

# How to Set or Change Custody, Visitation, Support and/or Other Orders (Emergency)

<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"/> Local form FM-1013 Declaration in Support of Ex Parte Application for Orders</li> <li><input checked="" type="checkbox"/> FL-305 Temporary Emergency (Ex Parte) Orders</li> <li><input checked="" type="checkbox"/> FL-300 Request for Order</li> <li><input type="checkbox"/> MC-025 Attachment to Judicial Council Form</li> <li><input type="checkbox"/> FL-311 Child Custody and Visitation (Parenting Time) Application Attachment</li> <li><input type="checkbox"/> FL-150 Income and Expense Declaration</li> </ul>
<b>Step 2</b>	<p><b>Since you are asking for emergency/temporary orders</b>, the law requires you to <b>give 1 copy of the forms</b> to the other party by 10:00 am the day <b>before</b> you want the Judge to read them. Then you will complete form FM-1013. In some cases you may not have to give notice, if the Judge gives you special permission.</p> <p>***Important: See page 2 for specific instructions about requesting to waive notice.***</p>
<b>Step 3</b>	<p><b>Copies:</b> Make <b>2</b> copies, in addition to the original.</p>
<p><b>Step 4</b></p> <p>There is a filing fee, unless the fee is waived.</p>	<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> <p>If the Department of Child Support Services (DCSS) is involved in your case, ask the court clerk to keep 1 filed copy to give to DCSS for you.</p> <p><b>Since you <u>are</u> asking for emergency/temporary orders and/or a fee waiver</b>, there is a 24 to 48 hour hold on the papers. During that time, the Judge will determine if you get emergency/temporary orders and/or if the filing fee will be waived. If emergency/temporary orders are granted, these orders will be in effect until the court date.</p> <p><i>Note: The Judge may or may not grant your request for temporary orders and/or fee waiver.</i></p>
<b>Step 5</b>	<p><b>Service:</b> After the filed copies are returned to you:</p> <ul style="list-style-type: none"> <li>• <b>Keep</b> for your records—1 filed copy</li> <li>• <b>Serve</b> 1 filed copy and a blank FL-320 <i>Responsive Declaration to Request for Order</i> and <input type="checkbox"/> FL-150 on the other parent. "<i>Personal Service</i>" means: <b>someone, NOT YOU</b>, who is at least 18 years old must <b>hand deliver</b> the filed copies to the other parent. You can find a "Process Server" who will do this for a fee.</li> </ul> <p>Service must be completed at least:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> 5 calendar days before the court hearing (<i>if emergency request is granted</i>)</li> <li><input type="checkbox"/> 16 court days before the court hearing (weekends and holidays do not count) (<i>if emergency request is denied</i>)</li> </ul> <p>Whoever serves must complete the attached <i>Proof of Personal Service</i> form (FL-330) 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.</p>
<b>STEP 6</b>	<p><b>Go to your court date.</b></p>

**Please turn over for important information** 

## WHAT IS A REQUEST FOR ORDER AND WHY WOULD I FILE ONE?

A *Request for Order* is a request for the court to have a hearing so the Judge can make a court order. If you want the Judge to make a new order about custody, visitation, support or other orders in an existing case, or if you want to change an order that already exists, you would file a *Request for Order*. If you do not already have an open case, you will need to file additional paperwork to open one. See below to find out how you can get assistance through the Self Help Center/Family Facilitator's Office.

## WHAT ARE EMERGENCY/TEMPORARY ORDERS?

The Judge may grant a request to make orders immediately (within 24 to 48 hours) if a situation has occurred, or may occur, where immediate and irreparable harm would occur without the emergency orders. For example, your child is in immediate danger of being harmed or abducted.

The law requires that you, the party requesting emergency orders, give 1 copy of the forms to the other party before they are filed so the other party knows about the emergency orders you are requesting (has "notice"). This gives them a chance to respond to the court on an emergency basis to give the Judge their side of the story. You have to give the forms to the other party by 10:00 am the day before you want the Judge to review them. So if the forms are given to the other party at:

- 9:30 am on Wednesday they will be reviewed by the Judge on Thursday.
- 2:00 pm on Wednesday they will be reviewed by the Judge on Friday.

