



Judicial Council of California . Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on January 24, 2012

Title	Agenda Item Type
Family Law: Request for Order in Lieu of Existing Notice of Motion or Order to Show Cause, and Witness List for Use in Family Law Proceedings	Action Required
	Effective Date
	July 1, 2012
Rules, Forms, Standards, or Statutes Affected	Date of Report
Adopt Cal. Rules of Court, rule 5.92; amend rule 5.93; revoke forms FL-301 and FL-310; approve forms FL-300-INFO and FL-321; revise forms FL-115, FL-300, FL-305, FL-306, FL-315, FL-316, FL-320, FL-336, FL-337, FL-347	January 5, 2012
	Contact
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Recommended by
Family and Juvenile Law Advisory
Committee
Hon. Kimberly J. Nystrom-Geist, Cochair
Hon. Dean Stout, Cochair

Elkins Family Law Implementation Task
Force
Hon. Laurie Zelon, Chair

Executive Summary

Proposed rule 5.92 of the California Rules of Court and a proposed new form, *Request for Order* (form FL-300), would implement the recommendation in the *Elkins Family Law Task Force Final Report and Recommendations* to simplify the forms for motions in family law proceedings. The task force recommended that the notice of motion and order to show cause should be combined

into a single *Request for Order* form that could be used for both purposes. In addition, new form *Witness List* (form FL-321) would provide an optional form to assist parties in complying with Family Code section 217(c), which requires a party seeking to present live testimony from witnesses other than the parties to file and serve a witness list with a brief description of the anticipated testimony.

Recommendation

The Family and Juvenile Law Advisory Committee and the Elkins Family Law Implementation Task Force recommend that the Judicial Council, effective July 1, 2012:

1. Adopt rule 5.92 of the California Rules of Court to require that a notice of motion or order to show cause in a family law case be filed on the revised *Request for Order* (form FL-300) except when another Judicial Council form is designated for a specific motion or order to show cause;
2. Revise the existing *Order to Show Cause* (form FL-300) to become the proposed *Request for Order* (form FL-300) form;
3. Approve the *Information Sheet for Request for Order* (form FL-300 INFO);
4. Revoke the *Application for Order and Supporting Declaration* (form FL-310) and incorporate its contents into the *Request for Order*;
5. Revoke the *Notice of Motion* (form FL-301);
6. Revise the following rule and forms to replace form references from *Notice of Motion* or *Order to Show Cause* to *Request for Order* or to add a reference to the *Request for Order* as appropriate: *Attorney's Fees and Costs* (rule 5.93) *Proof of Service of Summons* (form FL-115), *Temporary Emergency Court Orders* (form FL-305), *Application and Order for Reissuance of Order to Show Cause* (form FL-306), *Request for Orders Regarding Noncompliance With Disclosure Requirements* (form FL-316), *Order to Pay Waived Court Fees and Costs* (FL-336), *Application to Set Aside Order to Pay Waived Court Fees—Attachment* (form FL-337), and *Bifurcation of Status of Marriage or Domestic Partnership—Attachment* (form FL-347);
7. Revise mandatory form FL-320, *Responsive Declaration to Order to Show Cause or Notice of Motion*, to add a parenthetical reference to “parenting time” in item 2 and to change the form’s title to *Responsive Declaration to Request for Order* to make it consistent with the change in title to form FL-300.
8. Change the name of *Application or Response to Application for Separate Trial* (form FL-315) to *Request or Response to Request for Separate Trial* (form FL-315) and change the reference from attaching to the *Application for Order* to the *Request for Order*; and

9. Approve *Witness List* (form FL-321) as an optional form.

The text of the proposed rule and the proposed forms are attached at pages 11–39.

Previous Council Action

The Judicial Council supported Assembly Bill 939 (Assem. Com. on Judiciary; Stats. 2010, ch. 352), which added section 217 to the Family Code with its requirement that parties seeking to present live testimony from witnesses other than the parties file and serve a witness list with a brief description of the anticipated testimony. On April 23, 2010, the council accepted the *Elkins Family Law Task Force Final Report and Recommendations*, which recommended the changes now incorporated in proposed rule 5.92 and the proposed new and revised forms.

Rationale for Recommendation

Rule 5.92 and related forms

The Judicial Council established the Elkins Family Law Task Force in response to the decision in *Elkins v. Superior Court* (2007) 41 Cal.4th 1337, which recommended that a task force be established to study and propose measures to assist trial courts in achieving efficiency and fairness in marital dissolution proceedings and to ensure access to justice for family law litigants, many of whom are self-represented.

The *Elkins Family Law Task Force Final Report and Recommendations* was accepted by the Judicial Council at its April 23, 2010, meeting. The Judicial Council also accepted the task force’s recommendation that an implementation task force be established to assist in carrying out the recommendations contained in the final report. The final report contained a recommendation that the forms for motions in family law proceedings should be simplified and that the notice of motion and order to show cause should be combined into a *Request for Order* form to be used in family law proceedings.

