

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Family and Juvenile Law Advisory Committee
Hon. Mary Ann Grilli and Hon. Susan D. Huguenor, Co-chairs
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DATE: July 14, 2005

SUBJECT: Family Law: Miscellaneous Forms (amend Cal. Rules of Court rules 5.120,
5.121, and 5.154; revise forms FL-130, FL-220, FL-580, FL-800, and FL-810;
revise and renumber form FL-812) (Action Required)

Issue Statement

These family law rules and forms are being amended to reflect updates in the law and make them easier to use.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that, effective January 1, 2006, the Judicial Council:

1. Amend rule 5.120 of the California Rules of Court to correct an inconsistency with Code of Civil Procedure section 418.10;
2. Amend rule 5.121 to eliminate subdivision (b)'s time period requirement for scheduling in order to reconcile the rule's provisions with those of Code of Civil Procedure section 1005(b);
3. Amend rule 5.154 to replace the phrase "of the marriage" with "subject to the action" to allow for joinder in cases involving domestic partners and other nonmarried persons with children;
4. Revise form FL-130, *Appearance, Stipulations, and Waivers (Family Law—Uniform Parentage—Custody and Support)* to update a statutory reference and reorganize the form for clarity;
5. Revise form FL-220, *Response to Petition to Establish Parental Relationship (Uniform Parentage)* to make it easier for self-represented litigants to complete;
6. Revise form FL-580, *Registration of Out-of-State Custody Decree* to update the notice requirements to reflect the reality of joint custody, and reorganize the form for clarity;

7. Revise form FL-800, *Joint Petition for Summary Dissolution of Marriage* to reflect the disclosure requirements of Family Code section 2104 and the change in cost of living as required by Family Code section 2400(b).
8. Revise form FL-810, *Summary Dissolution Information (English)* to reflect the changes in form FL-800, protect the privacy of litigants, clarify the status of domestic partners vis-à-vis the summary dissolution procedure, and eliminate discussion of conciliation courts;
9. Revise form FL-812, *Summary Dissolution Information (Spanish)* to renumber it as form FL-810S and to incorporate the changes made to the English-language version, FL-800.

The proposed rules and forms are attached at pages 6–38.

Rationale for Recommendation

These family law rules and forms are being amended to reflect updates in the law and make them easier to use. Each of the proposed changes to the rules and forms is set out below.

Motions to strike—rule 5.120(a)(2)

Rule 5.120(a)(2) currently provides that a respondent “appears” when he or she files a motion to strike under Code of Civil Procedure section 435. However, Code of Civil Procedure section 418.10(e)(1) provides that simply filing a motion to strike does not constitute a general appearance. A party “is not deemed to have generally appeared until entry of an order denying the motion” to strike. To correct this inconsistency with statute, an exception is proposed for the opening paragraph of rule 5.120(a): “Except as provided in Code of Civil Procedure section 418.10, a respondent or defendant is deemed to have appeared in a proceeding when he or she files: . . .”

Motions to quash—rule 5.121

Rule 5.121 currently provides that a hearing on a motion to quash must be scheduled to occur within 20 days after the filing of the notice of motion to quash. Code of Civil Procedure section 1005(b) now requires that notice occur at least 16 court days before the hearing, with an additional 5 days if the papers are served by mail—thus making it impossible to comply with the rule unless personal service is effected. To reconcile this timing issue, it is proposed that the requirement for scheduling within 20 days be eliminated, since the committee does not believe that such a speedy setting is required.

Joinder—rule 5.154

Rule 5.154, which sets out which parties may be joined to a family law action, currently refers only to parties concerned with the custody or visitation of children “of the marriage.” The proposed language would instead refer to the children “subject to the action,” to allow for joinder in cases involving domestic partners and other nonmarried persons with children.

Appearance stipulation and waivers—form FL-130

Form FL-130, *Appearance, Stipulations, and Waivers (Family Law—Uniform Parentage—Custody and Support)* is being revised to update its current reference to the “Soldiers and Sailors Civil Relief Act of 1940” to the recently enacted “Servicemembers Civil Relief Act.” Additional language was proposed to reflect declaration of disclosure requirements and to enable parties requesting bifurcation of the status of their marriage to identify the conditions for that bifurcation under Family Code section 2337. After reviewing the comments, the committee is excluding the proposed additional language. The form has also been reorganized to make clearer which options are mutually exclusive.

Response to petition to establish parental relationship—form FL-220

Form FL-220, *Response to Petition to Establish Parental Relationship (Uniform Parentage)* is being revised to make it easier for self-represented litigants to complete by asking the respondents questions, rather than requiring them to refer back to the petition to identify what questions are being asked. It also provides more space for respondents to make requests for custody, visitation, and support orders.

Registration of out-of-state custody decree—form FL-580

Form FL-580 *Registration of Out-of-State Custody Decree* is being revised to provide that the notice regarding registration should be sent to both parents and any other person joined to the action—rather than just the person having custody as is currently the case. Since some form of joint custody is common in many orders, this change should ensure that more adequate notice is provided

Summary dissolution of marriage—forms FL-800, FL-810 and FL-811

Form FL-800, *Joint Petition for Summary Dissolution of Marriage* is being revised to require that parties adhere to the declaration of disclosure requirements set out in Family Code section 2104 by exchanging completed *Income and Expense Declarations* (form FL-150). Currently, the parties are asked to attach to form FL-800 a set of worksheets regarding their community and separate property assets and debts as well as their proposed division. However, only one version of the worksheets would then be attached and the parties would not be complying with the declarations of disclosure. With the new proposal they are required to exchange these worksheets, but not to file them with the court. The maximum allowance for assets is increased from \$32,000 to \$33,000 and the maximum debts from \$4,000 to \$5,000, to reflect the change in cost of living, as required by Family Code section 2400(b).

Form FL-810, *Summary Dissolution Information (English)*, is being revised to reflect the changes in form FL-800. To protect the privacy of litigants, the sample agreement would be revised to delete the suggestion that account numbers and other identifying or locating information be included in the agreement. This policy reflects the recently enacted Family Code section 2024.6 (Assem. Bill 782 [Kehoe]). The

information booklet also explains that domestic partners who meet the requirements for summary dissolution set forth in Family Code section 299 should file a *Notice of Termination of Domestic Partnership* with the Secretary of State rather than use the summary dissolution procedure. It eliminates the discussion of conciliation courts, given that the majority of courts do not provide marriage counseling as suggested in the booklet.

FL-812, *Summary Dissolution Information (Spanish)*, would be renumbered FL-810S to conform with other translations of Judicial Council forms. Any changes to the English version, form FL-810, would be reflected in form FL-810S.

Alternative Actions Considered

The committee considered not making the changes suggested, but determined that they were necessary to comply with statutory changes.

Comments From Interested Parties

An invitation to comment on the proposal was circulated from April 21, 2005, through June 20, 2005, to the standard mailing list for family and juvenile law proposals as well as to the regular rules and forms mailing list. Together these lists include judges, court administrators, attorneys, social workers, probation officers, mediators, and other family and juvenile law professionals. In addition, the proposal was also circulated to legal services organizations and family law specialists.

Ten comments were received.¹ Four commenters indicated that they agreed with the proposed changes and made no suggestions for additional modifications.

No comments were received regarding proposed changes to rule 5.120(a)(2)'s provisions on motions to strike. The only comment regarding rule 5.154 (on joinders) was that the proposed change was a good one.

Two commenters made suggestions regarding the proposed changes to rule 5.121 on motions to quash. One suggested that it was a very good change. The other suggested that we amend the text to provide that "motions to quash must be served in compliance with CCP 1005(b)." The committee agreed that such an addition could be useful for practitioners and will add that language.

On the *Appearance, Stipulations, and Waivers* form (FL-130), one commenter suggested that the proposed new section regarding bifurcation of status be eliminated as it may be too confusing for self-represented litigants. The commenter suggested that a separate form should be considered. The committee agreed with that recommendation. With the elimination of that text, two comments regarding a missing word were addressed. Also, language regarding declaration of disclosure was eliminated as it is already contained in other required forms.

¹ A table showing the comments and the committee's responses is attached at page 39-44.

Three persons commented on FL-220 *Response to Petition to Establish Parental Relationship*. Two recommended that language be added to the request for orders to determine non-parentage. One recommended that language be added to the request for determination of custody to indicate that those orders be made only if parentage is established. The committee has added those suggestions and corrected a typographical error that was noted.

The comments regarding *Registration of Out-of-State Custody Decree* (form FL-580) suggested that the clerk's certification of mailing indicate that copies of the notice were served on more than one party. That suggestion was accepted. Comments also made clear that some of the language of the form was unclear, particularly as more than one parent generally has custody or visitation of a minor child. The form has been revised to specifically list each of the parties who is likely to have custody or visitation and to obtain information called for in Family Code section 3044. It is also being renamed as *Registration of Out-of-State Custody Order* since the term "order" is more commonly used in California than "decree."

