

How to Start a Case for Divorce, Legal Separation or Nullity

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|---|--|
| Step 1 | <p>Complete the following forms in blue or black ink:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> FL-110 Summons (Family Law) <input checked="" type="checkbox"/> FL-100 Petition—Marriage/Domestic Partnership <input checked="" type="checkbox"/> Local form FM-1050 Family Law Notice <input type="checkbox"/> Other: _____ <p>Only fill out the following forms if you have minor children with your spouse/partner:</p> <ul style="list-style-type: none"> <input type="checkbox"/> FL-105 Declaration Under Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA) <input type="checkbox"/> FL-311 Child Custody and Visitation (Parenting Time) Application Attachment |
| Step 2 | <p>Copies: Make 2 copies, in addition to the original.</p> |
| Step 3 <p>There is a filing fee unless the fee is waived.</p> | <p>File: File the original and copies in the Clerk's Office of the courthouse located at: 201 North First Street, San Jose, CA 95113</p> <p>The Clerk's Office opens at 8:30am Monday-Friday, closing times are subject to change, visit www.scscourt.org or call 408-534-5600 for current office hours.</p> <ul style="list-style-type: none"> <input type="checkbox"/> If you <u>are not</u> asking for a fee waiver, you will pay the filing fee and get copies back with a file-stamp. <input type="checkbox"/> If you <u>are</u> asking for a fee waiver, your file-stamped copies may be returned immediately, OR you may be asked to return in up to 24 hours, OR your file stamped forms may be mailed to you. Please check with the clerk who takes your forms. |
| Step 4 | <p>Service: After the filed copies are returned to you:</p> <ul style="list-style-type: none"> • Keep for your records—1 filed copy • Serve 1 filed copy and a blank <input checked="" type="checkbox"/> FL-120 <i>Response—Marriage</i>, <input checked="" type="checkbox"/> Local form FM-1021 <i>ADR Options</i> and <input type="checkbox"/> blank FL-105 <i>UCCJEA</i> on the other party. “Service” means: someone, NOT YOU, who is at least 18 years old, must hand-deliver the filed copies to your spouse/partner. <p>Whoever serves the forms must complete the attached <i>Proof of Service of Summons</i> form (FL-115) and give it back to you. You must file the original and a copy of this form at the Clerk's Office. The clerk will file stamp the copy and give it back to you. Keep this copy for your records. Wait 30 days for the other party to have a chance to respond.</p> |
| Step 5 | <p>Preliminary Declarations of Disclosures (PDDs): You must complete the Mandatory Preliminary Declaration of Disclosure process within 60 days of filing your Petition. You may obtain these forms online at www.scscourt.org search “Family Law Form Packets”.</p> |
| Step 6 | <p>Divorce Case Review: Once 30 days have passed from the date the other party was served and you have completed your PDDs, you may complete a Request for Review to Finalize online at www.scscourt.org, search “Divorce Case Review”. If you do not have internet access, you may obtain a hard copy of the review form in the main lobby of the Family Justice Center Courthouse. The Self Help Center will review your file to determine the next steps in your case.</p> |
| NOTE | <ul style="list-style-type: none"> ▪ You will NOT automatically be divorced. You must complete other steps to finish your divorce and get a Judgment. |

Read page 2 for important information →

WHAT ARE THE IMPORTANT DEADLINES?

The court has important things you should do to keep your case on track. The first 2 are:

1. You should **serve your filed Petition and Summons on your spouse/partner within 60 days of filing**.
2. You should **file and serve your “Preliminary Declaration of Disclosure” within 60 days** of opening your case. The **Preliminary Declaration of Disclosures** are mandatory. There are two exceptions to this rule:
 - a. If you have a court order from the Judge that allows you serve by publication or posting.
 - b. If you have filed a Summons/Petition for Nullity only and have not asked for a divorce in the alternative.

In these two instances only, you do not have to complete the disclosure process.

For help with the disclosure forms, you can visit the Self Help Center's website at www.scscourt.org, click on “Complete Forms at Home” to obtain the form packet and sample. You may fill it out on your own or attend the Center’s virtual online workshop. Visit www.scscourt.org, go to “Self Help” then click “Workshops” for more information.

There are additional deadlines you can read about in the court’s Local Rules and the California Rules of Court. You can find both Rules on our website (www.scscourt.org) or at the Santa Clara County Law Library. If you do not follow the Rules and deadlines your case may be dismissed.

WHAT IS A “CONTESTED” DIVORCE?

If your spouse/partner files a *Response* your case is considered a “contested” divorce. Don’t be alarmed!! Your spouse/partner may file a *Response* even if you are in agreement about the terms of your divorce. Filing of a *Response* allows both parties to participate in the process and finish their case by agreement. Couples who are unable to reach agreement will get a final decision from the Judge at a Trial. For information regarding how to get temporary support and/or custody orders, please visit our website at www.scscourt.org. You may also contact us by phone or email (see below).

WHAT DOES “DEFAULT” MEAN?

If your spouse/partner does not file a *Response* within 30 days of being served you can ask the court to let you finish the case without the participation of the other party. This is called “default”. In some cases, couples decide to go this route because they are in agreement. In other cases, the other party ignores the process for various reasons or has lost contact. Please note that there are two steps to getting a default *Judgment*. First, you file a *Request to Enter Default*. If your *Request to Enter Default* is granted, you must submit a proposed *Judgment* for the Judge to review and sign. This *Judgment* can be based on a written agreement that you attach or, if no agreement, based on what you requested in your *Petition*.

HOW LONG DOES IT TAKE TO FINISH THE DIVORCE?

You can be divorced 6 months and a day from the date your spouse was served with the divorce forms provided that a proof of service was filed, or 6 months from the date he/she filed a *Response*, whichever is earlier. However, you will not automatically be divorced after 6 months. Petitioner and/or Respondent must complete and file the necessary forms and documents to finish the case. For information regarding how to finish your case, complete a Request to Review to Finalize form online at www.scscourt.org search “Divorce Case Review”. If you do not have internet access, a hard copy of the review form is available in the main lobby of the Family Justice Center Courthouse.

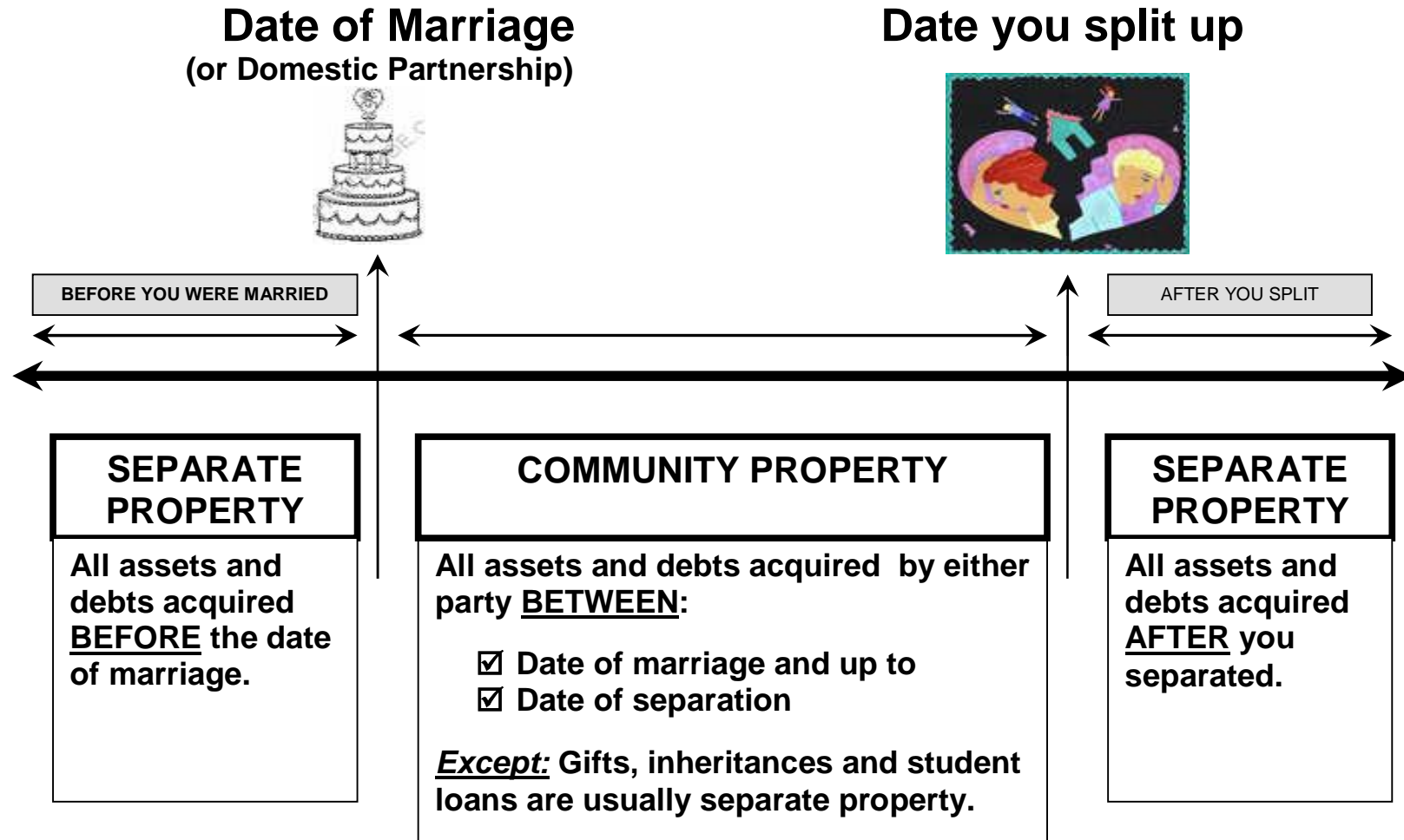
HOW CAN I GET HELP?

