PETITION FOR ALTERNATIVE WRIT OF MANDATE TO SET ASIDE SUSPENSION OF DRIVING PRIVILEGE – DUI BOOKLET

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE

L- 1158 (New March 2, 2009)

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address):*

TELEPHONE NO.: FAX NO.:

ATTORNEY FOR *(Name):*

To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

CASE NAME:

CIVIL CASE COVER SHEET

☐ **Unlimited** (Amount demanded exceeds $25,000) ☐ **Limited** (Amount demanded is $25,000 or less)

Complex Case Designation

☐ **Counter** ☐ **Joinder**

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

JUDGE:

DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort
- ☐ Auto (22)
- ☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
- ☐ Asbestos (04)
- ☐ Product liability (24)
- ☐ Medical malpractice (45)
- ☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
- ☐ Business tort/unfair business practice (07)
- ☐ Civil rights (08)
- ☐ Defamation (13)
- ☐ Fraud (16)
- ☐ Intellectual property (19)
- ☐ Professional negligence (25)
- ☐ Other non-PI/PD/WD tort (35)

Employment
- ☐ Wrongful termination (36)
- ☐ Other employment (15)

Contract
- ☐ Breach of contract/warranty (06)
- ☐ Rule 3.740 collections (09)
- ☐ Other collections (09)
- ☐ Insurance coverage (18)
- ☐ Other contract (37)

Real Property
- ☐ Eminent domain/Inverse condemnation (14)
- ☐ Wrongful eviction (33)
- ☐ Other real property (26)

Unlawful Detainer
- ☐ Commercial (31)
- ☐ Residential (32)
- ☐ Drugs (38)

Judicial Review
- ☐ Asset forfeiture (05)
- ☐ Petition re: arbitration award (11)
- ☐ Writ of mandate (02)
- ☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
- ☐ Antitrust/Trade regulation (03)
- ☐ Construction defect (10)
- ☐ Mass tort (40)
- ☐ Securities litigation (28)
- ☐ Environmental/Toxic tort (30)
- ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint
- ☐ RICO (27)
- ☐ Other complaint *(not specified above)* (42)

Miscellaneous Civil Petition
- ☐ Partnership and corporate governance (21)
- ☐ Other petition *(not specified above)* (43)

2. This case ☐ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. ☐ Large number of separately represented parties
   b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. ☐ Substantial amount of documentary evidence
   d. ☐ Large number of witnesses
   e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. ☐ Substantial postjudgment judicial supervision
3. Remedies sought *(check all that apply):* a. ☐ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action *(specify):*
5. This case ☐ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. *(You may use form CM-015.)*

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on **all** other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. July 1, 2007]

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

American LegalNet, Inc.
www.Forms*Workflow*.com

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than $25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort
- Auto (22)–Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/ Property Damage/Wrongful Death) Tort
- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/ Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
  - Medical Malpractice–Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort
- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment
- Wrongful Termination (36)
- Other Employment (15)

Contract
- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
  - Contract/Warranty Breach–Seller Plaintiff *(not fraud or negligence)*
  - Negligent Breach of Contract/ Warranty
  - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
  - Collection Case–Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

Real Property
- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer
- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review
- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ–Administrative Mandamus
  - Writ–Mandamus on Limited Court Case Matter
  - Writ–Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment
- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment *(non-domestic relations)*
  - Sister State Judgment
  - Administrative Agency Award *(not unpaid taxes)*
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint
- RICO (27)
- Other Complaint *(not specified above)* (42)
  - Declaratory Relief Only
  - Injunctive Relief Only *(non-harassment)*
  - Mechanics Lien
  - Other Commercial Complaint Case *(non-tort/non-complex)*
  - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition
- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief From Late Claim
  - Other Civil Petition

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ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name & Address)*:	*FOR COURT USE ONLY*
Telephone No.: Fax No. (Optional): E-Mail Address (Optional): ATTORNEY FOR *(Name):* Bar No:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE CENTRAL JUSTICE CENTER: 700 Civic Center Dr. West, Santa Ana, CA 92701	
PETITIONER: RESPONDENT: Director of the Department of Motor Vehicles	
PETITION FOR ALTERNATIVE WRIT OF MANDATE CCP § 1094.5 AND VEHICLE CODE § 13559 TO SET ASIDE SUSPENSION OF DRIVING PRIVILEGE - DUI ☐ **STAY REQUESTED** Unlimited Civil	CASE NUMBER:

Mark all ☐ boxes that apply

1. Petitioner (full name), _____, is a resident of the County of Orange, State of California at the time this Petition is filed.

