



Judicial Council of California

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INVITATION TO COMMENT

SPR25-10

Title

Civil Practice and Procedure: Authorization to Appear on Behalf of a Party in Small Claims Cases

Action Requested

Review and submit comments by May 23, 2025

Proposed Effective Date

January 1, 2026

Proposed Rules, Forms, Standards, or Statutes

Revise form SC-109

Contact

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Proposed by

Civil and Small Claims Advisory Committee
Hon. Donald J. Proietti, Chair

Executive Summary and Origin

Authorization to Appear (form SC-109) implements Code of Civil Procedure section 116.540, which allows others to appear in small claims court on behalf of the plaintiff or defendant in certain circumstances. The Civil and Small Claims Advisory Committee proposes revising form SC-109 to ensure it fully complies with section 116.540.

The Proposal

Code of Civil Procedure section 116.540 allows others to appear in small claims court on behalf of the plaintiff or defendant in certain circumstances. Anyone appearing on another's behalf under section 116.540 must file a declaration stating that they meet the statutory requirements for their appearance. *Authorization to Appear* (form SC-109) currently does not reflect all the requirements of section 116.540. The committee proposes several revisions to ensure form SC-109 complies with the law.

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 It is circulated for comment purposes only.

Duties of employment

Section 116.540 allows an individual to appear on behalf of a business or organization if the individual is not employed solely to represent the business or organization in small claims court.¹ The individual must file a declaration stating that this requirement has been met.²

Form SC-109 currently explains in the instructions at the top of page 1 that “[y]ou cannot appear for a defendant or plaintiff if your only job is to represent him or her in small claims court,” but does not require the person completing the form to declare that this requirement is met. The committee proposes revising items 3a through 3g to add, “Representing [the party] in small claims court is not the only duty of my job.”

Members of the armed forces

Section 116.540 allows an individual to appear on behalf of someone assigned to active duty in the U.S. armed forces if the person on active duty is assigned to a location more than 100 miles from the court where the action is proceeding or is otherwise unable to personally appear due to the performance of military duty.³ These requirements were different until January 1, 2023, when they were amended by Senate Bill 1311.⁴ The committee proposes revising item 3h to state the current requirements.

Additionally, section 116.540 requires an individual appearing on behalf of someone in the armed forces to declare that they have not been paid to appear and have not appeared in small claims court more than four times in the current calendar year.⁵ However, these conditions do not apply to someone employed by the United States or the State of California. The committee proposes revising item 3h on form SC-109 to add a checkbox for employees of the United States or California.

People who are incarcerated

Section 116.540 allows an individual to appear on behalf of someone currently in a county jail, a Department of Corrections and Rehabilitation facility, or a Division of Juvenile Facilities [sic] facility.⁶ Form SC-109 currently refers to people who are “in a jail, a prison, or another detention facility,” rather than referring to facilities maintained by the specific entities named in the statute. To reduce confusion about which “detention facilities” qualify, the committee proposes revising item 3i on form SC-109 to refer to “a county jail, a Department of Corrections and Rehabilitation facility, or a county juvenile facility.” This language mirrors the statutory language, except

¹ Code Civ. Proc., § 116.540(b) (applies to those appearing on behalf of a corporation), (c) (partnership or other party who is neither a corporation nor a natural person), (d) (sole proprietorship), (h) (owner of rental properties in California), (i) (association created to manage a common interest development).

² *Id.*, § 116.540(j).

³ *Id.*, § 116.540(e).

⁴ Stats. 2022, ch. 620, https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB1311.

⁵ Code Civ. Proc., § 116.540(e).

⁶ *Id.*, § 116.540(f).

“Division of Juvenile Facilities” has been replaced with “a county juvenile facility” to reflect the 2023 closure of the Division of Juvenile Justice.

Defendant owners of real property

Section 116.540 allows an individual to appear on behalf of a defendant who is an owner of real property and is not a resident of California.⁷ Form SC-109 currently does not include this category of defendants. The committee proposes adding item 3j to implement this portion of section 116.540.

Spouses and registered domestic partners

Section 116.540 allows a person to appear on behalf of their spouse if the claim is by or against both spouses and the represented spouse has consented.⁸ The item on SC-109 implementing this provision currently refers to a “husband or wife.” The committee proposes revising item 3k to say “spouse” instead of “husband or wife” to comply with current terminology standards for Judicial Council forms.

Under Code of Civil Procedure section 17(b)(12), “spouse” includes “registered domestic partner” throughout the Code of Civil Procedure. The committee proposes adding “or registered domestic partner” to item 3k to make sure that users of the form are aware that registered domestic partners may qualify to appear on behalf of their partners.

Parties requiring assistance

Section 116.540 allows an individual to assist a party in small claims court if the party “cannot properly present their claim or defense and needs assistance.”⁹ A person appearing under this provision appears with the party, rather than on the party’s behalf.

The instructions at the top of page 1 of form SC-109 currently explain that “you may also use this form to ask the court for permission to help a plaintiff or defendant who cannot properly speak for himself or herself.” However, the only place on the form to make this request is the last checkbox in item 3, which simply says “Other (explain).”

The committee proposes revising form SC-109 to add item 4, which reads, “I am appearing to assist a plaintiff or defendant who is not listed in item 3. I am appearing because this person cannot properly present their claim or defense and needs assistance.” Someone selecting this item must explain the reasons for their request because section 116.540 requires the court to “determine[] that a party cannot properly present their claim or defense and needs assistance.”