In some cases, the Judge can excuse this notice depending on facts of each case. Such cases include domestic violence restraining order applications. For cases that do not involve a domestic violence restraining order, you *must* write a separate declaration on form FM-1013 explaining why you are requesting the court waive the requirement for giving notice to the other party. You can consult a private attorney for legal advice as to whether notice is required in your situation.

If emergency/temporary orders are made, they are in effect until your court date. The filing clerk will write this date on the front page of the *Request for Order*. If your request for emergency orders is denied at the temporary stage, you still have another chance to ask for them at your hearing.

## WHAT HAPPENS IF I CANNOT GET THE OTHER PARTY SERVED?

If you are unable to serve the other party on time, the court will not be able to hear your request or make any court orders at the hearing. The Judge may grant a reissuance (this means a new court date is scheduled). If so, any emergency/temporary orders that were made will usually continue to be in effect until the new court date.

## 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: Emergency requests may be reviewed in person at the Restraining Order Help Center located at 201 N. First Street, San Jose, CA 95113, visit [www.scscourt.org](http://www.scscourt.org) for current office hours. If you cannot get to the office in person you may email your forms as a PDF file to [SHCDocReview@scscourt.org](mailto:SHCDocReview@scscourt.org). Reviews by email will take longer than in-person reviews.
  - 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

# BLANK FORMS

EX PARTE REQUEST FOR ORDER

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



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):   TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): <b>Self-Represented</b>	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA CLARA</b> 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: <b>Family Division</b>	
PETITIONER:  RESPONDENT:	CASE NUMBER:
<b>DECLARATION IN SUPPORT OF EX PARTE APPLICATION FOR ORDERS</b>	DEPARTMENT NUMBER: FCS NUMBER:

I, the undersigned, declare:

1. I am (choose one):
 

<input type="checkbox"/> attorney for Petitioner	<input type="checkbox"/> attorney for Respondent	<input type="checkbox"/> attorney for child(ren)
<input type="checkbox"/> self-represented Petitioner	<input type="checkbox"/> self-represented Respondent	
<input type="checkbox"/> other (explain): _____		
  
2. **The opposing party or minor children is represented by an attorney:**  Yes  No  
 (If you checked "Yes", fill in the name, address, and telephone number of all attorneys.  
 If you checked "No", fill in the other party's name address, and telephone number.)  
 Party/Attorney name: \_\_\_\_\_  
 Address/Telephone number: \_\_\_\_\_  
 Child's attorney name and address: \_\_\_\_\_
  
3. **OTHER CASES:** Have the parties to this case been involved in another Family, Probate, Juvenile, or Criminal Court Case?  Yes  No If there has been another case, fill in the case number: \_\_\_\_\_
  
4. **OTHER APPLICATIONS:** I or another party  have  have not made previous application(s) on the same issue. Orders were  were not  granted on the prior application(s). Explain in your declaration.
  
5. **NOTICE**
  - a. **I HAVE given notice to all opposing parties and/or their attorney by the following method:**  
 Personal delivery  Fax  Overnight Carrier  First Class Mail  Other: \_\_\_\_\_  
 Date: \_\_\_\_\_ Time: \_\_\_\_\_ Person who received: \_\_\_\_\_  
 I have received confirmation that the other party has received my papers as follows: (Check one below)  
 In person/telephone (describe): \_\_\_\_\_  
 Written confirmation of receipt
  
  - b. **I ask the Court not to require notice of the ex parte request for orders because (Check all that apply. In the space provided below in 5.c. and on any attached pages or a separate sworn declaration, you must give facts that support a request not to give notice for each box you check in 5.b. (except for Domestic Violence Prevention Act (DVPA) restraining orders):**
    - This is an application for Domestic Violence Prevention Act (DVPA) restraining orders.
    - This application involves a matter not requiring notice under State Rules, Rule 5.170;
    - Giving notice would frustrate the purpose of the order;
    - Giving notice would result in immediate and irreparable harm to the applicant or the children who may be affected by the order sought;
    - Giving notice would result in immediate and irreparable damage to or loss of property subject to disposition in the case;
    - The parties agreed in advance that notice will not be necessary with respect to the matter that is the subject of the request for emergency orders. Provide documentation of this agreement; and/or,



PETITIONER:  RESPONDENT:	CASE NUMBER
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### INSTRUCTIONS

For more information please refer to Superior Court of California, County of Santa Clara Local Rules 5 A & B and California State Rules, Rules 5.151, 5.165, 5.167, and 5.170.