Form FL-800, the *Joint Petition for Summary Dissolution of Marriage* drew five comments. Two referenced a printing error that did not appear in the online version and will be corrected in the final version. One pointed out that the language regarding obligations of the parties was confusing, and another noted that the term "encumbrance" might be confusing to self-represented litigants. The committee revised those sentences. A question was raised about whether the final declaration of disclosure could be waived in summary dissolutions. Family Code section 2109 allows such a waiver, so the committee did not change the proposed language. Another commenter suggested that parties be allowed to use the *Schedule of Assets and Debts* (FL-142) in addition to or in place of the worksheets on pages 8, 10, and 12 of the summary dissolution workbook. While the committee was not opposed in concept, changing the language to allow for various means of complying with the disclosure requirements is potentially confusing for self-represented litigants. The worksheets are also designed to help the parties determine whether or not they qualify for the summary dissolution procedure. Thus, the committee did not accept that suggestion.

One comment was made regarding FL-810, the *Summary Dissolution Information*. It suggested that the worksheets regarding community property and community obligations be placed together, rather than separated by the worksheet for separate property. The committee agreed to that change. No comments were made regarding the renumbering of FL-812, so the committee recommends that it be renumbered as FL-810S to follow the convention for translations be followed.

Implementation Requirements and Costs

The costs associated with this proposal are the costs of printing new forms.

Rules 5.120, 5.121, and 5.154 of the California Rules of Court are amended, effective January 1, 2006, to read:

1 **Rule 5.120. Appearance**

2
3 (a) Except as provided in Code of Civil Procedure section 418.10, a A
4 respondent or defendant is deemed to have appeared appears in a
5 proceeding when he or she files:

6
7 (1) A response or answer, ~~except as provided in section 418.10 of the~~
8 ~~Code of Civil Procedure;~~

9
10 (2)–(4) ***

11
12 (b) – (c) ***

13
14 **Rule 5.121. Motion to quash proceeding or responsive relief**

15
16 (a) Within the time permitted to file a response, the respondent may move
17 to quash the proceeding, in whole or in part, for any of the following
18 reasons:

19
20 (1)–(4) ***

21
22 (b) ~~The hearing for any notice of motion to quash must be scheduled not~~
23 ~~more than 20 days from the date the notice is filed. The motion to~~
24 quash must be served in compliance with Code of Civil Procedure
25 section 1005(b). If the respondent files a notice of motion to quash, no
26 default may be entered, and the time to file a response will be extended
27 until 15 days after service of the court’s order.

28
29 (c) – (e) ***

30
31 **Rule 5.154. Persons who may seek joinder**

32
33 (a) The petitioner or the respondent may apply to the court for an order
34 joining a person as a party to the proceeding who has or claims custody
35 or physical control of any of the minor children subject to the action, ~~of~~
36 ~~the marriage~~ or visitation rights with respect to such children, or who
37 has in his or her possession or control or claims to own any property
38 subject to the jurisdiction of the court in the proceeding.

39
40 (b) A person who has or claims custody or physical control of any of the
41 minor children subject to the action, ~~of the marriage~~ or visitation rights
42 with respect to such children, may apply to the court for an order
43 joining himself or herself as a party to the proceeding.

1 (c) A person served with an order temporarily restraining the use of
2 property that is in his or her possession or control or that ~~which~~ he or
3 she claims to own, or affecting the custody of minor children subject to
4 the action, of the marriage or visitation rights with respect to such
5 children, may apply to the court for an order joining himself or herself
6 as a party to the proceeding.

7

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY Draft 11 07/20/05 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
APPEARANCE, STIPULATIONS, AND WAIVERS	CASE NUMBER:

1. **Appearance by respondent** *(you must choose one):*
 - a. By filing this form, the respondent makes a general appearance.
 - b. The respondent has previously made a general appearance.
 - c. The respondent is a member of the military services of the United States of America and waives all rights under the Servicemembers Civil Relief Act (50 U.S.C. Appen. § 501 et seq.). No appearance fee is required.

2. **Agreements, stipulations, and waivers** *(choose all that apply):*
 - a. The parties agree that this cause may be decided as an uncontested matter.
 - b. The parties waive their rights to notice of trial, a statement of decision, a motion for new trial, and the right to appeal.
 - c. This matter may be decided by a commissioner sitting as a temporary judge.
 - d. We have a written agreement, or a stipulation for judgment will be submitted to the court.
 - e. None of these agreements or waivers will apply unless the court approves the stipulation for judgment or incorporates the written settlement agreement into the judgment.
 - f. This is a parentage case, and both parties have signed an *Advisement and Waiver of Rights Re: Establishment of Parental Relationship* (form FL-235) or its equivalent.

3. **Other** *(specify):*

Date: _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF PETITIONER)
Date: _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF RESPONDENT)
Date: _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF ATTORNEY FOR PETITIONER)
Date: _____ (TYPE OR PRINT NAME)	▶	_____ (SIGNATURE OF ATTORNEY FOR RESPONDENT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">Draft 8 07/19/05 Not approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
RESPONSE TO PETITION TO ESTABLISH PARENTAL RELATIONSHIP (Uniform Parentage)	CASE NUMBER:

1. The children are (name each):

a. <u>Child's name</u>	<u>Date of birth</u>	<u>Age</u>	<u>Sex</u>
------------------------	----------------------	------------	------------

b. A child who is not yet born

2. The petitioner is

- a. the mother of the children listed above.
- b. the father of the children listed above.
- c. not certain whether he or she is the biological parent of the children listed above.
- d. the child or child's representative (specify court and date of appointment):
- e. other (specify):

3. The respondent

- a. lives in the State of California.
- b. was in California when the listed children were conceived.
- c. neither a nor b
- d. other (specify):

4. The children

- a. live or are in this county.
- b. are children of a parent who is deceased, and proceedings for administration of the estate have been or could be started in this county.

5. The respondent is

- a. the father of the children listed in item 1 above.
- b. the mother of the children listed in item 1 above.
- c. not certain if he or she is the parent of the children listed in item 1 above.
- d. not the parent of the children listed in item 1 above.
- e. other (specify):

6. Additional statements

- a. Parentage has been established by a Voluntary Declaration of Paternity (attach copy).
- b. Parentage has been established in another case governmental child support other (specify):
- c. Public assistance is being provided to the children.

PETITIONER: RESPONDENT:	CASE NUMBER:
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The respondent requests that the court make the orders listed below.

7. Parent-child relationship (check all that apply):

- a. Respondent Petitioner Other (specify): _____ is the parent of the children listed in item 1.
- b. Respondent Petitioner Other (specify): _____ is not the parent of the children listed in item 1.
- c. Respondent requests genetic (blood) tests to determine whether the petitioner respondent is the parent of the children listed.

8. Child custody and visitation

- a. If Petitioner Respondent Other is found to be the parent of the children in listed in item 1:
- | | | | | |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| | Petitioner | Respondent | Joint | Other |
| b. Legal custody of the children should go to | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Physical custody of the children should go to | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
- d. Visitation of the children should be as follows:
 - (1) None
 - (2) Reasonable visitation
 - (3) Petitioner Respondent should have the right to visit the children as follows (specify): _____
 - (4) Visitation should occur with the following restrictions (specify): _____
 - (5) I request mediation to work out a parenting plan.

9. Reasonable expenses of pregnancy and birth

Reasonable expenses of pregnancy and birth should be paid by

Petitioner	Respondent	Both
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

10. Fees and costs of litigation

	Petitioner	Respondent	Both
a. Attorney fees should be paid by	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Expert fees, guardian ad litem fees, and other costs of the action or pretrial proceedings should be paid by	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

11. Name change. The children's names should be changed, according to Family Code section 7638, as follows (specify old and new names): _____

12. Other orders requested (specify): _____

13. Child support. The court may make orders for support of the children and issue an earnings assignment without further notice to either party.

I have read the restraining order on the back of the *Summons* (form FL-210) and I understand it applies to me.

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

Date: _____

(TYPE OR PRINT NAME)	(SIGNATURE OF RESPONDENT)
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NOTICE: If you have a child from this relationship, the court is required to order child support based upon the income of both parents. Support normally continues until the child is 18. You should supply the court with information about your finances. Otherwise, the child support order will be based upon information supplied by the other parent. Any party required to pay child support must pay interest on overdue amounts at the "legal" rate, which is currently 10 percent.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY Draft 7 07/19/05 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
REGISTRATION OF OUT-OF-STATE CUSTODY ORDER	

CASE NUMBER: _____

1. The minor children covered by the out-of-state custody order are (name each):

<u>Child's name</u>	<u>Date of birth</u>	<u>Age</u>	<u>Sex</u>
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2. a. Petitioner has been awarded custody visitation of those minor children.
 b. Petitioner is the mother father other (specify): _____ of those minor children.
 c. Petitioner's address is:*
3. a. Respondent has been awarded custody visitation of those minor children.
 b. Respondent is the mother father other (specify): _____ of those minor children.
 c. Respondent's address is:*
4. a. Another person (specify name): _____ has been awarded
 custody visitation of those minor children. _____ of those minor children.
 b. That person is the mother father other (specify): _____
 c. That person's address is:*

* If there are issues of domestic violence or child abuse, you may give a mailing address instead.

