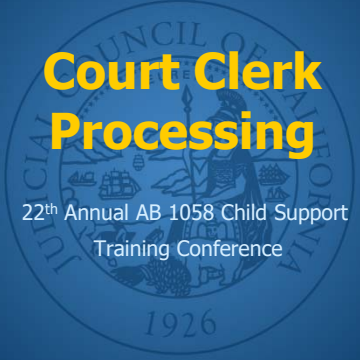


# Court Clerk Processing

22<sup>th</sup> Annual AB 1058 Child Support Training Conference




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## Reminder: Classroom Etiquette

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




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### Goal for 58 Counties: • Local v. California Rules

- Create a sense of uniformity;
- Prevent confusion for parties and Courts.

**Rules of Practice:**  
 Each county has its own local rules, policies, and practices;  
 Class will be taught according to California Codes and Rules of Court;  
 Same for each Court in California;  
**Take precedence over local rules.**

**Note:** If your Court has a policy, procedure, or local rule that conflicts with one of today's lessons, please follow up with your Supervisor for direction on how you should proceed going forward.





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## Vocabulary Terms

- **IV-D:** Title IV-D of the Social Security Act
- **DCSS:** LCSA
  - Local Child Support Agency
- **LCSA:** DCSS
  - Department of Child Support
- **1058:** The Assembly Bill passed in 1996
  - Expedited Court Process for Child Support Cases
  - Established Child Support Commissioner and FL Facilitator Program
  - Established Simplified Procedures for Everyone Involved.
- **Petitioner:** Moving Party in an Action
- **Respondent:** Respondent in an Action
- **Other Parent:** Custodial Parent NOT Joined UNTIL Judgment in DCSS Initiated Action



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## More . . . . Vocabulary Terms

- **S & C:** Summons & Complaint
  - Commences an Action
- **SS& C:** Supplemental Summons & Complaint
  - Adds Child(ren) in DCSS or FL Cases
- **APJ:** Amended Proposed Judgment
  - Amends Income of Party for Calculating Support
- **Jurisdiction:** Having Authority (Power) to make Orders.
- **Service:** Legally providing copies to the party listed in the Filing.
- **Motion:** Request by Party for Court Action
  - Initiating; Modification; Enforcement
- **Arrearages:** Unpaid Support



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## Mandatory Training

**California Rule of Court 5.355** Minimum standards of training for court clerk staff whose assignment includes title IV-D child support cases

"Any court clerk whose assignment includes title IV-D child support cases must participate in a minimum of six hours of continuing education annually in federal and state laws concerning child support and related issues."

*In Brief: 6 Hrs of Training in Area is Required*



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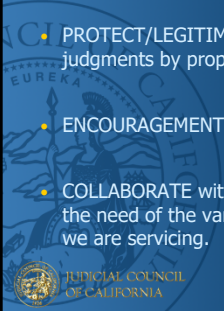
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## Goal of Clerks' Office

- PROTECT always Statutes of Limitations;
- PROTECT/LEGITIMIZE of all Final dispositions and judgments by proper review of filings;
- ENCOURAGEMENT in lieu of criticism;
- COLLABORATE with all Justice Partners recognizing the need of the various agencies, offices, and parties we are servicing.



• KERN COUNTY FAMILY LAW

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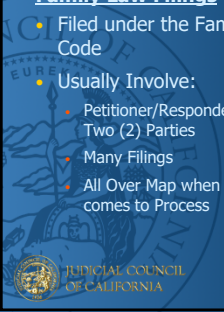
## Processing AB 1058

### Family Law Filings

- Filed under the Family Code
- Usually Involve:
  - Petitioner/Respondent: Two (2) Parties
  - Many Filings
  - All Over Map when it comes to Process

### AB 1058 Filings

- Filed under the Family Code; W & I Code.
- Usually Involve:
  - Petitioner/Respondent/ **Other Parent**: Three (3) Parties (County v. Party/OP)
  - Petitioner usually DCSS
  - Cases are more Structured
  - Cross over into Family Cases