This form is required in Santa Clara County, if you are asking the Judge to make immediate orders (also known as emergency or ex parte orders) without the other party being present for a hearing. This form must be completed in any case where ex parte orders or emergency orders are requested. If you are required to give notice, notice must be given before 10:00 a.m. on the court day before the Judge reviews the application, or the application will be delayed another 24 hours. Notice means providing the other side of the case, either all other attorneys or any self-represented party, with copies of any papers that you want the Judge to review and any orders that you are requesting. If you have given notice to the other side of your case, you must state the form of notice given. If you ask the Court to not require notice, you must explain why. Sometimes notice is not required, such as cases involving allegations of domestic violence or where the safety of a party or a child might be at risk if notice is given. It is up to the Judge in your case to determine whether notice will be required or not.

#### **SECTION #1**

State whether you are the Petitioner or the Respondent in the case. Once a case is filed, the parties keep the same status in the case. You do not change from the Respondent to the Petitioner by filing a new motion in the case. If you do not have an attorney, you are considered self-represented.

#### **SECTION #2**

If any other party is represented by an attorney, you must provide the Court with the attorney's name and address. If the other party is not represented by an attorney, you must provide the Court with the other party's address.

#### **SECTION #3**

It is very important to list all other cases in which you and the other party have been involved with the courts. This would include other Family Law, Probate, Juvenile, Restraining Order, Child Support, Civil, or Criminal matters. If you do not have the case number, please put "unknown" and list the county and the year of the filing, if possible.

#### **SECTION #5a.**

Unless notice is excused by the Court, you must provide notice of this application to all other parties and attorneys before you deliver a copy to the Court. When you give such notice, specify how you did it (by fax, courier, or personally, for example), who received it and at what time and on which date. Also, please explain how you know that the other side received copies of your papers and what response you were given.

#### **SECTION #5c.**

**If you believe that you should not be required to give notice of this application and are asking the Court not to require notice, explain why in this section. Check as many boxes as apply. You may also write out any further explanation of your reasons for not giving notice or provide a separate declaration.**

After this form is completed, attach it to your application or motion and submit them to the Court Specialist's Office at the Family Court Facility where you are dropping off your paperwork for review.





ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name): <b>Self-Represented</b>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> 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: <b>Family</b>	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
<b>TEMPORARY EMERGENCY (EX PARTE) ORDERS</b> <input checked="" type="checkbox"/> Child Custody <input checked="" type="checkbox"/> Visitation (Parenting Time) <input type="checkbox"/> Property Control <input type="checkbox"/> Other (specify):	CASE NUMBER:

1. **TO (name(s)):** \_\_\_\_\_  
 Petitioner   
 Respondent   
 Other Parent/Party   
 Other (specify):

A court hearing will be held on the *Request for Order* (form FL-300) served with this order, as follows:

a. Date:	Time:	Dept.:	Room:
b. Address of court	<input checked="" type="checkbox"/> same as noted above <input type="checkbox"/> other (specify):		

2. **Findings:** Temporary emergency (ex parte) orders are needed to: (a) help prevent an immediate loss or irreparable harm to a party or to children in the case, (b) help prevent immediate loss or damage to property subject to disposition in the case, or (c) set or change procedures for a hearing or trial.

**COURT ORDERS:** The following temporary emergency orders expire on the date and time of the hearing scheduled in (1), unless extended by court order:

3.  **CHILD CUSTODY**

		Temporary physical custody, care, and control to:		
a. <u>Child's name</u>	<u>Date of Birth</u>	Petitioner	Respondent	Other Party/Parent
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

- Continued on Attachment 3(a)
- b.  **Visitation (Parenting Time)** The temporary orders for physical custody, care, and control of the minor children in (3) are subject to the other party's or parties' rights of visitation (parenting time) as follows (specify):

See Attachment 3(b)

**THIS IS A COURT ORDER.**

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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3.  **CHILD CUSTODY (continued)**

c. **Travel restrictions**

- (1) The party or parties with temporary physical custody, care, and control of minor children **must not remove the minor children from the state of California unless the court allows it after a noticed hearing.**
- (2)  Petitioner  Respondent  Other Parent/Party must not remove their minor children (*specify*):
  - (a)  from the state of California.
  - (b)  from the following counties (*specify*):
  - (c)  other (*specify*):

d.  **Child abduction prevention orders** are attached (see form FL-341(B)).