5. A completed *Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA)* (form FL-105) is attached to this registration.
6. I request that the attached out-of-state custody order be registered in this court.
 a. The court, county, and state where order was made are (specify):
 b. The date when the most recent order for child custody/visitation was made in that case (specify):
 c. Two copies, including one certified copy of that out-of-state order, are attached to this registration and made a part of it.
 d. To the best of my knowledge and belief, this order has not been modified.

Date: _____

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

(TYPE OR PRINT NAME)

(SIGNATURE)

PETITIONER:	CASE NUMBER:
RESPONDENT:	

NOTICE OF REGISTRATION OF OUT-OF-STATE CUSTODY ORDER

1. To:
 - a. Petitioner at address on 2(c) on page 1
 - b. Respondent at address on 3(c) on page 1
 - c. Other person who has been awarded custody or visitation in this custody order at address on 4(c) on page 1

2. The attached out-of-state custody order can be enforced as of the date of registration in the same manner as an order issued by a California court.

- 3. If you want to contest the validity of this registered out-of-state custody order, you must request a hearing date that is within 20 days of the date that this notice was mailed to you (see clerk’s date of mailing below). A request for a hearing must be in writing and filed in this case.
- 4. If you do not request this hearing, the out-of-state order will be confirmed in California and you will not be able to challenge its validity in the future.

5. At the hearing, the court will confirm the out-of-state order unless you can prove one of the following:
 - a. The issuing court did not have jurisdiction under chapter 2 of the California Family Code (commencing with section 3421).
 - b. The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under chapter 2 of the California Family Code (commencing with section 3421).
 - c. You were entitled to notice of the original order, but did not receive that notice in accordance with the standards of California Family Code section 3408 in the proceedings before the court that issued the order for which registration is sought.

CLERK’S CERTIFICATE OF MAILING

I certify that I am not a party to this case and that a copy of this *Registration of Out-of-State Custody Order* and all attachments was sent to each person named in item 1 above by first-class mail. The copies were enclosed in envelopes with postage fully prepaid. The envelopes were addressed to the persons named in item 1 at the addresses listed above, sealed, and deposited with the United States Postal Service.

At (*place*): _____

On (*date*): _____

Date: _____

Clerk by: _____, Deputy

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number and address):</i> <hr style="width: 20%; margin-left: 0;"/> TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY Draft 8 07/20/05 Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
MARRIAGE OF HUSBAND: _____ WIFE: _____	
JOINT PETITION FOR SUMMARY DISSOLUTION OF MARRIAGE	CASE NUMBER: _____

We petition for a summary dissolution of marriage and declare that all the following conditions exist on the date this petition is filed with the court:

1. We have read and understand the *Summary Dissolution Information* booklet (form FL-810).
2. We were married on *(date)*:
(A summary dissolution of your marriage will not be granted if you file this petition more than five years after the date of your marriage.)
3. One of us has lived in California for at least six months and in the county of filing for at least three months preceding the date of filing.
4. There are no minor children who were born of our relationship before or during our marriage or adopted by us during our marriage. The wife, to her knowledge, is not pregnant.
5. Neither of us has an interest in any real property anywhere. **(You may have a lease for a residence in which one of you lives. It must terminate within a year from the date of filing this petition. The lease must not include an option to purchase.)**
6. Except for obligations with respect to automobiles, on obligations incurred by either or both of us during our marriage, we owe no more than \$5,000.
7. The total fair market value of community property assets, not including what we owe on those assets and not including automobiles, is less than \$33,000.
8. Neither of us has separate property assets, not including what we owe on those assets and not including automobiles, in excess of \$33,000.
9. We have each filled out and given the other an *Income and Expense Declaration* (form FL-150).
10. We have each filled out and given the other copies of the worksheets on pages 8, 10, and 12 of the *Summary Dissolution Information* booklet (form FL-810) used in determining the value and division of our property. We have told each other in writing about any investment, business, or other income-producing opportunities that came up after we were separated based on investments made or work done during the marriage and before our separation. This meets the requirements of preliminary declaration of disclosure.
11. *(Check whichever statement is true.)*
 - a. We have no community assets or liabilities.
 - b. We have signed an agreement listing and dividing all our community assets and liabilities and have signed all the papers necessary to carry out our agreement. A copy of our agreement is attached to this petition.
12. Irreconcilable differences have caused the irremediable breakdown of our marriage, and each of us wishes to have the court dissolve our marriage without our appearing before a judge.
13. The wife desires to have her former name restored. Her former name is *(specify name)*: _____
 The husband desires to have his former name restored. His former name is *(specify name)*: _____

HUSBAND: WIFE:	CASE NUMBER:
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14. Upon entry of judgment of summary dissolution of marriage, we each give up our rights to appeal and to move for a new trial.

15. **Each of us forever gives up any right to spousal support from the other.**

16. We agree that this matter may be determined by a commissioner sitting as a temporary judge.

17. **Mailing address of husband**

Name:
Address:

City:
State:
Zip Code:

18. **Mailing address of wife**

Name:
Address:

City:
State:
Zip Code:

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attached documents are true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attached documents are true and correct.

Date:

Date:

▶ _____
(SIGNATURE OF HUSBAND)

▶ _____
(SIGNATURE OF WIFE)

You have a right to revoke this petition any time before a request for judgment is filed. You will remain married until one of you files for and obtains a judgment of dissolution. You may not request a judgment of dissolution sooner than six months from the date this petition is filed.

NOTICE: Dissolution may automatically cancel the rights of a spouse under the other spouse's will, trust, retirement benefit plan, power of attorney, pay on death bank account, transfer on death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar thing. It does not automatically cancel the rights of a spouse as beneficiary of the other spouse's life insurance policy. You should review these matters, as well as any credit cards, other credit accounts, insurance policies, and credit reports to determine whether they should be changed or whether you should take any other actions. However, some changes may require agreement of your spouse or a court order. (See Family Code sections 231–235.)

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the Judicial Council

SUMMARY DISSOLUTION INFORMATION

This booklet is available in English and Spanish from the office of the court clerk in the superior court of each county in California, or at www.courtinfo.ca.gov/selfhelp.

Este folleto puede obtenerse en inglés y en español en la Dirección de Registro Público del Condado (Office of the Court Clerk) o en la Corte Superior (Superior Court) de cada condado en el estado de California www.sucorte.ca.gov.

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I. WHAT IS THIS BOOKLET ABOUT?

This booklet describes a way to end a marriage through a kind of divorce called **summary dissolution**.

The official word for **divorce** in California is **dissolution**. There are two ways of getting a divorce, or dissolution, in California. The usual way is called a **regular dissolution**.

Summary dissolution is a shorter and easier way. But not everybody can use it. Briefly, a summary dissolution is possible for couples who

1. Have no children together;
2. Have been married for only a short time;
3. Don't own very much;
4. Don't owe very much; and
5. Have no disagreements about how their belongings and their debts are going to be divided up once they are no longer married to each other.

With this procedure you won't have to appear in court. You may not need a lawyer, but it is in your best interest to see a lawyer about the ending of your marriage. See page 20 for more details about how a lawyer can help you.

To carry out a summary dissolution, you prepare and file a *Joint Petition for Summary Dissolution of Marriage* (form FL-800), together with a property settlement agreement,* with the superior court clerk in your county. After a six-month waiting period—during which either of you can stop the process if you change your mind—you apply for and receive a final divorce.

This booklet will tell you:

1. Who can use the summary dissolution procedure;
2. What steps you have to go through to get a summary dissolution;
3. When it would help to see a lawyer; and
4. What risks you take when you use this procedure rather than the regular dissolution procedure.

If you wish to use the summary dissolution procedure, you must, at the time you file the joint petition, sign a statement that says you have read and understood this booklet. It's important for you to read the whole booklet very carefully.

Save this booklet for at least six months if you decide to start a summary dissolution. It will tell you how to complete the procedure.

If you fail to complete the procedure either by revoking it or obtaining a final divorce, the court may dismiss the action to clear its records.

Domestic Partners

Domestic partners who want to end their relationship in California can use either a regular dissolution or a special summary dissolution for domestic partners. The California Secretary of State prepares the forms for summary dissolution of a domestic partnership. They can be found on the Internet at: www.ss.ca.gov. Do not use this guide.

SPECIAL WARNING

If you are an alien who became a lawful permanent resident on the basis of your marriage to a U.S. citizen or to a lawful permanent resident, obtaining a dissolution within two years might lead to your deportation. You should consult a lawyer before obtaining a divorce.

* A property settlement agreement is an agreement that the two of you write or have someone write for you after you fill out your worksheets. The agreement spells out how you will divide what you own and what you owe.

II. SOME TERMS YOU NEED TO KNOW

In the following pages you will often see the terms *community property*, *separate property*, and *community obligations*. Those terms are explained in this section.

As a married couple, the two of you are, in the eyes of the law, a single unit. There are certain things that you **own together** rather than separately. And there may be certain debts that you **owe together**. If one of you borrows money or buys something on credit, the other one can be made to pay.

