behalf.” The process server makes contact with William Tell who confirms Tom Jones indeed authorize him to accept service of process. The Proof of Service should state the party served: Tom Jones by serving William Tell who stated he was authorized to accept process on behalf of the defendant. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10).



3. a. Party served *(specify name of party as shown on documents served)*:
Tom Jones

b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3*
William Tell, stated Tom Jones designated him as authorized to accept service pursuant to CCP 416.90

4. Address where the party was served:
123 Main Street, Los Angeles California, 90012

5. I served the party *(check proper box)*

a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date)*: date of service (2) at *(time)*: time of service

Service upon an authorized person shall not be attempted by substitute service, (CCP 415.20). There is no reasonable feasibility in verifying an authorized person without

making contact with the authorized person.

• 6-07/650.00 Legislators

Article IV Section 14 of the California Constitution codifies that a member of the Legislature is not subject to civil process during a session of the Legislature or for 5 days before and after a session. If outside of these immunities, refer to 6-07/640.00 Individuals and All Other Defendants.

• 6-07/660.00 Prisoner

A summons may be served on an incarcerated person. There are several factors that dictate the procedure, including whether the party is a witness or defendant and is in federal or state prison, or county jail, the level of security, and the procedure of the facility housing the individual. Contact the prison or jail facility to inquire of their specific procedure. Many facilities only allow service of process by uniformed peace officers. If you are allowed entry, refer to 6-07/640.00 Individuals and All Other Defendants.

If access is denied, it may be possible to serve the summons through the facility's designated person. If this is the case, a blank Proof of Service (POS-010) should be prepared with appropriate case information and sections 1 – 4 completed and left with the designated person. Once served, the Proof of Service sections 6 – 9 is appropriately completed by the designated person and should be mailed directly to the plaintiff. This method shall not be the policy of the Sheriff's Department.

Rather, it may also be possible to treat the designated person as an authorized person accepting service on behalf of the prisoner. If the designated person neglects to deliver the summons to the prisoner, he may be liable for damages. (Penal Code 4013) The Proof of Service can be completed in accordance with 6-07/640.00 Individuals and All Other Defendants indicating service by an authorized person.

• 6-07/670.00 Owner of Multi-Unit Dwelling

The owner of a dwelling structure containing one or more units must disclose the name and usual address at which personal service may be effected on either the owner, the owner's manager or a person authorized to receive process for the owner. A party who enters into a rental agreement on behalf of the owner who fails to provide the name and address of the owner, the manager or the owner's agent for service of process is deemed to be an agent of the owner for the service of process. An agent so deemed should not be served unless instructed in writing. However, the name and address for service may also be posted in every elevator and one other conspicuous place or two conspicuous places if there is no elevator. (CC 1961, 1962, 1962.5, 1962.7, CCP 1013) refer to 6-07/640.00 Individuals

and All Other Defendants for completion of summons and Proof of Service.

• 6-07/680.00 Fictitious Name (Doe)

In order to effect a valid service on a defendant who is designated therein under a fictitious name, such as John Doe, Doe 1, Jane Roe, Doe Corporation, etc., the statutory notice of identity must appear on the face of the copy of the summons served on a defendant so designated. (Armstrong v. Superior Court, 144 CA 2d 430; Confidential, Inc. v. Superior Court, 157 CA 2d 75) (CCP 474)

The policy of the Los Angeles County Sheriff is to accept written instructions to serve any Doe (designated) where the instructions identify a specific location and the intent of the service, even where the plaintiff cannot furnish the specific name of the entity, the capacity or name of the person to be served prior to the time of service. The sheriff shall attempt to ascertain the name, a thorough description of the person served and/or capacity of the entity served. The return of service shall be as specific as possible to identify the manner of service and the identity of the person served, whether or not the name of the person served was obtained. No substitute service is to be made on any Doe (designated) where the deputy attempting service has not obtained a name by either the plaintiff or other source through a previous investigation.

Example (unlawful detainer):

Serve any adult in possession as:

John Doe 1, 123 West Main St., Apt. #2 L.A., CA 90012

The policy is contingent on the sheriff being furnished with sufficient copies and fees in advance. The appropriate fees may be charged for each service, not found, or cancellation based on the number of Doe's designated for service in the instructions.

