



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on October 26, 2012

Title	Agenda Item Type
Small Claims: Forms to Address Default in Payment of Judgment in Installments	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Approve forms SC-223, SC-224, SC-225, and SC-225A	July 1, 2013
Recommended by	Date of Report
Civil and Small Claims Advisory Committee	August 3, 2012
Hon. Dennis M. Perluss, Chair	Contact
Hon. Patricia M. Lucas, Vice-Chair	Alan Wiener, 818-558-3051 alan.wiener@jud.ca.gov

Executive Summary

The Civil and Small Claims Advisory Committee recommends that the Judicial Council approve four new optional forms to assist litigants and courts when a judgment creditor alleges there has been a default in the payment of a small claims judgment that the court has ordered may be made in installments. These forms will supplement forms that the Judicial Council previously approved for courts to order that a small claims judgment may be paid in installments, which provide that the judgment creditor may request that the payment plan be canceled and that the entire balance become due and collectible if there is a default in the payment of an installment.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective July 1, 2013, approve the following four new optional forms:

1. *Declaration of Default in Payment of Judgment* (form SC-223);
2. *Response to Declaration of Default in Payment of Judgment* (form SC-224);

3. *Order on Declaration of Default in Payments* (form SC-225); and
4. *Attachment to Order on Declaration of Default in Payments* (form SC-225A).

The forms are attached at pages 7–12.

Previous Council Action

Effective July 1, 2010, the Judicial Council adopted and approved five forms that contain provisions regarding the payment of a small claims judgment in installments: (1) *Notice of Entry of Judgment* (form SC-200), (2) *Payments in Small Claims Cases* (form SC-220-INFO), (3) *Request to Make Payments* (form SC-220), (4) *Response to Request to Make Payments* (form SC-221), and (5) *Order on Request to Make Payments* (form SC-222). The proposed forms would supplement these existing forms in situations where a default in payments is alleged.

Rationale for Recommendation

Code of Civil Procedure section 116.620 authorizes the court to order that a small claims judgment be paid in installments. To assist litigants and the courts in small claims actions, the Judicial Council approved forms SC-220 and SC-221 for parties to make and oppose, respectively, a request that a judgment may be paid in installments, and forms SC-200 and SC-222 for courts to make an order allowing payments. Forms SC-200 and SC-222 provide: “If any payment is not made in full and on time, the judgment creditor may notify the court to cancel the payment plan and the entire unpaid balance will become due and collectible.” (See form SC-200, item 5e and form SC-222, warning beneath item 4e.) There are, however, currently no forms or instructions for the judgment creditor to notify the court of an alleged default in payment, for the judgment debtor to respond to an allegation that there was a default, or for the court to rule on the allegation.

New optional forms SC-223, SC-224, SC-225, and SC-225A will assist litigants and courts when a judgment creditor claims there has been a default in the payment of a small claims judgment that the court has previously ordered may be made in installments. Forms SC-223 and SC-224 include instructions to guide small claims litigants through the process of requesting and opposing a request that the entire judgment become collectible. They will also provide courts with the information about the alleged default that they require to rule appropriately on the matter, and forms SC-225 and SC-225A will allow courts to conveniently do this.

Form SC-223 will enable a judgment creditor to conveniently notify the court that payments have not been made as the court ordered and request that the court therefore order that the remaining balance of the judgment is due. Items 4 through 7 prompt the judgment creditor to provide information about the payment order, the dates and amounts of the payments that have been made, the balance due on the judgment, and the amount and computation of interest. Form SC-224 will enable a judgment debtor to conveniently inform the court of any disagreement with the information stated in form SC-223. Items 4 through 7 of form SC-224 are parallel to those items on form SC-223, so that courts can readily identify the issues on which the parties disagree

and their respective positions on those issues. The description of the court's payment order in item 4 of form SC-223 is based on the payment order provisions in forms SC-200 and SC-222.

Forms SC-225 and SC-225A are closely modeled after the existing forms pertaining to the payment of small claims judgments in installments. Form SC-225 parallels form SC-222, by allowing the court to either grant or deny the requested relief based on the papers submitted or schedule a hearing on the matter. The fields for stating the terms of the existing payment order (in item 2a of form SC-225) and any modification of that order (in item 2 of form SC-225A) parallel the fields for setting out the terms of a payment order in item 5 of form SC-200 and item 3 of form SC-222.

Comments, Alternatives Considered, and Policy Implications

This proposal was circulated for public comment in two parts in two different cycles:

- Forms SC-223 and SC-224 were circulated for comment in spring 2011 (SPR11-19). When the Judicial Council's Rules and Projects Committee (RUPRO) approved circulating these forms for comment, it suggested that the advisory committee also consider proposing a form for courts to rule on an allegation that there has been a default in payment.
- Based on RUPRO's suggestion and commentators' support, forms SC-225 and SC-225A were developed and circulated for comment in spring 2012 (SPR12-11).

Comments on SPR11-19 (forms SC-223 and SC-224)

In 2011, 14 organizations or individuals submitted comments on forms SC-223 and SC-224. Six commentators agreed with the proposal, and one of these commentators—a clerk at the Superior Court of Amador County—indicated that the forms have been needed for some time. Five commentators agreed with the proposal if modified, one disagreed with the proposal, and two did not expressly indicate a position. The comments on the spring 2011 proposal and the advisory committee's responses are included in the comment chart at pages 13–30.

The version of form SC-224 that was circulated for comment included an item that would have provided spaces for the judgment debtor to admit a default in payment, provide an explanation, and ask the court not to order that the judgment be due in full. The advisory committee has recommended deleting this item in response to a comment that it seemed unfair to allow a person who defaulted on a court-ordered payment plan the option of asking for another chance. Although the committee thought there might be extenuating circumstances in which a court would appropriately continue a payment order after a default (e.g., if the judgment debtor was unexpectedly hospitalized), it thought these instances would be rare. It was concerned that the item might result in many unjustified requests to continue payment orders after a default. The committee also noted that, when there is a meritorious reason for continuing payments after a default, the judgment debtor can make that request in another manner, such as by using *Request for Court Order and Answer* (form SC-105) or preparing a customized request. Hence, the item has been deleted.

In response to other comments, the committee also recommended the following changes to the versions of forms SC-223 and SC-224 that were circulated for comment:

- Highlighting the 10-day time limit for responding to form SC-223;
- In item 5, replacing columns for the parties to indicate who made each payment with more spaces to indicate the dates and amounts of payments; and
- Replacing “the plaintiff or defendant” with “the judgment debtor” where appropriate throughout.

In addition to seeking comments on forms SC-223 and SC-224, invitation to comment SPR11-19 included three specific questions:

- Whether a form order should be developed for use when the court rules on an allegation that there has been a default in payment of a judgment in installments;
- Whether Judicial Council small claims forms should request the parties’ e-mail addresses and, if so, whether the forms should indicate that this information is optional; and
- Whether additional instructions, forms, or other tools are necessary to help small claims litigants compute postjudgment interest and, if so, what type of assistance would be most helpful.

The need for a form order. The question about the need for a form order was based on a suggestion of the Judicial Council’s Rules and Projects Committee when it approved circulating the proposal for comment. Eleven commentators responded to this question, and all of them supported development of a form order for this purpose. (The comments on the spring 2012 proposal to approve the resulting forms SC-225 and SC-225A are discussed below.)