If your marriage breaks up, you become two separate individuals again. Before that can happen, you have to decide what to do with the things you *own* as a couple and the money you *owe* as a couple.

The laws that cover these questions contain the terms *community property*, *separate property*, and *community obligations*. To understand what these terms mean, you should have a clear idea of **the length of time you lived together as husband and wife**. This is the period between your marriage day and the day you separated.

It may not be easy to decide exactly when you separated. In most cases the day of the separation was the day the couple stopped living together. However, you may want to choose the day when you definitely decided to get a divorce as your official date of separation.

Community Property

Community property is everything a husband and wife **own together**.

In most cases that includes:

1. Money you now have that either of you earned during the time you were living together as husband and wife; and
2. Anything either of you bought with money earned during that period.

Separate Property

Separate property is everything a husband or wife **owns separately**.

In most cases that includes:

1. Anything you owned before you got married;
2. Anything you earned or received after your separation; and
3. Anything either of you received, as a gift or by inheritance, at any time.

Community Obligations

Community obligations are the debts a husband and wife **owe together**.

In most cases that includes anything you still owe on any debts either of you took on during the time you were living together as husband and wife. (For instance, if you bought furniture on credit while you were married and living together, the unpaid balance is a part of your community obligations.)

NOTE: If you lived together before your marriage, you may wish to see a lawyer about possible additional rights either of you may have.

III. WHO CAN USE THE SUMMARY DISSOLUTION PROCEDURE?

You can get a divorce through the summary dissolution procedure only if **all** of the following statements are true about you at the time you file the *Joint Petition for Summary Dissolution of Marriage* (form FL-800). Check this list very carefully. If even *one* of these statements is not true for you, you cannot get a divorce in this way.

- ___ 1. We have both read this booklet, and we both understand it.
- ___ 2. We have been married five years or less.
- ___ 3. No children were born to the two of us together before or during our marriage.
- ___ 4. We have no adopted children under 18 years of age.
- ___ 5. The wife is not pregnant.
- ___ 6. Neither of us owns any part of any land or buildings.
- ___ 7. Our community property is not worth more than \$33,000.*
- ___ 8. Neither of us has separate property worth more than \$33,000.*
- ___ 9. The total of our community obligations (other than cars) is \$5,000 or less.*

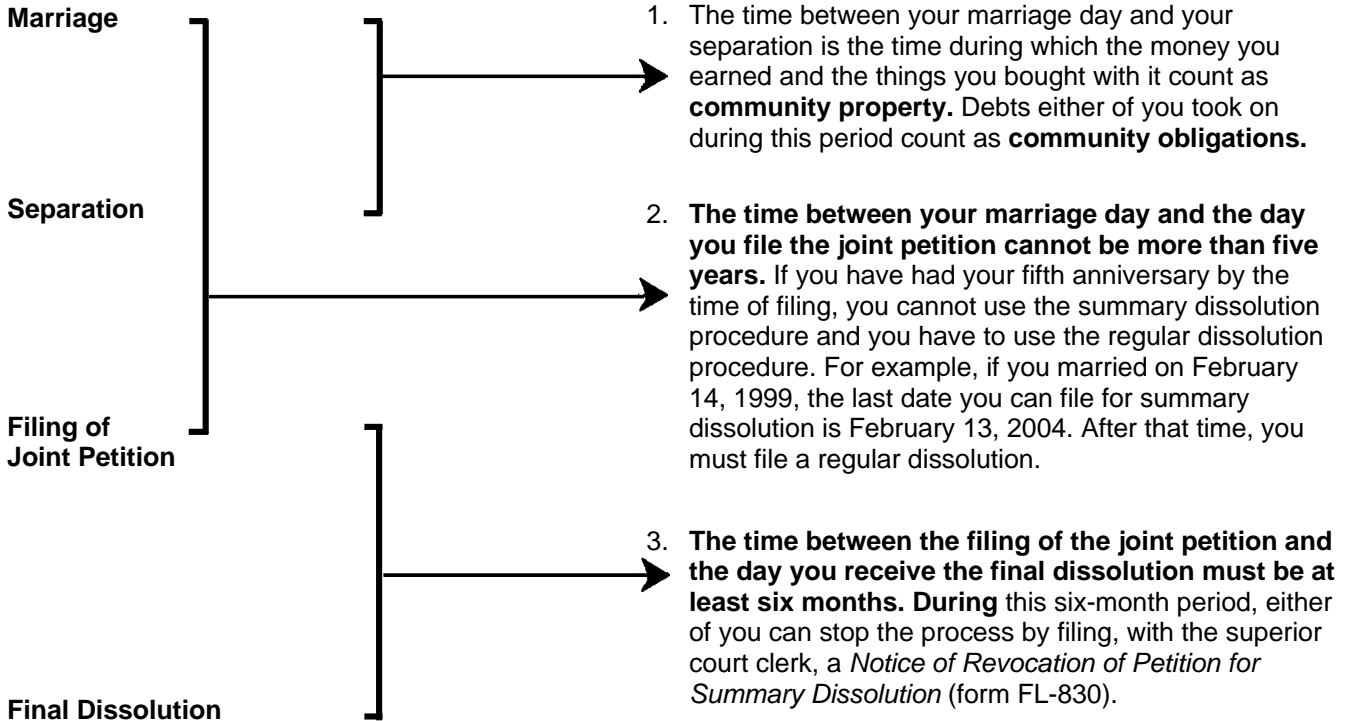
For deciding on statements 7, 8, and 9, use the guide on pages 6–12.

- ___ 10. At least one of us has lived in California for the past six months or longer *and* has lived in the county where we are filing for dissolution for the past three months or longer.
- ___ 11. We have prepared and signed an agreement that states how we want our possessions and debts to be divided between us (or states that we have no community property or community obligations).
- ___ 12. We have both signed the joint petition and all other papers needed to carry out this agreement.
- ___ 13. We both want to end the marriage because of serious, permanent differences.
- ___ 14. We have both agreed to use the summary dissolution procedure rather than the regular dissolution procedure.
- ___ 15. We are both aware of the following facts:
 - (a) There is a six-month waiting period, and either of us can stop the divorce at any time during this period.
 - (b) Our marriage will be completely ended only if, after the waiting period, one of us files with the superior court clerk a *Request for Judgment, Judgment of Dissolution of Marriage, and Notice of Entry of Judgment* (form FL-820).
 - (c) After the dissolution becomes final, neither of us has any right to expect money or support from the other except what is included in the property settlement agreement.
 - (d) By choosing the summary dissolution procedure, we give up certain legal rights that we would have if we had used the regular dissolution procedure. (These are explained on page 5.)

*Do not count car or truck loans in this total.

IV. SOME TIME PERIODS TO KEEP IN MIND

When working through the summary dissolution procedure, you need to have clearly in mind (1) when you were married, (2) when you separated, (3) when you plan to file the joint petition, and (4) when you can expect the final dissolution.



After this six-month period—unless the process has been stopped—either of you can complete the dissolution procedure by filing with the superior court clerk a *Request for Judgment, Judgment of Dissolution of Marriage, and Notice of Entry of Judgment* (form FL-820).

NOTICE: If, after the six-month waiting period, neither spouse has taken steps to complete the dissolution, either spouse continues to have the right to stop it.

V. AN IMPORTANT DIFFERENCE BETWEEN SUMMARY DISSOLUTION AND REGULAR DISSOLUTION

With a regular dissolution, the husband or wife can ask for a court hearing or trial. And, if either spouse is unhappy with the judge's final decision, it is possible to challenge that decision. This can be done, for example, by asking for a new trial. It is also possible to **appeal** the decision by taking the case to a higher court.

With a summary dissolution, there is no trial or hearing. Couples who choose this method of getting a divorce do not have the right to ask for a new trial (since there is no trial) or the right to appeal the case to a higher court.

There are, however, some cases in which a divorce agreement under a summary dissolution can be challenged. You will have to see a lawyer about this. The court *may* have the power to set aside the divorce if you can show that one of the following things happened:

1. You were treated unfairly in the property settlement agreement.

This is possible if you find out the things you agreed to give to your spouse were much more valuable than you thought at the time of the dissolution.

2. You went through the dissolution procedure against your will.

This is possible if you can show that your spouse used threats or other kinds of unfair pressure to get you to go along with the divorce.

3. There are serious mistakes in the original agreement.

Some kinds of mistakes can make the dissolution invalid, but you will have to go to court to prove the mistakes. It may be that one or both of you had a lot of property that you had forgotten about when you drew up the property settlement agreement. Or maybe a bank account mentioned in the agreement had much more money or much less money in it than your agreement states.

4. You did not each complete the *Income and Expense Declaration* (form FL-150) and property worksheets on pages 8, 10, and 12 and give copies to your spouse.

California law requires that you fully share all information on your property and debts as well as your income. You have to share this information before you sign your property settlement agreement.

Correcting mistakes and unfairness in a summary dissolution proceeding can be expensive, time-consuming, and difficult. It is very important for both of you to be honest, cooperative, and careful when you or your lawyers do the paperwork for the dissolution.

