

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR18-07

Title	Action Requested
Civil Forms: Gender Discrimination Notice	Review and submit comments by June 8, 2018
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt form GDC-001	January 1, 2019
Proposed by	Contact
Civil and Small Claims Advisory Committee	Susan R. McMullan, 415-865-7990
Hon. Ann I. Jones, Chair	susan.mcmullan@jud.ca.gov

Executive Summary and Origin

Recent legislation requires the Judicial Council to adopt, no later than January 1, 2019, a written advisory notice to be used by a plaintiff's attorney with each demand letter or complaint alleging gender discrimination in pricing. The Civil and Small Claims Advisory Committee proposes adopting a new form to comply with the legislation.

Assembly Bill 1615 (Stats. 2017, ch. 156) added the Small Business Gender Discrimination in Services Compliance Act to division 1 of the Civil Code. It defines a "gender discrimination in pricing services claim" as a civil claim based on an alleged price difference in similar services charged to a person because of the person's gender. Among its provisions is Civil Code section 55.62, which requires the Judicial Council to adopt a written advisory notice to be used by a plaintiff's attorney to comply with that statute's provisions, including the requirement that a notice accompany each demand letter or complaint. The text of the notice is set out in Civil Code section 55.62(c).

The Proposal

The text of the notice in section 55.62(c) is set out verbatim in the proposed new form, *Advisory Notice to Defendant* (form GDC-001). The form matches the paragraph structure and uppercase text of the notice in the statute. Thus, several paragraphs begin with uppercase text; for example, the third paragraph begins "YOU HAVE IMPORTANT LEGAL OBLIGATIONS." The only change to the statutory language is at the end of the first paragraph, where the statute refers to viewing the form on the "Judicial Council Internet Web site, at www.courts.ca.gov." On the proposed form, the name of the website was changed to the "judicial branch website" for

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

accuracy and conformance to Judicial Council style. The form will be made available in several languages as required by section 55.62.

Alternatives Considered

The advisory committee did not consider any alternatives as this notice is required by statute.

Implementation Requirements, Costs, and Operational Impacts

There are no implementation requirements, costs, or operational impacts because the form is to be given by a plaintiff's attorney to a defendant or potential defendant; it is not to be filed in court.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

Attachments and Links

1. Form GDC-001, at pages 3–4
2. Assembly Bill 1615,

https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB1615

**STATE LAW REQUIRES THAT YOU GET THIS IMPORTANT
ADVISORY INFORMATION FOR BUSINESSES**

This information is available in English, Spanish, Chinese, Vietnamese, and Korean through the Judicial Council of California. Persons with visual impairments can get assistance in viewing this form through the judicial branch website, at www.courts.ca.gov.

California law requires that you receive this information because the demand letter or court complaint you received with this document claims that you have discriminated, with respect to the price charged for services of similar or like kind, against a person because of that person's gender.

YOU HAVE IMPORTANT LEGAL OBLIGATIONS. State law requires that businesses charge the same price for the same services, or services of the same or similar kind, regardless of the customer's gender. In addition, state law requires that certain business establishments clearly and conspicuously disclose to their customers in writing the pricing for each standard service provided. The posting requirement applies to the following businesses:

- (1) Tailors or businesses providing aftermarket clothing alterations.
- (2) Barbers or hair salons.
- (3) Dry cleaners and laundries providing services to individuals.

YOU HAVE IMPORTANT LEGAL RIGHTS. The allegations made in the accompanying demand letter or court complaint do not mean that you are required to pay any money unless and until a court finds you liable. Moreover, RECEIPT OF A DEMAND LETTER OR COURT COMPLAINT AND THIS ADVISORY DOES NOT NECESSARILY MEAN YOU WILL BE FOUND LIABLE FOR ANYTHING.

You have the right to seek assistance or advice about this demand letter or complaint from any person of your choice. If you have insurance, you may also wish to contact your insurance provider. Your best interest may be served by seeking legal advice or representation from an attorney, but you may also represent yourself and file the necessary court papers to protect your interests if you are served with a court complaint. If you have hired an attorney to represent you, you should immediately notify your attorney.

If a court complaint has been served on you, you will get a separate advisory notice with the complaint advising you of special options and procedures available to you under certain conditions.

ADDITIONAL THINGS YOU SHOULD KNOW:

WHEN YOU CAN AND CANNOT CHARGE DIFFERENT PRICES: The Gender Tax Repeal Act of 1995 (California Civil Code Section 51.6) prohibits a business from charging a different price for the same service because of the gender of the person receiving the service. However, you may charge different prices based specifically upon the amount of time, difficulty, or cost of providing the services.

ADVISORY NOTICE TO DEFENDANT

STATE LAW REQUIRES THAT YOU GET THIS IMPORTANT ADVISORY INFORMATION FOR BUSINESSES

POSTING PRICES: The Gender Tax Repeal Act of 1995 also requires that certain businesses clearly disclose to the customer in writing the price of each standard service provided. This pricing disclosure is required for the following businesses: tailors or businesses providing aftermarket clothing alterations; barbers or hair salons; dry cleaners and laundries providing service to individuals. The price list must be posted in a place where customers will likely see it and it must be in no less than 14-point boldface font. A business must also provide a written copy of the prices to the customer if one is requested by the customer. Finally, a business must clearly and conspicuously display a sign, in no less than 24-point font, that reads:

“CALIFORNIA LAW PROHIBITS ANY BUSINESS ESTABLISHMENT FROM DISCRIMINATING, WITH RESPECT TO THE PRICE CHARGED FOR SERVICES OF SIMILAR OR LIKE KIND, AGAINST A PERSON BECAUSE OF THE PERSON'S GENDER. A COMPLETE PRICE LIST IS AVAILABLE UPON REQUEST.”

RIGHT TO CORRECT A POSTING VIOLATION ONLY: If you receive a written notice claiming that you have failed to properly post any of the above information, you have 30 days to correct the violation. If you fail to correct the violation you will be liable for a civil penalty of \$1,000. (Note that the 30-day period to correct applies only to posting violations, not to discriminatory pricing violations.)