

GOING TO COURT WITHOUT A LAWYER

Handbook for Litigants

A Guide for Handling Uncontested

- DIVORCE
- LEGAL SEPARATION



Going to Court Without a Lawyer

*Handbook for Litigants—A Guide for
Handling Uncontested Divorce and Legal
Separation*

Updated January 2015



JUDICIAL COUNCIL
OF CALIFORNIA

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This brochure will help you understand the court process and fill out the legal forms you will need for an ***uncontested*** **Divorce, Legal Separation, or Annulment.** “*Uncontested*” means that:

- You and your spouse or domestic partner can agree outside of court about how you want to handle money and parenting issues,
- or*
- Your spouse or domestic partner is unlikely to file any forms in court disagreeing with your requests.

GET LEGAL INFORMATION

You should consider getting help from a lawyer before you file any of your court forms. If you cannot afford to hire a private attorney, you should know that each California court has hired an attorney to give free help with child, spousal and partner support problems. These attorneys are called Family Law Facilitators. Although the Facilitators can’t represent either spouse or domestic partner in court, they can help in other ways. In some counties, the Facilitator gives classes to help people fill out court forms. Many Facilitators also have books and other materials written about the law and the courts, and they can tell you about the other resources such as lawyer referral services, legal aid clinics, and self-help law centers in your area. Many courts also offer more services like this in a self-help center.

You can also find much more information at the California Courts Online Self-Help Center: www.courts.ca.gov/selfhelp

This brochure can not help you with the court forms you need for a contested case or if you were never married or registered as domestic partners with the State of California or other states recognizing domestic partnerships.

Separation and divorce can be hard for everyone—even if you were the one who wanted it to happen. In addition, the legal process is complicated and often confusing. This is because the law must protect everyone’s interests when a couple separates or divorces.

If there’s been domestic violence, it is important to make a safety plan before you tell your spouse or domestic partner you want a divorce, legal separation, or annulment or file any legal papers. You can call your local domestic violence agency for assistance. Information about protection from abuse and making a safety plan is also available on the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp-abuse.

There are many feelings and day-to-day problems to handle when your marriage or domestic partnership ends, especially if you have children. Although going through the court process can be a challenge, many people are able to finish the legal process on their own or with limited help from attorneys or other professionals, even if they make mistakes at first. You can avoid delays and spend less time in court if you take time to read this brochure before you fill out any court forms.

CHOOSING THE RIGHT LEGAL FORMS

After you finish reading this brochure, you will need to get copies of the forms the court will use to decide your case. You can get all the forms for free from the California Courts Online Self-Help Center at www.courts.ca.gov/selfhelp.

Once you get some understanding of the forms and of how the court process works, you will be better able to protect your legal interests, and the process should go more quickly. Most people need more information and help in order to be able to fill out their court forms. For this kind of help, contact your local bar association or lawyer referral service for a list of attorneys, including those who will reduce his or her fees for people with low-income or who will help you with just part of your case.

WHY GO TO COURT?

You may wonder why you have to go through this legal process — especially if you and your spouse or domestic partner have already agreed about how you will handle money and parenting issues. Getting married or registering your domestic partnership was a legal process. So is ending your marriage or domestic partnership. Unless you have a court order ending your marriage or domestic partnership, or granting you a legal separation, you may continue to be responsible to and for each other financially (including loans and credit cards). Until you have a court order ending your marriage or domestic partnership, you cannot marry anyone else or enter into another domestic partnership.

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SOME LEGAL TERMS YOU NEED TO KNOW

ANNULMENT (“NULLITY OF MARRIAGE OR DOMESTIC PARTNERSHIP”): A legal action that says your marriage or domestic partnership was never legally valid because of unsound mind, incest, bigamy, being under the age of consent, fraud, force, or physical incapacity.

COURT ORDER: A judge’s decision that gives you certain rights or tells you to do certain things is called a *Court Order*.

DISSOLUTION: A marriage or domestic partnership that is ended by a judge’s decision. This is also known as a *Divorce*.

DIVORCE: A common name for a marriage or domestic partnership that is legally dissolved.

DOMESTIC PARTNERSHIP: Persons who have registered with the State of California as domestic partners must be in a committed gay or lesbian relationship or in a committed opposite-sex relationship where one partner is 62 years or older.

FAMILY LAW CASE: Your divorce, legal separation, or annulment is called a *family law case* in this brochure.

FEE WAIVER: Permission not to pay filing fees is given to

some people with very low incomes. You can get fee waiver forms from the court clerk.

FILING A FORM: Court forms are only considered “filed” when they are stamped by the court clerk. You can either take your forms to the clerk’s office to be stamped, or mail them in.

FILING FEES: Court fees that must be paid to file certain forms, unless your request for a fee waiver is granted.

LEGAL SEPARATION: You and your spouse or domestic partner can end your relationship but still remain legally married or domestic partners, and get court orders on parenting and money issues with a *Judgment of Legal Separation*.

MEDIATION: In *Mediation*, an unbiased third party helps you and your spouse or domestic partner reach agreements you both think are fair.

NEGOTIATION: In *Negotiation*, you and your spouse or domestic partner find solutions on your own, or with the help of a lawyer or other third party.

SELF-REPRESENTED LITIGANT: If you are going to court without a lawyer, you are called a *self-represented litigant*. That means that you’re representing yourself in court. You may hear the term *pro per*. It means the same thing.

PETITIONER: This is the person who starts the family law case by filing the first court papers.

RESPONDENT: If you did not start the family law case and you are named in this case, you are the *Respondent*.

QUESTIONS TO ANSWER BEFORE YOU START YOUR FAMILY LAW CASE

1. DO YOU WANT A DIVORCE, ANNULMENT, OR LEGAL SEPARATION?

There are three types of family law cases discussed in this brochure. The first type of family law case is a divorce (which is called “dissolution of marriage” or “dissolution of domestic partnership”). The second type of case is an annulment (which is called “nullity of marriage” or “nullity of domestic partnership”). This is a rarely used proceeding which establishes that the marriage or domestic partnership was never legally valid because of unsound mind, incest, bigamy, being under the age of consent, fraud, force or physical incapacity. The third type of case is a legal separation. A couple might choose to get a Judgment of Legal Separation if they want to live apart but do not want to get divorced. This might be for religious reasons or because an ill spouse or domestic partner is still covered by the other spouse or domestic partner’s health insurance policy. A Judgment of Legal Separation will describe how you will handle the money and (if you have children) parenting issues. You cannot marry someone else or register a new domestic partnership if you are legally separated but not divorced.

***If you were never married or if you never formally registered your domestic partnership, you will need different forms to handle your case.** Ask the Family Law Facilitator, court self-help center, or an attorney about which court procedures and forms you must use. You may also want to visit the California Courts Online Self-Help Center at www.courtinfo.ca.gov/selfhelp.

2. IS YOUR FAMILY LAW CASE UNCONTESTED OR CONTESTED?

If you and your spouse or domestic partner can agree about the money and parenting issues in your divorce, legal separation, or annulment, then you have an “uncontested” case. For some, this means that your spouse or domestic partner won’t even have to file a *Response* to your court forms. Most uncontested cases can be handled by mail or brief contacts with the clerk or judge. You may not have to go into court to handle your case.

If you and your spouse or domestic partner cannot agree on one or more issues, then your case is “contested.” The judge will know that your case is contested if your spouse or domestic partner files a *Response* (a form that is explained in this brochure) that lists what he or she disagrees about. The judge cannot do anything to resolve the disagreement, however, unless you or your spouse or domestic partner files the necessary forms to set a court hearing or trial date so the judge can hear both sides. ***This brochure can not help you with the court forms you need to finish a contested case.*** If your case becomes contested, contact a private attorney, legal aid, self-help center, or (if the case involves child, spousal or partner support) a Family Law Facilitator for information.

If your case starts out or later becomes contested, you may be able to work out an agreement through negotiation, mediation, or some other process. If you are able to reach an agreement in this way, your case can then become uncontested. Once the case is uncontested, you can handle it without going to a court hearing and can cancel any future court dates that may have already been scheduled.

ALERT! If your spouse or domestic partner lives in another state or country with any of your minor children, *you should discuss your situation with a lawyer before you file any papers.*

3. DO YOU MEET CALIFORNIA'S RESIDENCY REQUIREMENTS?

To file for divorce in California, either you or your spouse or domestic partner must have lived in:

- California for the last six months, AND the county where you plan to file for the last three months.
- If you and your spouse or domestic partner have lived in California for at least six months, but in different counties for at least three months, you can file your case in either county. The court you file in will be the court that handles any future legal actions regarding this case. This sometimes changes if you or your spouse or domestic partner establishes residency in another state.
- Note: These residency requirements do not apply to same-sex spouses who were married in California, who are not residents of this state, and who live in a state or nation that will not dissolve their marriage. These persons may file for divorce at any time in California, in the same county in which they were married.

