

Persons on Whom Summons May Be Served

General Comments

The types of business entity and documents to be served determine the proper method of service. The law relating to service of entities other than an individual specifies a "person upon whom service may be made". The following are general definitions and guidelines for service on the appropriate person.

Personal Service on Corporate Defendants

CCP § 416.10

To conduct business properly in California, a corporation must file a Statement of Officers and list an agent for service with the California Secretary of State. Many corporations use the words or abbreviations for "corporation or incorporated" in the title of the business name making the business form obvious. Some corporations do business without such a designation. The exact corporate name should conform to the name registered with the Secretary of State. The law recognizes the corporation as a separate legal entity and treats it as a separate person.

A proper personal service on a corporation may be made only on the person holding a managing or controlling position with the company. The persons holding the following office titles are authorized to accept personal service on behalf of a corporation:

- President or Chief Executive Officer
- Vice President
- Corporate Secretary or Assistant Secretary
- Treasurer or Assistant Treasurer
- General Manager
- Agent for Service
- Anyone designated by the corporation to receive service of process.

If a corporate officer or agent for service cannot be found or served, the corporation may be served through the California Secretary of State under Corp. Code § 1702 pursuant to a court order.

CAPACITY NOTICE

NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (*specify*):

3. ☒ **on behalf of (*specify*) : *Exact Name of Corporate Defendant***

under

☒ **CCP 416.10 (corporation)**

☐ CCP 416.60 (minor)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.70 (conservatee)

☐ CCP 416.40 (association or partnership)

☐ CCP 416.90 (individual)

☐ other:

4. ☐ by personal delivery on (date):

Figure 1: Capacity Notice to Corporate Defendant

The summons also shall be marked in "dual capacity" designating a co-defendant corporation or partnership if the individual is a corporate officer. (CCP § 412.30) No default may be taken unless it is marked in dual capacity. The court will need two separate proofs of service, one for each defendant served, and reflecting identical dual capacity notice designations.