E-mail addresses. Eleven commentators included answers to the question about e-mail addresses in their responses to SPR11-19 and another 2011 invitation to comment.¹ Eight supported including optional spaces for e-mail addresses. Two commentators opposed including spaces for e-mail addresses for the reason that this information is unnecessary. One commentator opposed including spaces for the reasons that courts do not have the ability or authority to e-mail parties, the spaces might create the impression that the court would use e-mail as a primary means of contact, and disgruntled parties might use the information to harass their opponents.

Based on the weight of the comments, the committee recommends that small claims forms include a space for the parties’ e-mail addresses and indicate that this information is optional. As one commentator noted, e-mail addresses may facilitate communication between the parties. Additionally, modern court case management systems have fields for e-mail addresses, and some courts are using this information to communicate with litigants. Also, if the forms indicate that

¹ The question about e-mail addresses was also included in a 2011 invitation to comment on *Small Claims: Forms to Request Dismissal and Give Notice of Entry of Dismissal* (SPR11-18).

this information is optional, parties who are concerned about receiving unwanted e-mails can leave the space blank.

The need for additional aids to compute postjudgment interest. Nine commentators responded to the question about whether additional instructions, forms, or other tools are necessary to help small claims litigants compute postjudgment interest and, if so, what type of assistance would be most helpful.² Seven of the nine indicated that additional instructions, forms, or tools for computing interest would be beneficial. Their primary suggestions involved developing online calculators and adding examples to the forms. The Superior Court of Sacramento County and the Sacramento Regional Human Rights/Fair Housing Commission submitted identical comments that it would be difficult for litigants to compute interest, even with instructions; that perhaps the court can determine the interest owed when it rules on the alleged default in payment; and that the items and instructions for the parties' computation of interest should be removed from the forms. The committee did not agree with this suggestion because of the additional workload that it would impose on courts. However, based on the weight of the comments, the committee plans to add the development of additional instructions or tools to help small claims litigants compute postjudgment interest to its list of potential future projects. If and when the committee undertakes this project, it will consider the commentators' specific suggestions about what types of assistance would be most helpful.

Comments on SPR12-11 (forms SC-225 and SC-225A)

In the 2012 comment cycle, five organizations submitted comments concerning forms SC-225 and SC-225A. Three commentators agreed with the proposal as circulated, one agreed with the proposal if modified by adding one word, and one asked a question about provisions of form SC-225A that are identical to provisions of two related, existing forms, without indicating a position on the proposal. The comments on the spring 2012 proposal and the advisory committee's responses are included in the comment chart at pages 31–33.

Alternatives considered

The advisory committee considered not proposing forms for making and responding to a request that an order allowing the payment of a small claims judgment in installments be set aside because of a default in payment. However, the committee noted that many courts do not have local forms for this purpose and concluded that the proposed forms would make the process easier and more efficient for litigants and courts. In particular, the forms will prompt self-represented litigants to provide the information that courts require to appropriately address an alleged default in payment and will thereby save judicial resources in reviewing the parties' declarations, requesting additional information, and deciding these matters.

² In developing other small claims forms, the committee and commentators have noted the difficulties that litigants face in computing postjudgment interest. This is particularly complicated when the court orders that a judgment may be paid in installments, because courts vary in their practices regarding whether, under what circumstances, and from when interest accrues.

The advisory committee considered incorporating the provisions of form SC-225A in form SC-225. However, the committee concluded that a separate attachment form would be preferable because the provisions of forms SC-225A would rarely be necessary and, without the added provisions, form SC-225 is a single page.

Implementation Requirements, Costs, and Operational Impacts

The approval of these four optional forms should result in only minimal costs associated with making the forms available to litigants, for those courts that provide copies of small claims forms, and should reduce the time required for litigants and courts to make, respond to, and rule on requests to set aside orders that a small claims judgment may be paid in installments.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommendations in this report support Goal I, Access, Fairness, and Diversity, by helping to make small claims procedures fair, understandable, and accessible to self-represented litigants.

Attachments

1. Forms SC-223, SC-224, SC-225, and SC-225A, at pages 7–12
2. SPR11-19 comment chart, at pages 13–30
3. SPR12-11 comment chart, at pages 31–33

**Declaration of Default
in Payment of Judgment**

Clerk stamps here when form is filed.

Not approved by the Judicial Council

Draft Rev. 8-2-12

Important: Read the other side before you fill out this form or if it was mailed to you. If you are the judgment debtor named in ② and you disagree with this *Declaration of Default in Payment of Judgment*, you may file *Response to Declaration of Default in Payment of Judgment* (Form SC-224) within 10 days after the declaration was mailed to you.

① I am asking the court to order that the remaining balance of a small claims judgment is now due and collectible because payments were not made as the court ordered.

My name is: _____

Mailing address: _____

Phone: _____ E-mail (optional): _____

② The judgment debtor who has not made payments as the court ordered is (complete a separate form for each judgment debtor who has not paid as ordered):

Name: _____

Mailing address: _____

Phone: _____ E-mail (optional): _____

③ On (date): _____ the court ordered that the judgment debtor named in ② must pay me, or someone who assigned the judgment to me, principal, prejudgment interest, and costs in the total amount of \$_____.

④ On (date): _____ the court ordered that the judgment debtor named in ② may pay the judgment described in ③ as follows:

a. Payments of \$ _____ on the _____ day of each (month, week, other): _____ starting (date): _____, until (date of final payment): _____; amount of final payment: \$ _____

b. Other payment schedule (specify): _____

⑤ The payments listed below, and no others, have been made on the judgment described in ③.

Check here if there is not enough space below. List the date and amount of each payment on a separate page and write "SC-223, Item 5" at the top.

Date	Amount	Date	Amount	Date	Amount	Date	Amount

⑥ The total amount of the payments that have been made on the judgment described in ③ is \$ _____, and the balance due, without adding any interest after the judgment, is \$ _____.

⑦ I request interest on the judgment, in the amount of \$ _____, calculated as follows:

Check here if there is not enough space below. Explain how you calculated interest on a separate page and write "SC-223, Item 7" at the top.

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

Date: _____

Type or print your name

▶

Sign here



Default in Payments on Small Claims Judgment

General Information

If the court ordered that another plaintiff or defendant (judgment debtor) may pay a small claims judgment in payments, and that judgment debtor has not made the payments as ordered, you can ask the court to order that the full balance of the judgment is due and collectible. Here's how:

- Read this form.
- Fill out page 1 of Form SC-223, *Declaration of Default in Payment of Judgment*. Fill out a separate form for each judgment debtor who did not make payments as ordered.
- File your completed form(s) with the small claims court clerk.

The court will mail all other plaintiffs and defendants in the case copies of the *Declaration* and a blank Form SC-224, *Response to Declaration of Default in Payment of Judgment*.

The judgment debtor will have 10 days to file a **Response**. Then the court will mail all plaintiffs and defendants in the case:

- A decision, or
- A notice to go to a hearing.

