

Court Clerk Processing

21st Annual AB 1058 Child Support
Training Conference
September 12-15, 2017

Reminder: Classroom Etiquette

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

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 it's 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.

Vocabulary Terms

- **IV-D:** Title IV-D of the Social Security Act
- **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.
- **CRC:** CA Rules of Court
- **LCSA:**
 - Local Child Support Agency
- **DCSS:**
 - Department of Child Support
- **Petitioner:** Moving Party in an Action
- **Respondent:** Responding Party in an Action
- **Other Parent:** Custodial Parent NOT Joined UNTIL Judgment in DCSS Initiated Action

More. . . . Vocabulary Terms

- **S & C:** Summons & Complaint
 - Commences an Action
- **SS&C:** Supplemental Summons & Complaint
 - E.g., To Add Child(ren) in DCSS or FL Cases
- **APJ:** Amended Proposed Judgment
 - E.g., To Amend 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

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

Clerks In General California Rules of Court

Per CA Rule of Court 1.42 Clerks Must NOT Reject a JC Form:

- Not Latest Version of Form Adopted/Approved by JC;
 - **DCSS Granted 6 months General Extended Implementation on New Forms CRC 5.311(a)**
- Lacking:
 - Preprinted title/address of a court,
 - Name of the clerk,
 - Local form number, or
 - Other material added by court (unless required by JC);
- Printed by publisher or other CA Court;
- Bearing the imprint of publisher (unless obscures on printed form);
- Having preprinted but legibly modified title/address of another court, or clerk's name; or
- Having legible correction of a code section number.

California Rules of Court

Rule 1.37. Use of forms

A person serving and filing a Judicial Council form must use the current version of the form adopted or approved by the council, unless a rule in the California Rules of Court allows the use of a different form.

Rule 1.43. Legibility

A Judicial Council form filed must be a true copy of the original form and must be as legible as a printed form.

Rule 1.5. Construction of rules and standards

Specifically section: (b) Terminology

As used in the rules and standards

- (1) **"Must" is mandatory;**
- (2) "May" is permissive;
- (3) "May not" means not permitted to;
- (4) "Will" expresses a future contingency or predicts action by a court or person in the ordinary course of events, but does not signify a mandatory duty; and
- (5) "Should" expresses a preference or a nonbinding recommendation.

Judicial Council Forms: Official Statewide Legal Forms

Mandatory Forms

- Judicial Council may adopt form for mandatory use under GC 68511
- No Substitutes are Allowed CRC 1.31
- No Checkbox at an Item on Form means completion is mandatory

Optional Forms

- Judicial Council may approve for optional use
- Substitutes are allowed but Courts must accept in appropriate cases per CRC 1.35
- Court through Local Rules can mandate an optional form in that Court
- Checkbox at an item makes completion optional
- If Optional item completed must be completed in whole. Use Judgment

Rejection or Not

Reasons to Reject

- Incomplete
 - Missing Attachments
 - Missing Signatures
- Missing Originals
 - EFILING
 - AGREEMENTS BETWEEN AGENCIES
- Name Consistency
 - Typos/Middle Initials
- Proof of Service
- Self-Represented Litigants

Considerations

- Judicial Economy
 - Building Bridges/Cooperation
 - Follow Rules/Codes
 - Communication
 - Staff Resources/Backlogs
 - Relationships Affected
 - Delays in Filings
- When in Doubt: Call a Supervisor*

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

Processing AB 1058

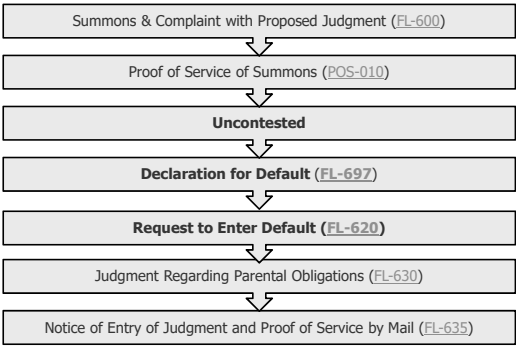
Family Law Filings

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

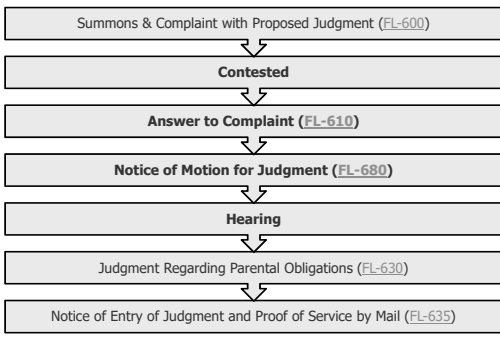
AB 1058 Filings

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

Governmental Process -Uncontested



Governmental Process -Contested



Summons & Complaint

- New Filing
- Supplementals
- Clerk Issues
- Seal
- Importance of Filing Date
 - Date of Support Commencement