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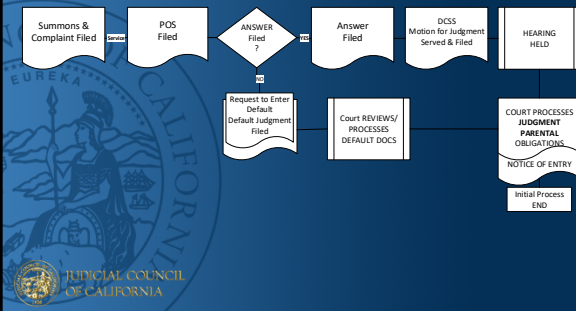
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## Process : New Filing




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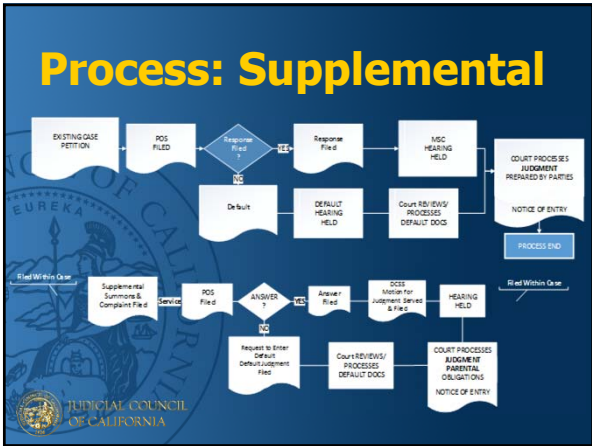
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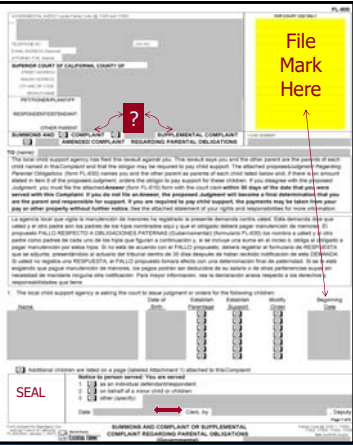
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- ## Summons & Complaint
- New Filing
  - Supplemental
    - Adds Children
    - Filed within Existing Cases
  - Clerk Issues
  - Seal
  - Important of Filing Date
    - Date of Support Commencement




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# Complaint Filed...

DCSS Discovers Income Change of NCP

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**APJ: Declaration for Amended Proposed Judgment FL-615**

- Approved Mandatory
- Used when Actual Income is Discovered
- Filed by DCSS
- Changes Proposed Judgment
- Changes Date to Default
- Cannot be Filed when Answer Filed

The screenshot shows the top portion of the form. It includes the court name 'SUPERIOR COURT OF CALIFORNIA, COUNTY OF ...', the case number, and the title 'DECLARATION FOR AMENDED PROPOSED JUDGMENT'. The main body of the form contains numbered sections for providing case information and the applicant's declaration regarding support and income. Section 1 asks for the total 2003 support agency information. Section 2 asks for the change in support based on the California support guideline. Section 3 asks for the applicant's gross monthly income. Section 4 asks for the respondent's gross monthly income. Section 5 asks for the total 2003 support agency information. Section 6 asks for the change in support based on the California support guideline. Section 7 asks for the respondent's gross monthly income. Section 8 asks for other details. Section 9 asks for an amended proposed judgment to be entered. The form concludes with a declaration under penalty of perjury and a signature line.




