

How to Finish a Divorce/Legal Separation by Default

(When Your Spouse/Partner Does NOT File a Response)

Step 1	Complete the following forms in blue or black ink: <input checked="" type="checkbox"/> FL-165 Request to Enter Default
Step 2	Copies: Make 2 copies of the form, in addition to the original.
Step 3 There is no filing fee.	File: File the original and copies in the Clerk's Office of the courthouse located at: 201 N. First Street, San Jose, CA 95113 Office Hours: Monday-Friday from 8:30am to 3:00pm <u>When you file, include:</u> <input checked="" type="checkbox"/> One stamped envelope addressed to you <input checked="" type="checkbox"/> One stamped envelope addressed to your spouse at their last known address.
Step 4	Wait: Due to the high volume of documents received and current staffing levels, there is often a backlog for your paperwork to be reviewed. Once your form has been processed a filed copy of the FL-165 you turned in will be mailed to you in the envelope you provided. If: Default is entered: If the box next to " <u>Default entered as requested</u> " has been checked, then the default has been entered. You are now ready for the final step in your divorce which is a <i>Judgment</i> . <p style="text-align: center;"><u>OR</u></p> Default is not entered: If the box next to " <u>Default not entered</u> " has been checked, then the default has not been entered because there was a problem with your forms. Contact the Self-Help Center or a private attorney for help fixing the problem.

WHAT DOES "DEFAULT" MEAN?

If your spouse 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 attached or, if no agreement, based on what you requested in your *Petition*.

Please turn over for important information

WHAT HAPPENS ONCE I SUBMIT MY *REQUEST TO ENTER DEFAULT*?

The clerk will review your file to make sure you completed and filed the right forms and that they were filled out correctly. The clerk will also verify that the other party has not filed a *Response*. If you did everything correctly, the clerk will grant your *Request* and you will be ready to get help with the *Judgment*. The *Judgment* will be the final step. If you did not do everything correctly, the clerk will deny your *Request*. You will need to correct the problem(s) and submit a new *Request to Enter Default* form. See below to find out how you can get help at the Self-Help Center/Family Law Facilitator's Office.

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.

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**".
 - 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