



Sample Language used in Pleadings for Formerly Incarcerated Clients

Issue #1 Demonstrating Change of Circumstances

Excerpt from a declaration of a client attempting to modify custody as specified in a dependency exit order and needing to meet the “Significant Change of Circumstances” Standard.

C. Change of Circumstances in My Life - I am Clean and Sober

1. There has been a significant change of circumstances in my life since the April 2011 Order. I have been clean and sober for over three (3) years. I successfully completed an outpatient six (6) month substance abuse rehabilitation program at Southern California Drug and Alcohol treatment center. I entered this program voluntarily on October 20, 2011, following the dependency court judgment and was discharged from the program upon completion as of September 18, 2012. The program costs were \$1,600 and I was unable to pay the last installment of \$250. Consequently, I did not receive a certificate. Nevertheless, attached, as **Exhibit 2**, is a true and correct copy of a letter from the Southern California Drug and Alcohol Treatment Center detailing my completion of the program.
2. The above is consistent with what I had started before the April 2011 Order. Specifically:
 - a. I voluntarily went to the Home for Women and Children and lived there from April 30, 2009 to September 15, 2009, during which time I attended classes on drug/alcohol education, relapse prevention, parenting classes, domestic violence and anger management. I was also provided individual counseling and vocational assistance. A true and correct copy of a letter from the Home for Women and Children is attached as **Exhibit 3**; and
 - b. I took the W Community Recovery Center’s Outpatient Treatment Program for drug and alcohol substance abuse twice. The first time was for a 3-month period ending March 18, 2010 and the second time was for another 3-month period ending April 26, 2011. Attached, as **Exhibit 4**, are true and correct copies of the Certificate of Completion for these programs, as well as a Drug Test Summary for the period from February 16, 2010 through April 4, 2011.
3. I know that my children need and deserve a strong and sober mother. I therefore regularly attend church in Covina, CA and participate in Alcoholics Anonymous in order to stay sober for myself and for them. My three (3) children are my inspiration, and I have completely changed my life around in recent years to be the mother they deserve.
4. Just as my youngest daughter and my son live with me full-time and part-time, respectively, I want to also see B more frequently. I want to be able to participate more fully in her life as an active, involved mother. I have taken the steps to ensure that I can provide her with

security and stability. Due to my efforts to become sober, I no longer present any safety concern or threat to ensuring B's best interests and needs are met during any time I have with her.

5. While I used to be angry with Respondent for how our relationship ended, I saw a therapist, Ms. M., MFT, at Los Angeles, CA for over one (1) year to work through that issue. Although I've contacted Ms. M in an effort to get a letter of support, she has not returned my calls.
- D. *Change of Circumstances in My Life - I am Currently Employed and can Provide a Stable and Secure Home Environment*
6. I have always lived with my family, except the times when I had to live apart from B. However, as soon as I could, I returned to my home, where I live with my mother. This is a 2-story duplex and J, my sister, lives in the upstairs unit, while I live in the downstairs unit with my mom and my other two minor children. My family is close and has supported my efforts to improve myself for the sake of my children. B knows and has strong relationships with her maternal grandmother and aunt.
7. When B visits every other weekend, I make sure she has a room all to herself and a comfortable bed to sleep in. During the day, we often spend time at the local park or we go shopping together, as B enjoys helping me do my shopping. I thoroughly enjoy spending time with our daughter and only hope that I am awarded more time to further develop the wonderful relationship I have built with B over the past years
8. In October 2012, I gained employment as a part-time Hardline Merchandiser at the Kmart store. I worked approximately 5 days a week and my hours during the day varied, depending on the schedule that I requested.
9. That job was a seasonal position and in February, 2013, I went to an Employment Agency in West Covina, CA. I have since been employed as a warehouse worker at various places, such as These have all been full-time jobs. The salary varies from place to place but I am currently earning approximately \$1,000 per month after taxes.
10. I also receive CalWorks at this time. I am thus able to contribute to household expenses. I spend leftover funds on healthy food, clothing, activities and school supplies for my children. I am the primary caretaker for my youngest daughter who just turned one year old, B's younger sister, and provide for the needs of my 10-year old son as well. I also have a vehicle that I am able to use to drive to and from work.
11. I recently successfully completed a three (3) month educational program to become a phlebotomist at the Infotech Career College. I am currently searching for an externship work necessary to complete my required hours for certification.