Here are some ways to get help:

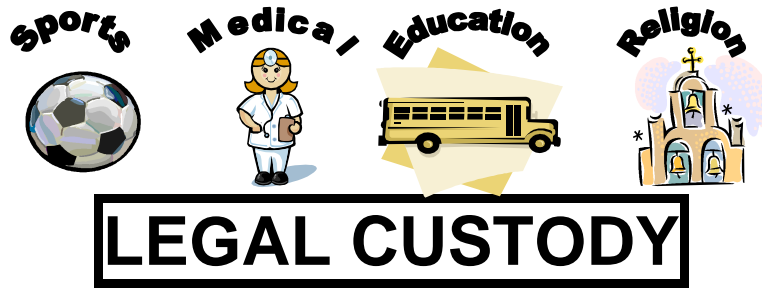
- Go to <http://www.calbar.ca.gov/Public>, then click on “Lawyer Referral services” to hire or consult with a private attorney.
- For free legal advice and information, see our “Do-It-Yourself Resources” flyer. Go to www.scscourt.org, click on “Self-Help” then “Self-Help Flyers”.
- The Self Help Center/Family Law Facilitator – See our information flyer:
 - **Contact us:** Go to www.scscourt.org then click “**Contact the Self Help Center**”. Walk-in assistance is limited to emergencies so contact us remotely first.
 - **Obtain Forms:** Go to www.scscourt.org then click “**Complete Forms at Home**”
 - **Form Review:** Attend our online Divorce Workshop (go to www.scscourt.org, Self Help, then Workshops), then email your forms as a PDF file to SHCDivorce@scscourt.org.
 - Note: We **cannot** help people who have attorneys.

Superior Court, County of Santa Clara
Self Help Center/Family Law Facilitator’s Office
 201 N. First Street, San Jose, CA 95113
 408-882-2926

Community vs. Separate Property



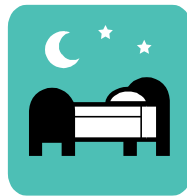
**It does not matter whose name the car or house is in.
It does not matter who was working when you bought the stuff or got the debt.**



Who makes important decisions about the child? For example, who gets to make the important decisions such as where s/he goes to school, whether s/he has surgery or what church or temple s/he goes to?

Sole Legal Custody - YOU make all these decisions by yourself.

Joint Legal Custody - You and the other parent share these decisions.



PHYSICAL CUSTODY

Where will the child mainly live?

Sole or primary physical custody - Your child lives mostly with one parent.

Joint physical custody – Your child lives with you and the other parent nearly an equal amount of time.

BLANK FORMS

START DISSO, WITH MINORS

**THESE ARE THE DOCUMENTS
YOU HAVE TO COMPLETE,
COPY, FILE AND SERVE.**

SUMMONS (Family Law)

CITACIÓN (Derecho familiar)

NOTICE TO RESPONDENT (Name): _____
AVISO AL DEMANDADO (Nombre): _____
 (Spouse/Domestic Partner's Legal Name)

FOR COURT USE ONLY
 (SOLO PARA USO DE LA CORTE)

You have been sued. Read the information below and on the next page.
Lo han demandado. Lea la información a continuación y en la página siguiente.

Petitioner's name is: _____
Nombre del demandante: _____
 (Your Legal Name)

CASE NUMBER (NÚMERO DE CASO): _____

You have **30 calendar days** after this *Summons* and *Petition* are served on you to file a *Response* (form [FL-120](#)) at the court and have a copy served on the petitioner. A letter, phone call, or court appearance will not protect you.

If you do not file your *Response* on time, the court may make orders affecting your marriage or domestic partnership, your property, and custody of your children. You may be ordered to pay support and attorney fees and costs.

For legal advice, contact a lawyer immediately. Get help finding a lawyer at the California Courts Online Self-Help Center (www.courts.ca.gov/selfhelp), at the California Legal Services website (www.lawhelpca.org), or by contacting your local county bar association.

Tiene 30 días de calendario después de haber recibido la entrega legal de esta Citación y Petición para presentar una Respuesta (formulario [FL-120](#)) ante la corte y efectuar la entrega legal de una copia al demandante. Una carta o llamada telefónica o una audiencia de la corte no basta para protegerlo.

Si no presenta su Respuesta a tiempo, la corte puede dar órdenes que afecten su matrimonio o pareja de hecho, sus bienes y la custodia de sus hijos. La corte también le puede ordenar que pague manutención, y honorarios y costos legales.

Para asesoramiento legal, póngase en contacto de inmediato con un abogado. Puede obtener información para encontrar un abogado en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en el sitio web de los Servicios Legales de California (www.lawhelpca.org) o poniéndose en contacto con el colegio de abogados de su condado.

NOTICE—RESTRAINING ORDERS ARE ON PAGE 2:
 These restraining orders are effective against both spouses or domestic partners until the petition is dismissed, a judgment is entered, or the court makes further orders. They are enforceable anywhere in California by any law enforcement officer who has received or seen a copy of them.

AVISO—LAS ÓRDENES DE RESTRICCIÓN SE ENCUENTRAN EN LA PÁGINA 2: Las órdenes de restricción están en vigencia en cuanto a ambos cónyuges o miembros de la pareja de hecho hasta que se despidan la petición, se emita un fallo o la corte dé otras órdenes. Cualquier agencia del orden público que haya recibido o visto una copia de estas órdenes puede hacerlas acatar en cualquier lugar de California.

FEE WAIVER: If you cannot pay the filing fee, ask the clerk for a fee waiver form. The court may order you to pay back all or part of the fees and costs that the court waived for you or the other party.

EXENCIÓN DE CUOTAS: Si no puede pagar la cuota de presentación, pida al secretario un formulario de exención de cuotas. La corte puede ordenar que usted pague, ya sea en parte o por completo, las cuotas y costos de la corte previamente exentos a petición de usted o de la otra parte.

[SEAL]

1. The name and address of the court are (*El nombre y dirección de la corte son*):
Family Justice Center Courthouse
Street Address: 201 N. First Street, San Jose, CA 95113
Mailing Address: 191 N. First Street, San Jose, CA 95113
2. The name, address, and telephone number of the petitioner's attorney, or the petitioner without an attorney, are: (*El nombre, dirección y número de teléfono del abogado del demandante, o del demandante si no tiene abogado, son*):
 Your Legal Name: _____
 Your Street Address: _____
 City, State, Zip Code: _____
 Your Phone Number: _____

Date (*Fecha*): _____ Clerk , by (*Secretario, por*) _____ , Deputy (*Asistente*)

STANDARD FAMILY LAW RESTRAINING ORDERS

Starting immediately, you and your spouse or domestic partner are restrained from:

1. removing the minor children of the parties from the state or applying for a new or replacement passport for those minor children without the prior written consent of the other party or an order of the court;
2. cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties and their minor children;
3. transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, without the written consent of the other party or an order of the court, except in the usual course of business or for the necessities of life; and
4. creating a nonprobate transfer or modifying a nonprobate transfer in a manner that affects the disposition of property subject to the transfer, without the written consent of the other party or an order of the court. Before revocation of a nonprobate transfer can take effect or a right of survivorship to property can be eliminated, notice of the change must be filed and served on the other party.

You must notify each other of any proposed extraordinary expenditures at least five business days prior to incurring these extraordinary expenditures and account to the court for all extraordinary expenditures made after these restraining orders are effective. However, you may use community property, quasi-community property, or your own separate property to pay an attorney to help you or to pay court costs.

NOTICE—ACCESS TO AFFORDABLE HEALTH

INSURANCE: Do you or someone in your household need affordable health insurance? If so, you should apply for Covered California. Covered California can help reduce the cost you pay towards high quality affordable health care. For more information, visit www.coveredca.com. Or call Covered California at 1-800-300-1506.

WARNING—IMPORTANT INFORMATION

California law provides that, for purposes of division of property upon dissolution of a marriage or domestic partnership or upon legal separation, property acquired by the parties during marriage or domestic partnership in joint form is presumed to be community property. If either party to this action should die before the jointly held community property is divided, the language in the deed that characterizes how title is held (i.e., joint tenancy, tenants in common, or community property) will be controlling, and not the community property presumption. You should consult your attorney if you want the community property presumption to be written into the recorded title to the property.