Before a summons against a "John Doe" is assigned out for service, the "Notice to the Person Served" at the bottom of the summons shall be completed by (1) checking the box "You are served as the person sued under the fictitious name of," (2) checking the box for an individual and/or the "on behalf of" box and marking the appropriate subcategory listed. This shall be done on the copy of the summons that is left with the defendant. If the summons is served using the substitute method, both copies of the summons shall be completed in this manner.

FICTITIOUS NAME - NATURAL PERSON

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010).)

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [x] as an individual defendant.
2. [x] as the person sued under the fictitious name of *(specify)*: Doe #1
3. [ ] 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 (authorized person)
[ ] other *(specify)*:

4. [x] by personal delivery on *(date)* date of service

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Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

SUMMONS

Code of Civil Procedure §§ 412.20, 4
www.courts.ca.g

FICTITIOUS NAME - ARTIFICIAL PERSON

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, (POS-010).)

[SEAL]

NOTICE TO THE PERSON SERVED: You are served

1. [ ] as an individual defendant.
2. [x] as the person sued under the fictitious name of *(specify)*: Roe #1
3. [x] on behalf of (specify): Ace Distributing Company

under: [ ] CCP 416.10 (corporation) [ ] CCP 416.60 (minor)
[ ] CCP 416.20 (defunct corporation) [ ] CCP 416.70 (conservatee)
[x] CCP 416.40 (association or partnership) [ ] CCP 416.90 (authorized person)
[ ] other *(specify)*:

4. [x] by personal delivery on *(date)* date of service

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When completing the Proof of Service, be sure to include all information regarding the person served and the manner of such service. EXAMPLE: “Serve the male adult with brown hair and blue eyes as John Doe #5. The process server makes contact with the person described in the instructions and obtains the party’s name: Tom Jones. The Proof of Service should state the party served: Tom Jones. In previous examples, page two of the Proof of Service was not included. For this purpose, the second page is included so a proper completion of the Proof of Service can be exampled. The address of the service must appear on the Proof of Service. You must indicate the manner of service as personal (CCP 415.10). Note: if the person refuses to give his/her name, the full description of the party served is documented on the “Party Served” section of the Proof of Service.

FICTITIOUS NAME - NATURAL PERSON

3. a. Party served *(specify name of party as shown on documents served):*
Tom Jones

b. [ ] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3*

4. Address where the party was served:
123 Main Street, Los Angeles California, 90012

5. I served the party *(check proper box)*

a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* date of service (2) at *(time):* time of service

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

a. [x] as an individual defendant.

b. [x] as the person sued under the fictitious name of *(specify):* John Doe #5

If the service is made by substitution (CCP 415.20), you must include the name and title or relationship. The party must be informed of the general nature of the process. The name of the party must still be indicated. A copy of the Summons and Complaint must be mailed to the Party served. Service by substitution must show attempts (diligence). Dates and times of all previous attempts of service declaration of diligence must documented on the Proof of Service. The declaration of diligence will be on an attached page. No substitute service is to be made on any Doe (designated) where the deputy attempting service has not obtained a name by either the plaintiff or other source through a previous investigation.

3. a. Party served *(specify name of party as shown on documents served):*
Tom Jones

b. [ ] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) *(specify name and relationship to the party named in item 3a):*

4. Address where the party was served:
123 Main Street, Los Angeles California, 90012

5. I served the party *(check proper box)*

a. [ ] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*

b. [x] **by substituted service.** on *(date):* date of service at *(time):* time I left the documents listed in item 2 with c in the presence of *(name and title or relationship to person indicated in item 3):*
Susan Smith, housekeeper who provided the true name of the party

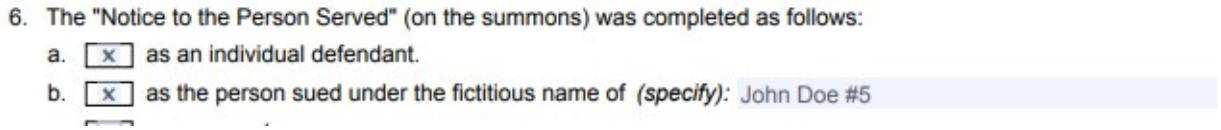
(1) [ ] **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

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

(3) [ ] **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

(4) [x] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* date mailed from *(city):* city mailed from **or** [ ] a declaration of mailing is attached

(5) [x] I attach a **declaration of diligence** stating actions taken first to attempt personal service.


6. The "Notice to the Person Served" (on the summons) was completed as follows:
   a. [x] as an individual defendant.
   b. [x] as the person sued under the fictitious name of *(specify):* John Doe #5

The Proof of Service for a Fictitious Name – Artificial Person should be completed in a similar fashion replacing Roe in the place of Doe.

