

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT SPR22-13

Title

Civil Law and Family Law: Request to Enter
Default Forms Under the Servicemembers
Civil Relief Act

Proposed Rules, Forms, Standards, or Statutes

Revise forms CIV-100, CIV-105, FL-130,
FL-130(A), FL-165, and FL-620

Proposed by

Civil and Small Claims Advisory
Committee
Hon. Tamara Wood, Chair

Family and Juvenile Law Advisory
Committee

Hon. Stephanie E. Hulse, Cochair
Hon. Amy M. Pellman, Cochair

Action Requested

Review and submit comments by May 13,
2022

Proposed Effective Date

January 1, 2023

Contact

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Executive Summary and Origin

The Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee jointly propose revising six forms so that they comply with the Servicemembers Civil Relief Act and reflect the act's current title and legal citation. The proposed revisions are intended to address concerns by judicial officers that the forms are noncompliant with the act because they do not include a declaration as to how the petitioner/plaintiff ascertained the respondent's/defendant's nonmilitary status before requesting entry of judgment by way of default in the legal proceeding. The joint proposal would ensure that any changes to civil and family law forms are consistent to the extent appropriate.

Background

The Servicemembers Civil Relief Act (SCRA)¹ (formerly known as the Servicemember's Civil Relief Act of 2003 and the Soldiers' and Sailors' Civil Relief Act of 1940) is a federal law that

¹ See 50 U.S.C. § 3901, et seq.

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules Committee, or its Legislation Committee. It is circulated for comment purposes only.

provides certain rights and protections for members of the U.S. military on active duty. It addresses issues such as rental agreements, security deposits, prepaid rent, evictions, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosures, civil judicial proceedings, automobile leases, life insurance, health insurance and income tax payments.² In California, similar protections are afforded to persons determined to be in military service, as defined in section 402(f) of the California Military and Veterans Code.

Section 3931 of the SCRA provides protections for servicemembers against default judgments in any civil action, including child custody proceedings, in which the defendant does not make an appearance. In pertinent part, section 3931(b)(1) provides that:

In any action or proceeding covered by this section, the court, before entering judgment for the plaintiff, shall require the plaintiff to file with the court an affidavit—

- (A) stating whether or not the defendant is in military service and showing necessary facts to support the affidavit; or
- (B) if the plaintiff is unable to determine whether or not the defendant is in military service, stating that the plaintiff is unable to determine whether or not the defendant is in military service.

Further, section 3931(b)(4) specifies that the plaintiff may satisfy the requirements for the affidavit as follows:

The requirement for an affidavit under paragraph (1) may be satisfied by a statement, declaration, verification, or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.

The Proposal

Declaration under SCRA section 3931(b)

Each request to enter default form in the proposal currently includes a short statement by the petitioner/plaintiff, which declares that respondent/defendant is not in military service and, therefore, is not entitled to the benefits of the SCRA. However, none of those forms provide a way for the petitioner/plaintiff to show necessary facts to support the declaration of nonmilitary status (for example, how the petitioner/plaintiff knows that the nonresponding party is *not* in military service).

To comply with section 3931(b) of the SCRA, the committees propose that the Judicial Council revise the specific item in each form that is noted below:

² In addition, effective December 1, 2015, the SCRA was relocated within the United States Code. It was previously cited as 50 U.S.C. App. §§ 501-597b. The current citation is 50 U.S.C. §§ 3901-4043.

- Item 8 of *Request for Entry of Default* (form CIV-100);
- Item 9 of *Request for Entry of Default* (form CIV-105);
- Item 5 of *Request to Enter Default* (form FL-165); and
- Item 3 of *Request to Enter Default Judgment* (form FL-620).

The committees propose that the language in each item be replaced with the following (with the appropriate reference to either NAMED “defendant” for civil forms and “respondent” for family law forms):

Declaration of nonmilitary status (*required for a judgment*).

The respondent is not in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).

I know that respondent is not in the U.S. military service because (*specify below*):

Note:

- (1) U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>
- (2) If the respondent is in the military service, or their military status is unknown, the respondent is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- (3) For more information see: [*insert link to a page on the self-help website, which is being developed*].