ÓRDENES DE RESTRICCIÓN ESTÁNDAR DE DERECHO FAMILIAR

En forma inmediata, usted y su cónyuge o pareja de hecho tienen prohibido:

1. *llevarse del estado de California a los hijos menores de las partes, o solicitar un pasaporte nuevo o de repuesto para los hijos menores, sin el consentimiento previo por escrito de la otra parte o sin una orden de la corte;*
2. *cobrar, pedir prestado, cancelar, transferir, deshacerse o cambiar el nombre de los beneficiarios de cualquier seguro u otro tipo de cobertura, como de vida, salud, vehículo y discapacidad, que tenga como beneficiario(s) a las partes y su(s) hijo(s) menor(es);*
3. *transferir, gravar, hipotecar, ocultar o deshacerse de cualquier manera de cualquier propiedad, inmueble o personal, ya sea comunitaria, cuasicomunitaria o separada, sin el consentimiento escrito de la otra parte o una orden de la corte, excepto en el curso habitual de actividades personales y comerciales o para satisfacer las necesidades de la vida; y*
4. *crear o modificar una transferencia no testamentaria de manera que afecte la asignación de una propiedad sujeta a transferencia, sin el consentimiento por escrito de la otra parte o una orden de la corte. Antes de que se pueda eliminar la revocación de una transferencia no testamentaria, se debe presentar ante la corte un aviso del cambio y hacer una entrega legal de dicho aviso a la otra parte.*

Cada parte tiene que notificar a la otra sobre cualquier gasto extraordinario propuesto por lo menos cinco días hábiles antes de realizarlo, y rendir cuenta a la corte de todos los gastos extraordinarios realizados después de que estas órdenes de restricción hayan entrado en vigencia. No obstante, puede usar propiedad comunitaria, cuasicomunitaria o suya separada para pagar a un abogado que lo ayude o para pagar los costos de la corte.

AVISO—ACCESO A SEGURO DE SALUD MÁS ECONÓMICO:

¿Necesita seguro de salud a un costo asequible, ya sea para usted o alguien en su hogar? Si es así, puede presentar una solicitud con Covered California. Covered California lo puede ayudar a reducir el costo que paga por seguro de salud asequible y de alta calidad. Para obtener más información, visite www.coveredca.com. O llame a Covered California al 1-800-300-0213.

ADVERTENCIA—INFORMACIÓN IMPORTANTE

De acuerdo a la ley de California, las propiedades adquiridas por las partes durante su matrimonio o pareja de hecho en forma conjunta se consideran propiedad comunitaria para fines de la división de bienes que ocurre cuando se produce una disolución o separación legal del matrimonio o pareja de hecho. Si cualquiera de las partes de este caso llega a fallecer antes de que se divida la propiedad comunitaria de tenencia conjunta, el destino de la misma quedará determinado por las cláusulas de la escritura correspondiente que describen su tenencia (por ej., tenencia conjunta, tenencia en común o propiedad comunitaria) y no por la presunción de propiedad comunitaria. Si quiere que la presunción comunitaria quede registrada en la escritura de la propiedad, debería consultar con un abogado.

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| PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name): Self-Represented | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 201 N. First Street, San Jose, CA 95113 MAILING ADDRESS: 191 N. First Street, San Jose, CA 95113 CITY AND ZIP CODE: BRANCH NAME: Family Justice Center Courthouse | |
| PETITIONER: RESPONDENT: | |
| PETITION FOR <input type="checkbox"/> Dissolution (Divorce) of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Legal Separation of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Nullity of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership | <input type="checkbox"/> AMENDED CASE NUMBER: |

1. **LEGAL RELATIONSHIP** (check all that apply):
 - a. We are married.
 - b. We are domestic partners and our domestic partnership was established in California.
 - c. We are domestic partners and our domestic partnership was NOT established in California.

2. **RESIDENCE REQUIREMENTS** (check all that apply):
 - a. Petitioner Respondent has been a resident of this state for at least six months and of this county for at least three months immediately preceding the filing of this *Petition*. (For a divorce, unless you are in the legal relationship described in 1b., at least one of you must comply with this requirement.)
 - b. Our domestic partnership was established in California. Neither of us has to be a resident or have a domicile in California to dissolve our partnership here.
 - c. We are the same sex, were married in California, but currently live in a jurisdiction that does not recognize, and will not dissolve, our marriage. This *Petition* is filed in the county where we married.
 Petitioner lives in (specify): _____ Respondent lives in (specify): _____

3. **STATISTICAL FACTS**
 - a. (1) Date of marriage (specify): _____ (2) Date of separation (specify): _____
 (3) Time from date of marriage to date of separation (specify): _____ Years _____ Months
 - b. (1) Registration date of domestic partnership with the California Secretary of State or other state equivalent (specify below): _____
 (2) Date of separation (specify): _____
 (3) Time from date of registration of domestic partnership to date of separation (specify): _____ Years _____ Months

4. **MINOR CHILDREN**
 - a. There are no minor children.
 - b. The minor children are:

| | | |
|--|------------------|------------|
| | <u>Birthdate</u> | <u>Age</u> |
|--|------------------|------------|

- (1) continued on Attachment 4b.
- (2) a child who is not yet born.
- c. If any children listed above were born before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage or domestic partnership.
- d. If there are minor children of Petitioner and Respondent, a completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105) must be attached.
- e. Petitioner and Respondent signed a voluntary declaration of parentage or paternity. (Attach a copy if available.)

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| PETITIONER: RESPONDENT: | CASE NUMBER: |
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Petitioner requests that the court make the following orders:

5. LEGAL GROUNDS (Family Code sections 2200–2210, 2310–2312)

- a. Divorce or Legal separation of the marriage or domestic partnership based on (*check one*):
 (1) irreconcilable differences. (2) permanent legal incapacity to make decisions.
- b. Nullity of void marriage or domestic partnership based on
 (1) incest. (2) bigamy.
- c. Nullity of voidable marriage or domestic partnership based on
 (1) petitioner's age at time of registration of domestic partnership or marriage. (4) fraud.
 (2) prior existing marriage or domestic partnership. (5) force.
 (3) unsound mind. (6) physical incapacity.

6. CHILD CUSTODY AND VISITATION (PARENTING TIME)

- a. Legal custody of children to.....
- b. Physical custody of children to.....
- c. Child visitation (parenting time) be granted to
- As requested in form FL-311 form FL-312
 form FL-341(D) form FL-341(E)

| | Petitioner | Respondent | Joint | Other |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Legal custody of children to..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Physical custody of children to..... | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Child visitation (parenting time) be granted to | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> form <u>FL-341(C)</u> | | | | |
| <input type="checkbox"/> Attachment 6c(1) | | | | |

7. CHILD SUPPORT

- a. If there are minor children born to or adopted by Petitioner and Respondent before or during this marriage or domestic partnership, the court will make orders for the support of the children upon request and submission of financial forms by the requesting party.
- b. An earnings assignment may be issued without further notice.
- c. Any party required to pay support must pay interest on overdue amounts at the "legal" rate, which is currently 10 percent.
- d. Other (*specify*):

8. SPOUSAL OR DOMESTIC PARTNER SUPPORT

- a. Spousal or domestic partner support payable to Petitioner Respondent
- b. Terminate (end) the court's ability to award support to Petitioner Respondent
- c. Reserve for future determination the issue of support payable to Petitioner Respondent
- d. Other (*specify*):

9. SEPARATE PROPERTY

- a. There are no such assets or debts that I know of to be confirmed by the court.
- b. Confirm as separate property the assets and debts in *Property Declaration* (form FL-160). Attachment 9b.
 the following list. Item Confirm to

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| PETITIONER: | CASE NUMBER: |
| RESPONDENT: | |

10. COMMUNITY AND QUASI-COMMUNITY PROPERTY

- a. There are no such assets or debts that I know of to be divided by the court.
- b. Determine rights to community and quasi-community assets and debts. All such assets and debts are listed
 - in *Property Declaration* (form FL-160) in Attachment 10b.
 - as follows (*specify*):

11. OTHER REQUESTS

- a. Attorney's fees and costs payable by Petitioner Respondent
- b. Petitioner's former name be restored to (*specify*):
- c. Other (*specify*):

Continued on Attachment 11c.

12. I HAVE READ THE RESTRAINING ORDERS ON THE BACK OF THE SUMMONS, AND I UNDERSTAND THAT THEY APPLY TO ME WHEN THIS PETITION IS FILED.

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

Date:

| | | |
|----------------------|---|---------------------------|
| (TYPE OR PRINT NAME) | ▶ | (SIGNATURE OF PETITIONER) |
|----------------------|---|---------------------------|

Date:

| | | |
|----------------------|---|--|
| (TYPE OR PRINT NAME) | ▶ | (SIGNATURE OF ATTORNEY FOR PETITIONER) |
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FOR MORE INFORMATION: Read *Legal Steps for a Divorce or Legal Separation* (**form FL-107-INFO**) and visit "Families Change" at www.familieschange.ca.gov — an online guide for parents and children going through divorce or separation.