NOTE: *You do not have to meet any residency requirements if you are asking for a legal separation or annulment. If you want to file your family law case in a California county but do not yet meet the residency requirement, you can file first for legal separation, then file and serve a revised *Petition* after you meet the residency requirement to ask the court to grant you a divorce.*

4. WHAT ABOUT A SUMMARY DISSOLUTION?

Some people can use an even easier process to end their marriage called ***Summary Dissolution***. This is not covered in this brochure. If you meet the following requirements, ask your court clerk for the Summary Dissolution forms and the separate booklet or get them for free at www.courtinfo.ca.gov/selfhelp.

This process is for people who:

- were married less than five years from the date of the marriage and/or registration of domestic partnership and the date of separation;
- have no children together that were adopted or born before or during the marriage (and neither is pregnant now);
- do not own or have an interest in any real estate. This means a house, condominium, rental property, land, or a one-year lease or option to buy;
- do not owe more than \$6,000 total for debts acquired since the date of the marriage (not counting vehicle loans);
- have less than \$40,000 total property (not counting any money owed on the property and not counting any cars) that was acquired during the marriage;
- do not have separate property (not counting any money owed on the property and not counting any cars) worth more than \$40,000;
- agree that neither spouse will ever get spousal support;
- meet the residency requirements for getting a divorce in California; and

The maximum amounts change every two years as the cost of living changes.

- have signed an agreement before filing the *Joint Petition for Summary Dissolution of Marriage* that divides their property and debts.

NOTE: Domestic partners who meet the requirements for summary dissolution as listed on page 11, can file a Notice of Termination of Domestic Partnership with the Secretary of State rather than use the summary dissolution procedure. For those forms see www.ss.ca.gov/dpreistry.

5. WILL YOU NEED MEDIATION?

Parents must go to mediation or child custody recommending counseling provided by the court if they disagree about how they will make decisions about or spend time with their children.

Mediators and child custody recommending counselors are trained professionals who can help parents agree about a parenting plan. If there has been domestic violence, you have the right to bring a support person with you to your meeting with the mediator or child custody recommending counselor. You can also ask the mediator or child custody recommending counselor to meet separately with you (and your support person) without your spouse or domestic partner being present.

If you and the other parent agree on a parenting plan in mediation, the mediator or child custody recommending counselor will write a summary that the judge can use to make a court order. If you and the other parent cannot agree on everything, the judge may ask the child custody recommending counselor to recommend a decision. In some cases, the judge will order a mental health expert to meet with each parent, the children, and other important people in the children's lives to

Mediation can work just as well to resolve the money issues in your family law case, but it is not mandatory. If you hire a private mediator, he or she might be able to help you agree about both money and parenting issues. Non-court mediators are often either attorneys or mental health experts. The fees they charge often range between \$50 and \$350 an hour. Usually spouses or domestic partners share this cost.

If you want more information on things to consider and information on how to write a parenting plan, see the California Courts Online Self-Help center at www.courts.ca.gov/selfhelp.

SIX STEPS FOR AN UNCONTESTED FAMILY LAW CASE

You must follow six steps to complete your family law case. You must complete each step correctly and in order. While it is possible to get all of your forms completed and processed by the court in about three months, your marriage or domestic partnership *will not* end any earlier than six months from the date you have your spouse or domestic partner served with a copy of your *Summons* and *Petition*.

1: GET COURT FORMS

2: START YOUR CASE

3: SERVE THE FIRST SET OF COURT FORMS

4: SERVE THE DISCLOSURE FORMS

5: FINISH YOUR FAMILY LAW CASE

6: FILE THE JUDGMENT FORMS

STEP 1: GET COURT FORMS

All California courts use the same basic set of forms, although some courts add other local forms. You can find copies of the court forms you will need on the Internet at www.courts.ca.gov/forms. Also, you usually can get all of the forms you need from the court clerk's office. Some court clerks will have one packet with a copy of each of the forms that you might need for regular dissolutions, legal separations, or annulments and a separate packet for summary dissolutions. (If your case is uncontested, you probably will not need to use every form that comes in the full packet.) In other clerks' offices, you must ask for the specific forms you want. Most court clerks charge a small fee for these forms. You can also find copies of court forms you need in law libraries.

Throughout this brochure, we will give the full name and form number for each of the forms discussed. You can compare the forms mentioned here to the ones you receive by reading the form name printed at the center of the bottom of each form.

You should note that each form is revised and updated from time to time. You will find the form number and the date that the form was last revised in the bottom left corner of each form.

A LIST OF THE FORMS YOU MAY NEED

- *Petition-Marriage/Domestic Partnership (Family Law)*, Form FL-100
- *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act*, Form FL-105
- *Summons (Family Law)*, Form FL-110
- *Property Declaration (Family Law)*, Form FL-160
- Local form on choosing the branch of the court for filing
- *Proof of Service of Summons (Family Law)*, Form FL-115
- *Notice and Acknowledgment of Receipt*, Form FL-117
- *Response-Marriage/Domestic Partnership (Family Law)*, Form FL-120
- *Declaration of Disclosure*, Form FL-140
- *Schedule of Assets and Debts*, Form FL-142
- *Income and Expense Declaration*, Form FL-150
- *Declaration Regarding Service of Declaration of Disclosure*, Form FL-141
- *Request to Enter Default (Family Law)*, Form FL-165
- *Appearance, Stipulations, and Waivers*, Form FL-130
- *Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law)*, Form FL-170

- *Stipulation and Waiver of Final Declaration of Disclosure*, Form FL-144
- *Judgment (Family Law)*, Form FL-180
- *Child Custody and Visitation Order*, Form FL-341
- *Spousal, Partner, or Family Support Order Attachment*, Form FL-343
- *Child Support Information and Order Attachment*, Form FL-342
- *Stipulation to Establish or Modify Child Support and Order*, Form FL-350
- *Notice of Rights and Responsibilities — Health Care Costs and Reimbursement Procedures and Information Sheet on Changing a Child Support Order*, Form FL-192
- *Child Support Case Registry Form*, Form FL-191
- *Order/Notice to Withhold Income for Child Support*, Form FL-195
- *Earnings Assignment Order for Spousal or Partner Support*, Form FL-435
- *Notice of Entry of Judgment (Family Law)*, Form FL-190
- *Proof of Service by Mail*, Form FL-335
- *Stipulation and Order For Custody and/or Visitation of Children*, Form FL-355

GENERAL INFORMATION ON COMPLETING COURT FORMS:

Most people find it easier to fill out court forms by approaching each one, one section at a time. If you have questions, leave that section blank until you can get your questions answered. You can ask a private attorney, the self-help center or Family Law Facilitator in your county's court, or legal aid clinic for help in understanding and completing your court forms. You can also go to the law library and ask for books on how to fill out the paperwork.

Many of the forms have printing on both sides. This means you will have to be careful when making copies. It's easiest if you use two separate pages for copying the two sides of a form.

You can get helpful information about how to fill out these forms and you can fill out the forms online at www.courts.ca.gov/selfhelp.

ALERT! OUT-OF-DATE FORMS MAY NOT BE FILED. Court forms may change on January 1 or July 1 of each year. Out-of-date forms will usually be returned to you without being filed. It is important that you check with a private attorney, the court's Family Law Facilitator or self-help center, the court clerk, or on the Internet at www.courts.ca.gov/forms to make sure that the forms you use are the latest ones. You can check the date the form was released by looking on the bottom left-hand portion of the form.

TIPS FOR FILLING OUT COURT FORMS

1. **All areas of the form must be filled out with complete, detailed, and accurate information** (or “N/A” if it does not apply to you).
2. **Make sure your form is clean and readable.** Try to type the forms or complete on the court’s web site, www.courtinfo.ca.gov/forms. You can fill out your forms by hand. If you do, use ink only. You may have to start over on a clean form if there are mistakes.
3. **Sign each form** in each place that requires your signature **IN BLUE OR BLACK INK ONLY.**
4. **Make copies of all forms** (including blank forms).
5. **Keep your court papers safe in a separate folder.** Be sure you keep a clean copy of all of your court papers.
6. **Bring your complete court file with you** every time you go to the clerk’s office or to a court hearing.
7. **Always use your legal name, current address, and daytime telephone number** in the box at the top of page 1 of each form. If you want your home address to stay private, you can use another address where you receive mail. Until you change that address with the court, the judge will assume you have received whatever legal papers were sent there.
8. **If you do not have a lawyer, use the term “self-represented”** in the “Attorney for” line on all court forms.
9. **Check whether your court has any special local rules** about what court forms you need or how the forms must be filled out.

