

# Court Clerk Processing

23<sup>rd</sup> Annual AB 1058 Child Support  
Training Conference  
MOTIONS – II  
1926

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## Classroom Etiquette

- Cell Phones on Vibrate
- Ask ANY Question Relevant to the Subject Matter
  - Index Cards
- Respect your Colleagues




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## MOTIONS

<p><b>Motions I</b></p> <ul style="list-style-type: none"> <li>• <b>Initiating Motions</b> <ul style="list-style-type: none"> <li>• Establish Orders</li> </ul> </li> <li>• <b>Modifications</b> <ul style="list-style-type: none"> <li>• Change Orders</li> <li>• Specialty Motions</li> </ul> </li> </ul>	<p><b>Motions II</b></p> <ul style="list-style-type: none"> <li>• <b>Enforcement Motions</b> <ul style="list-style-type: none"> <li>• POST JUDGMENT</li> <li>• Seek to collect or otherwise Enforce</li> <li>• Set Asides, affecting Enforcement</li> <li>• Arrearages; Contempts, Licenses, etc.</li> </ul> </li> </ul>
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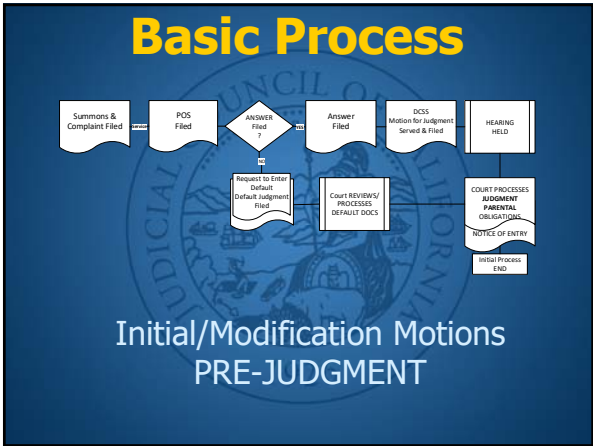
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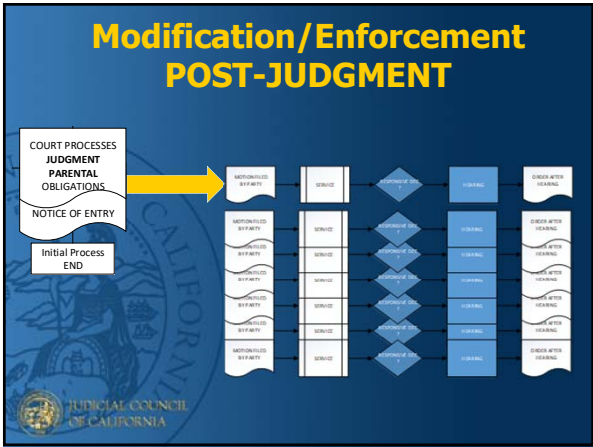
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- ## POST-JUDGMENT/ORDER
- Anything can happen. . .
  - Modification of Orders
  - Set Aside of Orders/Judgments
  - Enforcement
    - Collection
    - Action

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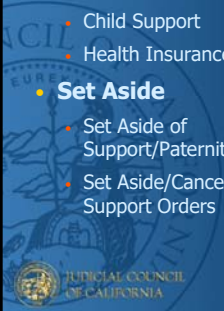
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# Post Judgment Motions

- **Modifications**
  - Child Support
  - Health Insurance
- **Set Aside**
  - Set Aside of Support/Paternity
  - Set Aside/Cancel Support Orders
- **Enforcement**
  - Post Judgment
    - Contempts
    - Judicial Review of License
    - Determination of Arrearages
    - Orders of Examination
    - Withholding Orders
    - Writs/Abstracts
    - Defense




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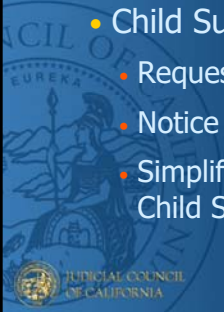
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# Modifications

- Child Support/Health
- Request for Order (FL)
- Notice of Motion
- Simplified Motions to Modify Child Support




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**Modification: Notice of Motion Simplified FL-390 : All Motions**

- POST JUDGMENT ORDER
- Filed by ANY Party or LCSA
- Party Completes
- Dates/Signs
- Financial Declaration or I&E Required
- Proceeds to Service on Page 2

GREAT RESOURCE:  
Information/Instruction Sheet on FL-391

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**Set Aside Motions**  
Does Not Modify . . . Does Replace

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**Notice and Motion to Cancel (Set-Aside) Support Order Based on Presumed Income FL-640**