NOTICE: You may redact (black out) social security numbers from any written material filed with the court in this case other than a form used to collect child, spousal or partner support.

NOTICE—CANCELLATION OF RIGHTS: Dissolution or legal separation may automatically cancel the rights of a domestic partner or spouse under the other domestic partner's or spouse's will, trust, retirement plan, power of attorney, pay-on-death bank account, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel the right of a domestic partner or spouse as beneficiary of the other partner's or spouse's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement plans, and credit reports, to determine whether they should be changed or whether you should take any other actions. Some changes may require the agreement of your partner or spouse or a court order.

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| PETITIONER: RESPONDENT: OTHER PARENT/PARTY: | CASE NUMBER: |
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CHILD CUSTODY AND VISITATION (PARENTING TIME) APPLICATION ATTACHMENT

—This is not a court order—

TO Petition Response Request for Order Responsive Declaration to Request for Order
 Other (specify):

1. a. **Custody.** Custody of the minor children of the parties is requested as follows: [Attachment 1a.](#)

| | | | |
|---------------------|----------------------|--|--|
| | | <u>Legal Custody to</u> | <u>Physical Custody to</u> |
| <u>Child's Name</u> | <u>Date of Birth</u> | <i>(person who decides about the child's health, education, and welfare)</i> | <i>(person the child regularly lives with)</i> |

b. **Custody with allegations of a history of abuse or substance abuse**

- (1) Petitioner Respondent Other parent/party is (or are) alleged to have a history of abuse against any of the following persons: a child, the other parent, their current spouse, or the person they live with or are dating or engaged to.
- (2) Petitioner Respondent Other parent/party is (or are) alleged to have the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.
- (3) I ask that the court NOT order sole or joint custody of the minor child to the person(s) alleged to have a history of abuse or substance abuse.
- (4) Even though there are allegations, I ask that the court make the child custody orders in item 1a.
(Write the reasons why you think it would be good for the children that the person(s) be granted custody, even though there are allegations against them of a history of abuse or substance abuse.)
 Below: [Attachment 1b.](#) Other (specify):

2. **Visitation (Parenting Time).**

Note: Unless specifically ordered, a child's holiday schedule order has priority over the regular parenting time.

- a. Reasonable right of parenting time (visitation) to the party without physical custody (**not appropriate in cases involving domestic violence**).
- b. See the attached _____ -page document dated (specify date):
- c. The parties will go to child custody mediation or child custody recommending counseling at (specify date, time, and location):
 Family Court Services
 www.scscourt.org
 201 N. First Street
 San Jose, CA 95113
- d. No visitation (parenting time).

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| PETITIONER: RESPONDENT: OTHER PARENT/PARTY: | CASE NUMBER: |
|---|--------------|

e. Visitation (parenting time). (Specify start and ending date and time. If applicable, check "start of" OR "after school.")

Petitioner's **Respondent's** **Other Parent's/Party's** parenting time (visitation) will be as follows:

(1) **Weekends starting (date):**

(Note: The first weekend of the month is the first weekend with a Saturday.)

1st 2nd 3rd 4th 5th weekend of the month

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(a) The parties will alternate the fifth weekends, with the petitioner respondent
 other parent/party having the initial fifth weekend, which starts (date):

(b) The petitioner respondent other parent/party will have the fifth
 weekend in odd even numbered months.

(2) **Alternate weekends starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(3) **Weekdays starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(4) Other visitation (parenting time) days and restrictions are: [listed in Attachment 2e\(4\)](#)
 as follows:

3. **Visitation (parenting time) with allegations of a history of abuse, substance abuse, or other parenting concerns**

a. **Supervised visitation (parenting time)**

(1) I ask that petitioner respondent other parent/party have supervised visitation
 with the minor children according to the schedule in item 2 because of (specify):

(a) Domestic violence, child abuse, or neglect.

(b) Substance abuse: the habitual or continual illegal use of controlled substances, or the habitual
 or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled
 substances.

(c) Other parenting concerns (specify below):

(2) The reasons why the court should make the orders are (specify):

(Write the reasons why you think unsupervised visitation (parenting time) would be bad for the children.)

Below [in Attachment 3a\(2\)](#) Other (specify):

| | |
|---|--------------|
| PETITIONER: RESPONDENT: OTHER PARENT/PARTY: | CASE NUMBER: |
|---|--------------|

(3) I ask for the following orders about the supervised visitation provider:

(a) Visitation (parenting time) be monitored by *(name, if known)*:

(i) The person or agency is a professional provider. A professional provider must meet the requirements listed in *Declaration of Supervised Visitation Provider (Professional)* ([form FL-324\(P\)](#)) and sign the declaration.

(ii) The person is a nonprofessional provider. That person must meet the requirements listed in *Declaration of Supervised Visitation Provider (Nonprofessional)* ([form FL-324\(NP\)](#)) and sign a declaration.

(iii) The provider's phone number is *(specify)*:

(b) Any costs of supervision be paid as follows: petitioner: _____ percent; respondent: _____ percent.
 other parent/party: _____ percent.

b. **Unsupervised visitation (parenting time)**

(Complete 3b only if you want the court to order unsupervised visitation to a person alleged to have a history of abuse or substance abuse.)

(1) Petitioner Respondent Other parent/party _____ is (or are) alleged to have a history of abuse against any of the following persons: a child, the other parent, their current spouse, or the person they live with or are dating or engaged to.

(2) Petitioner Respondent Other parent/party _____ is (or are) alleged to have the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.

(3) Even though there are allegations of a history of abuse or substance abuse, I request that the court order unsupervised visitation to *(specify)*: Petitioner Respondent Other parent/party

(4) The reasons why the court should make the orders are *(specify)*:
(Write the reasons why you think it would be good for the children that the person(s) be granted unsupervised visitation (parenting time) even though there are allegations against them of a history of abuse or substance abuse.)

Below: [in Attachment 3b.](#) Other *(specify)*:

(5) *The orders for visitation (parenting time) that you request must be specific as to time, day, place, and manner of transfer of the child, as Family Code section 6323(c) requires.*

4. **Transportation for visitation (parenting time) and place of exchange**

Note: In cases of domestic violence, the court must have enough information to make orders that are specific as to the time, place, and manner of transfer (exchange) of the child for custody and visitation under Family Code section 6323(c).

a. The children must be driven only by a licensed and insured driver. The vehicle must be legally registered with the Department of Motor Vehicles and must have child restraint devices properly installed, as required by law.

b. Transportation **to** begin the visits will be provided by *(name)*:

c. Transportation **from** the visits will be provided by *(name)*:

d. The exchange point at the beginning of the visit will be *(address)*:

e. The exchange point at the end of the visit will be *(address)*:

f. During the exchanges, the party driving the children will wait in the car and the other party will wait in the home (or exchange location) while the children go between the car and the home (or exchange location).

g. Other *(specify)*:

| | |
|---|--------------|
| PETITIONER: RESPONDENT: OTHER PARENT/PARTY: | CASE NUMBER: |
|---|--------------|

5. **Travel with children** The Petitioner Respondent Other parent/party **must** have written permission from the other parent or party, or a court order, to take the children out of the following places:
- a. the state of California.
 - b. the following counties (*specify*):
 - c. other places (*specify*):
6. **Child abduction prevention.** There is a risk that one of the parties will take the children out of California without the other party's permission. I request the orders set out on attached [form FL-312](#).
7. **Children's holiday schedule.** I request the holiday and vacation schedule set out below [on form FL-341\(C\)](#)
8. **Additional custody provisions.** I request the additional orders for custody set out below [on form FL-341\(D\)](#)
9. **Joint legal custody provisions.** I request joint legal custody and want the additional orders set out below [on form FL-341\(E\)](#)
10. **Other.** I request the following additional orders (*specify*):

| | |
|--|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Your Legal Name: _____ Your Street Address: _____ City, State, Zip Code: _____ TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): Self-represented | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 201 N. First Street, San Jose, CA 95113 MAILING ADDRESS: 191 N. First Street, San Jose, CA 95113 CITY AND ZIP CODE: BRANCH NAME: Family Justice Center Courthouse | |
| (This section applies only to family law cases.) PETITIONER: RESPONDENT: OTHER PARTY: | |
| (This section applies only to guardianship cases.) GUARDIANSHIP OF (Name): _____ Minor | CASE NUMBER: _____ |
| DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA) | |

1. **I am a party** to this proceeding to determine custody of a child.
2. My present address and the present address of each child residing with me is confidential under Family Code section 3429 as I have indicated in item 3.
3. There are (specify number): _____ minor children who are subject to this proceeding, as follows:
(Insert the information requested below. The residence information must be given for the last FIVE years.)