VI. HOW DO YOU FIGURE OUT THE VALUE OF YOUR PROPERTY AND THE AMOUNT OF YOUR DEBTS?

Section III was a list of statements that had to be true for anyone who wanted to use the summary dissolution procedure.

Statement 7 was “Our community property is not worth more than \$33,000.”

Your community property is the money and things you own jointly, as husband and wife. This was explained on page 2. The value of your community property is determined by adding together (1) the amount of **money** you have as community property and (2) the “fair market value” of the **possessions** you have as community property.

The **fair market value** is an estimate of the amount of money you could get if you sold these items to a stranger—for example, through a classified ad in the newspaper. It does **not** mean what you paid for it originally, and it does **not** mean how much it would cost you to replace it if you lost it.

One way of estimating the fair market value of your goods is to use prices for equivalent items in other people's classified ads for second-hand goods.

Three kinds of items go into figuring out your community property:

1. Money (as in bank accounts, credit union accounts, etc.);
2. Things you own outright (furniture that is already paid for, for example); and
3. Things you are buying on credit.

When you include things you still owe money on, subtract the amount of money you still owe on them from the fair market value.

You should not include the value of a car or truck in this list.

Statement 8 was “Neither of us has separate property worth more than \$33,000.”

Separate property is property that each spouse owns separately. The term was explained on page 2. This includes the same kinds of things used in determining community property. And again, you should not include cars or trucks in this list.

Statement 9 was “The total of our community obligations (other than cars) is \$5,000.00 or less.”

Your community obligations are the debts you and your spouse owe jointly. The term was explained on page 2. List all the debts you have that you took on while you were living together as husband and wife. If you borrowed money before you got married, you do **not** have to include that in your community obligations. If you bought furniture on credit after you got married, but before you separated, you **have to** include the amount of money you still owe on the furniture. If you bought a stereo after you separated, you do **not** have to include that.

Do not include car or truck loans in this list.

NOTICE: The law for summary dissolution allows you to leave out cars and trucks when you figure out whether you are **eligible** for this kind of divorce. But if you do have cars as part of your community property, you still have to decide who is going to own them (and who is going to pay for them) after your divorce. You must include them in your property settlement agreement.

Worksheets for figuring out these amounts are found on pages 7–12. You must complete and give to your spouse the worksheets on pages 8 (Value of Separate Property), 10 (Value and Division of Community Property), and 12 (Community Obligations and Their Division) to meet the requirement that you fully disclose your assets and debts to each other. Sample worksheets showing how to fill out those forms are on pages 7, 9, and 11.

HUSBAND: WIFE:	CASE NUMBER:
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VII. (SAMPLE) WORKSHEET FOR DETERMINING VALUE OF SEPARATE PROPERTY

(This worksheet will help you determine whether you are eligible to use the summary dissolution procedure. The total fair market value of the **wife's separate property*** CANNOT be more than \$33,000. The total fair market value of the **husband's separate property**** CANNOT be more than \$33,000. Separate property is anything that either of you owned or earned before you got married, anything you earned or bought after your separation, and anything that was given to just one of you as a gift during your marriage. Do NOT include cars.)

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.

Item	Wife's Property—Fair Market Value	Husband's Property—Fair Market Value
Credit union savings—wife (before marriage)	420	
Savings bonds—husband (bought before marriage)		250
Pension plan benefits—wife (before marriage and after separation)	1500	
Pension plan benefits—husband (before marriage and after separation)		1300

B. Items owned outright

Item		
Clothes—wife (bought before marriage)	350	
Stocks—wife (birthday present from father)	375	
Furniture—wife (owned before marriage)	460	
Camera—husband (owned before marriage)		229
Wristwatch—husband (bought before separation)		142
Clothes—husband (bought after separation)		250

C. Items being bought on credit

Item	Fair Market Value	Minus What's Owed		
T.V. set—wife (after separation)	400	350 =	50	
Clothes—wife (after separation)	220	170 =	50	
		=		
		=		
		=		
		=		
		=		

**GRAND TOTALS:
WIFE'S AND HUSBAND'S
SEPARATE PROPERTY**

3205*	2171**
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HUSBAND: WIFE:	CASE NUMBER:
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VII. WORKSHEET FOR DETERMINING VALUE OF SEPARATE PROPERTY

(This worksheet will help you determine whether you are eligible to use the summary dissolution procedure. The total fair market value of the **wife's separate property*** CANNOT be more than \$33,000. The total fair market value of the **husband's separate property**** CANNOT be more than \$33,000. Separate property is anything that either of you owned or earned before you got married, anything you earned or bought after your separation, and anything that was given to just one of you as a gift during your marriage. Do NOT include cars.)

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.

	Wife's Property— Fair Market Value	Husband's Property— Fair Market Value
Item		

B. Items owned outright

Item		

C. Items being bought on credit

	Fair Market Value	Minus What's Owed		
Item		=		
		=		
		=		
		=		
		=		
		=		
		=		
		=		
GRAND TOTALS: WIFE'S AND HUSBAND'S SEPARATE PROPERTY			*	**

HUSBAND: WIFE:	CASE NUMBER:
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VII. (SAMPLE) WORKSHEET FOR DETERMINING VALUE AND DIVISION OF COMMUNITY PROPERTY

(This side of the sheet will help you determine whether you are **eligible** to use the summary dissolution. The grand total value* of your community property cannot be more than \$33,000.)

(This side of the sheet will help you decide on a fair division of your property. It will help you prepare your property settlement agreement.)

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.					
				Wife Receives	Husband Receives
Item	Amount				
Savings account	150			150	
Life insurance (cash value)	250			250	
Pension plan—wife	600			600	
Pension plan—husband	500				500
Checking account	180				180
Subtotal A	1680			1000	680
B. Items you own outright (for example, stocks and bonds, sports gear, furniture, household items, tools, interests in businesses, jewelry, etc.; do not include cars or trucks).					
				Wife Receives	Husband Receives
Item	Fair Market Value				
Furniture & furnishings— wife’s apartment	775			775	
Furniture & furnishings—husband’s apartment	300				300
Terriers season tickets	285				285
Savings bonds	200			200	
Jewelry—wife	200			200	
Pet parrot and cage	40				40
Subtotal B	1800			1175	625
C. Items you are buying on credit (for example, stereo equipment, appliances, furniture, tools, etc.; do not include cars or trucks).					
Item	Fair Mkt Value	Minus Amount Owed	= Net Fair Market Value	Wife Receives	Husband Receives
Stereo set	305	150 =	155		155
Color television	400	100 =	300		300
Golf clubs	350	50 =	300		300
		=			
Subtotal C			755	0	755
Subtotals A + B + C = grand total value of community property				2175	2060

HUSBAND: WIFE:	CASE NUMBER:
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VII. WORKSHEET FOR DETERMINING VALUE AND DIVISION OF COMMUNITY PROPERTY

(This side of the sheet will help you determine whether you are **eligible** to use the summary dissolution. The grand total value* of your community property cannot be more than \$33,000.)

(This side of the sheet will help you decide on a fair division of your property. It will help you prepare your property settlement agreement.)

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.								
	Item	Amount		Wife Receives	Husband Receives			
Subtotal A								
B. Items you own outright (for example, stocks and bonds, sports gear, furniture, household items, tools, interests in businesses, jewelry, etc.; do not include cars or trucks).								
	Item	Fair Market Value		Wife Receives	Husband Receives			
Subtotal B								
C. Items you are buying on credit (for example, stereo equipment, appliances, furniture, tools, etc.; do not include cars or truck).								
	Item	Fair Mkt Value	Minus Amount Owed	=	Net Fair Market Value		Wife Receives	Husband Receives
				=				
				=				
				=				
				=				
Subtotal C								
Subtotals A + B + C = grand total value of community property								

HUSBAND: WIFE:	CASE NUMBER:
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VII. (SAMPLE) WORKSHEET FOR DETERMINING COMMUNITY OBLIGATIONS AND THEIR DIVISION

(This side of the worksheet will help you to determine whether you are **eligible** to use the summary dissolution. The total amount of your community obligations (debts) cannot be more than \$5,000. Do not include car or truck loans. Be sure you include any other debts you took on while you were living together as husband and wife. List the amount you owe on the items from your **Worksheet for Determining Value and Division of Community Property**. Then add all other debts and bills including loans, charge accounts, medical bills, and taxes you owe.)

(This side of the worksheet will help you decide on a fair way to divide up your community obligations. You will use this information in preparing a **property settlement agreement**.)