STEP 2: START YOUR CASE

FORMS YOU MUST USE:

There are two forms that you must fill out and file to start your case. If you have children, there are three forms. In some cases, you may also need to fill out and file several more forms. The first step of the court process is to list who is involved in the case and what you are asking the court to do. The forms you must use are:

- ***Summons (Family Law)*, Form FL-110**
- ***Petition-Marriage/Domestic Partnership (Family Law)*, Form FL-100**
- ***Declaration Under Uniform Child Custody Jurisdiction Act*, Form FL-105** (attach to *Petition* if you have children)

OTHER FORMS YOU MAY NEED:

If you want temporary orders regarding child, spousal or partner support, bill payment, protection from domestic violence, or other issues, you will need to fill out and file other forms, which are not covered in this brochure. The Family Law Facilitator can help you with temporary orders for child, spousal or partner support. The other forms you may need include:

- ***Property Declaration (Family Law)*, Form FL-160 and/or**
- ***Continuation of Property Declaration (Family Law)*, Form FL-161.** You can use these forms to list your property and debts if you run out of room on your *Petition-Marriage/Domestic Partnership (Family Law)*, Form FL-100.

- ***Local form on choosing the branch of the court for filing your case.*** Some counties have many branches of the superior court and require you to fill out and file a special form listing the court where you file your case.

NOTE: You can use this brochure to find out the name of and get general information about how to fill out and file each of the court forms. However, this brochure does *not* give you line-by-line instructions on completing each form.

NOTES:

NAME OF FORM: *Petition-Marriage/Domestic Partnership (Family Law), Form FL-100*

PURPOSE OF FORM: Used to start a Family Law Case; list dates, children, property, debts.

GENERAL INFORMATION:

Put your name, current address, and daytime phone number at the top of the form. If you do not have an attorney to represent you, you must add the words “self-represented” where the form says “Attorney for.” Next, fill in the court name and address (and if necessary the district courthouse where you will file your *Petition*). If you are the person who starts the court case, you are the Petitioner, and your spouse or domestic partner is the Respondent. The court clerk will assign a case number when you file the first set of forms. Use this case number on all your forms.

DATE OF SEPARATION: This is usually the date when you or your spouse or domestic partner moved out, or when the two of you permanently stopped living as spouses or domestic partners, even if you stayed in the same house.

ALERT! If you have significant property, or a pension, or if there will be spousal or partner support issues, you should get legal advice from a family law attorney about figuring out what the “date of separation” was, especially if there have been times when you did not live together or had “trial separations”.

MINOR CHILDREN: Only list the children under the age of 18 years who were born to or adopted by you and your spouse or domestic partner together. You must fill out and file a *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act*, Form FL-105 to let the judge know where your child has been living and with whom, and if there are any other court cases involving custody of your child (including juvenile, guardianship, or domestic violence cases).

LISTING OF PROPERTY AND DEBTS: First, you will have to list what you *own* (money or property) and what you *owe* (loans or debts). Then, you must say whether these things are owned by both of you (*community property*) or owned by one of you (*separate property*).

The property and debts part of the legal process is often so complicated, and the cost of making a mistake is so high, that it makes sense to meet with an attorney before filing these papers with the court. If you leave the property section of your Petition blank, then you are saying that there is no property or debt to consider. Check the appropriate boxes if you do not have property or debt to consider, or if you and your spouse or domestic partner already signed an agreement settling all the issues in your case and had it notarized.

If you need more room, you can list more assets or debts on the *Property Declaration* form or use a blank page that you label “*Attachment to Petition (Separate or Community), Property Assets and Obligations.*” Try to fill in all the information for what you own and owe. Remember to list not only the house, cars, bank accounts, furniture, and appliances, but also any pension and retirement benefits, IRA accounts, 401(k) plans, life insurance policies, security deposits, and promissory notes. When listing debts, be sure to include unpaid taxes, medical bills, credit card accounts, and other loans or mortgages. You do not have to list individual personal property items (such as clothing, pots and pans, books, and other smaller items).

COMMUNITY PROPERTY:

Except for those things covered in the definitions section below, everything you acquire during your marriage or domestic partnership is part of your “community property” (even if only one of you earned or spent the money). Community property should be divided equally.

ALERT! Community property does not become separate property (even if you and your spouse or domestic partner have agreed about who gets what) until the judge signs the final court order.

SEPARATE PROPERTY of a married person or of one domestic partner includes:

- All property owned by the person before marriage or before registering the domestic partnership;
- All property acquired by gift or inheritance that is especially for that person;

- The rents, profits, or other money earned from the separate property; or
- Property that is acquired *after the date of separation*.

When listing separate property and debts, be sure to show whether it belongs to the Petitioner or the Respondent. *Some things might be part separate and part community*. For example, you or your spouse or domestic partner might have a pension or retirement benefit from a job you held both before the marriage or domestic partnership and during the marriage or domestic partnership, so the pension or retirement benefit would be part separate property and part community property. ***If you have signed an agreement either before or during the marriage or domestic partnership that might change how the law treats a particular asset or debt, you should meet with an attorney to find out how this affects your family law case before filing your papers with the court.***

GROUND FOR DIVORCE OR SEPARATION: If you want either a dissolution (divorce) or a legal separation, check the appropriate box. Then, check the box next to your reason for wanting the divorce or legal separation. Most people choose *irreconcilable differences* (meaning that you and your spouse or domestic partner cannot resolve your differences well enough to stay married or remain domestic partners). California law does not ask either spouse or domestic partner to show who was “at fault” to get a divorce or legal separation

GROUNDS FOR ANNULMENT (NULLITY OF MARRIAGE OR DOMESTIC PARTNERSHIP): You should know that courts rarely grant this type of request, and there are time limits for filing for annulment. If you ask the judge to annul your marriage or domestic partnership, you will have to prove in a court hearing that at the time of the marriage both of you were closely related (incest), or one of you was either: underage; still married to, or the domestic partner of, someone else (bigamy); of unsound mind; tricked or forced into getting married or registering a domestic partnership; or not physically able to be married.

CHILD CUSTODY AND VISITATION: If you have listed any children under the age of 18 on the petition, you must check the boxes to show how you want the custody and visitation issues to be decided.

LEGAL CUSTODY: refers to who can make the decisions that affect a child's health, education, and welfare. Usually, with *joint legal custody*, both parents work together to make decisions regarding their child. However, unless the joint legal custody order lists the circumstances where joint consent is required, either parent alone can make these decisions. A parent with *sole legal custody* makes parenting decisions on their own, without consulting the other parent.

PHYSICAL CUSTODY: refers to where the child lives. With *joint physical custody*, the child spends significant (but not necessarily equal) time living with each parent. When one parent has *sole physical custody*, the child lives primarily with that parent and has visitation with their other parent.

CHILD VISITATION: Your visitation plan for your child can be either general or have lots of details. Many parents find that detailed plans work best. A detailed plan might list when and where the child will be picked up and dropped off, or how to split holidays and vacations or share birthdays. This kind of detail can help avoid arguments and help your children feel better, because everyone will understand how the agreement is supposed to work, and will know when they will spend time together. However, if you and the other parent can still decide things easily and cooperate regarding the children, a general agreement can be enough. For example, you might only list where your child will live during the school year and summer and that visits will happen every other weekend or when it's convenient.

Some parents ask the judge to decide that visits can happen only when another responsible adult is there. This is called *supervised visitation*. If you ask for supervised visits, you should say who the supervisor would be and how he or she will be paid.

RESTRICTION ON TRAVEL WITH CHILD: A "*Standard Family Law Restraining Order*" (listed on the *Summons*) goes into effect as soon as the *Petition* is filed. This order stops either parent from taking the child out of California unless he or she gets the other parent's written consent before the travel occurs, or there is a court order allowing the travel. This restriction ends when the final *Judgment* has been signed by the judge and filed with the court, unless the court continues that restriction in the *Judgment*.

SPOUSAL OR PARTNER SUPPORT: *Spousal or partner support* is another name for “alimony” or “maintenance” in California. Spousal or partner support is money that one spouse or domestic partner pays to help support the other after they separate. If you disagree about support, a judge or family law commissioner will decide who pays what, and how long support will last. The judge will consider the length of the marriage or domestic partnership; what each person needs, earns or can earn, pays or can pay; whether having a job will make it too hard to take care of the children; the age and health of the parties; debts and property; and whether one spouse or domestic partner helped the other get an education, training, career, or professional license. Either spouse or domestic partner can ask the court not to order support, or to decide when support will end. If you want there to be no spousal or partner support, you can check the “terminate jurisdiction” box. If you agree, or the judge approves your request to have no support, neither of you may ever go back to court to ask for spousal or partner support. If you are considering asking for spousal or partner support, your petition must show a checked box asking that the court order spousal or partner support. Also, be sure to check the box regarding whether spousal or partner support should be paid to the Petitioner or Respondent.