| a. Child's name | Place of birth | Date of birth | Sex | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---------------------------------------|---|---|--------------|--|---------------------------------------|---------------------------------------|--|---------------------|---------------------------------|---|--------------|------------|---------------------------------------|---|--|----|---------------------------------|---|--|----|---------------------------------|---|--|----|---------------------------------|---|--|--|--|--|
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20%;">Period of residence</td> <td style="width:30%;">Address</td> <td style="width:40%;">Person child lived with (name and complete current address)</td> <td style="width:10%;">Relationship</td> </tr> <tr> <td style="text-align: center;">to present</td> <td><input type="checkbox"/> Confidential</td> <td><input type="checkbox"/> Confidential</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> </table> | Period of residence | Address | Person child lived with (name and complete current address) | Relationship | to present | <input type="checkbox"/> Confidential | <input type="checkbox"/> Confidential | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | |
| Period of residence | Address | Person child lived with (name and complete current address) | Relationship | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to present | <input type="checkbox"/> Confidential | <input type="checkbox"/> Confidential | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:40%;">b. Child's name</td> <td style="width:25%;">Place of birth</td> <td style="width:25%;">Date of birth</td> <td style="width:10%;">Sex</td> </tr> <tr> <td colspan="4"><input type="checkbox"/> Residence information is the same as given above for child a. (If NOT the same, provide the information below.)</td> </tr> <tr> <td style="width:20%;">Period of residence</td> <td style="width:30%;">Address</td> <td style="width:40%;">Person child lived with (name and complete current address)</td> <td style="width:10%;">Relationship</td> </tr> <tr> <td style="text-align: center;">to present</td> <td><input type="checkbox"/> Confidential</td> <td><input type="checkbox"/> Confidential</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> </table> | b. Child's name | Place of birth | Date of birth | Sex | <input type="checkbox"/> Residence information is the same as given above for child a. (If NOT the same, provide the information below.) | | | | Period of residence | Address | Person child lived with (name and complete current address) | Relationship | to present | <input type="checkbox"/> Confidential | <input type="checkbox"/> Confidential | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | |
| b. Child's name | Place of birth | Date of birth | Sex | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Residence information is the same as given above for child a. (If NOT the same, provide the information below.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Period of residence | Address | Person child lived with (name and complete current address) | Relationship | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to present | <input type="checkbox"/> Confidential | <input type="checkbox"/> Confidential | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

- c. Additional residence information for a child listed in item a or b is continued on attachment 3c.
- d. Additional children are listed on form FL-105(A)/GC-120(A). (Provide all requested information for additional children.)



| | |
|-----------------------|-----------------------|
| SHORT TITLE: _____ | CASE NUMBER: _____ |
|-----------------------|-----------------------|

4. Do you have information about, or have you participated as a party or as a witness or in some other capacity in, another court case or custody or visitation proceeding, in California or elsewhere, concerning a child subject to this proceeding?

Yes No (If yes, attach a copy of the orders (if you have one) and provide the following information):

| Proceeding | Case number | Court <i>(name, state, location)</i> | Court order or judgment <i>(date)</i> | Name of each child | Your connection to the case | Case status |
|--|-------------|---|---|--------------------|-----------------------------------|-------------|
| a. <input type="checkbox"/> Family | | | | | | |
| b. <input type="checkbox"/> Guardianship | | | | | | |
| c. <input type="checkbox"/> Other | | | | | | |

| Proceeding | Case Number | Court <i>(name, state, location)</i> |
|--|-------------|--------------------------------------|
| d. <input type="checkbox"/> Juvenile Delinquency/ Juvenile Dependency | | |
| e. <input type="checkbox"/> Adoption | | |

5. One or more domestic violence restraining/protective orders are now in effect. (Attach a copy of the orders if you have one and provide the following information):

| Court | County | State | Case number <i>(if known)</i> | Orders expire <i>(date)</i> |
|--|--------|-------|-------------------------------|-----------------------------|
| a. <input type="checkbox"/> Criminal | | | | |
| b. <input type="checkbox"/> Family | | | | |
| c. <input type="checkbox"/> Juvenile Delinquency/ Juvenile Dependency | | | | |
| d. <input type="checkbox"/> Other | | | | |

6. Do you know of any person who is not a party to this proceeding who has physical custody or claims to have custody of or visitation rights with any child in this case? Yes No (If yes, provide the following information):

| | | |
|---|---|---|
| a. Name and address of person <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights Name of each child | b. Name and address of person <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights Name of each child | c. Name and address of person <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights Name of each child |
|---|---|---|

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

Date: _____

_____ ▶ _____
 (TYPE OR PRINT NAME) (SIGNATURE OF DECLARANT)

7. Number of pages attached: _____

NOTICE TO DECLARANT: You have a continuing duty to inform this court if you obtain any information about a custody proceeding in a California court or any other court concerning a child subject to this proceeding.

| | |
|--|---------------------------|
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA STREET ADDRESS: 201 North First Street, San José, CA 95113 MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San José, California 95113 BRANCH NAME: Family Justice Center | <i>FOR COURT USE ONLY</i> |
| PETITIONER: | |
| RESPONDENT: | |
| FAMILY LAW NOTICE Dissolution/Legal Separation/Nullity/Parentage | CASE NUMBER: |

PLEASE READ THIS ENTIRE FORM

Your case has been assigned to Judge _____ in Department: _____ for all purposes at the Family Courthouse Located at: 201 North First Street, San José, CA 95113.

TO THE PETITIONER (the person who started the case): You must serve a copy of this notice on the other party. YOU CANNOT SERVE THE OTHER PARTY YOURSELF.

TO THE RESPONDENT (the person who did not start the case): If you want to protect your rights and participate in this case, you must file a Response with the Court within **30 days** of being served.

RULES FOR THE STATUS CONFERENCE:

You must follow the California Rules of Court, the Superior Court of California, County of Santa Clara Local Family Law Rules and you must use the correct forms. You can access the California Rules of Court and Judicial Council forms at www.courts.ca.gov/rules.htm and the Local Family Law Rules and Local forms at www.scscourt.org.

A final Judgment will NOT be entered in your case automatically. You must take further action to finish your case!

IF YOU NEED HELP:

- Please visit the Self Help section on the Court's website at www.scscourt.org
- For a low cost consultation with a private attorney contact the Santa Clara County Bar Association at (408) 971-6822 (or www.sccbba.com).
- You can also email, call or Live Chat the Court's Self Help Center by going to www.scscourt.org, then click "Contact the Self Help Center".

If, after reviewing the Court's website or other information, you would like to schedule a Status Conference to review the status of your case and next steps to finish it, you may contact the Family Court Clerk's Office at (408) 534-5600 or visit them in person at one of the three courthouses listed above during regular Court business hours. **The purpose of the Status Conference is to review your case's progress; it is not the date when your case is actually finished.**

PROOF OF SERVICE

START DISSO, WITH MINORS

**TO BE COMPLETED BY THE SERVER
(SEE INSTRUCTIONS FOR DETAILS)**

| | |
|--|---------------------------|
| PARTY WITHOUT ATTORNEY or ATTORNEY STATE BAR NO.: NAME: _____ FIRM NAME: Self-Represented STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR (name): Self-Represented | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 201 N. First Street, San Jose, CA 95113 MAILING ADDRESS: 191 N. First Street, San Jose, CA 95113 CITY AND ZIP CODE: BRANCH NAME: Family Justice Center Courthouse | |
| PETITIONER: RESPONDENT: | |
| PROOF OF SERVICE OF SUMMONS | CASE NUMBER: |

1. At the time of service I was at least 18 years of age and not a party to this action. **I served the respondent with copies of:**
- a. Family Law: *Petition—Marriage/Domestic Partnership* (form [FL-100](#)), *Summons* (form [FL-110](#)), and blank *Response—Marriage/Domestic Partnership* (form [FL-120](#))
 - or—
 - b. Uniform Parentage: *Petition to Determine Parental Relationship* (form [FL-200](#)), *Summons* (form [FL-210](#)), and blank *Response to Petition to Determine Parental Relationship* (form [FL-220](#))
 - or—
 - c. Custody and Support: *Petition for Custody and Support of Minor Children* (form [FL-260](#)), *Summons* (form [FL-210](#)), and blank *Response to Petition for Custody and Support of Minor Children* (form [FL-270](#))
 - and**
 - d. (1) Completed and blank *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form [FL-105](#))
 - (2) Completed and blank *Declaration of Disclosure* (form [FL-140](#))
 - (3) Completed and blank *Schedule of Assets and Debts* (form [FL-142](#))
 - (4) Completed and blank *Income and Expense Declaration* (form [FL-150](#))
 - (5) Completed and blank *Financial Statement (Simplified)* (form [FL-155](#))
 - (6) Completed and blank *Property Declaration* (form [FL-160](#))
 - (7) *Request for Order* (form [FL-300](#)), and blank *Responsive Declaration to Request for Order* (form [FL-320](#))
 - (8) Other (specify):
 ADR Options (Local form FM-1021);
 Family Law Notice (Local form FM-1050)