Item	Amount Owed	Wife Will Pay	Husband Will Pay
Stereo set	150		150
Color TV	100		100
Golf clubs	50		50
Dr. R. C. Himple	74		74
Sam's Drugs	32		32
College loan	500		500
Cogwell's charge account	275	275	
Mister Charge account	68		68
Green's Furniture	123	123	
Dr. Irving Roberts	37	37	
Wife's parents	150	150	
TOTAL	1559	585	974
		Wife's Share of Community Obligations	Husband's Share of Community Obligations

HUSBAND: WIFE:	CASE NUMBER:
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VII. WORKSHEET FOR DETERMINING COMMUNITY OBLIGATIONS AND THEIR DIVISION

(This side of the worksheet will help you to determine whether you are **eligible** to use the summary dissolution. The total amount of your community obligations (debts) cannot be more than \$5,000. Do not include car or truck loans. Be sure you include any other debts you took on while you were living together as husband and wife. List the amount you owe on the items from your **Worksheet for Determining Value and Division of Community Property**. Then add all other debts and bills including loans, charge accounts, medical bills, and taxes you owe.)

(This side of the worksheet will help you decide on a fair way to divide up your community obligations. You will use this information in preparing a **property settlement agreement**.)

	Amount Owed	Wife Will Pay	Husband Will Pay
TOTAL			
		Wife's Share of Community Obligations	Husband's Share of Community Obligations

VIII. WHAT SHOULD BE INCLUDED IN THE PROPERTY SETTLEMENT AGREEMENT?

A property settlement agreement should contain at least five parts:

I. Preliminary Statement

This part identifies the husband and wife, states that the marriage is being ended, and states that both husband and wife agree on the details of the agreement.

II. Division of Community Property

This part has two sections:

What the wife receives.

What the husband receives.

III. Division of Community Obligations

This part has two sections:

The amount the wife must pay and whom she must pay it to.

The amount the husband must pay and whom he must pay it to.

IV. Waiver of Spousal Support

This part states that each spouse gives up all rights of financial support from the other.

V. Date and Signature

Both husband and wife must write the date and sign the agreement.

An example of a property settlement agreement is found on pages 14–16.

IX. SAMPLE PROPERTY SETTLEMENT AGREEMENT

Below is a sample of an acceptable **property settlement agreement**. You may use it as a model for your own agreement, if you wish. You can find a fill-in-the-blanks version of this agreement at www.courtinfo.ca.gov/selfhelp in the section on summary dissolution.

- The parts that are underlined will fit most cases. You can copy these parts for your own agreement. Since many of the words have special meanings in the law, you may wish to talk to a lawyer if you want to change the words.
- The parts printed in regular type (not underlined) are based on an imaginary couple. You will need to replace these parts with items that apply to your situation.
- The numbered notes in italics in the right-hand column are **not** part of the agreement. They are there to help you understand it. (You will not need the superscript numbers in your agreement.)

Remember, you can divide the items any way you want. As long as you both agree, the court will accept it. If you cannot agree about the division of your property and debts, you should file a regular dissolution.*

PROPERTY SETTLEMENT AGREEMENT

I. We are Waldo P. Smedlap, hereafter called Husband,¹ and Lydia T. Smedlap, hereafter called Wife. We were married on October 7, 2003, and separated on December 5, 2004. Because irreconcilable differences² have caused the permanent breakdown of our marriage, we have made this agreement together to settle once and for all what we owe to each other and what we can expect from each other. Each of us states here that nothing has been held back and that we have honestly included everything we could think of in listing the money and goods that we own; and each of us states here that we believe the other one has been open and honest in writing up this agreement. Each of us agrees to sign and exchange any papers that might be needed to complete this agreement.

¹ *Wherever the word Husband appears in this agreement, it will stand for Waldo P. Smedlap; wherever the word Wife appears, it will stand for Lydia T. Smedlap.*

² *This means there are problems in your marriage that you think can never be solved. **Irreconcilable differences** are the only legal grounds for getting a **summary dissolution**.*

* At the trial, a judge would set a value on and divide community property and debts into two approximately equal parts as provided by California law.

Each of us also understands that even after a *Joint Petition for Summary Dissolution of Marriage* is filed, this entire agreement will be canceled if either of us revokes the dissolution proceeding.³

³ *This means that the property agreement is a part of the divorce proceeding. If either of you decides to stop the dissolution proceedings by turning in a Notice of Revocation of Petition for Summary Dissolution (form FL-830) (see page 19), this entire agreement will be cancelled.*

II. Division of Community Property⁴

We divide our community property as follows:

⁴ *Community property is property that you own as a couple (see page 2).*

1. Husband transfers to Wife as her sole and separate property:

*If you have no community property, replace part II with the simple statement "**We have no community property.**"*

- A. All household furniture and furnishings located at her apartment at 180 Needlepoint Way, San Francisco.⁵
- B. All rights to cash in savings account at Home Savings.
- C. All cash value in life insurance policy insuring life of Wife through Sun Valley Life Insurance.
- D. All retirement and pension plan benefits earned by Wife during marriage.
- E. Two U.S. Savings Bonds, Series E.
- F. Wife's jewelry.
- G. 1972 Chevrolet 4-door sedan.

⁵ *If the furniture and household goods in one apartment are to be divided, then they may have to be listed item by item.*

2. Wife transfers to Husband as his sole and separate property:

- A. All household furniture and furnishings located at his apartment on 222 Bond Street, San Francisco.
- B. All retirement and pension plan benefits earned by Husband during marriage.
- C. Season tickets to Golden State Terriers basketball games.
- D. One stereo set.
- E. One set of Jock Nicklaus golf clubs.
- F. One RAC color television.
- G. 1973 Ford station wagon.
- H. One pet parrot named Arthur, plus cage and parrot food.
- I. All rights to cash in checking account in Bank of America.

III. Division of Community Property (Debts)⁶

1. Husband will pay the following debts and will not at any time hold Wife responsible for them:

- A. Mister Charge account.
- B. Debt to Dr. R. C. Himple.
- C. Debt to Sam's Drugs.
- D. Debt to UC Berkeley for college education loan to Husband.⁷
- E. Debt to Golf Store on golf clubs.
- F. Debt to Everything Electronics for color tv and stereo set..

2. Wife will pay the following debts and will not at any time hold Husband responsible for them:

- A. Cogwell's charge account.
- B. Debt to Wife's parents, Mr. and Mrs. Joseph Smith.
- C. Debt to Green's Furniture.
- D. Debt to Dr. Irving Roberts.

IV. Waiver of Spousal Support⁸

Each of us waives any claim for spousal support now and for all time.

V. Dated: _____ Dated: _____

Waldo P. Smedlap

Lydia T. Smedlap

⁶ If you have no unpaid debts, replace part III with the simple statement "**We have no unpaid community obligations.**"

⁷ A general rule for dividing debts is to give the debt over to the person who benefited most from the item. In the sample agreement, since the Husband received the education, he should pay off the loan.

⁸ You give up the right to have your spouse support you.

X. WHAT STEPS DO YOU HAVE TO TAKE TO GET A SUMMARY DISSOLUTION?

If after reviewing the information in this booklet you feel your marriage will qualify for a summary dissolution, you should carefully go through the following 15 steps. You can fill out the forms, worksheets, and agreements in the summary dissolution section:

- For free online at www.courtinfo.ca.gov/selfhelp
- With a typewriter
- With neat printing

1. ____ Turn to page 8 and complete the Worksheet for Determining Value of Separate Property. See page 7 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse and keep one for your records.
2. ____ Turn to page 10 and complete the Worksheet for Determining Value and Division of Community Property. See page 9 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse and keep one for your records.
3. ____ Turn to page 12 and complete the Worksheet for Determining Community Obligations and Their Division. See page 11 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse and keep one for your records.
4. ____ Fill out an *Income and Expense Declaration* (form FL-150). You both need to fill out this form and give it to your spouse before you sign your property settlement agreement or complete your divorce. Make one extra copy of your form after it has been completed. Give one copy to your spouse and keep one for your records.
5. ____ Type or print your property settlement agreement if you have any property or debts to divide. Both of you must date and sign it. Make two extra copies. See pages 13–16 for an example and instructions. You can also find a version that you can fill online at www.courtinfo.ca.gov/selfhelp in the information on summary dissolution
6. ____ Fill out a *Joint Petition for Summary Dissolution of Marriage* (form FL-800). *Both* of you must sign and date this petition. Make two extra copies of this form. (This is the form you need to **START** the process.)

*Note: When signing your joint petition and your property settlement agreement, you are signing these documents under penalty of perjury, which is the same as being sworn to testify in court. **You may not sign each other's name.** These forms must be signed **in California or in a state that authorizes this procedure**; otherwise an affidavit is required.*
7. ____ Make three sets of forms by gathering together a copy of your property settlement agreement and a copy of your *Joint Petition for Summary Dissolution of Marriage* (form FL-800). Staple each set together.
8. ____ Make one extra copy of a blank *Request for Judgment, Judgment of Dissolution of Marriage, and Notice of Entry of Judgment* (form FL-820). (This is the form you need to **COMPLETE** the process.) Each of you should keep one copy for future use. See instructions later in this section.
9. ____ Make one extra copy of a blank *Notice of Revocation of Petition for Summary Dissolution* (form FL-830). (This is the form you would need to **STOP** the process.) You may wish to use it during the waiting period if you change your mind and want to stop the process. You should keep one copy. See instructions for more information.
10. ____ Bring all of your copies to the superior court clerk's office. The location of your superior court clerk's office can be found in the phone book or online at www.courtinfo.ca.gov/selfhelp. The clerk will stamp the date on all copies, will keep one copy of each document, and will return the other two to you. One is for the husband and one is for the wife.