ALERT! Spousal or partner support is a difficult legal issue. See a lawyer or the Family Law Facilitator about how much spousal or partner support might be ordered, how long it might last, and how it might affect your taxes. In general, spousal support is tax-deductible for the paying spouse, and taxable income for the supported spouse.

ALERT! Federal and state tax laws were not changed to recognize domestic partners. These laws can be very complicated, and it is important to talk with an attorney or accountant who is knowledgeable in this area, and about income, property, and other taxes.

RESTORATION OF FORMER NAME: Either spouse or domestic partner may ask to have their name changed back to the one he or she used before the marriage or domestic partnership. To do this, check the appropriate box on the *Petition*, and then write or type in the former name.

CHILD SUPPORT: You do not need to check any boxes to request child support for minor children listed on the *Petition*.

NOTES:

NAME OF FORM: *Summons (Family Law),
Form FL-110*

PURPOSE OF FORM: Tells your spouse or domestic partner that a court case has started and what will happen if they don't respond in 30 days.

GENERAL INFORMATION:

Write your names, the court's name and address, and the case number in just the same way as on the *Petition*. Be sure to read all of the information on the back of this form, including the restraining orders against out-of-state travel with your children without your spouse or domestic partner's prior written consent or a court order, canceling insurance, or getting rid of property without the other spouse or domestic partner's written permission or a court order unless you must sell the property to pay for the necessities of life. These orders affect you as soon as the *Petition* is filed. The orders affect your spouse or domestic partner as soon as he or she is served with the *Summons* and *Petition*. Step 3 explains how to file the *Petition*.

NOTES:

NAME OF FORM: *Declaration Under Uniform
Child Custody Jurisdiction
and Enforcement Act,
Form FL-105*

PURPOSE OF FORM: Tells the court where and with whom your child has lived in the last five years and other custody or visitation cases affecting your child.

GENERAL INFORMATION:

Fill out the chart for each child under the age of 18 years. Be sure to fill out the information on the back regarding other court proceedings and other persons who have physical custody or claim to have custody or visitation rights. Attach this form to your *Petition*.

NOTES:

NAME OF FORM: *Property Declaration
(Family Law),
Form FL-160*

PURPOSE OF FORM: Lists by category each item of property and debt that you contend is community or separate.

GENERAL INFORMATION:

You only need this form if you run out of room on the *Petition* to list community and separate property and debts. Be sure to use separate forms; one to list your community property and debts, and the other to list your separate property and debts. You do not need to give values or list how everything will be divided when the forms are attached to your *Petition*. If you need more room to list everything, complete and attach a *Continuation of Property Declaration (Family Law)*, Form FL-161, or attach an extra page.

NOTES:

FINISHING AND FILING THE FIRST FORMS:

It is a good idea to have your first set of forms reviewed by an attorney before filing them with the court. This will allow you to make any needed changes before filing the forms with the court clerk.

You need an original and two copies of each form you file with the court. The clerk will file and keep the original of every form and stamp the two copies.

There is generally a fee of \$435 to file your first forms. The court clerk will tell you the exact amount. If you file by mail, be sure to include a money order. If you file in person, bring a money order or cash to cover the filing fee. (Some courts accept personal checks or credit cards. Check with your local court.) If you have a very low income or are receiving certain benefits, you may be able to get your court fees waived. Ask the court clerk for the *fee waiver forms* to see if you qualify. If you do qualify for a fee waiver, then fill out those court forms and bring them with you when you file your first forms.

You may also check the filing fee schedule in your county, find out if you qualify for a fee waiver, *and* get the forms you need to request a fee waiver by visiting the following internet site: www.courts.ca.gov/selfhelp-feewaiver.htm.

STEP 3: SERVE THE FIRST SET OF COURT FORMS

The law requires that your spouse or domestic partner be given formal notice that you have started the legal process to file for divorce, legal separation, or annulment. In fact, the judge cannot make any orders or judgments unless and until your spouse or domestic partner has been properly “served.” Having your spouse or domestic partner properly served means that someone else either hands the forms to your spouse or domestic partner (known as “personal service”) or mails them to your spouse or domestic partner. Anyone other than you, who is over the age of 18 years and who is not a party to your family law case, can serve the forms, including friends, relatives, the county sheriff, or a process server. **You can’t be the one to serve these forms on your spouse or domestic partner.**

If you and your spouse or domestic partner are able to work together and are cooperating regarding your family law case, then the easiest and least expensive way to serve your spouse or domestic partner is by mail. The person serving the forms by mail must include two copies of the *Notice and Acknowledgment of Receipt*, Form FL-117 and a return envelope with first class postage that is addressed to you, which your spouse or domestic partner must sign, date, and mail to you.

The other method of service is personal service, or having someone hand the forms to your spouse or domestic partner. If you hire a professional “process server,” it helps to give him or her a picture of your spouse or domestic partner, and a list of times and places when it will be easier to find your spouse or domestic partner. You should also try to find a process server who is close to where your spouse or domestic partner lives or works, since a process server’s fee is often based on how far he or she has to travel to serve your forms.

Whoever serves these forms must give your spouse or domestic partner a clear copy of:

- Each of the forms you filed with the court;
- A blank *Response-Marriage/Domestic Partnership*, Form FL-120
- (if service is by mail), two copies of the *Notice and Acknowledgment of Receipt*, Form FL-117, and an envelope addressed to you with first class postage on it.

NOTE: You cannot finish your family law case until you have served your spouse or domestic partner *and* filed the *Proof of Service of Summons* and other necessary forms with the court. Your divorce cannot be final faster than six months after your spouse or domestic partner was served with the *Summons* and *Petition* that have been stamped by the court clerk. Even so, your divorce does not become final automatically after six months. You must file certain documents with the court to request your divorce *Judgment*, as explained in this handbook.

After your spouse or domestic partner has been served, you must show the court that your spouse or domestic partner was properly served. This process for proving how your forms were served varies, depending on how your spouse or domestic partner was served:

- **If your spouse or domestic partner was served in person:** the person who served the forms must fill out a *Proof of Service of Summons (Family Law)*, Form FL-115 indicating when and where the papers were given to your spouse or domestic partner, and then file the original Form FL-115 at the court clerk's office.
- **If your spouse or domestic partner was served by mail:** the person who served the forms must fill out a *Proof of Service of Summons (Family Law)*, Form FL-115 indicating that your spouse or domestic partner was served by mail using the *Notice and Acknowledgment of Receipt*, Form FL-117. The *Notice and Acknowledgment of Receipt* which has been signed by your spouse or domestic partner must be attached to the *Proof of Service of Summons (Family Law)* and filed together at the court clerk's office.

ALERT! You should get legal advice if you do not know where your spouse or domestic partner is, if he or she is in the military, incarcerated, or living out of state or out of the country, or you are having a difficult time serving the forms.

NAME OF FORM: *Proof of Service of Summons
(Family Law),
Form FL-115*

PURPOSE OF FORM: Shows the court when,
what forms were served, and
who served the forms.

GENERAL INFORMATION:

Be sure to list your spouse or domestic partner's name and the court case number, in the same way they are listed on the *Summons* form. If the forms were handed to your spouse or domestic partner, the person who served your forms must fill in the date, time, and location of service. If service was by mail, your server needs to give the date and location where the forms were mailed and attach the *Notice and Acknowledgment of Receipt*, Form FL-117, that your spouse or domestic partner dated and signed. Finally, the server needs to sign the *Proof of Service of Summons* and fill in his or her name, address, and telephone number at the bottom of the form.

SERVING LOCAL CHILD SUPPORT AGENCY (LCSA): If you or the other parent gets welfare benefits for a child of this relationship (or if you have a support action pending with the local child support agency), you must also have a copy of your filed forms served on the local child support agency's office in the county where the benefits are being paid. You can use a *Proof of Service by Mail*, Form FL-335, which you can get from the court clerk or the court's web site at www.courts.ca.gov. The local child support agency can be served by mail. After serving the LCSA, file the *Proof of Service By Mail* at the court clerk's office.

STEP 4: SERVE THE DISCLOSURE FORMS

The next step in the legal process is to fill out and serve your *disclosure* forms. State law requires you and your spouse or domestic partner to give each other written information about what you own and what you owe. If you leave anything out, either by mistake or on purpose, your property division can be set aside (meaning it won't be valid), and your case may be reopened.