The committee also proposes providing information in this item about *Disability Accommodation Request* (form MC-410) in case the plaintiff or defendant needs assistance because of a disability. The committee asks for specific comments on whether item 4 should include

⁷ *Id.*, § 116.540(g).

⁸ *Id.*, § 116.540(k).

⁹ *Id.*, § 116.540(l).

additional instructions about when to use form MC-410 and when to use form SC-109 to aid a plaintiff or defendant who needs assistance. For example, the committee is aware that some courts use the accommodations request process to handle all requests to assist a party, even if the request does not involve a disability. The committee would like feedback from courts on whether the instructions in item 4 will help court users figure out how to most effectively seek assistance in various circumstances.

Party's signature

Form SC-109 currently must be signed by the person who is appearing on behalf of a party, but not by the party themselves. The committee asks for specific comments on whether form SC-109 should be revised to include a signature line for the party on whose behalf the person will be appearing, or some other item confirming that the party has authorized the person to appear on their behalf.

Alternatives Considered

The committee did not consider the alternative of taking no action because revisions are needed to ensure form SC-109 reflects current law. To the extent the proposed revisions were not required by the terms of Code of Civil Procedure section 116.540, the committee considered taking no action but ultimately determined the revisions were warranted in light of the benefits the revisions would provide to the courts and court users.

Fiscal and Operational Impacts

The revised form will require education and possibly some changes to computerized case management systems. Because the revisions are required to ensure the form reflects current law, these operational impacts cannot be avoided.

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?
- Should item 4 on form SC-109 include different or additional instructions about when to use form MC-410 and when to use form SC-109 to aid a plaintiff or defendant who needs assistance?
- Should form SC-109 be revised to include an item or a signature line stating that the party has authorized the applicant to appear on their behalf?

The advisory committee also seeks 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 two 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

1. Form SC-109, at pages 6–7

This form is used to tell the court you are authorized to appear for a plaintiff or defendant in a small claims case. You may also use this form to ask the court for permission to help a plaintiff or defendant who cannot properly present their claim or defense. If you are a lawyer, you can appear only as authorized by section 116.530 of the Code of Civil Procedure.

Fill out 1-5 on this page and page 2, then file this form with the small claims clerk at or before the trial.

Clerk stamps date here when form is filed.
DRAFT
04/02/2025
NOT APPROVED
BY COUNCIL

1 Your name, address, and position:

Name: _____

Address: _____

Job title or relationship to the plaintiff or defendant you want to appear for or assist: _____

Fill in court name and street address:

Superior Court of California, County of _____

Fill in your case number and case name below:

Case Number: _____
Case Name: _____

2 Who are you appearing for?

[] A plaintiff in this case (name):

[] A defendant in this case (name):

3 Tell us about the plaintiff or defendant you are appearing for.

I am appearing for a (check one):

- a. [] Corporation and I am an employee, officer, or director of that corporation. Representing the corporation in small claims court is not the only duty of my job.
b. [] Partnership and I am an employee, officer, director, or partner of that partnership. Representing the partnership in small claims court is not the only duty of my job.
c. [] Other business (not a corporation, partnership, or sole proprietorship) and I am an employee, officer, or director of that business. Representing the business in small claims court is not the only duty of my job.
d. [] Government agency or other public entity and I am an employee, officer, or director of that agency or entity. Representing the agency or entity in small claims court is not the only duty of my job.
e. [] Sole proprietorship and I am an employee of that business. I am qualified to testify about business records made in the regular course of business at or near the time of the event. The content of the business records is the only issue in this case. (Evid. Code, § 1271.) Representing the business in small claims court is not the only duty of my job.
f. [] Owner of rental property in California who employs me as a property agent. This claim is about the rental property I manage. Representing the owner in small claims court is not the only duty of my job.
g. [] Association created to manage a common interest development and I am an agent, management company representative, or bookkeeper for that association. Representing the association in small claims court is not the only duty of my job.

(More options on next page)



Case Number: _____

Case Name: _____

- 3 h. **Plaintiff who is assigned to active duty in the U.S. armed forces** in a location more than 100 miles from the court where the action is proceeding, or is otherwise unable to personally appear due to the performance of military duty, and *(check one)*
 - I am not being paid to appear. I have not appeared in small claims court for other people more than 4 times in this calendar year.
 - I am employed by the United States or the State of California. I am not being paid to appear, other than compensation from the United States or the State of California.
- i. **Plaintiff or defendant who is in a county jail, a Department of Corrections and Rehabilitation facility, or a county juvenile facility now.** I am not being paid to appear. I have not appeared in small claims court for other people more than 4 times in this calendar year.
- j. **Defendant who is an owner of real property and is not a resident of California.** I am not being paid to appear. I have not appeared in small claims court for other people more than 4 times in this calendar year.
- k. **Spouse or registered domestic partner.** My spouse or registered domestic partner and I are both listed on this claim and agree that either of us can appear for the other.

4 I am appearing to assist a plaintiff or defendant who is not listed in 3. I ask the court to decide that this person cannot properly present their claim or defense and needs assistance because *(explain why the person needs assistance)*:

(If the plaintiff or defendant needs assistance because of a disability, they may want to make a request for accommodations by contacting the clerk's office or using Disability Accommodation Request (form MC-410). Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the hearing. (Civ. Code, § 54.8.)

5 I declare under penalty of perjury under California state law that the information above is true and correct.

Date: _____

Type or print your name



Sign your name