If the court ordered that you may make payments on a judgment, and another plaintiff, defendant, or person to whom the judgment has been assigned (judgment creditor) has filed Form SC-223, *Declaration of Default in Payment of Judgment*, asking the court to order that the full balance is now due and collectible because you did not make the payments:

- Read this form and the *Declaration*.
- If you agree with the court ordering that the amounts claimed in the *Declaration* are now due in full, you do not need to do anything.
- If you do not agree with the *Declaration* or with the court ordering that the amounts it claims are now due in full, file a **Response** within 10 calendar days after the court clerk mailed the *Declaration* to you. (This date is on the *Clerk's Certificate of Mailing*.)

To file your **Response**:

- Fill out Form SC-224, *Response to Declaration of Default in Payment of Judgment*.
- Have your *Response* served on the judgment creditor and all other plaintiffs and defendants in your case. (See Form SC-112A, *Proof of Service by Mail*.)
- File your *Response* and *Proof of Service* with the small claims court clerk.

Answers to Common Questions

When is the judgment due?

Unless the court orders otherwise, small claims judgments are due immediately. If the judgment is not paid in full within 30 days, the judgment creditor (person to whom the money is owed) can take legal steps to collect any unpaid amount. (Collection may be postponed if an appeal or a request to vacate (cancel) or correct the judgment is filed.)

When can the judgment debtor make payments?

A plaintiff or defendant who was ordered to pay a small claims judgment (judgment debtor) can ask the court for permission to make payments. If the court agrees, the plaintiff or defendant who is owed money (the judgment creditor) cannot take any other steps to collect the money as long as the payments are made on time. If payments are not made on time, the judgment creditor can ask the court to order that the remaining balance of the judgment is due and collectible.

Is interest added after the judgment?

Interest (10 percent per year) is usually added to the unpaid amount of the judgment from the date the judgment is entered until it is paid in full. Interest can only be charged on the unpaid amount of the judgment (the

principal); interest cannot be charged on any unpaid interest. If a partial payment is received, the money is applied first to unpaid interest and then to unpaid principal.

When the court allows payments, the court often does not order any interest, as long as all payments are made in full and on time. Unless the judgment creditor asks for interest to be included in the order allowing payments, the judgment creditor may lose any claims for interest. But if the judgment debtor does not make full payments on time, interest on the missed payment or the entire unpaid balance might become due and collectible.

How do I calculate interest?

If you are asking for interest or disagreeing with a request for interest, you need to explain your interest calculation. Interest, at the rate of 10 percent per year (.0274 percent per day), may be added to the full unpaid balance of the judgment or only to payments that were not made on time. To calculate interest, show the unpaid principal balance, the dates and number of days you want the court to allow interest on that amount, and the total interest for that period. If payments were made, you will need to make separate calculations for the reduced principal balance after each payment.



Need help?

For free help, contact your county's small claims advisor:
[local info here]

Or go to www.courts.ca.gov/smallclaims/advisor

SC-224

Response to Declaration of Default in Payment of Judgment

Clerk stamps here when form is filed.

Not approved by the Judicial Council

Draft Rev. 8-2-12

Important: If you disagree with a judgment creditor's *Declaration of Default in Payment of Judgment* (Form SC-223), you may file a *Response to Declaration of Default in Payment of Judgment* (Form SC-224) within 10 days after Form SC-223 was mailed to you. Read the other side before you fill out this form.

① I am responding to a *Declaration of Default in Payment of Judgment* (Form SC-223).
My name is: _____
Mailing address: _____

Phone: _____ E-mail (optional): _____

② The plaintiff or defendant (judgment creditor) who filed the *Declaration of Default* is:
Name: _____
Mailing address: _____

Phone: _____ E-mail (optional): _____

③ I agree with the information in the *Declaration of Default*.
④ I do not agree that the court ordered the payment schedule stated in item ④ of the *Declaration of Default*. (Describe your disagreement.)

⑤ I do not agree with the dates or amounts of the payments listed in item ⑤ of the *Declaration of Default*. The payments listed below have been made on the judgment.
 Check here if there is not enough space below. List the date and amount of each payment on a separate page and write "SC-224, Item 5" at the top.

Date	Amount	Date	Amount	Date	Amount	Date	Amount

⑥ The total amount of the payments that have been made on the judgment is \$ _____, and the balance due, without adding any interest after the judgment, is \$ _____.

⑦ I agree that interest in the amount of \$ _____ may be added to the balance of the judgment. This interest is calculated as follows:
 Check here if there is not enough space below. Explain how you calculated interest on a separate page and write "SC-224, Item 7" at the top.

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

Date: _____

Type or print your name

Sign here

Fill in the court name and street address:

Superior Court of California, County of _____

Fill in your case number and case name:

Case Number: _____

Case Name: _____



Default in Payments on Small Claims Judgment

General Information

If the court ordered that you may make payments on a judgment, and another plaintiff, defendant, or person to whom the judgment was assigned (judgment creditor) has filed Form SC-223, *Declaration of Default in Payment of Judgment*, asking the court to order that the full balance is now due and collectible because you did not make the payments:

- Read this form and the *Declaration*.
- If you agree with the court ordering that the amounts claimed in the *Declaration* are now due in full, you do not need to do anything.
- **If you do not agree with the *Declaration* or with the court ordering that the amounts it claims are now due in full, file a *Response* within 10 calendar days after the court clerk mailed the *Declaration* to you.** (This date is on the *Clerk's Certificate of Mailing*.) If you do not do so, the court may order that the balance of the judgment is now due and collectible in full and may also order interest on the unpaid amount of the judgment.

To file your *Response*:

- Fill out Form SC-224, *Response to Declaration of Default in Payment of Judgment*.
- Have your *Response* served on all other plaintiffs and defendants in your case. (See Form SC-112A, *Proof of Service by Mail*.)
- File your *Response* and *Proof of Service* with the small claims court clerk.

The court will mail all plaintiffs and defendants in the case

- A decision, or
- A notice to go to a hearing.

Answers to Common Questions

When is the judgment due?

Unless the court orders otherwise, small claims judgments are due immediately. If the judgment is not paid in full within 30 days, the judgment creditor (person to whom the money is owed) can take legal steps to collect any unpaid amount. (Collection may be postponed if an appeal or a request to vacate (cancel) or correct the judgment is filed.)

When can the judgment debtor make payments?

A plaintiff or defendant who was ordered to pay a small claims judgment (the judgment debtor) can ask the court for permission to make payments. If the court agrees, the party who is owed money (the judgment creditor) cannot take any other steps to collect the money as long as the payments are made on time. If payments are not made on time, the judgment creditor can ask the court to order that the remaining balance of the judgment is due and collectible.

Is interest added after the judgment?

Interest (10 percent per year) is usually added to the unpaid amount of the judgment from the date the judgment is entered until it is paid in full. Interest can only be charged on the unpaid amount of the judgment (the

principal); interest cannot be charged on any unpaid interest. If a partial payment is received, the money is applied first to unpaid interest and then to unpaid principal.

When the court allows payments, the court often does not order any interest, as long as all payments are made in full and on time. Unless the judgment creditor asks for interest to be included in the order allowing payments, the judgment creditor may lose any claims for interest. But if the judgment debtor does not make full payments on time, interest on the missed payment or the entire unpaid balance might become due and collectible.

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If you are asking for interest or disagreeing with a request for interest, you need to explain your interest calculation. Interest, at the rate of 10 percent per year (.0274 percent per day), may be added to the full unpaid balance of the judgment or only to payments that were not made on time. To calculate interest, show the unpaid principal balance, the dates and number of days you want the court to allow interest on that amount, and the total interest for that period. If payments were made, you will need to make separate calculations for the reduced principal balance after each payment.