This step in the process is meant to make sure that both you and your spouse or domestic partner are aware of everything you each own and owe so that you can divide your property and debts equally. It also provides the necessary financial information to make decisions about child, spousal and partner support.

The first thing you do in Step 4 is to complete your *Preliminary Declaration of Disclosure*. Your disclosure documents (listed on page 34) must be served on your spouse or domestic partner at the same time as the *Petition* is served or within 60 days of filing the *Petition*. Your spouse or domestic partner's *Preliminary Declaration of Disclosure* must be served on you at the same time he or she serves a *Response* or within 60 days of filing a *Response*. These deadlines may be extended by a written agreement between you and your spouse or domestic partner or by court order.

As explained later, you and your spouse or domestic partner may each have to prepare and serve a *Final Declaration of Disclosure* or a *Stipulation and Waiver of Final Declaration of Disclosure* at the end of your case.

You do not file either the *Preliminary or Final Declarations of Disclosure* with the court. Instead, exchange a copy of these completed forms and documents with your spouse or domestic partner personally or by mail. You keep the original disclosure forms. The only form that you file with the court at this step is the *Declaration Regarding Service of Declaration of Disclosure*, Form FL-141, to show that you have had these forms served.

PRELIMINARY DISCLOSURE DOCUMENTS:

You need to fill out:

- *Declaration of Disclosure*, Form FL-140;
- *Income and Expense Declaration*, Form FL-150;
- *Schedule of Assets and Debts*, Form FL-142 or *Property Declaration*, Form FL-160; and
- Disclosure of investment opportunities since you separated, if any, that you can write out on the *Declaration of Disclosure* form, at item 5, or on a separate sheet of paper. This is not a form.

You must also include:

- All tax returns you filed in the two years before serving the disclosure documents.

NOTE: Both you and your spouse or domestic partner are responsible for making sure that the financial information you give each other is current. Therefore, one or both of you may need to fill out and serve new *Preliminary Declaration of Disclosure* forms as changes occur or you get new information about what is owned and what is owed. This rule applies until your property is distributed by agreement or court order.

NAME OF FORM: *Declaration of Disclosure,
Form FL-140*

PURPOSE OF FORM: Face sheet listing what
is included with your
Preliminary Disclosure.

GENERAL INFORMATION:

For the *preliminary disclosure*, check the box on Form FL-140 identifying you as the Petitioner or Respondent and the box indicating that this is your *Preliminary Disclosure*. Then check the boxes, and complete and attach the *Income and Expense Declaration*, Form FL-150, and either the *Schedule of Assets and Debts*, Form FL-142 or the *Property Declaration*, Form FL-160. If either you or your spouse or domestic partner made any investments during the marriage, you must each inform the other in writing of any opportunities that occur as a result of those investments. If this applies to you, check the box regarding investment opportunities and attach a piece of paper explaining what the opportunity is, so that your spouse or domestic partner can decide whether he or she wishes to participate.

NOTES:

NAME OF FORM: *Income and Expense Declaration,*
Form FL-150

PURPOSE OF FORM: Gives your spouse or domestic partner financial information.

GENERAL INFORMATION:

This four-page form can take a lot of time to complete. You may need help from an attorney, the Family Law Facilitator, or self-help center. You need to gather financial information from tax forms, your checkbook, bank or other account statements, mortgage statements, and/or other loan papers. You might also need a calculator.

Start with page 1. You must give information about your employment history, age and education, taxes, and an estimate of the other party's income. Do not sign and date the first page until you have completed all the pages of this form.

On page 2, *Income Information.* Make a list and add up all of the income you have gotten from all sources in the last 12 months. You will need to have a total for both the last 12 months *and* the most recent month. You must also give information about the deductions from your paycheck. All of the numbers you list must be *monthly* totals. You must state the value of any property you own. Be sure to attach copies of your three most recent pay stubs.

On page 3, *Expense Information,* list your average monthly expenses for each item on the form. One way to do this is to take the total of your household expenses for 12 months, then divide the total by 12 to get an average.

If you own a house, this includes your monthly mortgage interest payment, property taxes, and homeowner's insurance. You must also list your debts.

Only fill out page 4, *Child Support Information*, if you and your spouse or domestic partner are the parents of children together under age 18 years. Here, you must figure out the percentage of time you and your spouse or domestic partner each have, or will have, with your child. Unless your court has a different way for figuring this out (check with the clerk for any local rules about this or check with an attorney), add up all the hours that the child spends each year with one parent (including holidays and vacation periods). Then, divide that by the total number of hours in the year (8,760) to get a percentage. The other parent has the remaining percentage. If you have children under the age of 18 years from another marriage, domestic partnership, or relationship who live with you and whom you are legally required to support, be sure to list their names and ages under the "*hardship*" section.

NAME OF FORM: *Schedule of Assets and Debts,*
Form FL-142 OR
Property Declaration, Form
FL-160

PURPOSE OF FORM: List of property and debts.

GENERAL INFORMATION:

You can list this information in one of three ways. You can either use the *Schedule of Assets and Debts*, Form FL-142 , *Property Declaration*, Form FL-160, or you can make your own form on a clean sheet of paper by putting “*Preliminary Declaration of Disclosure*” and your name and case number at the top of the page.

If you use the *Schedule of Assets and Debts* or *Property Declaration* form, you can simply list your assets and liabilities and your percentage of ownership or responsibility for debts. If you and your spouse or domestic partner own property (or have a debt) with a third party, you must state your individual percentage of ownership or liability. Until you prepare the *Final Declaration of Disclosure*, you can just provide an estimate of the other information requested on the *Schedule of Assets and Debts* or *Property Declaration* form (date you acquired the asset or liability, current gross fair market value, and the amount of money owed or encumbrance). Be sure to indicate which information is an estimate on the *Schedule of Assets and Debts* or *Property Declaration*.

FINAL DISCLOSURE: The *Final Declaration of Disclosure* is more detailed than the *preliminary disclosure*. However, you do not have to serve a *Final Declaration of Disclosure* if:

- You and your spouse or domestic partner agree to skip (“waive”) your *Final Declarations of Disclosure*;

OR

- your spouse or domestic partner has not filed a *Response* to your *Petition for Dissolution* or any other papers with the court and has not signed a written and notarized settlement agreement (in Step 5 this is called an “option A” case).

If you and your spouse or domestic partner agree to skip (“waive”) your *Final Declaration of Disclosure*, there must be very specific language in your written settlement agreement about the waiver. If you and your spouse or domestic partner want to waive your *Final Declaration of Disclosure*, both of you must complete and sign a *Stipulation and Waiver of Final Declaration of Disclosure*, form FL-144, and then file it with the court clerk.

NOTE: If you do not need to fill out a *final disclosure*, you can go directly to Step 5.

If you need to do a *final disclosure*, you must fill out all of your *Final Declaration of Disclosure* forms, keep the original set of forms, and make one copy of everything for your spouse or domestic partner. You must have these forms served by mail or in person before or at the time the two of you sign your settlement agreement. If your case is contested, all of this must happen at least 45 days before your “*first assigned trial date*.”

You may have the final disclosure either mailed or hand delivered to your spouse or domestic partner by an adult other than yourself.

For your final disclosure, you need to fill out:

- ***Declaration of Disclosure, Form FL-140;***
- ***Income and Expense Declaration, Form FL-150;***
- ***Schedule of Assets and Debts, Form FL-142 or Property Declaration, Form FL-160;***
- Statement of material facts and information regarding valuation of community property assets and regarding community obligations (not a form);
- Disclosure of investment opportunities since you separated, if any, that you write out on a clean sheet of paper. This is not a form.
- ***Declaration Regarding Service of Declaration of Disclosure, Form FL-141.***

NOTES:

NAME OF FORM: *Declaration of Disclosure,*
Form FL-140

PURPOSE OF FORM: Cover sheet listing
completed forms.

GENERAL INFORMATION:

Fill out a new *Declaration of Disclosure*, Form FL-140 face sheet. Check the “Final” box, as well as the boxes for all other attachments that apply in your case. You must attach an updated *Income and Expense Declaration*, Form FL-150, and a *Schedule of Assets and Debts*, Form FL-142 or *Property Declaration*, Form FL-160 (remember that this time you have to fill out all the columns on this form). You must also provide a “statement of material facts and information” regarding the value of community property assets and liabilities. Check with an attorney if you have any questions about this. Also be sure to attach a list of any investment opportunities that have come up when you complete your *Final Declaration of Disclosure*.