• 6-07/690.00 Defendant Incorrectly Named

A summons and complaint should be served on the person intended to be sued even though there is a mistake in the name of the defendant. (Lester v. Beer, 74 CA 2d Supp. 984) The certificate of service should show the true name of the defendant and his name as shown on the summons. For example, William A. Johnson sued herein as William A. Johnston.

In Brum v. Ivins, 154 CA 17 al p. 20, the Supreme Court stated:

There are cases of slight errors in spelling, which do not destroy the virtual identity of name, *(idem sonans).* Such errors are disregarded entirely. For example, in *Seaver* v. *Fitzgerald,* 23 Cal. 85, it was held that a valid judgment against D.C. Seaver could be based on a publication of summons designating the defendant as "D.C. Seavers." "The names," said the court, "are substantially the same."

Even if there is a substantial difference between the names, the court on proper proceedings, may allow the mistake in the name of the defendant to be corrected by amendment. (CCP 473; Nisbet v. Clio Mining Co., 2 CA 441; Thompson v. Southern Pacific Co., 180 CA 731)

• 6-07/700.00 Manner of Service of Summons

• 6-07/710.00 Personal Delivery

A summons may be served by personal delivery of a copy of the summons and complaint to the person to be served. Service of a summons in this manner is deemed complete at the time of such delivery. The date upon which personal delivery is made shall be entered on or affixed to the face of the copy of the summons at the time of its delivery. However, service of a summons without such date shall be valid and effective. (CCP 415.10)

Service of process should not be made on a person so drunk or sick that he cannot comprehend or understand it.

A peace officer has no authority to break into a dwelling house for the service of process

in a civil action. (Foley v. Martin, 142 CA 256)

A defendant cannot avoid service of a summons by refusing to accept it. It is not necessary that the defendant touch the process. However, the defendant must know that service is intended and the documents must be left for him. In the case of In Re Ball, 2 CA 2d 578, the process server was within 12 feet of the defendant and said: "I have here another one of those things for you," tossed the process at the defendant, it falling within a few feet from him, and said, "Now you are served." In sustaining the service the court stated:

> "We take it that when men are within easy speaking distance of each other and facts occur that would convince a reasonable man that personal service of a legal document is being attempted, service cannot be avoided by denying service and moving away without consenting to take the document in hand."

Where a defendant attempted to avoid service by entering his automobile and rolling up the windows, service was upheld where the process server loudly explained the nature of the document through the locked door of the car and then placed it under the windshield wiper. (Trujillo v. Trujillo, 71 CA 2d 257)

Service of a summons on an evader was sustained when, after the defendant had refused to take the papers, the process server tossed the folded papers over a wire fence and they landed at the feet of the defendant as the server informed him that they were court summonses. (Thorndyke v. Jenkins, 61 CA 2d 119)

Finally, recently confirmed with County Counsel, personal service pursuant to CCP 415.10 cannot be made by video or telephone via a "Facetime Application". "Personal service" is just that, and a proof of service cannot state that personal service was made unless the papers were handed to the person served. Facetime is no substitute for personal service.

• 6-07/720.00 Substitute Service

If the party is not directly served in person after several attempts at service, substitute service is allowed. (CCP 415.20) Diligence at personal service shall be documented and be included on the Proof of Service.

• • 6-07/720.10 Natural Person Defendant

If a copy of the summons and of the complaint cannot with reasonable diligence be personally delivered to the person to be served, a summons may be served by leaving a copy of the summons and of the complaint at such person's dwelling house, usual place of abode, usual place of business, or usual mailing address other than a United States Postal

Service post office box, in the presence of a competent member of the household or a person apparently in charge of his or her office, place of business, or usual mailing address other than a United States Postal Service post office box, at least 18 years of age, who shall be informed of the content thereof, and by thereafter mailing a copy of the summons and of the complaint (by first-class mail, postage prepaid) to the person to be served at the place where a copy of the summons and of the complaint were left. Service of a summons in this manner is deemed complete on the 10th day after the mailing. (CCP 415.20(b))

Judicial Council Comment: “Personal delivery must be attempted in all cases where this alternative (substitute) method of service is used.”

The term “usual place of business” includes a defendant’s customary place of employment as well as his own business enterprise.

• • 6-07/720.20 Artificial Person Defendant (Corporation, Partnership, Etc.)