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Clerk stamps here when form is filed.

Not approved by the Judicial Council

DRAFT Rev. 8-2-12 AW

① A judgment was entered in this case on (date): _____ against (name of judgment debtor): _____

② On (date): _____, the court ordered that the judgment debtor named in ① may pay the judgment as follows:

a. Payments of \$ _____, on the _____ day of each (month, week, other): _____ starting (date): _____ until (date of final payment): _____ amount of final payment: \$ _____

b. The payment schedule is stated on Form SC-225A, item ①.

③ On (date): _____ the judgment creditor (name): _____ informed the court that the judgment debtor had not made one or more payments as provided in ② and asked the court to order that the remaining balance of the judgment is due and collectible.

④ On (date): _____ the judgment debtor filed a response to the judgment creditor's request.

Fill in the court name and street address:

Superior Court of California, County of

Fill in your case number and case name:

Case Number:

Case Name:

The court orders:

⑤ **The payment order referred to in ② (check one):**

- a. is terminated and the balance of the judgment is collectible.
- b. remains in effect, without modification.
- c. is modified as stated on Form SC-225A, item ②.

⑥ **The following amounts are owing on the judgment as of (date):** _____

- a. Principal balance of judgment and costs included in judgment (amount): \$ _____
- b. Interest (amount): \$ _____

⑦ **Other orders are stated on Form SC-225A, item ③.**

⑧ **The court will make orders on the matter after a hearing, which will take place on:**

Hearing Date → _____ Time: _____ Dept. _____

Name and address of court if different than address above:



Request for Accommodations 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. Contact the clerk's office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Response* (Form MC-410). (Civil Code, § 54.8)

Date: _____

Judicial officer



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ITC number SPR11-19 (First circulation)

Small Claims: Forms to Address Default in Payment of Judgment in Installments (approve forms SC-223 and SC-224)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Diane Grafft Economic Crime Officer Office of the District Attorney County of San Luis Obispo	A	Will this form SC-223 replace local form SC002? (attached) Local Form SC002 is used when judgment was rendered with payments, and defendant has defaulted. Also local form SC004 is used for declaration of default on mediated cases where no judgment has been entered. Will you consider a Judicial Council form for this purpose as well?	Form SC-223 and San Luis Obispo Form SC-002 appear to be designed for use in the same situation (i.e. where a judgment creditor alleges that a judgment debtor has defaulted in the payments on a judgment that the court has ordered may be paid in installments). Because SC-223 is proposed for optional use, the court could continue to accept local form SC002 if it so chooses, but litigants would be entitled to use Form SC-223 if they choose. (See Cal. Rules of Ct., rule 1.35(a.) The committee is working on the development of forms to promote and facilitate the settlement of small claims cases, including settlements that involve agreements to make payments without a judgment being entered. The committee will consider whether a form that would serve the purpose of San Luis Obispo Form SC004 should be developed as part of this project.
2.	Shirley Gunn Court Clerk IV Superior Court of Amador County	A	These forms have been needed for some time. Procedure seems to be spelled out clearly. I do believe that a Judicial Council form for the Decision including the option of setting matter for hearing would be extremely helpful.	Based on the comments received, the committee is recommending approval of an optional form order for use when a court rules on an allegation that there has been a default in payment of a judgment in installments.
3.	Regional Human Rights/Fair Housing Commission Sacramento, CA Dana Wallack	NI	While Sacramento County has an excellent local form for use in situations where a judgment debtor fails to make ordered installment payments, uniformity across the courts would be served by a Judicial Council form for this purpose.	No response required.

ITC number SPR11-19 (First circulation)

Small Claims: Forms to Address Default in Payment of Judgment in Installments (approve forms SC-223 and SC-224)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>We concur with leaving space for a filers' e-mail address and making that information optional.</p> <p>We would suggest overall that this form be optional rather than mandatory. There are likely courts who have worked out local forms to meet their specific needs, the way Sacramento County has, and would welcome having the option to use whichever form meets the specific needs of their court.</p> <p>Our other concern with the form stems from the issue of interest accrual. Even with the instructions on the back of the form regarding interest, it is going to be very difficult for most filers to correctly apply the interest to which they are entitled. We suggest that perhaps the Court can determine interest owing at the time the declaration and/or responsive declaration are ruled upon. By taking this out of the hands of the litigants, we can ensure that no one is injured by either undue or inadequate interest. Thus, we recommend that section 7 be eliminated and the instructions regarding interest on the back of the form also be removed.</p> <p>On both forms SC-223 and SC-224, we would suggest putting the language about the 10-day window to file a response somewhere on the front of the form, in a prominent place. This would, hopefully, limit the number of late</p>	<p>The committee is recommending that Judicial Council small claims forms include a space for the parties' e-mail addresses and indicate that this information is optional.</p> <p>The committee is recommending that the Judicial Council approve forms SC-223 and SC-224 for optional use. It should be noted that, if a litigant chooses to use an optional form, the court must accept it. (See Cal. Rules of Ct., rule 1.35(a).)</p> <p>Based on other comments received, the committee will explore the development of additional instructions or tools to help small claims litigants compute post-judgment interest. The committee does not recommend deleting the items and instructions regarding the computation of post-judgment interest from the proposed forms because it concluded that this would increase the court's workload in determining the amount of post-judgment interest.</p> <p>The committee agrees and has revised the introductory instructions on the front of forms SC-223 and SC-224 to include information about the time for filing a response.</p>

ITC number SPR11-19 (First circulation)

Small Claims: Forms to Address Default in Payment of Judgment in Installments (approve forms SC-223 and SC-224)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			filings received.	
4.	Richard Nelson Courtroom Clerk Superior Court of Sonoma County	AM	<p>*A form order should be developed for use when the court rules on an allegation that there has been a default in payment of a judgment in installments.</p> <p>Judicial Council small claims forms should not include email addresses. Many courts don't have the ability or authority to email parties regarding their cases. Including that information would present litigants with the impression that the court would utilize that as a primary means of contact. Also, disgruntled parties may use it to harass the opposing side.</p> <p>The Judicial Council/AOC should provide an interest calculator online for the use of both the public and court staff who will be required to review the amount of interest. Ideally, the calculator would include space to indicate payments made & factor those into the total. (This would also serve as a boon to those who are completing writs of execution or requests to pay judgments to the court.)</p> <p>Something akin to: Judgment date: ??? Judgment total: ???</p>	<p>Based on the comments received, the committee is recommending approval of an optional form order for use when a court rules on an allegation that there has been a default in payment of a judgment in installments.</p> <p>Based on the weight of the comments received, the committee is recommending that Judicial Council small claims forms include a space for the parties' e-mail addresses and indicate that this information is optional. Modern court case management systems have fields for storing e-mail addresses and the committee understands that some courts are using this information to communicate with litigants. And, because this information will be designated as optional, parties who are concerned about receiving unwanted e-mails can leave the space blank.</p> <p>Based on this comment and others, the committee will explore the development of additional instructions or tools to help small claims litigants compute post-judgment interest. In doing so, the committee will consider this commentator's specific suggestions.</p>