As noted above, the committees propose that the forms include information that could help the petitioner/plaintiff answer the question about the nonresponding party’s military status. The new “Note” box would include a link to the search engine maintained by the U.S. Secretary of Defense, Defense Manpower Data Center, which can be used to check a person’s military status if some basic information is known, such as their date of birth or social security number.³ In addition, the box would include a link to proposed new online content on the California Courts web site that is being designed concurrently with this proposal. The new content would:

- Include information intended to help a party understand how to obtain a judgment by way of default if the nonappearing party is in U.S. military service or their military status is unknown;
- Explain how to use the federal government search engine to find out military status;
- Explain how the federal and state codes define military service; and
- Potentially include other information based on public comments in response to the proposal.

Update title and citation to SCRA

The proposal would also update the title and citation of the SCRA, as needed, in two forms: *Appearance, Stipulations, and Waivers* (form FL-130) and *Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act of 2003* (form FL-130(A)).

³ See <https://scra.dmdc.osd.mil/scra/#/home>

Alternatives Considered

The committees reviewed federal and state law to understand the responsibilities of the courts, the parties, and the attorneys appointed to represent a non-responding respondent/defendant who is on active duty in the U.S. military. The committees concluded that the forms need to be revised to more correctly reflect the law, so they did not consider the option of taking no action.

The committee also reviewed how some local California courts and courts in other jurisdictions (for example, San Diego County, Alaska, and North Carolina) address these cases in their rules and forms.⁴ Based on this research, the committees identified additional forms that could potentially be developed for use in California courts in proceedings where the SCRA provided protections. For example, there is currently no statewide form or rules for the petitioner/plaintiff to use when they want a default judgment and they know that the other party *is* in the military or the other party's military status is unknown. These situations could require that an attorney be appointed to represent the military servicemember or that the petitioner/plaintiff post a bond to move forward with the proceeding. The committees considered whether to expand the scope of the proposal to include new statewide forms similar to those used in some local courts or other jurisdictions to address the procedure for having the court appoint an attorney, as well as the scope of the attorney's work in the case.

The committees decided not to expand the scope of this proposal. Instead, they decided to ask commenters for their input about whether the Judicial Council should develop forms or materials for statewide use under the SCRA in the areas previously described. Further, the committees determined that staff could work in the upcoming year to connect with the self-help centers in the courts to find out how different courts handle these situations. Based on comments received and information learned, in a future cycle the committees may consider recommending additional forms be adopted, potentially similar to those used in other courts, such as those from Alaska.

Fiscal and Operational Impacts

The impact to the courts may include costs to copy the revised forms, update forms packets, and educate court professionals about the SCRA requirements.

⁴ The Alaska courts, for example, use the following forms:

- *Default Application for Divorce, Custody, or Legal Separation* ([form SHC-400](#)),
- *Affidavit of Attorney Appointed Under Servicemembers Civil Relief Act* ([form CIV-661](#)),
- *Information Sheet for Attorneys Appointed Under the Servicemembers Civil Relief Act* ([form CIV-662](#)), and
- *Information Sheet for Parties Seeking Default Under the Servicemembers Civil Relief Act* ([form CIV-663](#)).

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committees are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Would it be helpful for the Judicial Council to develop a statewide set of forms to address the appointment of counsel and other requirements under the SCRA when the nonappearing respondent/defendant is in the U.S. military service or their military status is unknown? If so, are there particular processes or forms currently in effect that the commenter believes would be effective?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 3 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Forms CIV-100, CIV-105, FL-130, FL-130(A), FL-165, and FL-620, at pages 6–16
2. Link A: Servicemembers Civil Relief Act,
<http://uscode.house.gov/view.xhtml?path=/prelim@title50/chapter50&edition=prelim>
3. Link B: Military and Veterans Code sections 400–409.15,
https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=MVC&division=2.&title=&part=1.&chapter=7.5.&article=

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL V. 3/15/2022
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
Plaintiff/Petitioner: Defendant/Respondent:	
REQUEST FOR (Application) <input type="checkbox"/> Entry of Default <input type="checkbox"/> Judgment	CASE NUMBER:
For use only in actions under the Fair Debt Buying Practices Act (Civ. Code, § 1788.50 et seq.)	

