

How to File a Response to a Request

(to Set or Change Custody and/or Visitation)

Step 1	<p>Complete the following forms in blue or black ink:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> FL-320 Responsive Declaration to Request for Order <input type="checkbox"/> MC-025 Attachment to Judicial Council Form <input type="checkbox"/> FL-311 Child Custody and Visitation Application Attachment
Step 2	<p>Copies: Make <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 copies, in addition to the original.</p>
<p>Step 3</p> <p>There is no filing fee.</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> <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>There is no filing fee for these forms however you may be required to pay a fee if you are filing other forms at the same time or if you owe money for forms you already filed. You can check with the clerk when you file.</p>
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 by mail on the other parent. "<i>Service by mail</i>" means: someone, NOT you, who is at least 18 years old must mail the filed copies to the other parent. Service must be completed at least: <ul style="list-style-type: none"> <input type="checkbox"/> 9 court days before the court hearing (weekends and holidays do not count) <input type="checkbox"/> 2 calendar days before the court hearing (if the judge granted a request for emergency orders) <p>Whoever does the service must complete the attached <i>Proof of Service by Mail form</i> (FL-335) 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>
STEP 5	<p>Go to your court date.</p>

Please turn over for important information



WHAT IS A “REQUEST FOR ORDER”?

A *Request for Order* is a request for the court to have a hearing so the Judge can make a court order. If a parent wants the Judge to make a new order about custody and visitation, support or other orders in an existing case, or if they want to change an order that already exists, they would file a *Request for Order*. The person who files the request is called the “moving party”. The other party is called the “responding party”.

WHY SHOULD I FILE A RESPONSE?

You should complete and file a *Responsive Declaration to Request for Order* to let the Judge know whether you agree or disagree with the other parent’s request. You also get to tell the Judge what you think the order should be. However, you cannot raise any new issues in your responsive papers. For example, if the moving party only asked for custody and visitation orders, you cannot bring up the issue of child support in your response. Instead, you would need to file your own *Request for Order*. In addition to filing a response, it is important to go to the court date. If you do not, the Judge may grant the moving party’s request without your input. Please look at the first page of the *Request for Order* for the court date, time and location.

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: Email your forms as a PDF file to SHCDocReview@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

BLANK FORMS

RESPONSE TO REQUEST FOR ORDERS

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

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 North First Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME: Family Justice Center Courthouse	
PETITIONER: RESPONDENT: OTHER PARENT/PARTY:	
RESPONSIVE DECLARATION TO REQUEST FOR ORDER	
HEARING DATE: TIME: DEPARTMENT OR ROOM:	CASE NUMBER:

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)

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>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>
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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) : _____
(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

RESPONSE TO REQUEST FOR ORDERS

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

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <hr/> 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 North First Street MAILING ADDRESS: 191 North First Street CITY AND ZIP CODE: San Jose, CA 95113 BRANCH NAME: Family Justice Center Courthouse	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER: <i>(If applicable, provide):</i> HEARING DATE: HEARING TIME: DEPT.:
PROOF OF SERVICE BY MAIL	

NOTICE: To serve temporary restraining orders you must use personal service (see form FL-330).

1. I am at least 18 years of age, not a party to this action, and I am a resident of or employed in the county where the mailing took place.
2. My residence or business address is:

3. I served a copy of the following documents (specify):

Filed copy of: Responsive Declaration to Request for Order

FL-311

by enclosing them in an envelope AND

- a. **depositing** the sealed envelope with the United States Postal Service with the postage fully prepaid.
- b. **placing** the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

4. The envelope was addressed and mailed as follows:

- a. Name of person served:
- b. Address:
- c. Date mailed:
- d. Place of mailing (city and state):

5. I served a request to modify a child custody, visitation, or child support judgment or permanent order which included an address verification declaration. (Declaration Regarding Address Verification—Postjudgment Request to Modify a Child Custody, Visitation, or Child Support Order (form FL-334) may be used for this purpose.)

6. 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 PERSON COMPLETING THIS FORM)