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**Service of Process**

- Personal Service          CCP 415.10
- Substituted Service      CCP 415.20(B)
- Service by Mail
  - Notice of Acknowledgement    CCP415.30
    - Governmental Form FL-605
  - Certified Mail (Out of CA)    CCP 415.40
- Publication                  CCP 415.50
- Posting ? Does not Apply to DCSS Filings




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**Service Effective Dates**

METHODS OF SERVICE	SERVICE REQUIREMENTS	SERVICE DEEMED COMPLETED
Personal Service CCP 415.10	Personally delivered to respondent	Immediately upon delivery
Substituted Service CCP 415.20(B)	Delivery to a competent adult (over 18) apparently in charge at the respondent's home, usual place of abode, business or mailing address (not a PO Box), who must be told of the contents delivered, AND a copy must be mailed to the respondent at the same address.	10 <sup>th</sup> day after the date of mailing
Service by mail CCP 415.30	Respondent must sign and date the Notice and Acknowledgment of Receipt. The original is returned to the court attached to the Proof of Service.	The date the Notice and Acknowledgment is signed by the Respondent.
Notice & Acknowledgment of Receipt. Sender must complete date of mailing, sign and indicate what documents are being sent.		
Service by mail CCP 415.40	Delivery to respondent by certified mail, return receipt signed and dated by respondent, attached to proof of Service prior to filing with court. Declaration of service by mail will also be completed.	10 <sup>th</sup> day after date of mailing
Certified mail outside of California only		
Service by Publication CCP 415.50	Application and Order for Publication of Summons must be submitted to the court. Upon proper review, the court can order Summons published in newspaper most likely to give actual notice.	28 <sup>th</sup> day after the first day of publication Gov. Code 6204
Available where other party cannot be served by any reasonable method with due diligence.		




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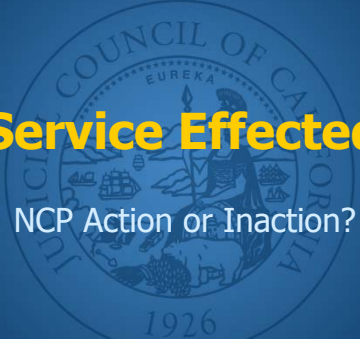
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# Service Effected

## NCP Action or Inaction?




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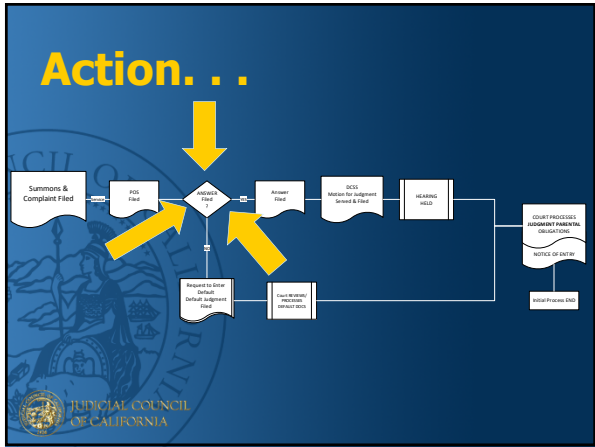
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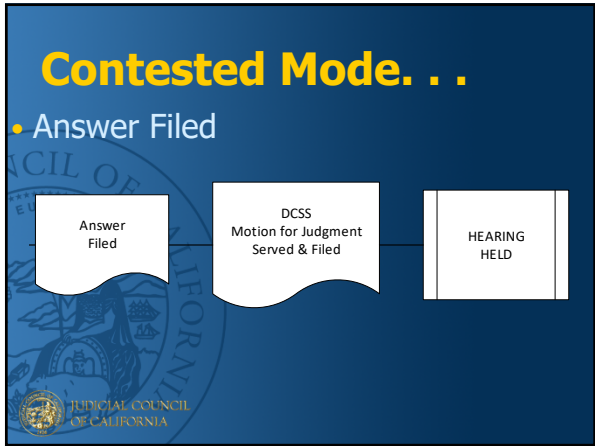
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# Answer

- No Fee for Filing
- Completed POS Built Back of Form
- Income and Expense/Financial Forms not Required to File
- Pencil Completed Forms: Inmates
- Incomplete Answer Local Processes

