

MARIN COUNTY SHERIFF'S DEPARTMENT
CIVIL/DOCUMENTARY SERVICES POLICY AND PROCEDURE MANUAL

CHAPTER THREE – CIVIL PROCES
CIV – 03 – 13
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DATE:
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**WRIT OF POSSESSION OF REAL PROPERTY (EVICTIONS)
RECEIVING, PROCESSING, PREPARING FOR SERVICE, RETURN ON WRIT**

POLICY

A judgment for possession of real property may be enforced by a writ of possession of real property issued pursuant to CCP 712.010. Such a writ should be received and processed according to the following procedure.

PROCEDURE

Receiving the Writ:

When the Writ (see Example 1 attached) is brought to the counter for service, use the form entitled: “Instructions – Writ of Possession” which can be found in the third drawer from the left at the front counter (see Example 2 attached). The plaintiff (or Plaintiff’s agent) completes the form with assistance as necessary. Make sure that the appropriate blanks have been completed on the form, i.e., the name of the person the deputy is to contact in order to gain entry to the premises. Also ensure that the address to be vacated is within Marin County and that it is written on the instruction sheet exactly as it appears on the back of the Writ under 9.e. (the address on the face of the Writ under #4 may be different).

Then go over the Writ while the plaintiff is still there at the counter with you. Make sure that all the appropriate blanks have been filled in (see Example 1). Also ensure that an entry has been made next to Question 9.a.(1) **OR** 9.a.(2). You will need the original Writ + 2 copies. The two copies will be used for posting and service and the original Writ will be kept in the file until you close the case when you will return it to the issuing Court.

Unless there is a completed Waiver of Fees form from the Court or an *in forma pauperis* statement endorsed by a judge, collect a \$75.00 fee for each address that the Deputy is being asked to restore. Please note: the fee is based not on the number of people that may be evicted, but rather the number of addresses. The exception to the multiple address fee rule would be if one door can be used to gain entry to both addresses, i.e., 1A Smith Lane and 1B Smith Lane where there is an unobstructed connecting door between both residences. However, if both addresses use separate entrances, the fee would be $75 \times 2 = \$150$. The fee may be paid by check, money order or cash. If the fee is paid in cash, write a receipt (see Example 3 attached) from the civil receipt book that is kept at the counter. Give the white copy of the receipt to the Plaintiff and keep the pink copy for the file. Put any cash received in the cash register at the end of the counter. If the fee is paid by check or money order, advise the plaintiff that a computer receipt will be mailed when we close the case. Staple the check or pink copy of the receipt, the instruction form, the Original Writ and the 2 copies together. The check/receipt should be on top left side, followed by the instruction form and then the Writ and its copies.

Time stamp the instruction form using a relatively clear area of the form so the stamped date will be visible. Put the papers in the “Writ of Possession” folder located on the table behind the civil work stations. These latest papers should be placed behind any other similar documents that may already be in the folder.

A Writ of Possession received by mail should be reviewed, dated, time stamped, etc. as indicated above. Use of our instruction form is not required, but signed instructions in some format should be included. If there is any inconsistency or omission on the Writ, then the entire package will have to be returned to the sender along with a “Return Mail Form” (see Example 4 attached) with the appropriate indications made.

Processing the Writ of Possession:

Take a new numbered civil case file from the box on the table behind the civil work stations. Log on to any civil work station (see CIV 03-03, Civil System, Logging On). Select “**Go-to-Work**” by typing “**G**” or pressing “**ENTER**” when “**Go-to-Work**” is highlighted. If it is not yet highlighted, you may tab to “**Go-to-Work**.”

Select “**↓Papers**” by hitting the “**↓**” key or pressing “**ENTER**” when “**↓Papers**” is highlighted. (**TAB** to selection if necessary).

Select “FileNo” by typing “**F**” or pressing “**ENTER**” when “FileNo” is highlighted. The cursor will now be blinking near the file no. field. **TAB** past “00” and type in the file number that is pencilled in on the new paper file folder. **TAB** again to go to the next screen.