11. ____ Pay the superior court clerk's filing fee.
12. ____ Put your copies of all the documents in a safe place.
13. ____ Wait for six months.
14. ____ After the waiting period, if you have decided to go through with the dissolution and neither of you has stopped it by filing the revocation form, fill out a *Request for Judgment, Judgment of Dissolution of Marriage, and Notice of Entry of Judgment* (form FL-820) and make two extra copies of the completed form.
15. ____ Bring all copies to the superior court clerk, along with two pre-addressed and stamped envelopes. One must be addressed to you and the other to your spouse.

The clerk will: (1) take the document, (2) record it in the court's records, (3) keep one copy, and (4) send one of the other two copies to you and one to your spouse.

On the day the copies of the *Request for Judgment, Judgment of Dissolution of Marriage, and Notice of Entry of Judgment* are mailed to you:

- (a) Your marriage is ended;
- (b) The agreements you made in your property settlement agreement are binding—you will then own the property assigned to you, and you will have to pay the bills assigned to you;
- (c) Except for those agreements, you have no further obligations to each other; and
- (d) You are legally free to remarry.

NOTICE: The filing of the *Joint Petition for Summary Dissolution of Marriage* (form FL-800) must be done by both husband and wife. The filing of the *Request for Judgment, Judgment of Dissolution of Marriage, and Notice of Entry of Judgment* (form FL-820) can be done by either husband or wife.

REMEMBER: Either of you can stop the process by filling out a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) and bringing it to the superior court clerk, either during the six-month waiting period or at any time before the other person files a *Request for Judgment, Judgment of Dissolution of Marriage, and Notice of Entry of Judgment* (form FL-820).

XI. WHAT YOU SHOULD KNOW ABOUT REVOCATION

It is important to realize that the *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) is not just another form you are supposed to fill out and turn in.

Do not fill it out and do not bring it to the superior court clerk unless you want to stop the divorce!

What is the notice of revocation for?

This is the form you need if you want to stop the divorce. Revoking the agreement is canceling or stopping it.

What reasons are there for revoking?

There are three reasons you might have for wanting to stop the summary dissolution:

1. You have decided to return to your spouse and continue the marriage;
2. You want to change over to the regular dissolution as a better way of getting your divorce; or
3. The wife discovers she is pregnant.

Why might you want to change over to the regular dissolution?

You may come to believe that you will get a better settlement if you go to court than the agreement you originally made with your spouse. (Maybe, after thinking it over, you feel you aren't receiving a fair share of the community property.)

How do you do it?

At the time you picked up the joint petition forms, you and your spouse also received three copies of the *Notice of Revocation of Petition for Summary Dissolution* (form FL-830). Fill out all three copies of that form, sign them, and bring them to the superior court clerk's office. You can do this alone. This form does not need your spouse's signature.

If you do this at any time during the six-month waiting period, you will stop the divorce proceeding.

Can the dissolution be stopped once the waiting period is over?

If neither you nor your spouse has yet filed a *Request for Judgment, Judgment of Dissolution of Marriage, and Notice of Entry of Judgment* (form FL-820), you can still revoke the dissolution after the waiting period by filing the revocation form.

If you change over to a regular dissolution, what happens to the part of the waiting period that has passed?

You can apply the amount of time you waited on the summary dissolution to your regular dissolution. For example, if four months went by before you decided to revoke the summary dissolution, the waiting period for the regular dissolution will be shortened by four months.

However, you can save this time **only** if you file for a regular dissolution within 90 days of revoking the summary dissolution.

XII. SHOULD YOU SEE A LAWYER?

Must you have a lawyer to get a divorce with the summary dissolution?

No. You can do the whole thing by yourselves. But it would be wise to see an attorney before you decide to do it yourself. You should not rely on this booklet only. It is not intended to take the place of a lawyer.

If you want legal advice, does that mean you have to hire a lawyer?

No. You may hire a lawyer, of course, but you can also just visit a lawyer once or twice for advice on how to carry out the dissolution proceeding. Don't be afraid to ask the lawyer in advance what fee will be charged. It may be surprisingly inexpensive to have a lawyer handle your divorce.

Do you have to accept your attorney's advice?

No, you don't. And if you are not pleased with what one attorney advises, you can feel free to go to another one.

How can an attorney help you with the summary dissolution?

First, an attorney can advise you, on the basis of your personal situation, whether you ought to use the regular dissolution rather than the summary dissolution.

Second, an attorney can read your property settlement agreement to help you figure out if you've thought of everything you should have. (It is easy to forget things you don't see very often, such as savings bonds and safe deposit boxes.)

Third, there are many situations in which it is not easy to figure out what should count as community property and what should count as separate property. Suppose one of you had money before the marriage and put it into a bank account in both of your names, then both of you used money from that account. It may not be easy to decide how the money remaining in that account should be divided. An attorney can advise you on how to make these decisions.

Fourth, there may be special situations in which your property settlement is not covered by the sample agreement on pages 14–16.

An attorney can help you put the agreement in words that are legally precise and cannot be challenged or misinterpreted later.

Where can you find an attorney?

The yellow pages of your telephone directory will list, under "Attorneys" or "Attorney Referral Service," organizations that can help you find a lawyer. In many cases you will be able to find an attorney who will charge only a small fee for your first visit. You can get information about free or low-cost legal services through the county bar association in your county. You can find information about certified lawyer referral services at www.courtinfo.ca.gov/selfhelp.

XIII. SOME GENERAL INFORMATION

What about income taxes?

If you have filed a joint tax return, you will still both be responsible for paying any unpaid taxes even after your divorce.

If you are receiving a tax refund, you should agree in the property settlement agreement on how it should be divided.

The amount of money that you will owe, or that will be taken out of your paycheck, for income taxes will be greater after you are single again. You should prepare yourself for a bigger tax obligation.

It would be a good idea to consult the Internal Revenue Service or a tax expert on how the divorce is going to affect your taxes. You should probably do this before you make your property settlement agreement.

What about bank accounts and credit cards?

If you have a joint bank account, it might be a good idea to close it down when you separate and get two individual bank accounts. That way it will be easier to keep your money separate.

If you have credit card accounts that you have both been using, you should destroy the cards and take out separate accounts.

What about cars?

If both of your names are on a title to a car and you agree that one of you is going to own the car, you need to take action to change the ownership. You should call or visit the Department of Motor Vehicles to find out how to do that. You should also talk to the lender to get the debt into one person's name and change the insurance coverage after both the title and debt are transferred.

What if your spouse doesn't pay his or her debts?

If your spouse doesn't pay a debt that is his or her responsibility, the person who loaned the money may be able to collect it from you. But then a court may order your spouse to reimburse you. If you have any reason to worry about this, a lawyer can explain your rights to you.

Can you take back your former name?

If either you or your spouse changed your name when you were married, the person who took a new name has the right to give up that name and get his or her former name back. You can do this by requesting it in the joint petition. If you didn't request this in the joint petition, you can still do it in the request for final judgment. But in that case the spouse requesting his or her former name must sign the request for final judgment. The other spouse can't make you change your name.

What if I'm not happy with my final judgment?

When your divorce is final, all your rights and duties connected with your marriage have ended, and you cannot appeal. But if you decide later that you were cheated or pressured by your spouse, or if you believe that a mistake was made in the paperwork connected with the divorce, the court may be able to set aside the divorce. An attorney can explain your rights.

INFORMACION SOBRE LA DISOLUCION SUMARIA

Draft 4
08/12/05
Not approved by
the Judicial Council

Este folleto puede obtenerse en inglés y en español en la Dirección de Registro Público del Condado (Office of the Court Clerk) en la Corte Superior (Superior Court) de cada condado en el estado de California o www.sucorte.ca.gov.

This booklet is available in English and Spanish from the Office of the Court Clerk in the Superior Court of each county in California or www.courtinfo.ca.gov.

SPR05-27
Family Law: Miscellaneous Forms
(amend Cal. Rules of Court, rules 5.120, 5.121, and 5.154;
revise forms FL-130, FL-220, FL-580, FL-800, FL-810, and FL-812)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
1.	Grace Andres Program Manager Superior Court of Solano County Fairfield	A		Agree with proposed changes.	No response required.
2.	Sheila Ballin Family Law Facilitator Superior Court of San Joaquin County Stockton	A	N	Agree with proposed changes.	No response required.
3.	Janet Davis Court Manager Superior Court of Amador County	AM		#4 can't see all of the text. FL-800 #6 wording is confusing. Recommend "on obligations incurred by either or both of us."	Printing error will be corrected. Agree with change.
4.	Keri Griffith Court Program Manager Superior Court of Ventura County	AM		FL-220, #5C: remove word "if" FL-800: sentence between #4 and #5 is misplaced. FL-130, page 2, #4(b)(4): add word "allowance" to end of the statement.	Will make that change. Printing error will be corrected. All language regarding bifurcation of status is being removed.
5.	JoAnn Johnson Family Law Facilitator Superior Court of Ventura County	AM		Rule 5.121 at (b), add in "The Motion to Quash must be served in compliance with CCP 1005(b)" in place of the delineated section. Form FL-130: leave out the bifurcation of status section. This concept is extremely confusing to self-represented litigants. They will check this section because they want a divorce. If it is really necessary to have a form regarding	Will make that addition to be of assistance for practitioners. Will remove this section from this form and consider a separate form in future cycles.