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# Answer

Page 2

- Item 5, Party declares Address of Record
- POS is Explained
- Page 3: Information

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# No Action After Service

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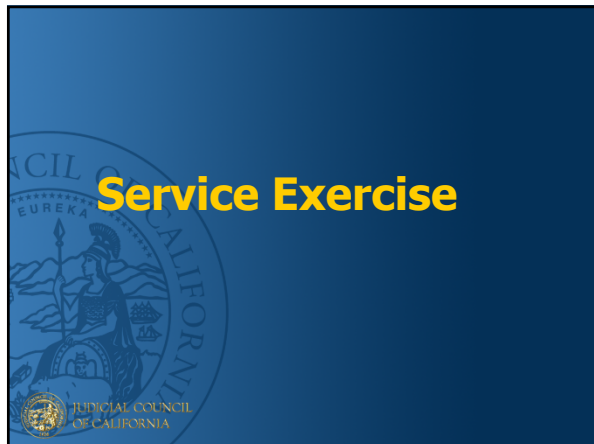
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### Default Checklist

- Is there an Answer on file?
  - Yes – NO Default
  - No – Proceed
- Filings:
  - Request to Enter Default (FL-620)
  - Declaration for Default (FL-697)
  - Judgment Regarding Parental Obligations (FL-630)
- Service Type?
- Does Judgment Exceed Petition?

Type of Service	When Default May be Entered
Personal	<b>31<sup>st</sup></b> day after date of <b>service</b>
Substituted Service	<b>41<sup>st</sup></b> day after date of <b>mailing</b>
Notice & Acknowledgement (POS-015)	<b>31<sup>st</sup></b> day after <b>NAR signed**</b>
Certified Mail	<b>41<sup>st</sup></b> day after date of <b>mailing</b>
Publication	<b>59<sup>th</sup></b> day after <b>1<sup>st</sup> date of publication</b>

If NAR is not dated, service is not valid CCP 413.5(b) = can not process Request for Default unless other valid form of service is present.

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**FOR COURT USE ONLY**

(1)  Default entered as requested on filing.

(2)  Default not entered as requested. (State reason)

By: \_\_\_\_\_

REQUEST TO ENTER DEFAULT JUDGMENT (Governmental)

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### JUDGMENT First, Supplemental, Amended...

Differences between:

Initial: First LCSA Judgment

Amended: Change to the Initial/Supplemental Filing

Supplemental: Filed in Existing Case to Add Children. May have 1st, 2nd, 3rd, . . . Etc.

No number equates to 1st

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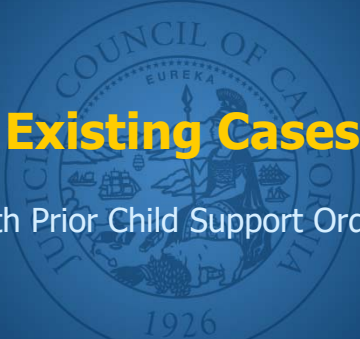
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# Existing Cases

with Prior Child Support Orders

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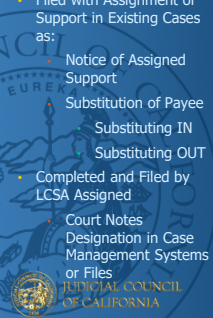
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## Notice Re Payment of Support (NRPS) FL-632

- Filed with Assignment of Support in Existing Cases as:
  - Notice of Assigned Support
  - Substitution of Payee
  - Substituting IN
  - Substituting OUT
- Completed and Filed by LCSA Assigned
- Court Notes Designation in Case Management Systems or Files




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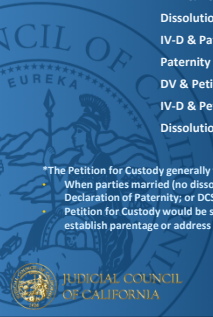
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## Consolidations

