

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).