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Small Claims: Forms to Address Default in Payment of Judgment in Installments (approve forms SC-223 and SC-224)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Payment date: ??? Payment total: ??? Total Interest:</p> <p>Additionally, if the item were able to be printed following the calculation the document could simply be attached to the form as a reliable calculation for the clerk or judge. Most litigants have access to a computer, whether at home, a library, or the courthouse. The added benefit of this method is uniformity among all courts.</p> <p>For each the declaration and response to the declaration, in lieu of completing items 3 & 4, the party should be provided a check box which states “a copy of the judgment is attached”.</p> <p>In lieu of items 4, 7 & 8 on the response a general statement affording the respondent to state any reason the order should not be granted ought to be provided. In my experience, most judgment debtors will not calculate the interest due or provide an alternate payment schedule, thus that space would be better utilized to allow a debtor to explain their case in their own words.</p>	<p>The committee concluded that it will be most helpful if the request and the response state what the parties believe the payment order provides, because this may clarify the basis of the parties’ disagreement and the judgment or order allowing payments will be in the court file.</p> <p>The committee concluded that it will be most helpful in identifying the basis of the parties’ disagreement if the response form includes items that parallel the items in the request.</p>
5.	Orange County Bar Association John Hueston President	A	Once you go down the road of having the Declarant indicate he or she is seeking an “order” (rather than seeking to have the stay on enforcement of the judgment lifted automatically by his or her mere filing of the declaration), it seems a form Order would be of	Based on the comments received, the committee is recommending approval of an optional form order for use when a court rules on an allegation that there has been a default in payment of a judgment in installments.

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	Commentator	Position	Comment	Committee Response
			<p>assistance, in that it would indicate whether the relief sought via the Declaration (lifting of the stay on enforcement of the judgment) is granted and, if so, provide not just for acceleration of the principal balance remaining owed but also include provisions (blanks) for interest accrued and recoverable costs of enforcement. However, if there is to be a form Order, the following language in Form SC 106 (the request for stay/installments) should be addressed, because the availability of a form Order suggests that the Declaration will not be self-executing (i.e., that an Order will be required): “On the filing of an affidavit or declaration by the judgment creditor showing that any payment due has not been paid, this order shall be set aside and the clerk may issue a writ of execution immediately, without further order of the court.”</p> <p>Yes, request litigants’ email addresses (and make it optional).</p> <p>The instructions regarding how to calculate postjudgment interest are already lengthy; at most, a simple example should be added to the instructions (e.g., if the judgment is \$5,000 and nothing has been paid for 200 days, then the interest accrued is $[(.000274 \times 200) \times \\$5,000] = \\$274$).</p>	<p>The committee has concluded that judgment debtors should have notice and the opportunity to respond to judgment creditors allegations that there has been a default in payment, because this may be in dispute. Effective July 1, 2010, the Judicial Council revoked Form SC-106 and approved forms SC-220, SC-220-INFO, SC-221, and SC-222 relating to payments on small claims judgments. The committee will consider whether revisions to these forms and others that address the payment of a judgment in installments should be proposed at a future time.</p> <p>Based on the comments received, the committee recommends that Judicial Council small claims forms include a space for the parties’ e-mail addresses and indicate that this information is optional.</p> <p>Based on this comment and others, the committee will explore the development of additional instructions or tools to help small claims litigants compute post-judgment interest. In doing so, the committee will consider this commentator’s specific suggestion.</p>
6.	State Bar of California, Committee on Administration of Justice	A	*CAJ supports this proposal.	No response required.

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	Commentator	Position	Comment	Committee Response
	By Saul Bercovitch, Legislative Counsel		<p>A form order should be developed for use when the court rules on an allegation that there has been a default in payment of a judgment in installments. A form order would not only provide the parties’ notice of the court’s decision but also provide a recognized court form that can be attached to the original judgment for purposes of obtaining a Judgment Lien on the amount due.</p> <p>Judicial Council small claims forms should request the parties’ e-mail addresses, because an e-mail address provides another reliable way to contact a party but the party has the option to provide it rather than being required to provide it.</p> <p>Additional instructions, forms, or other tools would help small claims litigants compute postjudgment interest. For example, it may be helpful to provide a table of different percentage rates and their corresponding daily amounts as well as instructions that include an example, calculating interest based on 10 percent per year since this probably is most common, given Code of Civil Procedure section 685.010(a). CAJ also believes it would be helpful to provide examples of calculations in hypothetical situations. However, given the number of variables and different situations that could arise with a default in installment payments, it may be difficult to come up with adequate, meaningful examples that could be also applied to other fact-specific situations.</p>	<p>Based on the comments received, the committee is recommending approval of an optional form order for use when a court rules on an allegation that there has been a default in payment of a judgment in installments.</p> <p>Based on the comments received, the committee recommends that Judicial Council small claims forms include a space for the parties’ e-mail addresses and indicate that this information is optional.</p> <p>Based on this comment and others, the committee will explore the development of additional instructions or tools to help small claims litigants compute post-judgment interest. In doing so, the committee will consider this commentator’s specific suggestions.</p>

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	Commentator	Position	Comment	Committee Response
7.	Superior Court of Amador County Janet Davis Court Manager	A	<p>Yes, there should be a form order developed for this process. It could easily mirror SC-108A.</p> <p>If the intent of obtaining e-mail addresses is for the electronic service process it might be too complicated for small claims customers. If it is for some other reason it should be optional.</p>	<p>Based on the comments received, the committee is recommending approval of an optional form order for use when a court rules on an allegation that there has been a default in payment of a judgment in installments.</p> <p>Based on the comments received, the committee recommends that Judicial Council small claims forms include a space for the parties' e-mail addresses and indicate that this information is optional. The e-mail addresses are intended to facilitate communication between the parties, and potentially between the parties and the court, and not for electronic service in small claims cases.</p>
8.	Superior Court of Monterey County Minnie Monarque Deputy Court Executive Officer	A	<p>*Agree with changes.</p> <p>A form order should be developed for use when the court rules on an allegation that there has been a default in payment of a judgment in installments</p> <p>Judicial Council small claims forms should request the parties' e-mail addresses and indicate that this information is optional.</p> <p>Additional instructions, forms, or other tools are necessary to help small claims litigants compute post-judgment interest. On the Answers to Common Questions section on "How do I</p>	<p>No response required.</p> <p>Based on the comments received, the committee is recommending approval of an optional form order for use when a court rules on an allegation that there has been a default in payment of a judgment in installments.</p> <p>Based on the comments received, the committee recommends that Judicial Council small claims forms include a space for the parties' e-mail addresses and indicate that this information is optional.</p> <p>Based on this comment and others, the committee will explore the development of additional instructions or tools to help small claims litigants compute post-judgment interest. In doing so, the</p>