Cases	Parent/Primary Case
IV-D & Dissolution	Dissolution
IV-D & Domestic Violence	IV-D
Dissolution & DV	Dissolution
IV-D & Paternity	Paternity
Paternity & DV	Paternity
DV & Petition for Custody*	Petition for Custody*
IV-D & Petition for Custody*	Petition for Custody*
Dissolution & Petition for Custody*	Dissolution

\*The Petition for Custody generally filed:  
 • When parties married (no disso) and no other case involving parties; Parties signed Voluntary Declaration of Paternity; or DCSS matter with paternity judgment on file.  
 • Petition for Custody would be subordinate to any other action, except DV or IV-D Case, as it does not establish parentage or address dissolution issues.

• CCP 1048(a); CRC 5.365; FamC 17408




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### Family Code 17400(n) Venue

*(Amended by Stats. 2015, Ch. 416, Sec. 3. Effective January 1, 2016.)*

Notwithstanding any other law, venue under this division shall be in Superior Court in:

- County currently expending public assistance.
- No current public assistance: County where child resides.
- Current support is no longer payable/ enforceable by LCSA: County last provided aid to enforce arrearages per W&I 11477.
- NO aid: County of residence of the support **obligee**.
- If no aid, Obligee doesn't live in CA: County of residence of the **obligor**.

**Change in Managing County**

- **If child becomes resident of another county after filing, Case remains in County where filed until completed.**
- **LCSA of one county MAY appear OBO another LCSA.**

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### Statement of Registrations

- Required
- Confidential Information

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## Notice of Change of Responsibility for Managing Case FL-634

- Changes Managing County NOT Court
- Filed in Existing LCSA Cases
- Different than NRPS

Form Does NOT Change Court Responsibility Only Handling Between DCSS Offices

Superior Court of California, County of [Blank]

NOTICE OF CHANGE OF RESPONSIBILITY FOR MANAGING CHILD SUPPORT CASE

The responsibility for managing your child support case has changed from one county's local child support agency to a different county's local child support agency. The managing local child support agency listed in item 1 now has the responsibility for enforcing the child support case. You must direct all future letters, telephone calls, questions, or information regarding your child support case to the managing local child support agency listed in item 1.

However, the change in managing local child support agency does NOT change the authority of the superior court to hear matters concerning the child support order. All pleadings and court forms must be filed with the superior court listed in item 3 and served on the local child support agency listed in item 2 and on any other party to the case.

THE COURT AND ALL PARTIES ARE NOTIFIED OF THE FOLLOWING:

1. New Child Support Agency: The Department of Child Support Services of (specify county) [Blank] in now the managing local child support agency responsible for the support activities in this case. If you have any questions or information about your case, you may contact the local child support agency by telephone at (specify telephone number) [Blank]. You may contact the local child support agency in writing or in person at (specify address): [Blank], [Blank], [Blank], [Blank], CA [Blank].

2. Serving Pleadings: You must continue to serve a copy of any pleadings and court forms on the local child support agency in the following county (specify name and address): [Blank], [Blank], [Blank], [Blank], CA [Blank].

3. Court Filings: All pleadings and court forms in this action must be filed with the Superior Court of California, County of (specify name and address): [Blank], [Blank], [Blank], [Blank], CA [Blank].

4. Other (specify): [Blank]

Date: [Blank]

[Blank], [Blank] (TYPE OR PRINT NAME) (SIGNATURE)

The local child support agency listed in item 1 receiving case management responsibilities from another local child support agency must file with the superior court listed in item 3 this Notice of Change of Responsibility for Managing Child Support Case within 10 days of receiving the case management responsibilities. This local child support agency must serve a copy of the notice on the parties and the local child support agency listed in item 2.