Select “**Evict**” by typing “**E**” or pressing “**ENTER**” when “Evict” is highlighted.

First Screen

At the “Attorney Name” prompt, start typing in the name of the person who is listed on Writ or the instruction letter or form as the judgment creditor or the judgment creditor’s attorney or representative and then press “**TAB**”. *Note:* you need not worry about lower case or upper case typing – the system will convert everything to caps as each section is completed. Begin the address at the “Addr1” prompt, then press “**TAB**”. Use the “Addr2” line if you need additional space. If not, **TAB** past it to “City”, “State”, and “Zip”.

Fill in the attorney’s phone number, then tab and type in “judgment creditor” at the “Attorney for” prompt.

At the “Court name” prompt type the court name and address. Or, if the court is one that we see often, you may also use the automatic abbreviation system for the most commonly used court names/addresses. To do so, type “/?” to produce a list of those courts along with the abbreviation symbol you should type to have the computer automatically fill in the address lines for you. Once you’ve found the court (and its symbol) from the list, **ESC** from that screen and you will be brought back to the previous screen. FYI: For the Marin County Superior Court, you just need to type /**MS**

At the “Plaintiff” prompt, type the plaintiff’s name exactly as it appears on the Writ, including any references such as “*a California Corporation*”. If there are multiple plaintiffs, separate each plaintiff’s name with a semi-colon. At the “Defendant” prompt, type the defendant’s first name and middle initial or name, if any. Before typing the last name, be sure to place a “**ı**” immediately before the first letter of the last name. If there is more than one defendant, separate each name with a semi-colon, but be sure to start each defendant’s last name with the “**ı**” symbol.

Once you’ve finished with this screen, hit “**N**” or **TAB** over to **Next-Step**. A red box pops up onto the screen which verifies how the defendant’s name will be listed in the Alpha index. If it is listed as you want it, hit “**Enter**” (for **Next-Step**). If the listing needs adjusting, hit “**E**” (or **Edit**) and **TAB** down to defendant’s field at the bottom of the screen and re-type the information. Tab through to the next screen.

Next Screen:

This is the deposit screen. Select the appropriate “person” at the top by typing the first character or tabbing to highlight the selection and pressing “Enter.” Then select “counter” or “mail” as above; then “check” or “money-cash” as above. These three choices will fill in on the deposit record below. If the deposit is a check with no receipt written, tab past “Reference No.” and the system will produce a receipt. If the deposit is cash or a check with a written receipt, type in the last 5 digits of the receipt number at the “Reference No.” prompt. At the “Check No.” prompt enter the last 5 digits of the check deposit or tab through if a cash deposit. At “Received from” type in the appropriate name if different from the one shown. Tab to “Effective date” and type in the date we received the papers (from time stamp on instructions). Tab to next screen and select “Edit” if any corrections are necessary. Tab through, then select “Next-Step.”

Debtor Name Screen:

The cursor blinks at area of the screen that asks for Debtor's name & address. Use the eviction address shown on the writ under 9.e. Once that gray box is completed, the gray box above it (data about the occupant) is automatically filled in by the computer. After "Plaintiff's Agent Name" fill in the name and phone number of the person who will be meeting the deputy for the eviction (this may be the creditor, creditor's attorney or a designated agent).

Ignore the dates on the bottom of the screen. The program installs dates, but they are not realistic. The Deputy will make the arrangements with the contact person to identify the dates that will work for the particular situation. Therefore you just need to "Enter" or "Tab" through these boxes till the Heading choices appear on the top line of the screen. From the Heading, select ".Evict" and then "Finish".

PUTTING OUT FOR SERVICE

Overnight the printer has produced 2 notices, a Notice to Vacate and a Restoration Notice as well as a trip ticket for each event. Before you put the eviction packet out for service, check the reverse side of the writ to see which box under # 9 has been marked. If Box 9.a.(1) has been marked (indicating that a Prejudgment Claim of Right to Possession had already been served), then stamp both trip tickets with the red stamp "No Claim Can Be Filed" (stamp is in stamp box located on civil work table). If Box 9.a.(2) has been marked, then the Prejudgment Claim of Right to Possession still needs to be served and thus must be included in the service packet.