2. Respondent, Director of the Department of Motor Vehicles, is the Chief Executive Officer of the Department of Motor Vehicles, a government agency of the State of California, hereafter referred to as "the DMV".

3. On (date) _____, per Vehicle Code 13382(a) and/or 23612(e), the arresting officer served the petitioner with an Administrative Per Se Order of Suspension/Revocation Temporary License Endorsement, a copy of which is attached to this petition.

4. Prior to the suspension of petitioner's driver's license, petitioner was the holder of a valid California driver's license number _____ issued by the DMV.

5. On (date) _____, in the County of Orange, State of California, petitioner was detained by a Peace Officer of the

   ☐ California Highway Patrol.
   ☐ _____ Police Department.
   ☐ _____ County Sheriff's Department.
   ☐ Other (describe)_____.

   and, after arrest for violation of Vehicle Code § 23152 or 23153, was
   ☐ administered a chemical test for blood alcohol concentration.
   ☐ not administered a chemical test for blood alcohol concentration.

PETITIONER: RESPONDENT: Director of the Department of Motor Vehicles	CASE NUMBER:

6. Per Vehicle Code § 13380, the Officer then filed a sworn statement (Form DS-367) with the DMV stating that there was reasonable cause to believe petitioner had been driving a motor vehicle in violation of Vehicle Code § 23152 or 23153, the petitioner was arrested and petitioner

   ☐ took a chemical test with a result of _____% and _____% blood alcohol concentration.
   ☐ did not take or complete a chemical test.

7. A copy of the Officer's DS-367 Statement – Vehicle Code §§ 23152 and 13352 is attached to this petition.

8. On (date) _____, petitioner requested an administrative hearing. The hearing was granted and held on (date) _____.

9. A certified copy of the transcript of the administrative hearing has been ordered from the DMV and

   ☐ has been lodged with the Court.
   ☐ will be lodged with the Court as soon as it is received by petitioner.

10. On (date) _____, the DMV issued an Order of Suspension which stated that petitioner's privilege to drive a motor vehicle was suspended for _____ year(s), from (date)_____ through (date) _____. The suspension was under the authority of Vehicle Code § 13353.3. A copy of the Order of Suspension is attached to this petition.

11. This petition is further based on the following evidence and matters from the record of the administrative hearing [attach additional pages if necessary].

12. Petitioner is beneficially interested in this action because petitioner is a party directly affected by the action of Respondent in suspending his or her privilege to operate a motor vehicle.

PETITIONER: RESPONDENT: Director of the Department of Motor Vehicles	CASE NUMBER:

13. Petitioner needs his or her license

☐ to drive to and from and in connection with his or her employment, as well as personal needs.
☐ to engage in business for his or her livelihood.

Unless the Order of the DMV is stayed, he or she will suffer irreparable damage and injury.

14. As required by California Rule of Court, rule 3.1142, a copy of petitioner's driving record from the DMV is attached to this petition.

15. Petitioner does not have a speedy and adequate remedy at law because there is no appeal from respondent's order suspending the privilege to operate a motor vehicle. Petitioner's only method of review of that order is by writ of mandate in this Court.

16. Petitioner's privilege to operate a motor vehicle is not suspended or revoked for any reason other than those stated in this petition.

Petitioner prays that:

1. An alternative writ of mandate issue under the seal of the Court commanding respondent Director of the DMV to set aside and revoke the DMV's suspension of petitioner's driving privilege or to show cause before the Court at a time and place to be specified by the Court why it has not done so, and why a peremptory writ should not issue.