Issue #2 Parental Alienation

Excerpts from a declaration of a client who was being denied visitation by the other parent.



I. **SUMMARY**

1. I respectfully request the Court to order the following:
 - a. I request that Respondent and I be awarded joint legal custody of our son.
 - b. I request that Respondent be awarded primary physical custody and I be awarded secondary physical custody of our son.
 - c. I request that the Court order telephone access to the minor child and award me scheduled phone contact with the minor child every 2nd and 4th Sunday from 11:30 a.m. to 11:45 a.m.
 - d. I request that the Court order a co-parenting class for Respondent and I.
 - e. I request that the Court order Respondent and I to communicate through Our Family Wizard.

II. **BACKGROUND INFORMATION**

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2. As soon as Respondent moved into her grandmother's house, she attempted to cut off all contact between our son and me. From 2006 through 2007, I tried to call and/or text Respondent every day to arrange visits. I would even physically go to Respondent's grandmother's house to try to see our son. Respondent either did not reply to my attempts or she refused to allow visitation. I merely got to see our child about once per month, for a few hours each time.
6. In 2008, Respondent completely cut off all communication with me. In 2009, Respondent moved with our son to Orange County to live with her new partner. She did not notify me or the Court of this move in advance. I only found out months later when she told me over the phone that I could pick up our son for a visit at her "new house". From 2009 through 2011, I saw our child approximately two or three times each year. After March of 2012, once again, Respondent cut off all contact between our son and I.
8. Respondent has taken our child to Arizona and to Ohio without my or the Court's prior knowledge, consent, or permission. In 2009, Respondent threatened to move to Ohio. Respondent's partner is from Ohio, and he has a daughter there. In 2009 and 2010, Respondent took our child on trips outside of the state with her partner on "family" vacations. Furthermore, since 2006, Respondent has moved four (4) different times. She has never told me about any of her moves in advance.

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IV. **RE: CHILD CUSTODY**

13. I respectfully request the Court to award Respondent and I joint legal custody and award me

secondary physical custody of J.

A. Joint Legal Custody

14. I request that the Court award us joint legal custody to share the right and responsibility to make decisions relating to health, education and welfare of our son. I want the opportunity to be involved with his schooling, religion, non emergency medical, dental, and orthodontic treatment, and extracurricular activities. However, Respondent has never given me notice of our son's doctor's visits, school or daycare enrollment, or their travels. Instead Respondent has been asking me to relinquish my parental rights. In 2011, Respondent started an adoption case in Orange County, because she wanted her partner to adopt our child and change his last name to match the rest of the family. However, I want our son to know that I want to be an active parent and take part in all his activities and interests. I want to encourage him in school, help with his homework, and attend parent-teacher conferences.
15. Without a court order granting me joint legal custody, I know that Respondent will attempt to cut me out of the decision making process of our child's life. Her actions have made it clear she wants our son to have no relationship with me and wishes her new partner could replace my role in our son's life completely. I need the Court to grant me the right to be an active parent in decision making and raising our child.

B. Secondary Physical Custody

16. Although in the future I plan to move for more custodial time with J I also recognize that a sudden change in J's life and routine would be unduly disruptive. I therefore request, without prejudicing my right to seek a change in the future, that primary physical custody of J remain with Respondent and that I have secondary physical custody.
18. I am slowly re-building and strengthening my relationship with J. Our relationship has significantly progressed since our first visit. J now calls me "dad" and shares information about his interests. During our visits, J and I partake in outdoor physical activities, such as going to the park to play catch and walk my dog. Additionally, J and I like to watch animated programming on Netflix and the National Geographic Channel. We also like to go to Toys R Us, where I try to buy J educational toys, such as a puzzle games and Legos. Furthermore, J and I attend theme parks, such as Adventure City, go to the Griffith Park train ride, bowl at Chateau 39, and go to the Santa Monica Pier. I also have story time with J where he now feels comfortable enough to share anecdotes about his life, including his interests his friends, and his school activities. Furthermore, J has also been getting to know my family. During our visits, J and I try to have lunch or dinner with my mother, father, sisters, or nephews. A regular, established co-parenting schedule will help further facilitate the relationship between our son and I.

Issue #3 Frequent and Continuing Contact

Excerpt from a Memorandum of Points and Authorities on frequent and continuing contact and the



importance of a child having a relationship with both parents.