- e. (1) **Jurisdiction:** This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code, commencing with section 3400).
- (2) **Notice and opportunity to be heard:** The responding party was given notice and an opportunity to be heard as provided by the laws of the State of California.
- (3) **Country of habitual residence:** The country of habitual residence of the child or children is (*specify*):
  - The United States of America  Other (*specify*):
- (4) **If you violate this order, you may be subject to civil or criminal penalties, or both.**

4.  **PROPERTY CONTROL**

a.  Petitioner  Respondent  Other Parent/Party is given exclusive temporary use, possession, and control of the following property that the parties  own or are buying  lease or rent

b.  Petitioner  Respondent  Other Parent/Party is ordered to make the following payments on the liens and encumbrances coming due while the order is in effect:

Pay to:	For:	Amount: \$	Due date:
Pay to:	For:	Amount: \$	Due date:
Pay to:	For:	Amount: \$	Due date:
Pay to:	For:	Amount: \$	Due date:

5.  All other existing orders, not in conflict with these temporary emergency orders, remain in full force and effect.

6.  **OTHER ORDERS** (*specify*):  Additional orders are listed in Attachment 6.

Date:

\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

**THIS IS A COURT ORDER.**

PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name): <b>Self-Represented</b>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> 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: <b>Family</b>	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
<b>REQUEST FOR ORDER</b> <input type="checkbox"/> <b>CHANGE</b> <input type="checkbox"/> <b>TEMPORARY EMERGENCY ORDERS</b> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> Child Custody <input checked="" type="checkbox"/> Visitation (Parenting Time) <input type="checkbox"/> Spousal or Partner Support <input type="checkbox"/> Child Support <input type="checkbox"/> Domestic Violence Order <input type="checkbox"/> Attorney's Fees and Costs <input type="checkbox"/> Property Control <input type="checkbox"/> Other (specify):	CASE NUMBER:

**NOTICE OF HEARING**

1. TO (name(s)): \_\_\_\_\_  
 Petitioner     Respondent     Other Parent/Party     Other (specify):

2. **A COURT HEARING WILL BE HELD AS FOLLOWS:**

a. Date:	Time:	Dept.:	Room.:
b. Address of court	<input checked="" type="checkbox"/> same as noted above <input type="checkbox"/> other (specify):		

3. **WARNING to the person served with the Request for Order:** The court may make the requested orders without you if you do not file a *Responsive Declaration to Request for Order* (form FL-320), serve a copy on the other parties at least nine court days before the hearing (unless the court has ordered a shorter period of time), and appear at the hearing. (See form *FL-320-INFO* for more information.)  
 (Forms [FL-300-INFO](#) and [DV-400-INFO](#) provide information about completing this form.)

**COURT ORDER**  
 (FOR COURT USE ONLY)

**It is ordered that:**

4.  Time  for service  until the hearing is shortened. Service must be on or before (date): **5 days before the hearing date**
5.  A *Responsive Declaration to Request for Order* (form FL-320) must be served on or before (date): **2 days before the hearing date**
6.  The parties must attend an appointment for child custody mediation or child custody recommending counseling as follows (specify date, time, and location):
7.  The orders in *Temporary Emergency (Ex Parte) Orders* (form FL-305) apply to this proceeding and must be personally served with all documents filed with this *Request for Order*.
8.  Other (specify):

Date: \_\_\_\_\_

\_\_\_\_\_  
 JUDICIAL OFFICER

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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**REQUEST FOR ORDER**

**Note:** Place a mark  in front of the box that applies to your case or to your request. If you need more space, mark the box for "Attachment." For example, mark "Attachment 2a" to indicate that the list of children's names and birth dates continues on a paper attached to this form. Then, on a sheet of paper, list each attachment number followed by your request. At the top of the paper, write your name, case number, and "FL-300" as a title. (You may use *Attached Declaration (form MC-031)* for this purpose.)