The service packet will consist of three parts which will all get clipped together for the Deputy to serve. The first part, from top to bottom, should be the Notice to Vacate Trip Ticket, the actual Notice to Vacate and a copy of the Writ of Execution. If Box 9.a.(2) is marked, also include a copy of the 2-page "Prejudgment Claim of Right of Possession and Notice of Hearing" (supplies of this located in the forms room) behind the Writ.

The second part of the packet should consist of a copy of the Writ and, if Box 9.a.(2) is marked, another copy of the 2-page *Prejudgment Claim of Right to Possession and Hearing Form*. Wrap the document(s) with a pre-stamped envelope with the evictee's address label (from label sheet in the case file) in place (.33 value unless the Claim of Right to Possession form is in the packet, then .55 value will be needed).

The final part of the service packet consists of the Eviction Trip Ticket and the Restoration Notice. Clip all three portions into 1 packet for the serving Deputy.

IF THERE ARE 2 OR MORE ADDRESSES TO BE VACATED, photocopy "Notice to Vacate" and make another packet for each address.

CLOSING THE CASE (Posting the Results):

The eviction process produces 2 trip tickets and thus 2 "postings". The first trip ticket to be returned by the Deputy is the Notice to Vacate ticket. This will show the date and time that the Deputy went to the property, pasted the Notice to Vacate on the door and mailed a copy of the Writ of Execution to the occupant(s). You would enter this information into the computer by first entering our file number and then selecting the "Post Papers" option from the Heading choices. Choose "Evict". The money field comes up showing \$75.00. Select "Notice Post/Mail". Then enter the Beat No. of the Deputy who did the posting, and finish with the date of the posting.

Some days later the second trip ticket will come to you. If the eviction occurred the ticket will be marked in the "Evicted" box. As described above, call up the file in the computer, select "Post Papers" and then choose "Evict". This time the money field will show \$50.00 left. From the Heading options, select "Satisfied". The next field is the resolved date, i.e., the date the Deputy indicated on the trip ticket that the eviction occurred. Then, to finish the process, select "Post-As-Is".

If the eviction was cancelled, the trip ticket will so indicate. Choose the “**Cancelled**” option from the Heading, enter the Resolved Date and **Post-As-Is**. After entering this information into the computer, be sure to put a “sticky” on the inside file cover saying “\$50 to be returned”. Right now you are putting this away for safe keeping but, after distributing and storing the final papers, you will need this sticker.

Overnight, the computer will have printed the “Return of Writ” form. Sign it with your signature and separate the three copies. Staple the white page of the Return of Writ behind the original Writ. If this a Marin Superior Court case, then 2-hole punch to top and place them in the court distribution box. If the Writ is from another court, then send it to the plaintiff. The yellow copy of the Return of Writ is sent to the Plaintiff and the pink copy remains in our file.

Organize and staple the documents in the file. By working from bottom to top, place the remaining documents in the file in the following order:

- receipt or waiver
- instructions
- Pink copy of Notice to Vacate Return
- Notice to Vacate Trip Tix
- Pink copy of Eviction Return
- Eviction Trip Tix
- pink copy of the Return of Writ

If eviction was cancelled and the plaintiff is due a refund, then put the “\$50 Refund” sticky note on the outside of the file and place it in the tiered shelf unit by the rear work station. If the eviction process is concluded, then place the file in the ‘dead’ files drawer.

FYI: General Background Information:

A landlord (Plaintiff) has four options to see this process to a conclusion:

1. Make appointment with Dave to evict within regular time schedule
2. Cancel request
3. Cancel request but ask us to hold writ for a period of time. We would need additional fees for new instructions at the later date.
4. Make appointment with Dave, but for about a week later – no longer than that.

If **Plaintiff chooses to cancel**, open existing computer case file and check to see if a note exists regarding the cancellation request. If it does not, create one. Then do Return of Writ.

If **Plaintiff has requested a hold**, file will end up in active files. Also put a 180-day tickler to check file at that later date to see if pltf had done anything.