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				bifurcation, have an entirely separate form.	
6.	Superior Court of Los Angeles County 111 North Hill Street Los Angeles	A			No response required.
7.	Stephen Love Executive Officer Superior Court of San Diego County	AM		<p>Change of timing on Motion to Quash—it’s about time! It was impossible to comply with both requirements.</p> <p>Joinder—Rule 5.154: This is great. It also allows room to deal with putative parents.</p> <p>FL-130, #2: Should this not read, “We have exchanged Preliminary Declarations of Disclosure and have filed or are filing a form FL-140 for each of us.” Then go on to 2.a.1. and 2.a.2.</p> <p>FL-130, #4b (4) should add the word “allowance” so that it reads “probate family allowance.”</p> <p>FL-220, #5: item c should read, “not certain if he or she is the parent of the children listed in item 1.”</p> <p>FL-220, #7: add to a, b, and c, “is the parent of the child/ren in #1 and add “d” and “e” as follows: d. <input type="checkbox"/> That petitioner is NOT a parent of the</p>	<p>No response required.</p> <p>No response required.</p> <p>Will remove all language regarding declarations of disclosure as redundant.</p> <p>Will remove all language regarding bifurcation of status.</p> <p>That change will be made.</p> <p>That changes will be made.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>child/ren in #1. e. <input type="checkbox"/> That Respondent is NOT a parent of the child/ren in #1.</p> <p>FL-220, #8: add two other options with boxes <input type="checkbox"/> If petitioner is found to be the parent of the child/ren #1 <input type="checkbox"/> If Respondent is found to be the parent of the child/ren in #1.</p> <p>Notice of Registration of Out-of-State Custody Decree: Page 2 of 2 in Clerk’s Certification of Mailing in the second line add an “s” to the word “persons,” take out the word “an” before envelope and add an “s” to the word envelope and add an “es” to the word address in the third line. The intent is that the notice would go to all interested parties and if the notice is sent only to one of the parties, the notice is not adequate. For a long time it appears there has been an assumption that the registering party is not the custodial party. This is not always the case and it is particularly important that the non-registering party/ies receive notice.</p> <p>FL-810, Page 1 of 2: at #5-10 and the exchanges of pp. 8, 10, 12 and the IED: is this in lieu of Declaration re Service of the Declaration of</p>	<p>Those options will be added.</p> <p>The changes suggested will be made.</p> <p>The statement at #10 is intended to be in lieu of the Declaration re: Service of the Declaration of</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>Disclosure???? (FL-140s). FC 2109 requires the exchange of Preliminary DOD's and legislates a waiver of Final DOD's.</p> <p>Could pages 8 and 10 or pages 10 and 12 be reversed so that community property assets and debts are consecutively dealt with? There does not seem a reason to split them and it is confusing to many where they are split by the intervening separate property statement. Then change the instruction booklet at page 17 to reflect those changes.</p> <p>Page 17 of the booklet at #5 add the word "print" so that it reads "Type or print your property..."</p> <p>Page 21 of the booklet, under "what about cars?" Add a sentence, "You should also talk to the lender to get the debt into one person's name and change the insurance coverage after both the title and the debt are transferred."</p>	<p>Disclosure. Family Code 2109 provides that the requirements for "a final declaration of disclosure do not apply to a summary dissolution of marriage," but that a preliminary declaration of disclosure is required.</p> <p>Will reverse pages 8 and 10. and change the instruction booklet accordingly.</p> <p>Will add that word.</p> <p>Will add that sentence.</p>
8.	Jody Patel Executive Officer Superior Court of Sacramento County	AM		<p>Form FL-130: item 4.b.(4) is unclear.</p> <p>Form FL-220: items 5c and d were added for a</p>	<p>All language related to bifurcation of status is being removed.</p> <p>Will make that proposed change.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				<p>party to claim non-paternity, and we suggest that a corresponding section be added on the back of the form for a finding or judgment of non-paternity.</p> <p>Form FL-800: item 10 requires the parties to exchange financial disclosures using the worksheets that are included in the Summary Dissolution packet; we suggest that the parties also have the option of using the Income and Expense Declaration (FL-150) and Schedule of Assets and Debts (FL-142) as used in regular dissolution actions.</p>	<p>The committee does not recommend that this change be made. This makes the question a difficult one. The worksheets seem generally much easier than the Schedules of Assets and Debts and are more likely to lead to more accurate determination of eligibility for Summary Dissolution. There is an electronic version of the Summary Dissolution packet.</p>
9.	Amy Silva Family Law/Probate Operations Superior Court of Orange County	AM		<p>Form FL-580, Item #5: This could be confusing, in that couldn't this person be the same person as #4? Also, it is worded as if the same person has "custody or visitation" because there is room to put information about only one person. Many custody orders have custody to one parent and visitation to the other parent. Is there a way to word this to make the intent or needed information clearer?</p> <p>Form FL-800, Item #7 and #8: Self-represented parties would not know what "encumbrances" means. Can another word be substituted for</p>	<p>Will reword to request address information for both parents.</p> <p>This will be changed to "not including what we owe on those assets."</p>

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revise forms FL-130, FL-220, FL-580, FL-800, FL-810, and FL-812)

	Commentator	Position	Comment on behalf of group?	Comment	Committee Response
				this, OR, in the Summary Dissolution Information booklet, FL-810, include a definition of this word. One likely page to put this on is page 2 of the booklet, which is entitled "SOME TERMS YOU NEED TO KNOW."	
10.	Dean Zipser President Orange County Bar Association	A	Y	Agree with proposed changes.	No response required.

Statutes Referred to in Comments on SPR05-27

Family Code

2109. The provisions of this chapter requiring a final declaration of disclosure do not apply to a summary dissolution of marriage, but a preliminary declaration of disclosure is required.

Code of Civil Procedure

1005. (a) Written notice shall be given, as prescribed in subdivisions (b) and (c), for the following motions:

(1) Notice of Application and Hearing for Writ of Attachment under Section 484.040.

(2) Notice of Application and Hearing for Claim and Delivery under Section 512.030.

(3) Notice of Hearing for Claim of Exemption under Section 706.105.

(4) Motion to Quash Summons pursuant to subdivision (b) of Section 418.10.

(5) Motion for Determination of Good Faith Settlement pursuant to Section 877.6.

(6) Hearing for Discovery of Peace Officer Personnel Records pursuant to Section 1043 of the Evidence Code.

(7) Notice of Hearing of Third-Party Claim pursuant to Section 720.320.

(8) Motion for an Order to Attend Deposition more than 150 miles from deponent's residence pursuant to paragraph (3) of subdivision (e) of Section 2025.

(9) Notice of Hearing of Application for Relief pursuant to Section 946.6 of the Government Code.

(10) Motion to Set Aside Default or Default Judgment and for Leave to Defend Actions pursuant to Section 473.5.

(11) Motion to Expunge Notice of Pendency of Action pursuant to Section 405.30.

(12) Motion to Set Aside Default and for Leave to Amend pursuant to Section 585.5.

(13) Any other proceeding under this code in which notice is required and no other time or method is prescribed by law or by court or judge.

(b) Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed at least 16 court days before the hearing. The moving and supporting papers served shall be a copy of the papers filed or to be filed with the court. However, if the notice is served by mail, the required 16-day period of notice before the hearing shall be increased by five calendar days if the place of mailing and the place of address are within the State of California, 10 calendar days if either the place of mailing or the place of address is outside the State of California but within the United States, and 20 calendar days if either the place of mailing or the place of address is outside the United States, and if the notice is served by facsimile transmission, express mail, or another method of delivery providing for overnight delivery, the required 16-day period of notice before the hearing shall be increased by two calendar days. Section 1013, which extends

the time within which a right may be exercised or an act may be done, does not apply to a notice of motion, papers opposing a motion, or reply papers governed by this section. All papers opposing a motion so noticed shall be filed with the court and a copy served on each party at least nine court days, and all reply papers at least five court days before the hearing.

The court, or a judge thereof, may prescribe a shorter time.

(c) Notwithstanding any other provision of this section, all papers opposing a motion and all reply papers shall be served by personal delivery, facsimile transmission, express mail, or other means consistent with Sections 1010, 1011, 1012, and 1013, and reasonably calculated to ensure delivery to the other party or parties not later than the close of the next business day after the time the opposing papers or reply papers, as applicable, are filed. This subdivision applies to the service of opposition and reply papers regarding motions for summary judgment or summary adjudication, in addition to the motions listed in subdivision (a).

The court, or a judge thereof, may prescribe a shorter time.