NOTES:

NAME OF FORM: *Declaration Regarding
Service of Declaration of
Disclosure,
Form FL-141*

PURPOSE OF FORM: Shows when and how the
*preliminary and final
disclosures* were served.

GENERAL INFORMATION:

Be sure to list yourself and your spouse or domestic partner correctly as the *Petitioner* or *Respondent*. Have the person who served your completed *Declaration(s) of Disclosure* form on your spouse or domestic partner sign this form.



A QUICK REVIEW. Do *not* file either your preliminary or final *Declaration of Disclosure* with the court. Instead, each of you must file with the court the *Declaration Regarding Service of Declaration of Disclosure*, Form FL-141, to show that you have completed these steps. If you agree to waive the final disclosures then, you must file a *Stipulation and Waiver of Final Declaration of Disclosure*, Form FL-144. You cannot get a final *Judgment* without filing either of these forms.

NOTES:

STEP 5: FINISH YOUR FAMILY LAW CASE

In Step 5, you will fill out and file the last set of forms before you fill out the Judgment, which is the last step of your family law case. The forms you fill out in Step 5 vary, depending on your individual situation. To make this easier to understand, we have created three “options” that describe most uncontested cases. Once you decide which type of case you have, you only need to follow the instructions that apply to you (option A, B, or C). Some of the forms you need are described on pages 55 through 59. Check with an attorney, self-help center, or the court clerk for any local rules that apply to the forms used in Step 5.

“OPTION A”: YOUR SPOUSE OR DOMESTIC PARTNER DOES NOT FILE OR SIGN ANY FORMS.

If your spouse or domestic partner chooses NOT to file a *Response* and does not wish to sign any agreement or participate in these proceedings, we will call yours an *option A* case. For *option A* cases, you only need to fill out and serve a *preliminary disclosure* during Step 4. During Step 5, people with *option A* cases must complete and file the following forms:

- ***Request to Enter Default (Family Law), Form FL-165*** with completed *Proof of Service* section;
- ***Income and Expense Declaration, Form FL-150*** if support is requested in the *Judgment*, or you’ve been married or domestic partners at least 10 years;
- ***Property Declaration (Family Law), Form FL-160*** if there is separate property or debts to confirm, or community property or debts to divide in the *Judgment*.

Step 6 describes how *option A* people must prepare and file the following additional forms:

- ***Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law), Form FL-170*** if you want your proposed *Judgment* reviewed and filed without a court hearing;
- ***Notice of Entry of Judgment (Family Law), Form FL-190;***
- ***Judgment (Family Law), Form FL-180***, a face sheet with attachments that you prepare on blank paper and/or form attachments. I
- if you have children, you can add: ***Child Custody and Visitation Order, Form FL-341*** and any attachments as listed on that form that are appropriate for your case.

If support orders are being requested in the *Judgment*, also include the following forms:

- *Spousal, Partner, or Family Support Order Attachment, Form FL-343;*
- *Child Support Information and Order Attachment, Form FL-342;*
- *Notice of Rights and Responsibilities—Health Care Costs and Reimbursement Procedures and Information Sheet on Changing a Child Support Order, Form FL-192;*
- *Child Support Case Registry, Form FL-191;*
- *Earnings Assignment Order for Spousal or Partner Support, Form FL-435* (if spousal or partner support is requested);
- *Order/Notice to Withhold Income for Child Support, Form FL-195* (if child support or family support is requested).
- *Property Order Attachment to Judgment, Form FL-345*

NOTES:

“OPTION B”: YOUR SPOUSE OR DOMESTIC PARTNER DOES NOT FILE A RESPONSE BUT DOES SIGN A SETTLEMENT AGREEMENT.

If your spouse or domestic partner chooses NOT to fill out and file a *Response*, and both of you have signed and notarized a *settlement agreement* or *stipulated judgment* that covers all of your money and parenting issues, then we will call yours an *option B* case. In some counties, your spouse or domestic partner won't have to pay a filing fee for this step.

Step 6 describes how *option B* people must prepare and file the following additional forms:

- ***Request to Enter Default, Form FL-165;***
- ***Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law), Form FL-170*** if you want your proposed *Judgment* reviewed and filed without a court hearing;
- ***Judgment (Family Law), Form FL-180***, is a cover sheet to which you attach the *settlement agreement* or *stipulated judgment*;
- ***Notice of Entry of Judgment (Family Law), Form FL-190;***
- ***Income and Expense Declaration, Form FL-150*** (some counties require you to file this form whenever you ask for support orders in the *Judgment*, or if the marriage or domestic partnership lasted more than 10 years, even if you haven't asked for support orders). You may be able to use the same one you completed as part of your *Final Declaration of Disclosure*.

If support orders are being requested in the *Judgment*, also include these forms:

- *Notice of Rights and Responsibilities—Health Care Costs and Reimbursement Procedures and Information Sheet on Changing a Child Support Order*, Form FL-192;
- *Child Support Case Registry*, Form FL-191;
- *Earnings Assignment Order for Spousal or Partner Support*, Form FL-435 (if spousal or partner support is requested);
- *Order/Notice to Withhold Income for Child Support*, Form FL-195 (if child support or family support is requested).

NOTES:

“OPTION C”: YOUR SPOUSE OR DOMESTIC PARTNER HAS FILED A RESPONSE AND SIGNED A SETTLEMENT AGREEMENT.

If your spouse or domestic partner has filed a *Response* and you both have signed a written *settlement agreement* or *stipulated judgment* resolving all issues, then we will call yours an *option C* case. You will have to fill out and both of you must sign an ***Appearance, Stipulations, and Waivers***, Form FL-130. After your spouse or domestic partner has signed and returned this form to you, you will need to file this form with the court.

Step 6 describes how *option C* people must prepare and file the following additional forms:

- ***Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law)*, Form FL-170** if you want your *Judgment* reviewed and filed without a court hearing;
- ***Judgment (Family Law)*, Form FL-180**, is a cover sheet to which you attach the *settlement agreement* or *stipulated judgment*;
- ***Notice of Entry of Judgment (Family Law)*, Form FL-190**;
- ***Income and Expense Declaration*, Form FL-150**. Some counties require that you file this form if you are asking for support orders or you have been married or domestic partners over 10 years, even if you are not asking for support. You may be able to use the one you completed as part of your *Final Declaration of Disclosure*.

If support orders are being requested in the *Judgment*:

- ***Notice of Rights and Responsibilities—Health Care Costs and Reimbursement Procedures and Information Sheet on Changing a Child Support Order, Form FL-192.***
- ***Child Support Case Registry, Form FL-191.***
- ***Earnings Assignment Order for Spousal or Partner Support, Form FL-435*** (if spousal or partner support is requested);
- ***Order/Notice to Withhold Income for Child Support, Form FL-195*** (if child support or family support is requested).

NOTES:

NAME OF FORM: *Request to Enter Default
(Family Law),
Form FL-165*

PURPOSE OF FORM: (Used in *option A* and *B* cases.) Informs your spouse or domestic partner that you plan to get a “default” judgment.

GENERAL INFORMATION:

A default judgment ends a spouse or domestic partner’s chance to file a *Response*. This allows you to get a *Judgment* based on your *Petition (option A)*, or based on the signed settlement agreement (*option B*). Check each box on the form that applies to your case. Complete and attach the appropriate forms to this document. Then, sign and date the remaining portions of this form. You will have to give the clerk the original and two extra copies, along with two stamped envelopes; one addressed to you, the other addressed to your spouse or domestic partner. The clerk will complete the box at the bottom of page one, and mail each of you a filed copy of this form.

ALERT! Special rules apply if you are attempting to ask for a default judgment against a member of the military. Get help from an attorney, JAG, Family Law Facilitator or self-help center.

NAME OF FORM: *Property Declaration
(Family Law),
Form FL-160*

PURPOSE OF FORM: Used in *option A* cases to list separate property, community property, debts.

GENERAL INFORMATION:

You may already have filled out this form as an attachment to your *Petition*. If so, this time you may need to add some information. Be sure to use different forms for your *community* and *separate* property and debts. This time, you have to fill in all of the columns showing how much things are worth and how you think they should be divided between you and your spouse or domestic partner. California law requires an equal division of the community property and debts. For this reason, you need to make sure that the total value of property less the debts is nearly equal for each spouse or domestic partner, or the judge may not approve your proposed *Judgment*. If you need more room to describe the property, use the *Continuation of Property Declaration (Family Law), Form FL-161*, to continue the listings that you can't fit on the form.

NOTES:

NAME OF FORM: *Income and Expense Declaration, Form FL-150*

PURPOSE OF FORM: Used in all *option A* cases, some option B and C cases to calculate support, ask for cost reimbursements.