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NOTICE

The responsibility for managing your child support case has changed from one county's local child support agency to a different county's local child support agency. The managing local child support agency listed in item 1 now has the responsibility for enforcing the child support case. You must direct all future letters, telephone calls, questions, or information regarding your child support case to the managing local child support agency listed in item 1.

However, the change in managing local child support agency does NOT change the authority of the superior court to hear matters concerning the child support order. All pleadings and court forms must be filed with the superior court listed in item 3 and served on the local child support agency listed in item 2 and on any other party to the case.

THE COURT AND ALL PARTIES ARE NOTIFIED OF THE FOLLOWING:

1. New Child Support Agency: The Department of Child Support Services of (specify county) **Tulare** in now the managing local child support agency responsible for the support activities in this case. If you have any questions or information about your case, you may contact the local child support agency by telephone at (specify telephone number) **808-273-0073**. You may contact the local child support agency in writing or in person at (specify address): **80940 W. Dore Avenue, Visalia, CA 93291**.

2. Serving Pleadings: You must continue to serve a copy of any pleadings and court forms on the local child support agency in the following county (specify name and address):  **Kern County Department of Child Support Services, 1300-18th Street, Bakersfield, CA 93301**.

3. Court Filings: All pleadings and court forms in this action must be filed with the Superior Court of California, County of (specify name and address):  **3215 Truxtun Avenue, Bakersfield, CA 93301**.

4. Other (specify): [Blank]

Date: **07/26/2016**

**Tulare County DCSS** (TYPE OR PRINT NAME) (SIGNATURE)

The local child support agency listed in item 1 receiving case management responsibilities from another local child support agency must file with the superior court listed in item 3 this Notice of Change of Responsibility for Managing Child Support Case within 10 days of receiving the case management responsibilities. This local child support agency must serve a copy of the notice on the parties and the local child support agency listed in item 2.

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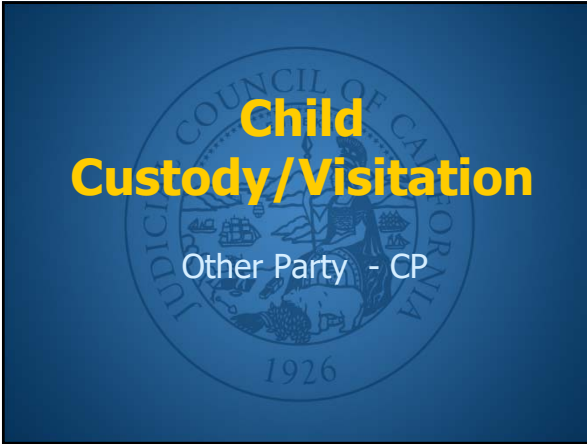
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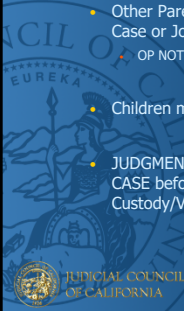
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# Re Custody Filings in DCSS Initiated Cases

- Other Parent MUST be listed in Case or Joined
  - OP NOT Joined until Judgment
- Children must be Listed
- JUDGMENT MUST EXIST in CASE before Filing for Custody/Visitation


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# Declaration re Address Verification

- Post Judgment-FamCode§215
- Attach to POS for Filing
- May Change Service Time to 30 Days when LCSA Served OBO Party
  - NOTE: ALSO APPLIES IN C/S MATTERS
  - FAMCODE §17404 (e)(3)


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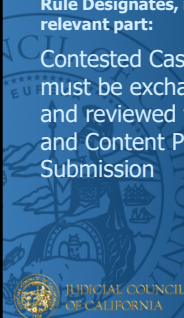
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# CA Rule of Court 5.125

**Rule Designates, in relevant part:**

Contested Cases-OAH must be exchanged and reviewed for Form and Content Prior to Submission

- Parties May Waive Requirement
- Problem area in DCSS
- Handling of Compliance
- Varies from Court to Court
- Commissioner Input Vital
- Subject for Monthly Meetings




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