1.  **RESTRAINING ORDER INFORMATION**  
 One or more domestic violence restraining/protective orders are now in effect between (specify):  
 Petitioner  Respondent  Other Parent/Party (Attach a copy of the orders if you have one.)  
 The orders are from the following court or courts (specify county and state):
- a.  Criminal: County/state (specify): Case No. (if known):
  - b.  Family: County/state (specify): Case No. (if known):
  - c.  Juvenile: County/state (specify): Case No. (if known):
  - d.  Other: County/state (specify): Case No. (if known):

2.  **CHILD CUSTODY**  I request temporary emergency orders  
 **VISITATION (PARENTING TIME)**
- a. I request that the court make orders about the following children (specify):
- |                     |                      |   |  |
|---------------------|----------------------|---|--|
| <u>Child's Name</u> | <u>Date of Birth</u> | <input checked="" type="checkbox"/> <u>Legal Custody to (person who decides: health, education, etc):</u> | <input checked="" type="checkbox"/> <u>Physical Custody to (person with whom child lives):</u> |
|---------------------|----------------------|---|--|

See attached FL-311

- b.  The orders I request for  child custody  visitation (parenting time) are:  [Attachment 2a.](#)
- (1)  Specified in the attached forms:
- |   |   |  |   |
|---|---|--|---|
| <input checked="" type="checkbox"/> <a href="#">Form FL-305</a> | <input checked="" type="checkbox"/> <a href="#">Form FL-311</a> | <input type="checkbox"/> <a href="#">Form FL-312</a> | <input type="checkbox"/> <a href="#">Form FL-341(C)</a> |
| <input type="checkbox"/> <a href="#">Form FL-341(D)</a>         | <input type="checkbox"/> <a href="#">Form FL-341(E)</a>         | <input type="checkbox"/> Other (specify):            |   |
- (2)  As follows (specify):  [Attachment 2b.](#)

- c. The orders that I request are in the best interest of the children because (specify):  [Attachment 2c.](#)

- d.  This is a change from the current order for  child custody  visitation (parenting time).
- (1)  The order for legal or physical custody was filed on (date): . The court ordered (specify):
- (2)  The visitation (parenting time) order was filed on (date): . The court ordered (specify):

[Attachment 2d.](#)

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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3.  CHILD SUPPORT

(Note: An earnings assignment may be issued. See *Income Withholding for Support* ([form FL-195](#)))

a. I request that the court order child support as follows:

<input type="checkbox"/> Child's name and age	<input type="checkbox"/> I request support for each child	<input type="checkbox"/> Monthly amount (\$) requested based on the child support guideline. (if not by guideline)
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b.  I want to change a current court order for child support filed on (date):  [Attachment 3a.](#)  
 The court ordered child support as follows (specify):

c. I have completed and filed with this *Request for Order* a current *Income and Expense Declaration* ([form FL-150](#)) or I filed a current *Financial Statement (Simplified)* ([form FL-155](#)) because I meet the requirements to file form FL-155.

d. The court should make or change the support orders because (specify):  [Attachment 3d.](#)

4.  SPOUSAL OR DOMESTIC PARTNER SUPPORT

(Note: An *Earnings Assignment Order For Spousal or Partner Support* ([form FL-435](#)) may be issued.)

- a.  Amount requested (monthly): \$
- b.  I want the court to  change  end the current support order filed on (date):  
 The court ordered \$ per month for support.
- c.  This request is to modify (change) spousal or partner support after entry of a judgment.  
 I have completed and attached *Spousal or Partner Support Declaration Attachment* ([form FL-157](#)) or a declaration that addresses the same factors covered in form FL-157.
- d. I have completed and filed a current *Income and Expense Declaration* ([form FL-150](#)) in support of my request.
- e. The court should should make, change, or end the support orders because (specify):  [Attachment 4e.](#)

5.  PROPERTY CONTROL

I request temporary emergency orders

a. The  petitioner  respondent  other parent/party be given exclusive temporary use, possession, and control of the following property that we  own or are buying  lease or rent (specify):

b. The  petitioner  respondent  other parent/party be ordered to make the following payments on debts and liens coming due while the order is in effect:

Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____
Pay to: _____	For: _____	Amount: \$ _____	Due date: _____

- c.  This is a change from the current order for property control filed on (date):
- d. Specify in [Attachment 5d](#) the reasons why the court should make or change the property control orders.