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	Commentator	Position	Comment	Committee Response
			calculate Interest?" Display an example, i.e. dollars and cents calculation.	committee will consider this commentator's specific suggestion.
9.	Superior Court of Orange County Erin Rigby Staff Analyst	AM	A form order should be developed for use when the court rules on an allegation that there has been a default in payment of a judgment in installments. Depending on court procedures, this will alleviate the need to prepare a minute order and is consistent with other small claims processes.	Based on the comments received, the committee is recommending approval of an optional form order for use when a court rules on an allegation that there has been a default in payment of a judgment in installments.
10.	Superior Court of Riverside County, Staff Michael Capelli	AM	<p>A form reflecting the court's order re default of installment payments should be designed. However, I suggest incorporating the order into the judgment creditor's request for a default in the installment payments.</p> <p>I agree that Judicial Council small claims forms should request a party's e-mail, but that compliance is optional.</p> <p>Additional tools to assist small claims litigants in calculating post-judgment interest should be developed. Suggest developing an online mathematical tool where simple information could be input such that the interest calculation is automatically determined.</p>	<p>Based on the comments received, the committee is recommending approval of an optional form order for use when a court rules on an allegation that there has been a default in payment of a judgment in installments. The committee does not recommend including the order in the judgment creditor's request (Form SC-223), because combined forms that are both inbound and outbound do not work well with modern case management systems.</p> <p>Based on the comments received, the committee recommends that Judicial Council small claims forms include a space for the parties' e-mail addresses and indicate that this information is optional.</p> <p>Based on this comment and others, the committee will explore the development of additional instructions or tools to help small claims litigants compute post-judgment interest. In doing so, the committee will consider this commentator's specific suggestion.</p>

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	Commentator	Position	Comment	Committee Response
			<p>Additional Comments</p> <p>SC-223 Declaration of Default in Payment of Judgment</p> <p>The form title is misleading; it needs to include the word “Installment”. Suggest: “Declaration of Failure to Pay Installment Payment”</p> <p>Since this is a post-judgment form, it should be changed to include the phrase “judgment debtor” instead of “plaintiff or defendant”. Small claims litigants are capable of understanding the concept of a “judgment debtor” as that is the term used in the enforcement of judgment. It is far more confusing to keep stating “plaintiff or defendant”. The attempt to simply the form results in confusion. Thus, in paragraphs 3 and [4] “plaintiff or defendant” should be changed to “judgment debtor.”</p> <p>Paragraph 5 – Needs to be reworked to provide more space to list payments made. Suggest deletion of the “Paid By” column as unnecessary. I would also delete some of the excess language in this paragraph. Suggest the paragraph read “The Judgment Debtor has</p>	<p>Additional Comments</p> <p>SC-223 Declaration of Default in Payment of Judgment</p> <p>The committee does not recommend using the term installment in forms SC-222 and SC-223. This term was intentionally not used in the other forms that the Judicial Council recently approved for use in requesting, responding to, and making orders regarding the payment of judgments over time (forms SC-200, SC-200, INFO, SC-220, SC-221, and SC-223) in an effort to use simpler language.</p> <p>The committee agrees and has substituted “judgment debtor” and “judgment creditor” for “plaintiff or defendant” as appropriate throughout forms SC-223 and SC-224.</p> <p>As suggested by the commentator, the committee has replaced the “Paid By” columns on forms SC-223 and SC-224 with columns for indicating additional payments. The committee does not recommend revising paragraph 5 as suggested, because payments on the judgment may have been</p>

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	Commentator	Position	Comment	Committee Response
			<p>made the following payments”</p> <p>SC-223 General Information Sheet As noted above, since this is a post-judgment form, the parties should be referred to as “judgment debtor” and “judgment creditor,” not plaintiff and defendant. For instance, the first paragraph should read: “If the court ordered <i>the judgment debtor to pay a small claims judgment in installment payments, and the judgment debtor has failed to make the payments as ordered, you can ask the court to order the full balance of the judgment is due and payable.</i></p> <p>Language of the top paragraph on the right side of the form is too wordy and thus very confusing. Suggest the following:</p> <p>“If the court ordered that you <i>could</i> make payments on the judgment and the <i>judgment creditor</i> has filed a Declaration of Default in <i>Installment Payment of Judgment (SC-223)</i>, claiming that you have failed to make the required payments:</p> <p>Read this form and the <i>Declaration of Default in Installment Payment of Judgment</i></p> <p>If you do not want to contest the <i>Declaration of Default in Installment Payment of Judgment</i>, you do not need to do anything. Please be aware that if you do not contest the <i>Declaration of</i></p>	<p>made by persons or entities other than the judgment debtor.</p> <p>SC-223 General Information Sheet The committee agrees and has substituted “judgment debtor” and “judgment creditor” for “plaintiff or defendant” as appropriate throughout forms SC-223 and SC-224. As discussed above, the committee does not recommend introducing the term “installment.”</p> <p>The committee concluded that the language proposed in the invitation to comment is clearer and less wordy than the proposed revision. And, as discussed above, the committee does not recommend introducing the term “installment.”</p>

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	Commentator	Position	Comment	Committee Response
			<p><i>Default in Installment Payment of Judgment</i>, the court may order the full balance of the judgment is due and payable.</p> <p>If you wish to contest the <i>Declaration of Default in Installment Payment of Judgment</i>, you must file a <i>Response to Declaration of Default in Installment Payments of Judgment</i> (SC-224) within 10 calendar days after the court clerk mailed the Declaration of Default to you.”</p> <p>Finally, the court should not be obligated to mail the filed copies of the form, plus a blank response, to the parties. The judgment creditor can have it served. (While this procedure is consistent with “The Request to Make Payments” (SC-220), both processes could easily be accomplished by the respective party.</p> <p>SC-224 Response to Declaration of Default in Payment of Judgment The form title is misleading; it needs to include the word “Installment.” Suggest: “Response to Declaration of Failure to Pay Installment Payment”</p> <p>Same comments as above with respect to replacing “plaintiff or defendant” with judgment creditor or judgment debtor as appropriate.</p> <p>Paragraph 5 – Needs to be reworked to provide more space to list payments made. Recommend deletion of the “Paid By” column as</p>	<p>Cal. Rules Ct., rule 3.2107(b) provides that if a party files a request for a court order after the entry of judgment, the clerk must mail a copy of the request to all other parties in the action.</p> <p>SC-224 Response to Declaration of Default in Payment of Judgment Please see the committee’s response to the comment above regarding the use of the term “installment.”</p> <p>Please see response above.</p> <p>Please see response above.</p>

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			<p>unnecessary.</p> <p>Additional space is needed on the form for the party to explain matters in paragraphs 7 and 8.</p> <p>SC-224 General Information Sheet Same comments as above with respect to replacing “plaintiff or defendant” with judgment creditor or judgment debtor as appropriate.</p>	<p>The committee concluded that the two lines provided for item 7 should be sufficient for the requested information in most instances and that the provisions for attachments will address other instances. And, the committee has deleted item 8 from the version of Form SC-224 that was circulated for comment.</p> <p>SC-224 General Information Sheet The committee agrees and has substituted “judgment debtor” and “judgment creditor” for “plaintiff or defendant” as appropriate throughout forms SC-223 and SC-224.</p>
11.	Superior Court of Sacramento County Robert Turner ASO II	NI	<p>While we have an excellent local form for use in situations where a judgment debtor fails to make ordered installment payments, uniformity across the courts would be served by a Judicial Council form for this purpose.</p> <p>And we concur with leaving space for a filer’s e-mail address and making that information optional.</p> <p>We would suggest overall that this form be optional rather than mandatory. There are likely courts who have worked out local forms to meet their specific needs, the way we have, and</p>	<p>No response required.</p> <p>The committee is recommending that Judicial Council small claims forms include a space for the parties’ e-mail addresses and indicate that this information is optional. It should be noted that, if a litigant chooses to use an optional form, the court must accept it. (See Cal. Rules of Ct., rule 1.35(a).)</p> <p>The committee is recommending that the Judicial Council approve forms SC-223 and SC-224 for optional use. It should be noted that, if a litigant chooses to use an optional form, the court must</p>