- Filed by ANY Party or LCSA
- COURT: Filed within 1 year from date of 1<sup>st</sup> Collection
- Party Completes
- Dates/Signs – NO FEE
- Attachments may be required if checked
- Address of Record Declared
- Proceeds to Service on Page 2
- GREAT RESOURCE:  
Information/Instruction Sheet on FL-640-Info

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### Notice of Motion to Set Aside Judgment of Paternity FL-272

- Filed by a Party
- COURT: Determines Qualifying Factors
- Party Completes Dates/Signs - NO FEE
- Attachments may be required if checked
- Proceeds to Service on Page 3
- Corresponding Declaration FL-273, Response FL-276 and Order FL-278

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### Request for Hearing/App to Set Aside Voluntary Declaration of Paternity FL-280

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### Request for Hearing and Application to Set Aside Support Order Under Fam Code §3691 FL-360

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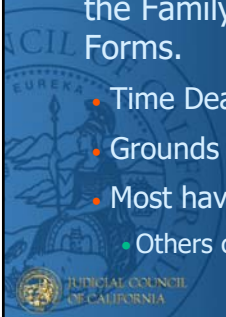
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## Items of Note. . .

- Motions have provisions from the Family Code built into the Forms.
- Time Deadlines/Restrictions
- Grounds
- Most have Proofs of Service
  - Others can use generic Proofs




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## Enforcement

Show Me the Money. . . Or How to Stop or Slow Down Enforcement




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### Enforcement: Custodial Parent

CP, with LCSA, File  
ENFORCEMENT Documents  
Without:

**Notice to LCSA of Intent to Independent Action FL-645**

**Must be:**

- Completed/Signed/Dated
- Served on LCSA by Party or Other

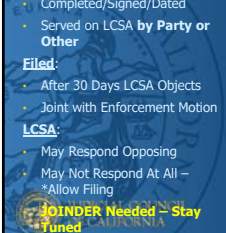
**Filed:**

- After 30 Days LCSA Objects
- Joint with Enforcement Motion

**LCSA:**

- May Respond Opposing
- May Not Respond At All – \*Allow Filing

**JOINDER Needed – Stay Tuned**



The screenshot shows a legal form with the following visible text:

**NOTICE TO LOCAL CHILD SUPPORT AGENCY OF INTENT TO TAKE INDEPENDENT ACTION TO ENFORCE SUPPORT ORDER**

**NOTICE**  
If you are receiving support enforcement services from the local child support agency, you may still independently enforce a child support order after you send this notice to the local child support agency, unless the local child support agency objects.

You must personally deliver personally or mail this notice to the local child support agency.

This must be the independent action specified below within 180 days of the date this notice is served.

1. I am a parent of the minor children in this action.
2. I intend to start an independent enforcement action at least 30 days after this notice is delivered personally or mailed to the local child support agency. (The enforcement action to be taken is as follows: (specify))

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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

Signature: \_\_\_\_\_

Page 1 of 1

**NOTICE TO LOCAL CHILD SUPPORT AGENCY OF INTENT TO TAKE INDEPENDENT ACTION TO ENFORCE SUPPORT ORDER**

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# Order to Show Cause and Affidavit for Contempt FL-410

- Filed by ANY Party or LCSA
- COURT: Monetary must be claimed within 3 years
- Mandatory Attachment: FL-411 (Financial) FL-412 (DV)
- Party Completes, Dates/Signs – NO FEE
- Service MUST BE ON PARTY IN PERSON
  - POS by Personal Service Separate Form
- QUASI-CRIMINAL
- Provisions of law built into forms



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# Affidavits Re Contempt FL-411/412

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**Enforcement: Notice of Motion for Judicial Review of License Denial FL-670**

- FamCode 17520
- Adopted Mandatory Use
- Party **must** complete item 1, date met w/DCSS re License
- Calendar Hearing: Within 20 **calendar** days of filing
- **Service:** On DCSS Agency no later than seven (7) days **after** filing




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**Request for Judicial Determination of Arrearages-Adjustment Due to Incarceration FL-676**

- Filed by ANY Party or LCSA
- COURT: Determines discrepancies in the amounts owed-cannot retroactively modify support – Does not affect Current Support Amounts
- Statement of Arrearages is Mandatory Attachment
- Party Completes, Dates/Signs – NO FEE
- Service on Child Support and Interested Parties of Record
  - Service on Page 2
- Provisions of law built into forms




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**Application and Order For Appearance and Examination Enforcement of Judgment EJ-125**

- Completed by Party mandating appearance by Debtor/Obligor
- Filed, Calendared
- Service in Person to Debtor/Obligor
- Proof of Service filed Separately
- COURT: Swears Party In to Answer Questions
- Each Court has various procedures to handle these special hearings.




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