2. ☐ Pending the hearing and final judgment of the Court in this matter, the DMV be ordered to stay the operation of the order suspending Petitioner's driving privilege.

3. ☐ Other (Describe):

4. For such and further relief as the Court may deem proper.

Dated: _____

_____ _____
(Type or Print Name) (Signature of Petitioner)

VERIFICATION

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.

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

Executed on (date) _____ at _____, California.

_____
(Signature of Petitioner)

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ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name & Address)*:	*FOR COURT USE ONLY*
Telephone No.: Fax No. (Optional): E-Mail Address (Optional): ATTORNEY FOR *(Name):* Bar No:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE CENTRAL JUSTICE CENTER: 700 Civic Center Dr. West, Santa Ana, CA 92701	
PETITIONER: RESPONDENT: Director of the Department of Motor Vehicles	
ALTERNATIVE WRIT OF MANDATE ORDER AND ORDER TO SHOW CAUSE - DUI Unlimited Civil	CASE NUMBER:

To the Director of the Department of Motor Vehicles and the Department of Motor Vehicles, hereafter referred to as "the DMV":

You are ordered to set aside and revoke the DMV's suspension of the petitioner's driving privilege commencing (date) _____ through (date) _____ or, in the alternative, to show cause why you have not done so and appear for hearing on a Writ of Mandate on (date) _____ at (time) _____ or as soon thereafter as the matter may be heard in Department _____ of the above entitled Court.

Petitioner is ordered to serve on respondent written notice of the time and place of the hearing with a copy of the petition, the papers on which the petition is based and this Order at least **16 court days** prior to the date of the hearing if service is personal, and an additional **5 calendar days** if service is by mail.

Dated: _____ _____

Judge/Commissioner

ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name & Address)*:	*FOR COURT USE ONLY*
Telephone No.: Fax No. (Optional): E-Mail Address (Optional): ATTORNEY FOR *(Name)*: Bar No:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE CENTRAL JUSTICE CENTER: 700 Civic Center Dr. West, Santa Ana, CA 92701	
PETITIONER: RESPONDENT: Director of the Department of Motor Vehicles	
ORDER STAYING SUSPENSION - DUI Unlimited Civil	CASE NUMBER:

The suspension of petitioner's license is stayed until the ruling on the petition for Writ of Mandate.

The following conditions apply to this Order:

☐ Petitioner is not to consume any alcoholic beverages within 12 hours prior to driving.

☐ Petitioner is only to drive to and from school or work.

☐ Other:

Dated: _____

_____
Judge/Commissioner

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ATTORNEY OR PARTY WITHOUT ATTORNEY *(Name, State Bar number, and address)*:

TELEPHONE NO.: FAX NO. *(Optional)*:
E-MAIL ADDRESS *(Optional)*:
ATTORNEY FOR *(Name)*:

To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

STREET ADDRESS:
MAILING ADDRESS:
CITY AND ZIP CODE:
BRANCH NAME:

PLAINTIFF/PETITIONER:

DEFENDANT/RESPONDENT

CASE NUMBER:

JUDGE:

DEPT.:

PROOF OF SERVICE—CIVIL

Check method of service *(only one):*

☐ **By Personal Service** ☐ **By Mail** ☐ **By Overnight Delivery**
☐ **By Messenger Service** ☐ **By Fax** ☐ **By Electronic Service**

(Do not use this proof of service to show service of a Summons and complaint.)

1. At the time of service I was over 18 years of age and **not a party to this action.**
2. My residence or business address is:

3. ☐ The fax number or electronic notification address from which I served the documents is *(complete if service was by fax or electronic service):*
4. On *(date):* I served the following **documents** *(specify):*

☐ The documents are listed in the *Attachment to Proof of Service–Civil (Documents Served)* (form POS-040(D)).