A summons may be served on an artificial person (other than a natural person) by leaving a copy of the summons and complaint in the office of the person to be served, during usual office hours, with the person who is apparently in charge thereof, and by thereafter mailing a copy of the summons and of the complaint (by first-class mail, postage prepaid) to the person to be served at the place where a copy of the summons and of the complaint were left. Or, the summons and complaint may be served by substitution at the defendant’s usual mailing address, other than a United States Postal post office box , if no physical address is known. Service of a summons in this manner is deemed complete on the 10th day after such mailing. (CCP 415.20(a))

Judicial Council Comment: “The papers must be delivered to a person who is apparently in charge of such office, such as the personal secretary of the person to be served, and such delivery must be made during usual office hours.” Due diligence is not required for substitute service on an artificial person.

• • 6-07/720.30 Commercial Mail Receiving Agency (CMRA)

Pursuant to signed, written instructions to do so, the sheriff may serve process on a Commercial Mail Receiving Agency (CMRA) owner or operator as the agent for service of a person or business that uses a private mailbox for commercial purposes. A CMRA owner or operator remains the agent for the service of process for up to two years following the termination of the customer’s mail service account.

(BPC 17538.5(c),(d)) Note: Incorporated CSD Directive 96-10 (revised 3/29/96)

If service is made by this method, add 15 days to the last day for service. The CMRA has 5 days for to send the process by first-class mail to the personal address of the customer

and service is deemed complete 10 days after the date of mailing by the CMRA. The Proof of Service should include BPC 17538 (c), (d).

3. a. Party served *(specify name of party as shown on documents served):*
   Tom Jones
   b. [x] Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a pers
   under item 5b on whom substituted service was made) *(specify name and relationship to the party named in ite*
   Jack Frost of the UPS Store pursuant to Business and Professions Code 17538.5 (c), (d)
4. Address where the party was served:
   123 Main Street, Los Angeles California, 90012
5. I served the party *(check proper box)*
   a. [x] **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to
   receive service of process for the party (1) on *(date):* date of service (2) at *(time):* time of servi

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• • 6-07/720.40 Unknown Business Entity

Historically, process could not be served on an artificial person (corporation, partnership, unincorporated association, etc.) without ascertaining the capacity (business form, entity) of the defendant. Thus, a summons and complaint could only be served on the president, vice president, secretary or other designated officer if the defendant is determined to be a corporation or on a partner if the defendant is a partnership. Sponsored by the California Association of Photocopiers and Process Servers, CCP 415.95 was codified to permit the service of a summons and complaint on a defendant whose business form is unknown. As a result, a default judgment may be entered against the defendant without indicating whether the business is a corporation, partnership, unincorporated association, etc.

As it is the policy of this Department to not enforce a writ against an artificial person unless the defendant/debtor's capacity (business form, entity) is listed on the writ, a summons and complaint shall not be served pursuant to CCP 415.95 without ascertaining the defendant's business form. Litigants requesting service pursuant to CCP 415.95 should be advised to contact a registered process server.

• • 6-07/720.50 Gated Community

Guards at gated communities must allow peace officers and licensed process servers access for the purpose of serving process, upon proper identification. (CCP 415.21) If access is refused, substitute service may be made upon the gate guard. A gate guard at a gated community or a doorman in an apartment building is considered a "competent member of the household" and a person "apparently in charge" of a corporate office where they control access to the residence. The guard gate or front door of the apartment house constitutes part of the dwelling for service of process purposes: "The outer bounds of the actual dwelling place must be deemed to extend to the location at which the process server's progress is arrested." (Bein v. Brechtel-Jochim Group, Inc., 6 CA 4th 1387)

• 6-07/800.00 Service on Federal Lands

The State Lands Commission is required to prepare and maintain an index of land owned by the United States in California which shows the degree of jurisdiction obtained by the United States for each acquisition. Unless the United States files a notice of acceptance of a cession of jurisdiction with the governor of the state or otherwise follows the procedure for acceptance set forth in the state cession statute, it is conclusively presumed that no such jurisdiction has been accepted. (People v. Brown, 69 CA 2d 602; People v. A-1 Roofing Service, Inc., 87 CA 3d, supp. 1)

In 1871, the United States and the State of California made an agreement reserving to the State the jurisdiction to execute civil and criminal process on all land acquired thereafter by the United States. As to such property acquired before 1871, the terms of its acquisition would probably govern. As far as known, all land owned by the United States in Los Angeles County was acquired after that date. (GC 127)

• 6-07/810.00 Out-of-State Summons

• • 6-07/810.10 Instructions

Service of a summons or citation issued from an out-of-state court must comply with the laws of that state. Both the method of service and any special requirements necessary for the return of service should be covered in the attorney's instructions and executed in conformance with such instructions. Service on a Sunday is void under the laws of most other states. Do not serve any process from another state on a Sunday unless the forwarding attorney has stated that such service would be valid.