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			<p>would welcome having the option to use whichever form meets the specific needs of their court.</p> <p>Our other concern with the form stems from the issue of interest accrual. Even with the instructions on the back of the form regarding interest, it is going to be very difficult for most filers to correctly apply the interest to which they are entitled. We suggest that perhaps the Court can determine interest owing at the time the declaration and/or responsive declaration are ruled upon. By taking this out of the hands of the litigants, we can ensure that no one is injured by either undue or inadequate interest. Thus, we recommend that section 7 be eliminated and the instructions regarding interest on the back of the form also be removed.</p> <p>On both forms SC-223 and SC-224, we would suggest putting the language about the 10-day window to file a response somewhere on the front of the form, in a prominent place. This would, hopefully, limit the number of late filings received.</p>	<p>accept it. (See Cal. Rules of Ct., rule 1.35(a).)</p> <p>Based on other comments received, the committee will explore the development of additional instructions or tools to help small claims litigants compute post-judgment interest. The committee does not recommend deleting the items and instructions regarding the computation of post-judgment interest from the proposed forms because it concluded that this would increase the court's workload in determining the amount of post-judgment interest.</p> <p>The committee agrees and has revised the introductory instructions on the front of forms SC-223 and SC-224 to include information about the time for filing a response.</p>
12.	<p>Superior Court of San Bernardino County Debra Meyers Director</p>	AM	<p>Suggestion to help compute post-judgment interest Add a spread sheet or other calculator to the California Court's self help site under small claims and reference it in the instructions.</p>	<p>Suggestion to help compute post-judgment interest Based on other comments received, the committee will explore the development of additional instructions or tools to help small claims litigants compute post-judgment interest.</p>

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			<p>Suggestion on form Order of terms “plaintiff and defendant” – since the plaintiff will typically be filing this form, then the form should read “defendant and plaintiff” when discussing the person who didn’t pay per the order.</p> <p>SC-224, Question 8 – it doesn’t seem fair to allow the person who defaulted on the ordered payment plan the option of asking for another chance. The original settlement was based upon the representation that if the party didn’t pay, that the entire amount would be collectable. In most situations, the judgment creditor will have already made allowances for the debtor before coming to court to ask for the entire amount to be collectable. Collecting a judgment is already difficult and to add in another layer of delay doesn’t balance the equities between the parties.</p>	<p>Suggestion on form In response to the comment of the Superior Court of Riverside County, the committee has substituted “judgment debtor” and “judgment creditor” for “plaintiff or defendant” throughout forms SC-223 and SC-224. The committee anticipates that this revision will address the commentator’s concern.</p> <p>The committee has deleted item 8 from the version of Form SC-224 that was circulated for comment, although the committee concluded that there may be extenuating circumstances in which a court would and should continue a payment order after a default (e.g., if the judgment debtor was unexpectedly hospitalized). However, the committee concluded that these instances are rare and that, when they occur, the judgment debtor can request continuation of the payment order in another manner, such as by preparing a customized response or using Form SC-105, <i>Request for Court Order and Answer</i>.</p>
13.	Superior Court of San Diego County Michael M. Roddy Executive Officer	AM	<p>*A form order should be developed for use when the court rules on an allegation that there has been a default in payment of a judgment in installments. To be consistent with other form sets that include an order, an order should be developed; however, our court suggests the order be optional so that courts may individually choose whether or not to use the order form.</p> <p>Do not include email addresses on small claims forms. Litigants and the court do not need e-</p>	<p>Based on the comments received, the committee is recommending approval of an optional form order for use when a court rules on an allegation that there has been a default in payment of a judgment in installments.</p> <p>Based on the weight of the comments received, the committee recommends that Judicial Council</p>

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			<p>mail address information. However, if it is included, the form should indicate that this email information is optional.</p> <p>Additional instructions, forms, or other tools are necessary to help small claims litigants compute post-judgment interest. Our court recommends that SC-220-INFO <i>Payments in Small Claims Cases</i> include information regarding an interest calculator in response to question "How do I calculate Interest?" and include an example. In addition, a tool on the website for any general interest calculation (for small claims or civil) would be very useful. No additional separate forms are needed.</p> <p>Specific comments on proposed forms: SC-223, Item 1: Replace "My name is" with "Name of Judgment Creditor _____" <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant"</p> <p>SC-223, Item 5: Remove the "paid by" column. It is not needed for processing. In addition, our court suggests adding more space for payments.</p> <p>SC-223: "When can the judgment debtor make payments?" section: The last word "collectable" should be "collectible."</p> <p>SC-224: Above suggestions also apply to this</p>	<p>small claims forms include a space for the parties' e-mail addresses and indicate that this information is optional.</p> <p>Based on this comment and others, the committee will explore the development of additional instructions or tools to help small claims litigants compute post-judgment interest. In doing so, the committee will consider this commentator's specific suggestion.</p> <p>Specific comments on proposed forms: The committee does not recommend changing "My name is" to "Name of Judgment Creditor" because recently approved plain language small claims forms use the first approach to requesting the name of the party requesting or responding to a request for a court order.</p> <p>As suggested by the commentator, the committee has replaced the "Paid By" columns on forms SC-223 and SC-224 with columns for indicating additional payments.</p> <p>The committee agrees and has made the suggested revision.</p> <p>Please see the responses above.</p>

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			form.	
14.	John Zeis Assistant Court Executive Officer Superior Court of Shasta County	N	<p>SC-223 (proposed) Item 2 – Parties should <u>not</u> have to fill out two separate forms if payments were joint and several. It's bulky and time-consuming for the party, the clerk and the judge, and more costly for the court as we would have to mail out two forms to each party.</p> <p>Items 3 and 4: Suggest combining 3 & 4 so that the reference to the described judgment in item 5 is more logical.</p> <p>Item 5: See items 3 & 4 above – the description of the judgment is actually both of those sections (the date judgment was entered and the date the payment plan was ordered). If 3 & 4 are not combined, this should refer to item 4 which actually has the payment plan.</p>	<p>SC-223 (proposed) The committee concluded that the instances in which multiple judgment debtors are subject to an order allowing payments are very rare, and that the burden of completing and processing a separate Form SC-223 for each judgment debtor in those instances is outweighed by the confusion that might frequently arise if Form SC-223 were revised to accommodate multiple judgment debtors. The committee also noted that, because Form SC-223 is proposed for optional use, a customized form could be used when there is a default in a payment order that involves multiple judgment debtors.</p> <p>The committee concluded that it is clearer to keep items 3 and 4 separate because item 3 refers to the judgment generally and item 4 refers specifically to the order allowing payment of the judgment in installments, (which may have been made on a different date from the date of the judgment) and because items 4a and 4b of the proposed form are identical to payment provisions in forms SC-200 and SC-223.</p> <p>The committee concluded that item 5 appropriately refers to item 3, because item 5 requests information about all payments made on the judgment, not only about payments made pursuant to the payment order described in item 4.</p>