5. I served the documents on the **person or persons** below, as follows:
   a. Name of person served:
   b. ☐ (*Complete if service was by personal service, mail, overnight delivery, or messenger service.)*
   Business or residential address where person was served:

   c. ☐ *(Complete if service was by fax or electronic service.)*
   (1) Fax number or electronic notification address where person was served:

   (2) Time of service:

☐ The names, addresses, and other applicable information about persons served is on the *Attachment to Proof of Service—Civil (Persons Served)* (form POS-040(P)).

6. The documents were served by the following means *(specify):*
   a. ☐ **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

(Continued on back)

CASE NAME	CASE NUMBER:

6. b. ☐ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 5 and *(specify one):*

(1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

(2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at *(city and state):*

c. ☐ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 5. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

d. ☐ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 5 and providing them to a professional messenger service for service. *(A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.)*

e. ☐ **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 5. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

f. ☐ **By electronic service.** Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed in item 5. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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

Date:

_____ ▶ _____

(TYPE OR PRINT NAME OF DECLARANT) (SIGNATURE OF DECLARANT)

(If item 6d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)

DECLARATION OF MESSENGER

☐ **By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package, which was clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office, between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on *(date):*

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

Date:

_____ ▶ _____

(NAME OF DECLARANT) (SIGNATURE OF DECLARANT)

INFORMATION SHEET FOR PROOF OF SERVICE—CIVIL

(This information sheet is not part of the official proof of service form and does not need to be copied, served, or filed.)

USE OF THIS FORM

Note: This proof of service form should **not** be used to show proof of service of a summons and complaint. For that purpose, use *Proof of Service of Summons* (form POS-010).

This form is designed to be used to show proof of service of documents by (1) personal service, (2) mail, (3) overnight delivery, (4) messenger service, (5) fax, or (6) electronic transmission.

Certain documents must be personally served. For example, an order to show cause and temporary restraining order generally must be served by personal delivery. You must determine whether a document must be personally delivered or can be served by mail or another method.

GENERAL INSTRUCTIONS

A person must be over 18 years of age to serve the documents. The person who served the documents must complete the Proof of Service. **A party to the action cannot serve the documents.**

The Proof of Service should be typed or printed. If you have Internet access, a fillable version of this proof of service form is available at *www.courtinfo.ca.gov/forms.*

Complete the top section of the proof of service form as follows:

First box, left side: In this box print the name, address, and telephone number of the person *for* whom you served the documents.

Second box, left side: Print the name of the county in which the legal action is filed and the court's address in this box. The address for the court should be the same as the address on the documents that you served.

Third box, left side: Print the names of the plaintiff/petitioner and defendant/respondent in this box. Use the same names as are on the documents that you served.

Fourth box, left side: Check the method of service that was used. You should check only one method of service and should show proof of only one method on the form. If you served a party by several methods, use a separate form to show each method of service.

First box, top of form, right side: Leave this box blank for the court's use.

Second box, right side: Print the case number in this box. The case number should be the same as the case number on the documents that you served.

Third box, right side: State the judge and department assigned to the case, if known.

Complete items 1–6:

1. You are stating that you are over the age of 18 and that you are not a party to this action.
2. Print your home or business address.
3. If service was by fax service or electronic service, print the fax number or electronic notification address from which service was made.
4. List each document that you served. If you need more space, check the box in item 4, complete the *Attachment to Proof of Service—Civil (Documents Served)* (form POS-040(D)), and attach it to form POS-040.
5. Provide the names, addresses, and other applicable information about the persons served. If more than one person was served, check the box on item 5, complete the *Attachment to Proof of Service—Civil (Persons Served)* (form POS-040(P)), and attach it to form POS-040.
6. Check the box before the method of service that was used, and provide any additional information that is required. The law may require that documents be served in a particular manner (such as by personal delivery) for certain purposes. Service by fax or electronic transmission generally requires the prior agreement of the parties.

You must sign and date the proof of service form. By signing, you are stating under penalty of perjury that the information that you have provided on form POS-040 is true and correct.

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For your protection and privacy, please press the Clear This Form button after you have printed the form.

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