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/Posting? CCP 415.50
 - Do not apply regularly to DCSS

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 th day after the date of mailing
Service by mail CCP 415.3	Requires a due diligence declaration showing attempt(s) of personal service	The date the Notice and Acknowledgement is signed by the Respondent
Notice & Acknowledgement of Receipt. Sender must complete date of mailing, sign and indicate what documents are being sent.	Respondent must sign and date the Notice and Acknowledgement of Receipt. The original is returned to the court attached to the Proof of Service.	
Service by mail CCP 415.40	Certified mail outside of California only	10 th day after date of mailing
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.		
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 th day after the first day of publication Gov. Code 6064
Available where other party cannot be served by any reasonable method with due diligence.		

POS Form: Personal Substituted Service

4. Address where the party was served
The address/place of service is on file with the Department of Child Support Services shown above pursuant to Family Code section 17212(b) (3) and may be released only upon order of the court pursuant to Family Code section 17212(c)(6).

5. I served the party (check proper box)

by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 01/23/13 (2) at (time): 4:30pm

by substituted service. On (date) _____ at (time) _____ I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3): _____

(1) (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.

(2) (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.

(3) (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.

(4) I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., §415.20). I mailed the documents on (date) _____ from (city) _____ or a declaration of mailing is attached.

(5) I attach a declaration of diligence stating actions taken first to attempt personal service.

Page 1 of 2
 File a Request for Mandatory Child Support of California
 POS-010 (Rev. January 1, 2007)
PROOF OF SERVICE OF SUMMONS
 Code of Civil Procedure, §417.18
 TEAM 2
 002367370207
ORIGINAL

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

DECLARATION FOR AMENDED PROPOSED JUDGMENT (FL-615)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____

PETITIONER/PLAINTIFF: _____

RESPONDENT/DEFENDANT: _____

OTHER PARTY: _____

DECLARATION FOR AMENDED PROPOSED JUDGMENT

- The local child support agency is providing enforcement services in this case.
- On (Date: _____) a Summons and Complaint Regarding Parental Obligations (Form FL-600) was filed requiring the Debtor pay child support based on the California support guideline. The amount of the support required was based on the Debtor's gross monthly income as introduced on:
 - Presumed income as provided by law.
 - Known income of \$ _____ per month.
 - Since the service of the Summons and Complaint Regarding Parental Obligations (Form FL-600)
 - the local child support agency has received additional income information that would result in a different support order. According to the information, Debtor's gross monthly income is \$ _____.
 - Debtor's gross monthly income is \$ _____.
 - Other (specify): _____
- An amended proposed judgment is attached.

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

Date: _____

Parental Obligations Declarant

Declarant of the Debtor

Page 1 of 1
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____
DECLARATION FOR AMENDED PROPOSED JUDGMENT (FL-615)
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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	31st day after date of service
Substituted Service	41st day after date of mailing
Notice & Acknowledgement (POS-015)	31st day after NAR signed**
Certified Mail	41st day after date of mailing
Publication	59th day after 1st date of publication

- 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.
- Other County Issues?

DECLARATION FOR AMENDED PROPOSED JUDGMENT (FL-615)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____

PETITIONER/PLAINTIFF: _____

RESPONDENT/DEFENDANT: _____

OTHER PARTY: _____

REQUEST TO ENTER DEFAULT JUDGMENT

- More than 30 days have passed since service of the summons, complaint, and copy of the proposed judgment.
- To my knowledge no answer or other responsive pleading has been filed.
- The parent against whom judgment is sought is not in the military service or in the military service of the United States as defined in section 513 of the Family Code or the Servicemembers Civil Relief Act (50 U.S.C. App. 5, 511) and is not entitled to the benefits of such act.
- The local child support agency requests that default and judgment be entered under Family Code section 17450.

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

Date: _____

Parental Obligations Declarant

Declarant of the Debtor

FOR COURT USE ONLY

(1) Default entered as requested on (date) _____

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

By: _____

Page 1 of 1
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____
REQUEST TO ENTER DEFAULT JUDGMENT (FL-620)
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MOTIONS

- **Initiating Motions**
 - Establish Orders
- **Modifications**
 - Change Orders
 - Specialty Motions
- **Enforcement Motions**
 - Seek to collect or otherwise Enforce.
 - Arrearages; Contempts, Licenses, etc.