2. Address where respondent was served:

3. I served the respondent by the following means (check proper boxes):
- a. **Personal service.** I personally delivered the copies to the respondent (Code Civ. Proc., § 415.10) on (date): _____ at (time): _____
 - b. **Substituted service.** I left the copies with or in the presence of (name): _____ who is (specify title or relationship to respondent): _____
 - (1) **(Business)** a person at least 18 years of age who was apparently in charge at the office or usual place of business of the respondent. I informed the person of the general nature of the papers.
 - (2) **(Home)** a competent member of the household (at least 18 years of age) at the home of the respondent. I informed the person of the general nature of the papers.
 on (date): _____ at (time): _____

I thereafter mailed additional copies (by first class, postage prepaid) to the respondent at the place where the copies were left (Code Civ. Proc., § 415.20b) on (date): _____

A **declaration of diligence** is attached, stating the actions taken to first attempt personal service.

| | |
|----------------------------|--------------|
| PETITIONER: RESPONDENT: | CASE NUMBER: |
|----------------------------|--------------|

3. c. **Mail and acknowledgment service.** I mailed the copies to the respondent, addressed as shown in item 2, by first-class mail, postage prepaid, on *(date)*: _____ from *(city)*: _____
- (1) with two copies of the *Notice and Acknowledgment of Receipt* (form [FL-117](#)) and a postage-paid return envelope addressed to me. **(Attach completed *Notice and Acknowledgment of Receipt* (form [FL-117](#))).** (Code Civ. Proc., § 415.30.)
- (2) to an address outside California (by registered or certified mail with return receipt requested). **(Attach signed return receipt or other evidence of actual delivery to the respondent.)** (Code Civ. Proc., §§ 415.40, 417.20.)
- d. **Other** *(specify code section)*: _____
- Continued on [Attachment 3d](#).

4. **Person who served papers**

Name: _____

Address: _____

Street Address: _____

City: _____ State: _____ Zip Code: _____

Telephone number: _____

This person is

- a. exempt from registration under Business and Professions Code section 22350(b).
- b. not a registered California process server.
- c. a registered California process server: an employee or an independent contractor
- (1) Registration no.: _____
- (2) County: _____
- (3) **The fee** for service was *(specify)*: \$ _____

5. **I declare** under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
- or—
6. **I am a California sheriff, marshal, or constable**, and I certify that the foregoing is true and correct.

Date: _____

 (NAME OF PERSON WHO SERVED PAPERS)

▶

 (SIGNATURE OF PERSON WHO SERVED PAPERS)

RESPONSIVE FORMS

START DISSO, WITH MINORS

LEAVE BLANK

**TO BE ATTACHED TO THE
OTHER PARTY'S COPY FOR
SERVICE**

| | |
|---|---------------------------|
| PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name): Self-Represented | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: 201 N. First Street, San Jose, CA 95113 MAILING ADDRESS: 191 N. First Street, San Jose, CA 95113 CITY AND ZIP CODE: BRANCH NAME: Family Justice Center Courthouse | |
| PETITIONER: RESPONDENT: | |
| RESPONSE <input type="checkbox"/> AND REQUEST FOR <input type="checkbox"/> AMENDED <input type="checkbox"/> Dissolution (Divorce) of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Legal Separation of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership <input type="checkbox"/> Nullity of: <input type="checkbox"/> Marriage <input type="checkbox"/> Domestic Partnership | CASE NUMBER: |

1. LEGAL RELATIONSHIP (check all that apply):

- a. We are married.
- b. We are domestic partners and our domestic partnership was established in California.
- c. We are domestic partners and our domestic partnership was NOT established in California.

2. RESIDENCE REQUIREMENTS (check all that apply):

- a. Petitioner Respondent has been a resident of this state for at least six months and of this county for at least three months immediately preceding the filing of this *Petition*. (For a divorce, unless you are in the legal relationship described in 1b., at least one of you must comply with this requirement.)
- b. Our domestic partnership was established in California. Neither of us has to be a resident or have a domicile in California to dissolve our partnership here.
- c. We are the same sex, were married in California, but currently live in a jurisdiction that does not recognize, and will not dissolve, our marriage. This *Petition* is filed in the county where we married.
 Petitioner lives in (specify): _____ Respondent lives in (specify): _____

3. STATISTICAL FACTS

- a. (1) Date of marriage (specify): _____ (2) Date of separation (specify): _____
 (3) Time from date of marriage to date of separation (specify): _____ Years _____ Months
- b. (1) Registration date of domestic partnership with the California Secretary of State or other state equivalent (specify below): _____
 (2) Date of separation (specify): _____
 (3) Time from date of registration of domestic partnership to date of separation (specify): _____ Years _____ Months

4. MINOR CHILDREN

- a. There are no minor children.
- b. The minor children are:

| | | |
|---------------------|------------------|------------|
| <u>Child's name</u> | <u>Birthdate</u> | <u>Age</u> |
|---------------------|------------------|------------|

- (1) continued on Attachment 4b. (2) a child who is not yet born.
- c. If any children were born before the marriage or domestic partnership, the court has the authority to determine those children to be children of the marriage or domestic partnership.
- d. If there are minor children of Petitioner and Respondent, a completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105) must be attached.
- e. Petitioner and Respondent signed a voluntary declaration of parentage or paternity. (Attach a copy if available.)

| | |
|----------------------------|--------------|
| PETITIONER: RESPONDENT: | CASE NUMBER: |
|----------------------------|--------------|

Respondent requests that the court make the following orders:

5. LEGAL GROUNDS (Family Code sections 2200–2210; 2310–2312)

- a. **Respondent contends** that the parties never legally married or registered a domestic partnership.
- b. **Respondent denies** the grounds set forth in item 5 of the petition.
- c. **Respondent requests**
 - (1) Divorce Legal separation of the marriage or domestic partnership based on
 - (a) irreconcilable differences. (b) permanent legal incapacity to make decisions.
 - (2) Nullity of void marriage or domestic partnership based on
 - (a) incest. (b) bigamy.
 - (3) Nullity of voidable marriage or domestic partnership based on
 - (a) respondent's age at time of registration of domestic partnership or marriage. (d) fraud.
 - (b) prior existing marriage or domestic partnership. (e) force.
 - (c) unsound mind. (f) physical incapacity.

6. CHILD CUSTODY AND VISITATION (PARENTING TIME)

| | Petitioner | Respondent | Joint | Other |
|--|------------|------------|-------|-------|
|--|------------|------------|-------|-------|

- | | | | | |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| a. Legal custody of children to | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Physical custody of children to | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Child visitation (parenting time) be granted to | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
- As requested in form FL-311 form FL-312 form FL-341(C)
 form FL-341(D) form FL-341(E) Attachment 6c(1)

7. CHILD SUPPORT

- a. If there are minor children born to or adopted by Petitioner and Respondent before or during this marriage or domestic partnership, the court will make orders for the support of the children upon request and submission of financial forms by the requesting party.
- b. An earnings assignment may be issued without further notice.
- c. Any party required to pay support must pay interest on overdue amounts at the "legal" rate, which is currently 10 percent.
- d. Other (*specify*):

8. SPOUSAL OR DOMESTIC PARTNER SUPPORT

- a. Spousal or domestic partner support payable to Petitioner Respondent
- b. Terminate (end) the court's ability to award support to Petitioner Respondent
- c. Reserve for future determination the issue of support payable to Petitioner Respondent
- d. Other (*specify*):

9. SEPARATE PROPERTY

- a. There are no such assets or debts that I know of to be confirmed by the court.
- b. Confirm as separate property the assets and debts in *Property Declaration* (form FL-160). Attachment 9b.
 the following list. Item Confirm to

| | |
|----------------------------|--------------|
| PETITIONER: RESPONDENT: | CASE NUMBER: |
|----------------------------|--------------|

10. COMMUNITY AND QUASI-COMMUNITY PROPERTY

- a. There are no such assets or debts that I know of to be divided by the court.
- b. Determine rights to community and quasi-community assets and debts. All such assets and debts are listed
 - in *Property Declaration* (form FL-160). in Attachment 10b.
 - as follows (*specify*):

11. OTHER REQUESTS

- a. Attorney's fees and costs payable by Petitioner Respondent
- b. Respondent's former name be restored to (*specify*):
- c. Other (*specify*):

Continued on Attachment 11c.

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

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF RESPONDENT)

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF ATTORNEY FOR RESPONDENT)

FOR MORE INFORMATION: Read *Legal Steps for a Divorce or Legal Separation (form FL-107-INFO)* and visit "Families Change" at www.familieschange.ca.gov — an online guide for parents and children going through divorce or separation.

NOTICE: You may redact (black out) social security numbers from any written material filed with the court in this case other than a form used to collect child, spousal or partner support.

NOTICE—CANCELLATION OF RIGHTS: Dissolution or legal separation may automatically cancel the rights of a domestic partner or spouse under the other domestic partner's or spouse's will, trust, retirement plan, power of attorney, pay-on-death bank account, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel the right of a domestic partner or spouse as beneficiary of the other partner's or spouse's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance policies, retirement plans, and credit reports, to determine whether they should be changed or whether you should take any other actions. Some changes may require the agreement of your partner or spouse or a court order.

The original response must be filed in the court with proof of service of a copy on Petitioner.