II. IT IS THE POLICY OF THE STATE OF CALIFORNIA TO HAVE PARENTS FACILITATE FREQUENT AND CONTINUING CONTACT WITH THEIR MINOR CHILD

“[I]t is the public policy of this state to assure that children have frequent and continuing contact with both parents.” Cal. Fam. Code § 3020. “In making an order granting custody to either parent, the court shall consider...which parent is more likely to allow the child frequent and continuing contact with the noncustodial parent.” Cal. Fam. Code § 3040. “Time spent with children is to be valued” and “there is a body of law that says so.” *In re Marriage of Ficke* (2013), 217 Cal. App. 4th 10, 20 (string citation omitted). In *Wilson v. Shea*, the court acknowledges “the Legislature’s announced public policy in favor of visitation with the noncustodial parent, the benefits of such contact noted in the social science research, and the detriment to the child’s personality development that results from its lack.” 87 Cal. App. 4th 887, 895 (2001).

Thus under well-established law of the state, Petitioner has a duty to facilitate frequent and continuing contact between the minor child and her mother, the Respondent. The Legislature declares that in order to facilitate frequent and continuing contact between both parents, the court should “encourage parents to share the rights and responsibilities of child rearing.” Cal. Fam. Code § 3020. Indeed, “[f]rustration of visitation rights by the custodial parent is a proper ground for transfer of custody.” *In re Marriage of Wood*, 141 Cal. App. 3d 671,682 (1983); *See also In re Marriage of Moschetta*, 25 Cal. App. 4th 1218, 1234 (1994) (“It is common knowledge among family law practitioners that the quickest way for a parent to lose primary physical custody is for that parent to obstruct the visitation rights of the other parent”).

Issue #4 Asking for Child Support to facilitate visitation

Excerpt from a memorandum of points and authorities of a client seeking the other party to pay for transportation for visits based on the disparity of their incomes.

III. PETITIONER SHOULD PAY CHILD SUPPORT TO FACILITATE FREQUENT AND CONTINUING CONTACT BETWEEN THE MINOR CHILD AND RESPONDENT

The disparity in travel distance and income status detrimentally affects Respondent’s parenting time with the minor child. To rectify this inequality, not only should the court make the exchange location more equidistant, the court should also order Petitioner to pay child support to the Respondent to facilitate her access to the minor child.

The statewide uniform child support guideline, Cal. Fam. Code § 4050 et seq., encompasses the following principles which courts must adhere to in determining support orders:

1. **“A parent’s first and principal obligation is to support his or her minor children according to the parent’s circumstances and station in life.” Cal. Fam. Code § 4053 (a).**
2. **“The guideline takes into account each parent’s actual income and level of responsibility for the children.” Cal. Fam. Code § 4053 (c).**

3. “Children should share in the standard of living of both parents.” Cal. Fam. Code § 4053 (f).

Under the statutory scheme, there may be instances when the high earner pays the low earner regardless of the time share arrangement, especially when there is a great disparity in incomes. *See* Cal. Fam. Code § 4055. The high earner has the “burden to rebut the guideline.” *In re Marriage of Cheriton*, 92 Cal. App. 4th 269 (2001).

In the case *In re Marriage of Schlafly*, the court ordered support for recreational classes because “children should be supported according to each parent's ability to pay and standard of living.” 149 Cal. App. 4th 747, 761 (2007) (citing Cal. Fam. Code § 4053 (b), (d) and (f)). Similarly, the court has the authority to order support for visitation travel expenses so that children are able to see both parents regularly in a manner consistent with each parent’s ability to pay and standard of living. *See id.*

Cal. Fam. Code § 4062(b) provides that “[t]he court may order ... [t]ravel expenses for visitation” as additional child support. *See e.g. In re Marriage of Gigliotti*, 33 Cal. App. 4th 518, 527 (1995). Upon request, the parents may be ordered to pay travel expenses “in proportion to their [adjusted] net disposable incomes.” Cal. Fam. Code § 4061(b).

In *Gigliotti*, the mother had to travel with her son from Massachusetts to California because he was too young to travel on his own so that he could have quarterly visits with his father. 33 Cal. App. 4th at 528. The court acknowledges that it is within its authority to include the mother’s personal travel expenses as part of the support, since she had to accompany her son. *Id.*