GENERAL INFORMATION:

You should have already filled out this form for your *preliminary disclosure* (Step 4). If the information is the same, you can make a photocopy of the same form you already filled out (but put the current date on the form and sign it again), and attach your three most recent pay stubs. If there have been changes, then you must fill out a new form and attach your three most recent pay stubs to that form. Some counties require this form any time someone asks for support or whenever the marriage or domestic partnership lasted more than 10 years, even if you have already agreed to an amount in a settlement agreement or stipulated judgment (*option B* or *C* cases).

To get a support order, the court must know each spouse or domestic partner's current income. You should attach whatever documents best describe each spouse or domestic partner's income, such as your most recent income tax return, W-2 or 1099 forms, or other document. **Make sure that you erase, cover up, or block out all social security numbers before giving them to the court.**

ALERT! Some courts require you to get a computer printout showing what child, spousal or partner support should be. You can get this from an attorney, the local child support agency, the court's Family Law Facilitator or self-help center, some law libraries, or on the Internet at www.courts.ca.gov/selfhelp-support.htm or www.childsupport.ca.gov/resources/calculatechildsupport.aspx. Support recommendations are based on the information in the *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155) Be sure to have this form completed as fully as possible and all your attachments ready before you meet with your attorney, the local child support agency, the Family Law Facilitator, or self-help center.

NOTES:

NAME OF FORM: *Appearance, Stipulations, and Waivers,*
Form FL-130

PURPOSE OF FORM: Used in *option C* cases.
Shows case is uncontested
so judge can approve the
agreement without a
hearing.

GENERAL INFORMATION:

Review and check the appropriate boxes. Both you and your spouse or domestic partner need to date and sign this form before you can file it.

NOTES:

STEP 6: FILE THE JUDGMENT FORMS

You are ready to start Step 6 when you have filled out, filed, and served either:

- the *Request to Enter Default (Family Law)*, Form FL-165 for an *option A* or *B* case, or
- the *Appearance, Stipulations, and Waivers*, Form FL-130 for an *option C* case.

JUDGMENT BY DECLARATION OR HEARING?

First, you need to decide whether you want your judgment forms reviewed by the judge at a court hearing (which you must attend) or whether your case is one that can be finished by mailing in your completed forms. If your case is uncontested, the court hearing to get your default judgment is generally short and your spouse or domestic partner can choose whether or not to attend. Usually, you only have to answer any questions that the judge may have or correct anything that is not clear from your forms. If there is a problem, the judge can tell you then what has to be corrected, and you can ask for a new hearing date that gives you enough time to make the changes.

If you're requesting a *Judgment of Nullity of Marriage or Domestic Partnership*, you must attend the hearing, and you must file a declaration stating the facts which support your claim that the marriage or domestic partnership was never legally valid (because of unsound mind, incest, bigamy, being under the age of consent, etc.).

If you want to get your judgment approved by mail, you must fill out and file one extra form, the *Declaration for Default or Uncontested Dissolution or Legal Separation*, Form FL-170. This form tells the court what you would say if you were in court. The court clerk can tell you how many copies and envelopes are needed to process your judgment by mail.

The court is likely to reject your *Judgment* form if:

- the *Judgment* form includes property and debts or other issues which were not listed in the *Petition* or the *Property Declaration*, unless you included a phrase on those forms saying the value of the assets and debts are unknown at this time;
- the property division requested on *Property Declaration* forms or agreed to in the settlement agreement appears to be one-sided or unfair;
- your forms do not give enough information on your finances or how much time each of you spends with your child for the court to figure out support orders;
- you did not get the necessary approval for proposed child support payments from the local child support agency;
- the judge cannot see when, or if, the Respondent was served with both the *Summons* and the *Petition*;
- you didn't include a required court form in your *Judgment* packet.

WHEN YOU NEED THE LOCAL CHILD SUPPORT AGENCY'S APPROVAL FOR CHILD SUPPORT PAYMENTS

If one parent gets welfare benefits for a child of this marriage or domestic partnership, the local child support agency (LCSA) has to approve the amount of child support that will be paid. You must go to the LCSA in the county that is paying the benefits or has filed papers in this or any child support proceeding involving a child of this marriage or domestic partnership. Send a copy of your final forms to the LCSA's office before giving them to the court. The LCSA must read and sign your proposed *Judgment* (and *Stipulation to Establish or Modify Child Support and Order* if you use this form) to show that they approve. Then, file this signed original of the final documents with the court clerk, along with your other forms.

NOTES:

NAME OF FORM: *Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law), Form FL-170*

PURPOSE OF FORM: Used in *option A, B, and C* cases to finish by mail, unless requesting an annulment.

GENERAL INFORMATION:

Use this form if you want the court to grant your divorce or legal separation without a court hearing. Read this form carefully and check all of the boxes that apply, including the name change box if either or both of you want to use a previous name. Be sure to check the box if either spouse or domestic partner has applied for, or is getting, public assistance for a child of this marriage or domestic partnership.

For *option A* cases: this form lets you tell the court that you don't want to do *final disclosures*.

NOTES:

NAME OF FORM:	<i>Judgment (Family Law), Form FL-180</i>
PURPOSE OF FORM:	Face sheet with attachment prepared on blank paper stating the <i>Judgment</i> terms. (<i>option A, B, and C</i> cases)

GENERAL INFORMATION:

This form states what you and your spouse or domestic partner want the judge to order and the date your “marital or domestic partner status ends” (that is, when the divorce is final and you and your spouse or domestic partner are no longer married to each other). It includes only what you have in your written settlement, or what you asked for in your *Petition*. Most people attach extra pages (prepared on blank paper) to list what decisions they want the judge to make. You can also use forms *Child Custody and Visitation Order*, Form FL-341; *Child Support Information and Order Attachment*, Form FL-342; *Spousal, Partner, or Family Support Order Attachment*, Form FL-343, or *Property Order Attachment to Judgment*, Form FL-345 Be sure to check the box showing whether you want a divorce, legal separation, or annulment (“nullity”). It is always a good idea to have this form reviewed by a lawyer, Family Law Facilitator or self help center before you file it.

Filing in important dates:

- If you are asking for a dissolution and you are submitting your forms before six months have passed from the date the Respondent was served, fill in the date that is six months plus one day after the Respondent was served with the *Summons* and *Petition* as the date the marital status ends. If it has been more than six months since the Respondent

was served, leave this space blank and the court will fill it in for you. If you are asking the court to approve your forms by mail, leave the information about the hearing blank.

- The date “the court acquired jurisdiction” of the Respondent is whichever date below came first:
 - the date the Respondent was served with the *Summons* and *Petition* (see date on completed and filed *Proof of Service of Summons (Family Law)*, Form FL-115), **OR**
 - the date the Respondent appeared (filed a *Response* or an *Appearance, Stipulations and Waivers* form).

For option A cases, the court can only:

- divide equally the community property and debts listed on the *Petition* and/or the *Property Declaration* attached to the *Petition*;
- make custody and visitation orders that are the same as what you asked for in your *Petition*;
- award spousal or partner support when requested on the *Petition* and the *Income and Expense Declaration* is complete;
- award child support if there is enough information on each spouse or domestic partner’s finances and the amount of time each parent spends with the child;
- terminate (end) the court’s jurisdiction (ability) to award spousal or partner support to Respondent;
- make other orders that were specifically requested in the petition.

For option B and C cases, the court can only approve a *Judgment* that is the same as the *settlement agreement* or *stipulated judgment*. If your spouse or domestic partner does not have a lawyer, his or her signature must be notarized.

NAME OF FORM: *Notice of Entry of Judgment
(Family Law),
Form FL-190*

PURPOSE OF FORM: Used in *option A, B, and C* cases to list the type of *Judgment* granted (dissolution, separation, nullity), date marital status changed, and when final Judgment entered.

GENERAL INFORMATION:

Fill in the same information you put on your proposed *Judgment* to reflect the type of *Judgment* you will be getting. If your judgment is for dissolution (divorce), fill in the date the marital (or domestic partner) status ends (either six months plus one day after serving the *Summons* and *Petition* or leave it blank so that the judge can fill it in). You must fill in each spouse or domestic partner's name and address in the empty boxes at the bottom of the form. You will have to give the clerk the original form and two extra copies, as well as two stamped envelopes -- one addressed to you, the other addressed to your spouse or domestic partner -- so that the clerk can mail each of you a filed copy after the *Judgment* is entered.

NOTES:

NAME OF FORM: *Earnings Assignment Order
for Spousal or Partner
Support,
Form FL-435*

PURPOSE OF FORM: Used in *option A, B, and C* cases to order the paying spouse or domestic partner's employer to withhold spousal or partner support from the paycheck or other income.