1. On the complaint or cross-complaint filed
 - a. on (date):
 - b. by (name):
 - c. Enter default of defendant (names):
 - d. I request a judgment under Civil Code section 1788.60 and Code of Civil Procedure section 585 against defendant (names):

(Testimony may be required. Check with the clerk regarding whether a hearing date is needed.)

e. <input type="checkbox"/> Default was previously entered on (date):			
2. Judgment to be entered.	<u>Amount</u>	<u>Credits acknowledged</u>	<u>Balance</u>
a. Demand of complaint*	\$	\$	\$
b. Interest	\$	\$	\$
c. Costs (see page 3)	\$	\$	\$
d. Attorney fees	\$	\$	\$
e. TOTALS	\$	\$	\$

(* Must be established by business records, authenticated through a sworn declaration, submitted with this application. (Civ. Code, §§ 1788.58(a)(4), 1788.60(a).))

3. This action is not barred by the applicable statute of limitations (Civ. Code, § 1788.56).
4. **Requirements for the complaint.**
 - a. The complaint alleges ALL of the following (Civ. Code, §§ 1788.58, 1788.60):
 - (1) That the plaintiff is a debt buyer;
 - (2) A short, plain statement regarding the nature of the underlying debt and the consumer transaction from which it is derived;
 - (3) That the plaintiff is EITHER the sole owner of the debt OR has the authority to assert the rights of all owners of the debt;
 - (4) The debt balance at charge-off and an explanation of the amount and nature of, and reason for, all post-charge-off interest and fees, if any, imposed by the charge-off creditor or any subsequent purchasers of the debt;
 - (5) The date of the default OR the date of the last payment;
 - (6) The name and address of the charge-off creditor at the time of charge-off in sufficient form so as to reasonably identify the charge-off creditor, and the charge-off creditor's account number associated with the debt;

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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4. a. (7) The name and last known address of the debtor as they appeared in the charge-off creditor's records prior to the sale of the debt;
- (8) The names and addresses of all persons or entities that purchased the debt after charge-off, including the plaintiff debt buyer, in sufficient form so as to reasonably identify each such purchaser; and
- (9) That the plaintiff has complied with Civil Code section 1788.52.
- b. A copy of the contract or other document described in Civil Code section 1788.52(b) is attached to the complaint.

5. **Documentation requirements for default judgment.** ALL of the following documents are submitted with this request for default judgment (Civ. Code, § 1788.60(a)–(c)):
 - a. A copy of the contract or other document evidencing the debtor's agreement to the debt, authenticated through a sworn declaration. See Civil Code section 1788.52(b) regarding documentation, including for revolving credit accounts.
 - b. Business records, authenticated through a sworn declaration, to establish:
 - (1) That the plaintiff is EITHER the sole owner of the debt OR has the authority to assert the rights of all owners of the debt;
 - (2) The debt balance at charge-off, and an explanation of the amount and nature of, and reason for, all post-charge-off interest and fees, if any, imposed by the charge-off creditor or any subsequent purchasers of the debt;
 - (3) The date of the default OR the date of the last payment;
 - (4) The name and address of the charge-off creditor at the time of charge-off in sufficient form so as to reasonably identify the charge-off creditor, and the charge-off creditor's account number associated with the debt;
 - (5) The name and last known address of the debtor as they appeared in the charge-off creditor's records prior to the sale of the debt; and
 - (6) The names and addresses of all persons or entities that purchased the debt after charge-off, including the plaintiff debt buyer, in sufficient form so as to reasonably identify each such purchaser.