Always make personal delivery of an out-of-state summons unless specifically instructed otherwise.

• • 6-07/810.20 Affidavit of Service

When a court clerk is authorized to take the affidavit, it may be sworn to before a clerk of any court of record, i.e., superior court or municipal court. (Exceptions: Alabama and Missouri)

If an affidavit of service is furnished by the forwarding attorney, use that form. If no proof of service form is received from the attorney use the MAPAS generated form, Affidavit of Service of Process for Out-of-State Court. Modify the Sheriff's form when requested by the attorney or when a change is evident from an inspection of the papers to be served. For example, the process may be called Citation and Petition instead of Summons and Complaint.

• 6-07/820.00 Military Affidavit

The federal Soldiers' and Sailors' Civil Relief Act was rewritten and replaced with the Servicemembers Civil Relief Act (SCRA) in 2003. The act requires an affidavit, or declaration under penalty of perjury, as to the defendant's military service status whenever a default judgment is requested. Unless proof is filed with the court setting forth the facts showing that the defendant is not in military service, a default judgment cannot be entered except under special court order or written waiver. If a request for a Military Affidavit is made, the process server must attempt to ascertain the military status of the defendant at the time of service and complete the affidavit to be included with the Proof of Service. (GC 26608.1) Please note: a fee of $40 is required for such affidavit. (GC 26742)

• 6-07/830.00 Affidavit of Jurisdiction

When an affidavit of jurisdiction is filed with the complaint, the affidavit is served with the summons and complaint without an additional charge. Service of the affidavit must be reflected in the certificate of service. (CCP 369a)

• 6-07/840.00 Statement of Damages

In a personal injury or wrongful death action, the plaintiff must serve a statement of damages of the defendant. No additional fee is charged if served at the same time as the summons and complaint. If served separately from the summons and complaint, the fee is charged and the statement of damages is served in the same manner as a summons if the defendant has not appeared in the action or in the manner provided by CCP 1010 et seq. if the defendant has appeared in the action. (CCP 425.11)

• 6-07/850.00 Certificate of Service of Summons

The certificate of a sheriff, marshal, or the clerk of the superior court, has the same force and effect as his or her affidavit. (CCP 2015.3)

• 6-07/860.00 Return of Lost Summons

The original summons is retained by the court; see 6-07/100.20. CCP 417.30 was amended in 2006 and repealed the requirement of a lost summons certificate or affidavit.

• 6-07/870.00 Return as Evidence

The return of the Sheriff upon process or notice is prima facie evidence of the facts stated

in the return. (GC 26662) Thus, a certificate of service that a partnership was served by service on a named person as one of the partners is prima facie evidence that such person was a partner. (Row v. Spring Hill Quartz Mining Co., 10 CA 445) The return on a summons against a corporation is prima facie evidence that the person named therein as an officer or agent is such officer or agent. (Eclipse Fuel Engineering Co. v. Superior Court, 148 CA 2d 736)

• 6-07/900.00 Criminal Summons

A criminal summons against a corporation issued under PC 1390-1397 is served in a different manner than a civil summons in several respects. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president or other head of the corporation, or to the secretary, cashier, managing agent, or an agent of the corporation designated for service of civil process. (PC 1392)

Every object of the service is obtained when the agent served is of sufficient character and rank to make it reasonably certain that the defendant corporation will be apprised of the service made, and whether in any given case the agent in question is a managing agent within the meaning of the statute depends upon the particular facts involved. (Roehl v. The Texas Co., 107 CA 691; Milbank v. Standard Motor Const. Co., 132 CA 67)

Note that the original summons must be shown at the time of service and that the list of persons who may be served on behalf of the corporation is limited to five. Service may be made only by personal delivery to the person to be served. It must be served at least five days before the hearing.

The certificate of service of a criminal summons must show that the summons was served in the manner prescribed by PC 1392. The original summons, with the return attached, must be returned promptly to the clerk of the court. No fee is charged.