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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6.  ATTORNEY'S FEES AND COSTS  
 I request attorney's fees and costs, which total (specify amount): \$ \_\_\_\_\_ . I filed the following to support my request:
- a. A current *Income and Expense Declaration* ([form FL-150](#)).
  - b. A *Request for Attorney's Fees and Costs Attachment* ([form FL-319](#)) or a declaration that addresses the factors covered in that form.
  - c. A *Supporting Declaration for Attorney's Fees and Costs Attachment* ([form FL-158](#)) or a declaration that addresses the factors covered in that form.

7.  DOMESTIC VIOLENCE ORDER
- Do not use this form to ask for domestic violence restraining orders! Read [form DV-505-INFO](#), *How Do I Ask for a Temporary Restraining Order*, for forms and information you need to ask for domestic violence restraining orders.
  - Read [form DV-400-INFO](#), *How to Change or End a Domestic Violence Restraining Order* for more information.
- a. The *Restraining Order After Hearing* (form DV-130) was filed on (date): \_\_\_\_\_
  - b. I request that the court  change  end the personal conduct, stay-away, move-out orders, or other protective orders made in *Restraining Order After Hearing* (form DV-130). (If you want to change the orders, complete 7c.)
  - c.  I request that the court make the following changes to the restraining orders (specify):  [Attachment 7c.](#)
  - d. I want the court to change or end the orders because (specify):  [Attachment 7d.](#)

8.  OTHER ORDERS REQUESTED (specify):  [Attachment 8.](#)

9.  TIME FOR SERVICE / TIME UNTIL HEARING I urgently need:
- a.  To serve the *Request for Order* no less than (number): **5** court days before the hearing.
  - b.  The hearing date and service of the the *Request for Order* to be sooner.
  - c. I need the order because (specify):  [Attachment 9c.](#)

10.  FACTS TO SUPPORT the orders I request are listed below. The facts that I write in support and attach to this request cannot be longer than 10 pages, unless the court gives me permission.  [Attachment 10.](#)

I declare under penalty of perjury under the laws of the State of California that the information provided in this form and all attachments is true and correct.

Date: \_\_\_\_\_  
 \_\_\_\_\_  
 (TYPE OR PRINT NAME)

\_\_\_\_\_  
 (SIGNATURE OF APPLICANT)



**Requests for Accommodations**

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to [www.courts.ca.gov/forms](http://www.courts.ca.gov/forms) for *Request for Accommodations by Persons With Disabilities and Response* ([form MC-410](#)). (Civ. Code, § 54.8.)

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>	<u>(person who decides about the child's health, education, and welfare)</u>
		<u>(person the child regularly lives with)</u>

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).

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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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:
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(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:
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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*):

SHORT TITLE:

CASE NUMBER:

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**ATTACHMENT** (Number) : 10  
(This Attachment may be used with any Judicial Council form.)

Page \_\_\_\_\_ of \_\_\_\_\_  
(Add pages as required)

*(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)*





# **PROOF OF SERVICE**

**EX PARTE REQUEST FOR ORDER**

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



ATTORNEY OR PARTY WITHOUT ATTORNEY OR GOVERNMENTAL AGENCY (under Family Code, §§ 17400, 17406) <i>(Name, State Bar number, and address)</i>       TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR <i>(Name)</i> : <b>Self-Represented</b>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Santa Clara</b> 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:	
PETITIONER/PLAINTIFF:  RESPONDENT/DEFENDANT:  OTHER PARENT/PARTY:	CASE NUMBER:  (If applicable, provide): HEARING DATE: HEARING TIME: DEPT.:
<b>PROOF OF PERSONAL SERVICE</b>	

1. I am at least 18 years old, not a party to this action, and not a protected person listed in any of the orders.
2. Person served *(name)*:
3. I served copies of the following documents *(specify)*:  
**FILED COPIES OF: Declaration in Support of Ex Parte Application; Request for Order; Temporary Emergency (Ex Parte) Orders; Child Custody and Visitation Application Attachment**

**Blank Responsive Declaration to Request for Order, ADR Options**

4. By personally delivering copies to the person served, as follows:
  - a. Date: \_\_\_\_\_ b. Time: \_\_\_\_\_
  - c. Address: \_\_\_\_\_
  
5. I am
  - a.  not a registered California process server.
  - b.  a registered California process server.
  - c.  an employee or independent contractor of a registered California process server.
  - d.  exempt from registration under Business & Profession Code section 22350(b).
  - e.  a California sheriff or marshal.