Date: _____

(TYPE OR PRINT NAME)



(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

FOR COURT USE ONLY	(1) <input type="checkbox"/> Default entered as requested on <i>(date)</i> : (2) <input type="checkbox"/> Default NOT entered as requested <i>(state reason)</i> : Clerk, by _____, Deputy
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6. **Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.).** A legal document assistant or unlawful detainer assistant did did **not** for compensation give advice or assistance with this form. If declarant has received **any** help or advice for pay from a legal document assistant or unlawful detainer assistant, state:

- | | |
|--|---|
| <ol style="list-style-type: none"> a. Assistant's name: b. Street address, city, and zip code: | <ol style="list-style-type: none"> c. Telephone no.: d. County of registration: e. Registration no.: f. Expires on <i>(date)</i>: |
|--|---|

7. **Declaration under Code Civ. Proc., § 585.5** (for entry of default under Code Civ. Proc., § 585(a)). This action
 - a. is is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
 - b. is is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
 - c. is is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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8. **Declaration of mailing (Code Civ. Proc., § 587).** A copy of this *Request for Entry of Default* was
- a. **not mailed** to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (*names*):
 - b. **mailed** first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
 - (1) Mailed on (*date*):
 - (2) To (*specify names and addresses shown on the envelopes*):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 6, 7, and 8 are true and correct.

Date: _____

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

9. **Declaration of nonmilitary status (required for a judgment).**
 No defendant/respondent named in item 1c is in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).

I know that no defendant/respondent named in item 1c is in the U.S. military service because (*specify below*):

Note

- U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>.
- If the respondent is in the military service, or their military status is unknown, the respondent is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see [\[insert link to a page on the self-help website, which is being developed\]](#).

10. **Memorandum of costs (required if money judgment requested).** Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):
- a. Clerk's filing fees \$
 - b. Process server's fees \$
 - c. Other (*specify*):
 - d. \$
 - e. **TOTAL** \$
 - f. Costs and disbursements are waived.
 - g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing items 9 and 10 are true and correct.

Date: _____

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

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

8

Print this form

Save this form

Clear this form

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: _____ FIRM NAME: _____ STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL V. 3/15/2022
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
Plaintiff/Petitioner: _____ Defendant/Respondent: _____	
REQUEST FOR <input type="checkbox"/> Entry of Default <input type="checkbox"/> Clerk's Judgment (Application) <input type="checkbox"/> Court Judgment	CASE NUMBER: _____
Not for use in actions under the Fair Debt Buying Practices Act (Civ. Code, § 1788.50 et seq.); (see form CIV-105)	

1. TO THE CLERK: On the complaint or cross-complaint filed
 - a. on (date): _____
 - b. by (name): _____
 - c. Enter default of defendant (names): _____
 - d. I request a court judgment under Code of Civil Procedure sections 585(b), 585(c), 989, etc., against defendant (names): _____

 (Testimony required. Apply to the clerk for a hearing date, unless the court will enter a judgment on an affidavit under Code Civ. Proc., § 585(d).)
 - e. Enter clerk's judgment
 - (1) for restitution of the premises only and issue a writ of execution on the judgment. Code of Civil Procedure section 1174(c) does not apply. (Code Civ. Proc., § 1169.)
 Include in the judgment all tenants, subtenants, named claimants, and other occupants of the premises. The *Prejudgment Claim of Right to Possession* was served in compliance with Code of Civil Procedure section 415.46.
 - (2) under Code of Civil Procedure section 585(a). (Complete the declaration under Code Civ. Proc., § 585.5 on the reverse (item 5).)
 - (3) for default previously entered on (date): _____
2. **Judgment to be entered.**

	Amount	Credits acknowledged	Balance
a. Demand of complaint	\$	\$	\$
b. Statement of damages*			
(1) Special	\$	\$	\$
(2) General	\$	\$	\$
c. Interest	\$	\$	\$
d. Costs (see reverse)	\$	\$	\$
e. Attorney fees	\$	\$	\$
f. TOTALS	\$	\$	\$

g. **Daily damages** were demanded in complaint at the rate of: \$ _____ per day beginning (date): _____
 (* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)
3. (Check if filed in an unlawful detainer case.) **Legal document assistant or unlawful detainer assistant** information is on the reverse (complete item 4).
 Date: _____

(TYPE OR PRINT NAME)
(SIGNATURE OF PLAINTIFF OR ATTORNEY FOR PLAINTIFF)

FOR COURT USE ONLY	(1) <input type="checkbox"/> Default entered as requested on (date): _____	(2) <input type="checkbox"/> Default NOT entered as requested (state reason): _____	
	Clerk, by _____, Deputy		Page 1 of 3

Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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4. **Legal document assistant or unlawful detainer assistant (Bus. & Prof. Code, § 6400 et seq.).** A legal document assistant or unlawful detainer assistant did did not **for** compensation give advice or assistance with this form. If declarant has received **any** help or advice for pay from a legal document assistant or unlawful detainer assistant, state:

- | | |
|--|----------------------------|
| a. Assistant's name: | c. Telephone no.: |
| b. Street address, city, and zip code: | d. County of registration: |
| | e. Registration no.: |
| | f. Expires on (date): |

5. **Declaration under Code Civ. Proc., § 585.5** (for entry of default under Code Civ. Proc., § 585(a)). This action

- a. is is not on a contract or installment sale for goods or services subject to Civ. Code, § 1801 et seq. (Unruh Act).
- b. is is not on a conditional sales contract subject to Civ. Code, § 2981 et seq. (Rees-Levering Motor Vehicle Sales and Finance Act).
- c. is is not on an obligation for goods, services, loans, or extensions of credit subject to Code Civ. Proc., § 395(b).

6. **Declaration of mailing (Code Civ. Proc., § 587).** A copy of this *Request for Entry of Default* was

- a. **not mailed** to the following defendants, whose addresses are unknown to plaintiff or plaintiff's attorney (*names*):
- b. **mailed** first-class, postage prepaid, in a sealed envelope addressed to each defendant's attorney of record or, if none, to each defendant's last known address as follows:
 - (1) Mailed on (date):
 - (2) To (specify names and addresses shown on the envelopes):

I declare under penalty of perjury under the laws of the State of California that the foregoing items 4, 5, and 6 are true and correct.
Date:

(TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)
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7. **Memorandum of costs** (required if money judgment requested). Costs and disbursements are as follows (Code Civ. Proc., § 1033.5):

- a. Clerk's filing fees \$
- b. Process server's fees \$
- c. Other (specify): \$
- d. \$
- e. **TOTAL** \$ _____

- f. Costs and disbursements are waived.
- g. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

I declare under penalty of perjury under the laws of the State of California that the foregoing **item 7** is true and correct.
Date:

(TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)
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Plaintiff/Petitioner: Defendant/Respondent:	CASE NUMBER:
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8. **Declaration of nonmilitary status** (required for a judgment).

No defendant/respondent named in item 1c is in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).

I know that no defendant/respondent named in item 1c is in the U.S. military service because (specify below):

Note

- U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>.
- If the respondent is in the military service, or their military status is unknown, the respondent is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see [insert link to a page on the self-help website, which is being developed].

I declare under penalty of perjury under the laws of the State of California that the foregoing item 8 is true and correct.

Date:

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**DECLARATION AND CONDITIONAL WAIVER OF RIGHTS
UNDER THE SERVICEMEMBERS CIVIL RELIEF ACT**
Attachment to Appearance, Stipulations, and Waivers (form FL-130)

Notice to Servicemember

The Servicemembers Civil Relief Act (50 U.S.C. §§ 3901–4043) is a federal law that provides protections for military members when they enter active duty. You may obtain a copy of the act from the public law library or from the website of the United States Department of Justice at www.justice.gov.

By signing this conditional waiver and attaching it to *Appearance, Stipulations, and Waivers* (form FL-130), I declare that I am entitled to the benefits of the **Servicemembers Civil Relief Act (SCRA)**, and:

1. To permit the court to decide this cause as an uncontested matter and enter a judgment that incorporates the terms of the written agreement made between the petitioner and me (a copy of which is attached to this form), I make a knowing, intelligent, and voluntary conditional waiver of the right to seek to set aside a default judgment entered against me in this matter, as provided by **section 3918 of the SCRA**.
2. This waiver is conditioned as follows:
 - a. The waiver applies only to a default judgment that incorporates the terms and conditions of the written agreement between the petitioner and me that is titled (*specify*):
 - (1) Stipulation for Judgment
 - (2) Marital Settlement Agreement
 - (3) Other (*specify*):
 - b. The court must enter a judgment in this case that incorporates only the terms and conditions of the above written agreement without any change; and
 - c. Should the court enter a judgment that changes the above written agreement in any way, then I do not waive any of my rights under the SCRA, including my right to seek to set aside the judgment at any time.
3. This conditional waiver was executed during or after a period of military service.

