

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

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 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 N. First Street, San Jose, CA 95113 Office Hours: Monday-Friday from 8:30am to 3:00pm</p> <ul style="list-style-type: none"> <input type="checkbox"/> If you are not asking for a fee waiver, you will pay the filing fee and get copies back with a file-stamp. <input type="checkbox"/> If you are 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>, <input checked="" type="checkbox"/> Local form FM-1050 <i>Family Law Notice</i> and <input type="checkbox"/> 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” or by going to the Self-Help Center during walk-in hours (see next page for exceptions). If you attend the Self-Help Center's Divorce Workshop (see flyer online for details), you will complete these forms during the workshop along with the divorce forms.</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 by going to the Self-Help Center during walk-in hours. 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 pick-up the packet and sample from the Self-Help Center (address below) and fill it out on your own or come to the Center’s drop-in workshop once a month in the Family Courthouse located at 201 N. First Street, San Jose, CA 95113. (Note: Visit www.scscourt.org, click on “Free & Low Cost Legal Help” then click “Self Help 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 or come to our office in person. 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 at the Self-Help Center if you do not have internet access.

HOW CAN I GET THE FORMS?

There are a few ways that you can get the forms:

- hire an attorney (**Please note: we cannot help people who have attorneys.**);
- contact a Legal Services Agency such as Legal Aid or Pro Bono Project
- go online to the state’s website, (<http://courts.ca.gov/selfhelp>); or Santa Clara County Superior Court’s website at www.scscourt.org
- use legal self-help websites and books
- visit the Self-Help Center/Family Law Facilitator’s Office in person. Please go to www.scscourt.org (and click on the self-help section of the site) for details on our walk-in hours and how to sign up for help at our office.

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

VISIT US ONLINE:

www.scscourt.org
www.courts.ca.gov/selfhelp

EMAIL US:

www.scscourt.org
 click “Self-Help” then click “Free &
 Low Cost Legal Help” then click
 “Self Help Question Form”

CALL US:

408-882-2926 (Self-Help)