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| PETITIONER: RESPONDENT: OTHER PARENT/PARTY: | CASE NUMBER: |
|---|--------------|

CHILD CUSTODY AND VISITATION (PARENTING TIME) APPLICATION ATTACHMENT

—This is not a court order—

TO Petition Response Request for Order Responsive Declaration to Request for Order
 Other (specify):

1. a. **Custody.** Custody of the minor children of the parties is requested as follows: [Attachment 1a.](#)

| <u>Child's Name</u> | <u>Date of Birth</u> | <u>Legal Custody to</u> <i>(person who decides about the child's health, education, and welfare)</i> | <u>Physical Custody to</u> <i>(person the child regularly lives with)</i> |
|---------------------|----------------------|---|--|
|---------------------|----------------------|---|--|

b. **Custody with allegations of a history of abuse or substance abuse**

- (1) Petitioner Respondent Other parent/party is (or are) alleged to have a history of abuse against any of the following persons: a child, the other parent, their current spouse, or the person they live with or are dating or engaged to.
- (2) Petitioner Respondent Other parent/party is (or are) alleged to have the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.
- (3) I ask that the court NOT order sole or joint custody of the minor child to the person(s) alleged to have a history of abuse or substance abuse.
- (4) Even though there are allegations, I ask that the court make the child custody orders in item 1a.
(Write the reasons why you think it would be good for the children that the person(s) be granted custody, even though there are allegations against them of a history of abuse or substance abuse.)
 Below: [Attachment 1b.](#) Other (specify):

2. **Visitation (Parenting Time).**

Note: Unless specifically ordered, a child's holiday schedule order has priority over the regular parenting time.

- a. Reasonable right of parenting time (visitation) to the party without physical custody (**not appropriate in cases involving domestic violence**).
- b. See the attached _____ -page document dated (specify date):
- c. The parties will go to child custody mediation or child custody recommending counseling at (specify date, time, and location):
- d. No visitation (parenting time).

| | |
|---|--------------|
| PETITIONER: RESPONDENT: OTHER PARENT/PARTY: | CASE NUMBER: |
|---|--------------|

e. Visitation (parenting time). (Specify start and ending date and time. If applicable, check "start of" OR "after school.")

Petitioner's **Respondent's** **Other Parent's/Party's** parenting time (visitation) will be as follows:

(1) **Weekends starting (date):**

(Note: The first weekend of the month is the first weekend with a Saturday.)

1st 2nd 3rd 4th 5th weekend of the month

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(a) The parties will alternate the fifth weekends, with the petitioner respondent other parent/party having the initial fifth weekend, which starts (date):

(b) The petitioner respondent other parent/party will have the fifth weekend in odd even numbered months.

(2) **Alternate weekends starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(3) **Weekdays starting (date):**

from _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

to _____ at _____ a.m. p.m./ if applicable, specify: start of school
 (day of week) (time) after school

(4) Other visitation (parenting time) days and restrictions are: [listed in Attachment 2e\(4\)](#)
 as follows:

3. **Visitation (parenting time) with allegations of a history of abuse, substance abuse, or other parenting concerns**

a. **Supervised visitation (parenting time)**

(1) I ask that petitioner respondent other parent/party have supervised visitation with the minor children according to the schedule in item 2 because of (specify):

(a) Domestic violence, child abuse, or neglect.

(b) Substance abuse: the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.

(c) Other parenting concerns (specify below):

(2) The reasons why the court should make the orders are (specify):

(Write the reasons why you think unsupervised visitation (parenting time) would be bad for the children.)

Below [in Attachment 3a\(2\)](#) Other (specify):

| | |
|---|--------------|
| PETITIONER: RESPONDENT: OTHER PARENT/PARTY: | CASE NUMBER: |
|---|--------------|

(3) I ask for the following orders about the supervised visitation provider:

(a) Visitation (parenting time) be monitored by *(name, if known)*:

(i) The person or agency is a professional provider. A professional provider must meet the requirements listed in *Declaration of Supervised Visitation Provider (Professional)* ([form FL-324\(P\)](#)) and sign the declaration.

(ii) The person is a nonprofessional provider. That person must meet the requirements listed in *Declaration of Supervised Visitation Provider (Nonprofessional)* ([form FL-324\(NP\)](#)) and sign a declaration.

(iii) The provider's phone number is *(specify)*:

(b) Any costs of supervision be paid as follows: petitioner: _____ percent; respondent: _____ percent.
 other parent/party: _____ percent.

b. **Unsupervised visitation (parenting time)**

(Complete 3b only if you want the court to order unsupervised visitation to a person alleged to have a history of abuse or substance abuse.)

(1) Petitioner Respondent Other parent/party _____ is (or are) alleged to have a history of abuse against any of the following persons: a child, the other parent, their current spouse, or the person they live with or are dating or engaged to.

(2) Petitioner Respondent Other parent/party _____ is (or are) alleged to have the habitual or continual illegal use of controlled substances, or the habitual or continual abuse of alcohol, or the habitual or continual abuse of prescribed controlled substances.

(3) Even though there are allegations of a history of abuse or substance abuse, I request that the court order unsupervised visitation to *(specify)*: Petitioner Respondent Other parent/party

(4) The reasons why the court should make the orders are *(specify)*:
(Write the reasons why you think it would be good for the children that the person(s) be granted unsupervised visitation (parenting time) even though there are allegations against them of a history of abuse or substance abuse.)

Below: [in Attachment 3b.](#) Other *(specify)*:

(5) *The orders for visitation (parenting time) that you request must be specific as to time, day, place, and manner of transfer of the child, as Family Code section 6323(c) requires.*

4. **Transportation for visitation (parenting time) and place of exchange**

Note: In cases of domestic violence, the court must have enough information to make orders that are specific as to the time, place, and manner of transfer (exchange) of the child for custody and visitation under Family Code section 6323(c).

a. The children must be driven only by a licensed and insured driver. The vehicle must be legally registered with the Department of Motor Vehicles and must have child restraint devices properly installed, as required by law.

b. Transportation **to** begin the visits will be provided by *(name)*:

c. Transportation **from** the visits will be provided by *(name)*:

d. The exchange point at the beginning of the visit will be *(address)*:

e. The exchange point at the end of the visit will be *(address)*:

f. During the exchanges, the party driving the children will wait in the car and the other party will wait in the home (or exchange location) while the children go between the car and the home (or exchange location).

g. Other *(specify)*:

| | |
|---|--------------|
| PETITIONER: RESPONDENT: OTHER PARENT/PARTY: | CASE NUMBER: |
|---|--------------|

5. **Travel with children** The Petitioner Respondent Other parent/party **must** have written permission from the other parent or party, or a court order, to take the children out of the following places:
- a. the state of California.
 - b. the following counties (*specify*):
 - c. other places (*specify*):
6. **Child abduction prevention.** There is a risk that one of the parties will take the children out of California without the other party's permission. I request the orders set out on attached [form FL-312](#).
7. **Children's holiday schedule.** I request the holiday and vacation schedule set out below [on form FL-341\(C\)](#)
8. **Additional custody provisions.** I request the additional orders for custody set out below [on form FL-341\(D\)](#)
9. **Joint legal custody provisions.** I request joint legal custody and want the additional orders set out below [on form FL-341\(E\)](#)
10. **Other.** I request the following additional orders (*specify*):

| | |
|---|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): Self-represented | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| (This section applies only to family law cases.) PETITIONER: RESPONDENT: OTHER PARTY: | |
| (This section applies only to guardianship cases.) GUARDIANSHIP OF (Name): _____ Minor | CASE NUMBER: _____ |
| DECLARATION UNDER UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA) | |

1. **I am a party** to this proceeding to determine custody of a child.
2. My present address and the present address of each child residing with me is confidential under Family Code section 3429 as I have indicated in item 3.
3. There are (specify number): _____ minor children who are subject to this proceeding, as follows:
(Insert the information requested below. The residence information must be given for the last FIVE years.)