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			<p>SC-224 (proposed) Items 3 and 4: Suggest combining 3 & 4 (agree/don't agree) under one item; this will keep the forms truly parallel.</p> <p>Item 5: If 3 & 4 are combined, will need to change the reference to the Declaration to item 4.</p> <p>Footer notation CCP §116.620 is the code authorizing the court to allow payments. There is no discussion about a procedure upon default of those payments.</p> <p>Related Note Forms SC-220, Request to Make Payments, and SC-220-INFO, reference CCP § 116.570, which is actually for a Request to Postpone Hearing. This should be CCP § 116.620.</p> <p>Interest calculations Items 5 & 6 on SC-223 & SC-224 do not include the interest calculations; page 2 of 2, [<i>Answers to Common Questions: Is interest added after the judgment?</i>] is too confusing - it</p>	<p>SC-224 (proposed) Because the committee does not recommend combining items 3 and 4 on Form SC-223, the committee concluded that the forms are more parallel and clearer if items 3 and 4 on Form SC-224 are not combined.</p> <p>Because the committee does not recommend combining items 3 and 4, it is unnecessary to change the reference in item 5.</p> <p>Footer notation The committee concluded that forms SC-223 and SC-224 appropriately refer to Code Civ. Proc. §116.620 because it may help users of the forms to identify relevant law. Statutory references on Judicial Council forms are advisory only (see Cal. Rules of Ct., rule 1.30) and, as the commentator notes, section 116.620 is the authority for courts to authorize payments and there is no statute that addresses a default in the authorized payments.</p> <p>Related Note The committee agrees. Staff will propose a technical amendment to correct the statutory references on forms SC-220, SC-220-INFO, and SC-220-INFO-S.</p> <p>Interest calculations The committee does not recommend revising the text regarding whether interest is added after judgment, which is identical to text in Form SC-220-INFO, at this time. The committee agrees that</p>

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	Commentator	Position	Comment	Committee Response
			<p>seems to be mixing the "no payment plan" judgment with a "payment plan" judgment; cannot determine how to calculate or apply interest.</p> <p>Small Claims Advisor information Forms SC-223 & SC-224 suggest going to "County-Specific Court Information" at www.courts.ca.gov/selfhelp/smallclaims. There is no radio button with that title. That page does have a button "Small Claims Legal Advisor" under the "Getting Help" section.</p> <p>Additional Forms We should have forms for the judge's ruling and for notice of hearing.</p>	<p>this information is complex and finds this necessary because court orders vary with respect to whether, under what circumstances, and from when interest accrues.</p> <p>The text under this heading is not intended to provide instructions on how to calculate or apply interest, but such information is provided under the next heading. And, based on responses to a specific question in the Invitation to Comment, the committee will explore the development of additional instructions or tools to help small claims litigants compute post-judgment interest.</p> <p>Small Claims Advisor information The committee agrees with the comment. The proposed forms have been revised to refer directly to a page on the new California Courts website where information about the small claims advisor in each county can be accessed. Additionally, because many other small claims forms contain the identical reference to "County-Specific Court Information," the Administrative Office of the Courts has added a link with that text to the referenced page on the new California Courts website.</p> <p>Additional Forms Based on the comments received, the committee is recommending approval of an optional form order for use when a court rules on an allegation that there has been a default in payment of a judgment in installments.</p>

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Small Claims: Forms to Address Default in Payment of Judgment in Installments (approve forms SC-225 and SC-225A)

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	Commentator	Position	Comment	Committee Response
1.	Orange County Bar Association By Dimetria Jackson, President	A	No narrative comment	No response required
2.	State Bar of California, Committee on Administration of Justice By Saul Bercovitch, Legislative Counsel	NI	<p>CAJ supports this proposal in general, subject to the comments below.</p> <p>CAJ recognizes that Item 2 on proposed form SC-225A follows the language of similar provisions in other the Judicial Council forms, but believes that language is confusing. Proposed Item 2c states: “The total amount of payments is \$ ____ which includes interest on the unpaid balance of the judgment. The actual amount of that interest may change if the payments are made late or early.” Proposed Item 2d states: “The total amount of the payments is the same as the judgment. If all payments are made in full and on time, no interest will be owed on the judgment and the judgment will have been paid in full.”</p> <p>CAJ was not entirely clear on the different scenarios covered by Items 2c and 2d (except for the fact that the blank in Item 2c would presumably be for something other than the amount of the judgment), and why the language in the second sentence of the two items differs. Both items appear to contemplate a situation where there are installments payments and interest is running on an unpaid balance. In addition, the second sentence of Item 2c notes that the actual amount of interest may change if the payments are made late or early. If the actual amount of the interest may change, then</p>	<p>CAJ’s general support is noted.</p> <p>Item 2 on proposed form SC-225A is identical to item 6 on form SC-200 and item 3 on form SC-222, which allow courts to state the terms on which a small claims judgment may be paid in installments.</p> <p>Subitem c of all three items is intended for use when the payment order provides for accrual of interest on the unpaid balance of the judgment and the principal and interest have been amortized in the payment schedule. Subitem c states that early or late payments will change the actual amount of interest because either will result in the accrual of interest different from that calculated in the amortization schedule for payments made on the due date.</p> <p>Subitem d of all three items is intended for use when the payment order does not provide for the</p>

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			the total amount of payments (placed in the blank box) would also change. The second sentence may be confusing by referring to “amount of interest” alone, without reference to the total amount of the payments. Should the second sentence of Item 2c parallel the language of 2d, and read as follows: “If all payments are made in full and on time, no interest will be owed on that amount, and the judgment will have been paid in full.”? Is there a reason why Item 2c refers to late or early payments, and Item 2d refers only to payments made on time?	accrual of interest on the unpaid balance of the judgment if payments are timely made. Subitem d does not refer to early payments because these will not result in a reduction of interest. Subitem d contemplates that, if payments are not timely made, the court will determine whether, and if so from what date and on what amount, interest will accrue.
3.	State Bar of California Standing Committee on the Delivery of Legal Services (SCDLS) By Sharon Ngim, Program Development & Staff Liaison	A	The proposed forms are an order on Declaration of Default in Payments and an attachment to the order for the court to make other or additional orders. These forms fill a void which exists in the small claims forms and do appropriately address the stated purpose of making it easier for the court to use in ruling on allegations that there has been a default in the payment of a small claims judgment that the court ordered may be paid in installments. This form for the order would also make it easier for the litigants to understand these rulings rather than the standard minute order.	No response required
4.	Superior Court of Los Angeles County	AM	#3 should state “...and asked the court to order that the remaining balance of the judgment is <u>immediately</u> due and collectible.”	The committee does not recommend adding “immediately” to the text because the proposed text tracks item 1 of proposed <i>Declaration of Default in Payment of Judgment</i> (form SC-223), which states: I am asking the court to order that the

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				<p>remaining balance of a small claims judgment is now due and collectible because payments were not made as the court ordered.”</p> <p>The word “immediately” is not used in form SC-223, or in the provisions of <i>Notice of Entry of Judgment</i> (form SC-200) and <i>Order on Request to Make Payments</i> (form SC-221) that allow payment of a judgment in installments, both of which state:</p> <p>If any payment is not made in full and on time, the judgment creditor may notify the court to cancel the payment plan and the entire balance will become due and collectible.</p>
5.	Superior Court of San Diego County By Michael M. Roddy, Executive Officer	A	No narrative comment	No response required