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)

(SIGNATURE OF RESPONDENT)

Attention: Clerk of the Court
By law, a servicemember must not be charged a fee to file *Appearance, Stipulations, and Waivers* (form FL-130).

Page 1 of 1

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT NOT APPROVED BY THE JUDICIAL COUNCIL v. 3/02/2022
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
REQUEST TO ENTER DEFAULT	CASE NUMBER:

1. **To the clerk:** Please enter the default of the respondent who has failed to respond to the petition.
2. A completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155) is attached is not attached.
 A completed *Property Declaration* (form FL-160) is attached is not attached because (check at least one of the following):
 - (a) there have been no changes since the previous filing.
 - (b) the issues subject to disposition by the court in this proceeding are the subject of a written agreement.
 - (c) there are no issues of child, spousal, or partner support or attorney fees and costs subject to determination by the court.
 - (d) the petition does not request money, property, costs, or attorney fees. (Fam. Code, § 2330.5.)
 - (e) there are no issues of division of community property.
 - (f) this is an action to establish parental relationship.

Date: _____

_____ (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE OF [ATTORNEY FOR] PETITIONER)

3. **Declaration**
 - (a) No mailing is required because service was by publication or posting and the address of the respondent remains unknown.
 - (b) A copy of this *Request to Enter Default*, including any attachments and an envelope with sufficient postage, was provided to the court clerk, with the envelope addressed as follows (address of the respondent's attorney or, if none, the respondent's last known address):

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) ▶ _____ (SIGNATURE OF DECLARANT)

FOR COURT USE ONLY
<input type="checkbox"/> <i>Request to Enter Default</i> mailed to the respondent or the respondent's attorney on (date): <input type="checkbox"/> Default entered as requested on (date): <input type="checkbox"/> Default not entered. Reason:
Clerk, by _____, Deputy

CASE NAME <i>(Last name, first name of each party)</i> :	CASE NUMBER:
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4. Memorandum of costs

- a. Costs and disbursements are waived.
- b. Costs and disbursements are listed as follows:
 - (1) Clerk’s fees \$
 - (2) Process server’s fees \$
 - (3) Other *(specify)*: \$
 - \$
 - \$
 - \$
 - TOTAL \$

c. I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief, the foregoing items of cost are correct and have been necessarily incurred in this cause or proceeding.

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) (SIGNATURE OF DECLARANT)

5. Declaration of nonmilitary status *(required for a judgment)*.
 The respondent is not in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).
 I know that respondent is not in the U.S. military service because *(specify below)*:

Note

- U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>.
- If the respondent is in the military service, or their military status is unknown, the respondent is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see [\[insert link to a page on the self-help website, which is being developed\]](#).

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) (SIGNATURE OF DECLARANT)

GOVERNMENTAL AGENCY (under Family Code, §§ 17400 and 17406): TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	
REQUEST TO ENTER DEFAULT JUDGMENT	CASE NUMBER: _____

1. More than 30 days have passed since service of the summons, complaint, and copy of the proposed judgment.
2. To my knowledge no answer or other responsive pleading has been filed.
3. **Declaration of nonmilitary status (required for a judgment).**
 The respondent/defendant is not in the military service of the United States as defined by either the Servicemembers Civil Relief Act (see 50 U.S.C. § 3911(2)) or California Military and Veterans Code sections 400 and 402(f).
 I know that respondent/defendant is not in the U.S. military service because (specify below):

Note

- U.S. military status can be checked online at <https://scra.dmdc.osd.mil/>.
- If the respondent/defendant is in the military service, or their military status is unknown, the respondent/defendant is entitled to certain rights and protections under federal and state law before a default judgment can be entered.
- For more information, see *[insert link to a page on the self-help website, which is being developed]*.

4. The local child support agency requests that default and judgment be entered under Family Code section 17430.

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) (SIGNATURE OF DECLARANT)

FOR COURT USE ONLY

(1) Default entered as requested on (date): _____

(2) Default not entered as requested. (State reason): _____

By: _____