| a. Child's name | Place of birth | Date of birth | Sex | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---------------------------------------|---|---|--------------|--|---------------------------------------|---------------------------------------|--|---------------------|---------------------------------|---|--------------|------------|---------------------------------------|---|--|----|---------------------------------|---|--|----|---------------------------------|---|--|----|---------------------------------|---|--|--|--|--|
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:20%;">Period of residence</td> <td style="width:30%;">Address</td> <td style="width:40%;">Person child lived with (name and complete current address)</td> <td style="width:10%;">Relationship</td> </tr> <tr> <td style="text-align: center;">to present</td> <td><input type="checkbox"/> Confidential</td> <td><input type="checkbox"/> Confidential</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> </table> | Period of residence | Address | Person child lived with (name and complete current address) | Relationship | to present | <input type="checkbox"/> Confidential | <input type="checkbox"/> Confidential | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | |
| Period of residence | Address | Person child lived with (name and complete current address) | Relationship | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to present | <input type="checkbox"/> Confidential | <input type="checkbox"/> Confidential | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:40%;">b. Child's name</td> <td style="width:25%;">Place of birth</td> <td style="width:20%;">Date of birth</td> <td style="width:15%;">Sex</td> </tr> <tr> <td colspan="4" style="padding: 5px;"> <input type="checkbox"/> Residence information is the same as given above for child a. (If NOT the same, provide the information below.) </td> </tr> <tr> <td style="width:20%;">Period of residence</td> <td style="width:30%;">Address</td> <td style="width:40%;">Person child lived with (name and complete current address)</td> <td style="width:10%;">Relationship</td> </tr> <tr> <td style="text-align: center;">to present</td> <td><input type="checkbox"/> Confidential</td> <td><input type="checkbox"/> Confidential</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> <tr> <td style="text-align: center;">to</td> <td>Child's residence (City, State)</td> <td>Person child lived with (name and complete current address)</td> <td></td> </tr> </table> | b. Child's name | Place of birth | Date of birth | Sex | <input type="checkbox"/> Residence information is the same as given above for child a. (If NOT the same, provide the information below.) | | | | Period of residence | Address | Person child lived with (name and complete current address) | Relationship | to present | <input type="checkbox"/> Confidential | <input type="checkbox"/> Confidential | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | |
| b. Child's name | Place of birth | Date of birth | Sex | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <input type="checkbox"/> Residence information is the same as given above for child a. (If NOT the same, provide the information below.) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Period of residence | Address | Person child lived with (name and complete current address) | Relationship | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to present | <input type="checkbox"/> Confidential | <input type="checkbox"/> Confidential | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| to | Child's residence (City, State) | Person child lived with (name and complete current address) | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

- c. Additional residence information for a child listed in item a or b is continued on attachment 3c.
- d. Additional children are listed on form FL-105(A)/GC-120(A). (Provide all requested information for additional children.)



| | |
|-----------------------|-----------------------|
| SHORT TITLE: _____ | CASE NUMBER: _____ |
|-----------------------|-----------------------|

4. Do you have information about, or have you participated as a party or as a witness or in some other capacity in, another court case or custody or visitation proceeding, in California or elsewhere, concerning a child subject to this proceeding?

Yes No (If yes, attach a copy of the orders (if you have one) and provide the following information):

| Proceeding | Case number | Court <i>(name, state, location)</i> | Court order or judgment <i>(date)</i> | Name of each child | Your connection to the case | Case status |
|--|-------------|---|---|--------------------|-----------------------------------|-------------|
| a. <input type="checkbox"/> Family | | | | | | |
| b. <input type="checkbox"/> Guardianship | | | | | | |
| c. <input type="checkbox"/> Other | | | | | | |

| Proceeding | Case Number | Court <i>(name, state, location)</i> |
|--|-------------|--------------------------------------|
| d. <input type="checkbox"/> Juvenile Delinquency/ Juvenile Dependency | | |
| e. <input type="checkbox"/> Adoption | | |

5. One or more domestic violence restraining/protective orders are now in effect. (Attach a copy of the orders if you have one and provide the following information):

| Court | County | State | Case number <i>(if known)</i> | Orders expire <i>(date)</i> |
|--|--------|-------|-------------------------------|-----------------------------|
| a. <input type="checkbox"/> Criminal | | | | |
| b. <input type="checkbox"/> Family | | | | |
| c. <input type="checkbox"/> Juvenile Delinquency/ Juvenile Dependency | | | | |
| d. <input type="checkbox"/> Other | | | | |

6. Do you know of any person who is not a party to this proceeding who has physical custody or claims to have custody of or visitation rights with any child in this case? Yes No (If yes, provide the following information):

| | | |
|---|---|---|
| a. Name and address of person <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights Name of each child | b. Name and address of person <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights Name of each child | c. Name and address of person <input type="checkbox"/> Has physical custody <input type="checkbox"/> Claims custody rights <input type="checkbox"/> Claims visitation rights Name of each child |
|---|---|---|

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

Date: _____

_____ _____
 (TYPE OR PRINT NAME) (SIGNATURE OF DECLARANT)

7. Number of pages attached: _____

NOTICE TO DECLARANT: You have a continuing duty to inform this court if you obtain any information about a custody proceeding in a California court or any other court concerning a child subject to this proceeding.

Choices for Solving Legal Problems without a Court Hearing

FAMILY COURT
Superior Court, Santa Clara County

Alternate Dispute Resolution is a CHOICE in Family Law Cases

“Alternative Dispute Resolution” (ADR) is a term used for ways you can solve problems without going to a formal Court hearing with a Judge. Some choices are explained below. ADR can save you time *and* money. With ADR you are likely to feel better about the legal process and how your case is settled. You can often solve Family Law issues such as child custody, visitation, support, and property division by agreement instead of by going to a Court hearing.

Except for custody and visitation mediation, ADR services are voluntary and can only be a part of your case resolution plan if both parties choose to use these services.

All court-connected ADR providers that are a part of your case resolution plan have been trained to assess and handle cases that may have domestic violence issues. Ask about separate sessions if meeting separately from the other party will make you feel safer.

TYPES OF RESOLUTION PROCESSES:

Custody/Visitation Mediation - *Free*

California law says that if parents do not agree about custody and visitation issues they must try to settle the issues by going to Mediation. Mediation is a way for parents to meet with someone who does not work for either side to try to agree about their children. Mediation can be done through the Court at Family Court Services at no cost or through a private mediator you hire on your own. Mediation through Family Court Services in Santa Clara County is a confidential process - the mediator will not go to a Court hearing to tell the Judge what you or the other parent said in mediation. The mediator can help you and the other parent talk about and decide issues such as how much time the child will spend with each parent, how to best exchange the child, and other custody or visitation issues.

Orientation and Mediation may be scheduled by calling (408) 534-5760. Parties must attend Orientation prior to Mediation if they have never been to Mediation before. Orientation may be done online at http://www.sccscourt.org/court_divisions/family/fcs/fcs_orientation.shtml or in person by calling (408) 534-5760 to schedule Orientation. Orientation is available in English and Spanish.

Settlement Officer Conference (SOC) - *Free*

The Court has a full-time Settlement Officer, whose job is to help parties settle their family law cases for free. The Settlement Officer Conference (SOC) focuses on resolving **property and support issues**. The conference works best when parties have given each other information in advance about their finances and how they think things should be settled. An SOC can be set at any time after you have served the Preliminary Declarations of Disclosure by calling (408) 534-5710.

Mediation

Mediation is a way to reach an agreement with the help of a person who is specially trained to help resolve disagreements. The mediator can help the parties talk with each other and explore options for settlement. Mediators are usually attorneys hired by the parties, but they are not the attorney for either side. A mediator can help resolve one issue or the entire case. Mediation is private and confidential. Anything that is said or written in the mediation process is confidential. The mediator may not talk about the case to the Court or anyone else unless the parties both agree. Agreements reached in mediation can become court orders if both parties agree.

Visit the Court's website for a list of Family ADR providers:
http://www.scscourt.org/court_divisions/family/adr/family_adr_search.asp

Personal Property Arbitration - Free

A volunteer attorney will decide how to divide your **personal property**, such as furniture. Both parties must agree to the arbitration or it must be ordered by the Court. The arbitrator writes up a decision after each side presents his or her case. The arbitrations are held at the Family Court and may be scheduled by calling (408) 534-5710.

Collaborative Law

In the collaborative practice process, each party has a private attorney and each makes a commitment to resolve any disagreements without going to court. The parties and their attorneys have a series of private meetings to create solutions based on the needs of the parties. All parties and their attorneys agree that if the parties cannot settle their case and/or if either party chooses to withdraw from the process and go to court, the collaborative attorneys cannot represent these parties in court.

Visit the Court's website for a list of Family ADR and Collaborative Law providers:
http://www.scscourt.org/court_divisions/family/adr/family_adr_search.asp

You may also contact the Santa Clara County Bar Association at (408-287-2557 or www.sccba.com) and ask for names of attorneys from the Collaborative Law panel.

Arbitration and Private Judging

An arbitrator, usually an attorney hired by the parties, makes a decision after the hearing information is presented by both parties. The arbitrator prepares a written decision which is sent to both parties and the Court. The parties decide ahead of time whether the arbitration is binding or not. "Binding" means that the arbitrator's decision will be final. "Non-binding" means that the parties do not have to follow the arbitrator's decision.

Private judging, like arbitration, involves choosing a person, usually an attorney, to act as either a settlement or trial judge or both. The decision of the private judge is filed with the Court as a Court order. If you want to consider private judging, both sides must agree on the private judge. Please be sure that you are clear on the experience and qualifications of the provider as well as the costs and services that he or she will provide.

Young Children's Settlement Team-Free

If you have a child aged 5 or under and have custody or visitation disputes, you may request to participate in the Young Children's Settlement Team Project. This brings together a team of volunteer mental health professionals and volunteer attorneys who work with the parties at the courthouse to attempt to resolve any custody or visitation issues. The process is confidential. If agreements are reached, they are reviewed by the parties and counsel, as well as the Court. If there are still issues left, a JCC is held with the All Purpose Judge.

The Court does not think any form of ADR or any ADR provider is better than another and does not guarantee how your case will work out.