6. My name, address, and telephone number, and, if applicable, county of registration and number *(specify)*:

7.  I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
8.  I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
 (TYPE OR PRINT NAME OF PERSON WHO SERVED THE PAPERS)



\_\_\_\_\_  
 (SIGNATURE OF PERSON WHO SERVED THE PAPERS)





# **RESPONSIVE FORMS**

EX PARTE REQUEST FOR ORDER

# **LEAVE BLANK**

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



PARTY WITHOUT ATTORNEY OR ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
<b>RESPONSIVE DECLARATION TO REQUEST FOR ORDER</b>	CASE NUMBER:
HEARING DATE: TIME: DEPARTMENT OR ROOM:	

Read *Information Sheet: Responsive Declaration to Request for Order* ([form FL-320-INFO](#)) for more information about this form.

1.  **RESTRAINING ORDER INFORMATION**
  - a.  No domestic violence restraining/protective orders are now in effect between the parties in this case.
  - b.  I agree that one or more domestic violence restraining/ protective orders are now in effect between the parties in this case.
  
2.  **CHILD CUSTODY**  
 **VISITATION (PARENTING TIME)**
  - a.  I consent to the order requested for child custody (legal and physical custody).
  - b.  I consent to the order requested for visitation (parenting time).
  - c.  I do not consent to the order requested for  child custody  visitation (parenting time)  
 but I consent to the following order:
  
3.  **CHILD SUPPORT**
  - a. I have completed and filed a current *Income and Expense Declaration* ([form FL-150](#)) or, if eligible, a current *Financial Statement (Simplified)* ([form FL-155](#)) to support my responsive declaration.
  - b.  I consent to the order requested.
  - c.  I consent to guideline support.
  - d.  I do not consent to the order requested  but I consent to the following order:
  
4.  **SPOUSAL OR DOMESTIC PARTNER SUPPORT**
  - a. I have completed and filed a current *Income and Expense Declaration* ([form FL-150](#)) to support my responsive declaration.
  - b.  I consent to the order requested.
  - c.  I do not consent to the order requested  but I consent to the following order:

PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	CASE NUMBER:
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5.  PROPERTY CONTROL
- a.  I consent to the order requested.
- b.  I do not consent to the order requested  but I consent to the following order:
- 
6.  ATTORNEY'S FEES AND COSTS
- a. I have completed and filed a current *Income and Expense Declaration* ([form FL-150](#)) to support my responsive declaration.
- b. I have completed and filed with this form a *Supporting Declaration for Attorney's Fees and Costs Attachment* ([form FL-158](#)) or a declaration that addresses the factors covered in that form.
- c.  I consent to the order requested.
- d.  I do not consent to the order requested  but I consent to the following order:
- 
7.  DOMESTIC VIOLENCE ORDER
- a.  I consent to the order requested.
- b.  I do not consent to the order requested  but I consent to the following order:
- 
8.  OTHER ORDERS REQUESTED
- a.  I consent to the order requested.
- b.  I do not consent to the order requested  but I consent to the following order:
- 
9.  TIME FOR SERVICE / TIME UNTIL HEARING
- a.  I consent to the order requested.
- b.  I do not consent to the order requested  but I consent to the following order:
- 
10.  FACTS TO SUPPORT my responsive declaration are listed below. The facts that I write and attach to this form cannot be longer than 10 pages, unless the court gives me permission.  [Attachment 10.](#)

I declare under penalty of perjury under the laws of the State of California that the information provided in this form and all attachments is true and correct.

Date:

\_\_\_\_\_

(TYPE OR PRINT NAME)



\_\_\_\_\_

(SIGNATURE OF DECLARANT)

# 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](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](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](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](http://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.*