Notice of Motions

- FL-680 Limited to LCSA
 - Other Parent?
- Issues:
 - Judgment/Parentage/Health/Other
 - Modification
 - Intervene
- Dated/Signed
- Order (Optional)
- Attachments
- Service should be completed per CCP
- File & Calendar

Notice of Motion Simplified FL-390

- Filed by Party or LCSA
- Financial Declaration or I&E Required
- Service to All Interested Parties
- Service Rules Apply
- No Fees for Filing in LCSA Support Case

Related Cases Govt §70672

Motions: Request for Hearing and App to Set Aside Voluntary Dec of Paternity

- Pursuant to Fam Code 7575(c) and/or CCP 473
 - Adopted for Mandatory Use
 - Fees May be Applicable
 - Parties Clear Court Date
 - Serve and File
 - If POP Set Aside, Court Action Required
- Court Action – Clerk Must Send Copy of Order to:
- California Department of Child Support Services
 P.O. BOX 980218
 West Sacramento, CA 95798-0128

Notice of Motion for Judicial Review of License Denial FL-670

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

Other Motions

Classified/Reporting

- Initiating Motions
 - Establish Orders
- Modifications
 - Change Orders
- Enforcement Motions
 - Seek to collect or otherwise Enforce.
 - Arrearages; Contempts, Licenses, etc.

Specialized Motions

- Order to Show Cause (Governmental) FL-683
- Notice of Motion and Declaration for Joinder of Other Parent* FL-661
- Notice and Motion to Cancel (Set-Aside) Support Order Based on Presumed Income FL-640
- Request for Hearing and Application to Set Aside Declaration of Paternity FL-280
- Request for Hearing and Application to Set Aside Support Order Under Fam Code §3691
- Notice of Motion to Set Aside Judgment of Paternity FL-272
- Responses to Motion-Variou Govt Forms w/Service –No Fee

Motions: Enforcement

Order to Show Cause and Affidavit for Contempt FL-410

- Attach: FL-411 (Financial) FL-412 (DV)
- Completion/Signatures
- Service must be on Party

Claim of Exemption EJ-160 and Notice of Opposition and Notice of Motion on Claim of Exemption FL-677

- Filed usually by DCSS/Obligee AFTER receipt of Opposition by party
- Filed by Judgment Creditor, usually LCSA
- Includes Opposition to Claim
- Hearing held **no later than 30 days** from Filing of Motion
- Judgment Creditor to Service Hearing on Claimant not less than 10 days prior to Hearing- Service: Personal/Mail

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

- Filed w/Statement of Arrearages
- Service: Personal/Mail to Party or Enforcement LCSA
- Hearing per Motion Rules

Notice of Motion for Judicial Review of License Denial FL-670

- Completed by Party
- Date/Signed
- Hearing held within 20 days of Filing
- Proof of service on Enforcement Agency : At Least 7 Calendar Days of Filing.
- Clerks' Office Does NOT Provide Notice

Motions: More Re Enforcement

Request for Hearing Re Earnings Assignment FL-450/ Request/Notice Re Health Insurance Assmt FL -478

- Completed, Signed/Dated by Party
- Within 10 days of Receipt
- Hardship-Include I&E or Financial
- Hearing Held **within 20 days** of Filing
- Notice: Provided by Clerks' Office LCSA/obligor **no later than 10 days** prior to the hearing
- Certificate of Mailing Prepared
- LCSA files Withholding Order upon Notice

Request for Hearing Regarding Registration of Support Order FL-575

- Completed, Signed/Dated by Party
- Within 20 days of Receipt
- Envelopes for Mailing Provided
- Calendared for Hearing
- Notice: Provide by Clerks' Office LCSA/ obligor **no later than 16+Mailing days*** prior to hearing
- Certificate of Mailing Prepared
- *Service 15 days plus mailing if obligor mails-FamCode§5603

Writ of Executions EJ-130

- Completion/Signatures
- Affidavit of Amounts Due/ Installments

Administrative Enforcement

The image shows two forms side-by-side. The left form is titled 'ABSTRACT OF SUPPORT JUDGMENT' and contains various fields for case information, judgment details, and enforcement options. The right form is titled 'INCOME WITHHOLDING ORDER/SUPPORT' and includes sections for 'CASE INFORMATION', 'EMPLOYER INFORMATION', and 'DEBITOR INFORMATION'. Below the forms is a caption: 'Abstract of Support Judgment Income Withholding Order/Support (Opposed by Motion or Req for Hrg)'.

Enforcement: Custodial Parent

CP, with LCSA, **CANNOT** File ENFORCEMENT Documents Without:

Notice to LCSA of Intent to Independent Action FL-645

Must be:


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

Filed:

- After 30 Days LCSA Objects
- Joint with Enforcement Motion

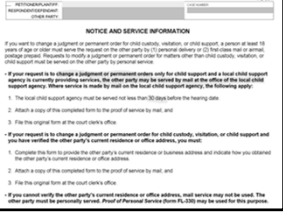

LCSA:

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




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)



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



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
- Projects Related to the New Rule

Consolidations

<u>Cases</u>	<u>Parent/Primary Case</u>
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