GENERAL INFORMATION:

This form is required with all spousal or partner support orders. Use Form FL-195, *Order/Notice to Withhold Income for Child Support*, to have child support or family support withheld from your spouse or domestic partner's paycheck. Note that if the parties agree that support will be paid voluntarily by one party to the other party, the *Earnings Assignment Order For Spousal Or Partner Support*, Form FL-435, is not sent to the support payor's employer, unless he or she misses one or more voluntary payments.

NOTES:

NAME OF FORM: *Stipulation to Establish or Modify Child Support and Order,*
Form FL-350

PURPOSE OF FORM: Allows parents to agree on an amount of child support if no welfare issues are involved.

GENERAL INFORMATION:

If child support is part of your agreement, you and your spouse or domestic partner can complete this form, attach it to your agreement, and submit it to the court. Or, instead, you can copy the legal terms from this form that apply to your case, and insert them in your Stipulated Judgment or Settlement Agreement. Some courts require you to get a computer printout that shows what child, spousal or partner support should be. You can get this from a private attorney, the court's Family Law Facilitator, self-help center, or at the California Courts Self-Help Web site, at www.courts.ca.gov/selfhelp-support.htm or at www.childsup.ca.gov/resources/calculatechildsupport.aspx.

If there is more than one minor child of this marriage or domestic partnership, you must say how much support is for each child. You must list the amount of any standard child support "add-ons" (which are childcare costs related to employment or to reasonably necessary education or training for employment skills, and reasonable uninsured health care costs for the children). You and your spouse or domestic partner can also agree to share the "add-on" costs for your child's educational or other special needs and travel expenses for visitation. If the paying spouse or domestic partner wishes to claim a "hardship deduction," he or she must state the reason and the monthly amount he or she will pay because of the hardship. Consult with an attorney, a Family Law Facilitator

or a self-help center regarding the definition of a “hardship deduction.” You must also say who will provide health insurance for the children and how uninsured health care costs will be shared.

For *option B* cases: Your spouse or domestic partner may need to pay a first appearance filing fee when they sign and file this form. If you have a low income, you may qualify to have this fee waived (you would not pay). You can get the court form to



ALERT! Once you have finished filling out the last set of forms, it is a good idea to have them reviewed by an attorney or at the court’s self-help center to make sure that you have completed all of the required forms correctly.

FILING THE LAST SET OF COURT FORMS

For all cases: Mail or deliver to the court clerk the original and two copies of all the forms you’ve prepared (except for the *Judgment* – the clerk will need the original and four copies of that form and its attachments). Include two 8 ½" by 11" (or larger) envelopes with first class postage on them, one addressed to you, one addressed to your spouse or domestic partner. It will generally take a few weeks before you receive these forms back.

WHAT IF THE CLERK RETURNS THE FORMS WITHOUT FILING THEM?

There are a lot of things to keep track of when you prepare and submit these final forms. The court clerk will return your court forms without filing them if you leave out a form or some information on a form, or it is not clear what you are asking for. Often, the clerk will include an instruction sheet telling what is needed before the forms can be accepted for filing. If you are not sure what needs to be done to solve the problem, talk to an attorney, the Family Law Facilitator, or the self-help center at your court. Sometimes, the forms will be returned with a request that you set a court hearing. This usually means that you are asking for something that the judge needs more information about. If the court requests that you set a hearing, contact an attorney, the Family Law Facilitator, or self-help center at your court; you may need to give notice of the hearing to your spouse or domestic partner. When you attend your hearing, be sure to bring anything the clerk's letter asks for, as well as your copies of all the forms you have prepared or received for your case.

WHEN WILL THE COURT PROCESS BE OVER?

The court process will be over when the clerk returns your *Judgment* and the stamp in the upper right corner has the date it was filed, and you have the *Judgment* served on your spouse or domestic partner. Save your copy of the *Judgment* so that you can show how and when your marital (or domestic partner) status ended (for divorces). If there are minor children and your case was uncontested, your *Judgment* also includes your child custody, visitation, and support orders.

NAME OF FORM: *Stipulation And Order For Custody And/Or Visitation Of Children, Form FL-355*

PURPOSE OF FORM: Allows parents to agree on, or change, an order for, child custody and/or visitation anytime before or after a Judgment is entered.

NOTE: After the divorce or legal separation is final, parents can negotiate new agreements about their children at any time, either on their own or with an attorney or mediator's help. If the new agreement is very different from your first order, you should file your written agreement with the court, and attach it to a completed *Stipulation and Order For Custody And/Or Visitation of Children, Form FL-355*. You should check the box before the word "Modification" to indicate that the agreement changes the prior order. Both parents must sign the stipulation.

If you and your former spouse or domestic partner can't reach an agreement but you still want to have a different order regarding your children, you can file a motion for modification of your current order, so long as there is a substantial change in the children's needs or family situation. You should consult with an attorney or your court's self-help center before filing a motion for modification.

A FEW MORE DETAILS:

- Consider whether you want to change the beneficiary's name on your will or life insurance policy.
- Have credit card companies close any account that lists both spouses or domestic partners and open a new one in your name alone.
- Notify your employer when your marriage or domestic partnership ends so you can change your income tax withholding status or the name of the beneficiary for any employee benefits. Your employer will then send information to your former spouse or domestic partner about what it will cost to continue using the medical insurance which was previously provided by the employer.
- Be sure to have someone other than you serve the filed copy of the *Judgment* on your former spouse or domestic partner. Then fill out and file a *Proof of Service* with the court clerk.
- If support is to be paid by wage assignment, be sure that a filed copy of the ***Earnings Assignment Order for Spousal or Partner Support, Form FL-435*** and ***Order/Notice to Withhold Income for Child Support, Form FL-195*** (for child support or family support) is sent to the paying party's employer's payroll department.

NOTES:

OTHER FORMS YOU MAY NEED:

1. **REAL ESTATE:** You must execute, record, and deliver a deed on any real estate if your *Judgment* provides for only one of you to own real estate that you used to own together. You should consult an attorney for help with this process.
2. **MOTOR VEHICLES:** If your *Judgment* provides for only one of you to own a motor vehicle that you used to own together, prepare and file a DMV form to change title to the motor vehicle.
3. **RETIREMENT BENEFITS:** If your *Judgment* provides for one spouse to receive a portion of the other spouse's "retirement benefits" at some future date, you must prepare and file an additional court order called a Qualified Domestic Relations Order (or "QDRO"). The QDRO must be approved by both the benefits provider and the judge to assure that the spouse who is not the employee of the company or organization will receive those future benefits. Because this is not a standard court form, you should get help from an attorney to file a QDRO, and any other necessary forms to handle these matters.
If you are in a domestic partnership, these laws are uncertain. It is important that you get professional advice from someone who is knowledgeable in this area.
4. **NAME CHANGE/IDENTIFICATION CARDS:** If your *Judgment* provides an order restoring your former name, you should notify certain agencies to have new identification cards issued, such as your state identification card or driver's license, social security card, and any immigration related cards. Take the *Judgment* with you as proof of your name change when you apply for any new identification card.

MORE TIPS TO HELP YOU MANAGE YOUR FAMILY LAW CASE:

Separation or divorce is as much an emotional experience as it is a legal process. This means that just as you must handle the legal issues around legal separation, annulment, or divorce, you will also find that the emotional issues can have a big impact on you, and—if you have them—your children. Following are a few suggestions that may help you manage your family law case more effectively:

1. **Get help with emotional issues**—especially if you and your spouse or domestic partner can't seem to get past arguing about how to share and divide your parenting responsibilities or divide your money or other assets and debts.
2. **Protect your children from the conflict** between you and your spouse or domestic partner.
3. **Prepare your court forms slowly and carefully** and keep copies of everything either of you submits to the court.
4. **Tips for going to court** - If you go to court to handle any step of the process, listen carefully and answer the exact question that is asked; don't interrupt or argue with your spouse or domestic partner or with the judge; treat both your spouse or domestic partner and the judge with respect.
5. **Make a safety plan if there's been domestic violence**, before you tell your spouse or domestic partner you want a divorce, legal separation, or annulment. Call your local domestic violence agency for assistance.

Although the legal process for getting a legal separation, annulment, or divorce is complicated, remember that each form and each step you must take has a purpose.

Most importantly, the court forms, requirements regarding service of court documents on your spouse or domestic partner, and other legal steps help to ensure that everyone's legal rights are understood and protected.

For more information or additional copies of this booklet,
please call the Center for Families, Children & the Courts at
(415) 865-7739, or write to:

Judicial Council of California
Center for Families, Children & the Courts
Attn: Equal Access
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San Francisco, CA 94102