

# Start a Divorce, Legal Separation or Nullity Case

<b>Step 1</b>	<p><b>Complete the following forms</b> in blue or black ink:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> FL-110 Summons (Family Law)</li> <li><input checked="" type="checkbox"/> FL-100 Petition—Marriage/Domestic Partnership</li> <li><input checked="" type="checkbox"/> Local form FM-1050 Family Law Notice</li> </ul> <p>Fill out the following forms if you have minor children with your spouse\partner:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> FL-105 Decl. Under Uniform Child Custody Jurisdiction Enforcement Act (UCCJEA)</li> <li><input type="checkbox"/> FL-311 Child Custody and Visitation (Parenting Time) Application Attachment</li> </ul>
<b>Step 2</b>	<p><b>Copies:</b> Make <b>2</b> copies, in addition to the original.</p>
<b>Step 3</b>  There is a filing fee unless the fee is waived.	<p><b>File:</b> File the original and copies in the <b>Clerk’s Office</b> of the courthouse located at:  <b>201 North First Street, San Jose, CA 95113</b></p> <p>The Clerk’s Office opens at 8:30am Monday-Friday, closing times are subject to change, visit <a href="http://www.scscourt.org">www.scscourt.org</a> or call <b>408-534-5600</b> for current office hours.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> If you <b>are not</b> asking for a fee waiver, you will pay the filing fee and get copies back with a file-stamp.</li> <li><input type="checkbox"/> If you <b>are</b> 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.</li> </ul>
<b>Step 4</b>	<p><b>Service:</b> After the filed copies are returned to you:</p> <ul style="list-style-type: none"> <li>• <b>Keep a filed copy</b> for your records</li> <li>• <b>Personal Service:</b> Have an adult, not you, have a 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 blank FL-105 <i>UCCJEA</i> (if minor children) to the other party.</li> </ul> <p>Whoever serves the forms must complete a <i>Proof of Service of Summons</i> form (FL-115) and give it back to you. File the original and a copy of this form at the Clerk’s Office. The clerk will stamp the copy and give it back to you. Keep this copy for your records.</p> <p>Wait 30 days for the other party to have a chance to respond.</p>
<b>Step 5</b>	<p><b>Preliminary Declarations of Disclosures (PDDs):</b> You must complete the Mandatory Preliminary Declaration of Disclosure process within 60 days of filing your Petition. You may obtain these forms online at <a href="http://www.scscourt.org">www.scscourt.org</a> click on “Complete Forms at Home” to obtain the forms.</p>
<b>Step 6</b>	<p><b>Divorce Case Review:</b> After 30 days have passed from the service date <u>and</u> you completed your PDDs, submit a Request for Review to Finalize online. Go to <a href="http://www.scscourt.org">www.scscourt.org</a>, click “Contact the Self-Help Center”, then “Finishing Your Divorce Case”, then complete the webform. A hard copy of the review form is available in the main lobby of the Family Justice Center Courthouse. The Self-Help Center will review your file to determine the next steps.</p>
<b>NOTE</b>	<p><b>You will NOT automatically be divorced. You must complete other steps to finish your divorce and get a Judgment.</b></p>

## WHAT ARE THE IMPORTANT DEADLINES?

Complete the following to keep your case on track.

1. Serve your filed Petition and Summons on your spouse/partner within 60 days of filing.
2. 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. You have a court order from the Judge that allows you to serve by publication or posting.
  - b. You 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, may attend the Self-Help Center’s virtual online workshop. Visit [www.scscourt.org](http://www.scscourt.org), go to “Self-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](http://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 agree about the terms of your divorce. Filing a *Response* allows both parties to participate in the process and finish their case by agreement. Couples who are unable to reach an 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](http://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 agree. 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 there is 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 if 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, go to [www.scscourt.org](http://www.scscourt.org), click “Contact the Self Help Center”, then “Finishing Your Divorce Case”, then “Divorce Case Review Online Request Form”. 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](http://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](http://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](http://www.scscourt.org) then click “**Complete Forms at Home**”
  - Form Review: Attend our online Divorce Workshop (go to [www.scscourt.org](http://www.scscourt.org), click “Contact the Self-Help Center”, then “Start a Divorce/Legal Separation/Nullity Case”), 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