The recommendation states:

Litigants in family law cases have two ways to bring an issue before the court: a notice of motion and an order to show cause. In most counties, these motions are used almost interchangeably. In other counties they are used for distinct purposes, although the intended differences are not written and may not be clear to self-represented litigants or attorneys.... To eliminate confusion and to standardize practice throughout the state, the Judicial Council should develop a new *Request for Order* that would replace the *Order to Show Cause* (FL-300) and the *Notice of Motion* (FL-301) for use in all matters except domestic violence and contempt (which currently have specific forms).

The new form would incorporate the current *Application for Order and Supporting Declaration* (FL-310), which is an attachment to those two documents. The *Request for*

Order would also be used for those matters that are motions as defined in the Code of Civil Procedure.... Instructional materials regarding the *Request for Order* and its use should be developed.

The proposed rule and new and revised forms would implement the recommendation.

Proposed rule 5.92 requires that a notice of motion or order to show cause filed in a family law case be filed on the revised *Request for Order* (form FL-300) except when another Judicial Council form is designated for a specific motion or order to show cause.

The existing *Order to Show Cause* (form FL-300) would be revised to become the proposed *Request for Order* form. The *Application for Order and Supporting Declaration* (form FL-310) would be revoked and its contents made part of the proposed *Request for Order*. The *Notice of Motion* (form FL-301) form would be revoked. The proposed *Request for Order Information Sheet* (form FL-300-INFO) would assist self-represented litigants in understanding and completing the new form. This change would streamline family law practice, simplify training procedures for court clerks and eliminate the uncertainty reported by family law attorneys throughout the state about when to use the order to show cause or notice of motion. It would provide one comprehensive form and instructions.

Existing form FL-320, *Responsive Declaration to Order to Show Cause or Notice of Motion*, would be revised to add a parenthetical reference to “parenting time” in item 2 and to change the form’s title to *Responsive Declaration to Request for Order* to make it consistent with the change in title to form FL-300.

The following forms would be revised to replace form references from *Notice of Motion* or *Order to Show Cause* to *Request for Order* or to add a reference to the *Request for Order* as appropriate: *Temporary Emergency Court Orders* (form FL-305) and *Bifurcation of Status of Marriage or Domestic Partnership* (form FL-347).

Implementation of this proposal necessitates technical changes to three forms that were not circulated for comment. *Proof of Service of Summons* (FL-115) refers to both FL-300, which has been renamed, and FL-310, which is being revoked in this proposal. *Request for Orders Regarding Noncompliance With Disclosure Requirements* (FL-316) refers both to FL-300, which has been renamed, and to FL-301, which is being revoked in this proposal. *Order to Pay Waived Court Fees and Costs* (FL-336) and *Application to Set Aside Order to Pay Waived Court Fees—Attachment* (form FL-337) refer to FL-300, which has been renamed. California Rule of Court 10.22 (d) (2) allows such a modification without circulation since this is a minor substantive change that is unlikely to create controversy. References to revoked forms are likely to cause confusion among the courts, attorneys and litigants, and thus, these changes should be made with the other forms changes.

The *Application or Response to Application for Separate Trial* (form FL-315) would be revised and renamed *Request or Response to Request for Separate Trial* and the reference on the form to attaching it to the *Application for Order* will be changed to the *Request for Order*.

Additionally, Rule 5.93 *Attorney's fees and costs*, which was adopted by the Judicial Council effective January 1, 2012, would be changed to reflect the new forms names.

Witness List

Effective January 1, 2011, AB 939 added section 217 to the Family Code,¹ which requires that at hearings on orders to show cause or motions brought under the Family Code courts must receive competent live testimony that is relevant and within the scope of the hearing, unless the parties have stipulated otherwise or the court makes a finding of good cause to refuse to receive the live testimony. Section 217 also requires the Judicial Council to adopt a statewide rule of court listing the factors a court must consider in making a finding of good cause to refuse to receive live testimony at hearings on orders to show cause or motions filed under the Family Code. In addition, it sets out the requirement that parties seeking to present nonparty live testimony must file and serve a witness list or make an offer of proof with a brief description of the anticipated testimony.

Proposed family law form *Witness List* (form FL-321) would be an optional form for parties to use to submit their witness list to the court as required by Family Code section 217. The form asks for the name of the witness and a brief description of the subject and the anticipated testimony.

Comments, Alternatives Considered, and Policy Implications

Comments

The invitation to comment on the proposal was circulated from April 21 through June 20, 2011, to the standard mailing list for family and juvenile law proposals as well as to the regular rules and forms mailing list. These distribution lists include appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, child support commissioners, court administrators, attorneys, family law facilitators, court clerks, social workers, probation officers, mediators, the California Department of Child Support Services, local child support agency program directors, and other family and juvenile law professionals.

The committee and task force received 34 written comments. Of these comments, 8 agreed to the proposal as circulated, 23 agreed to the proposal if modified, and 3 did not indicate their position but suggested modifications to the proposed rule or forms. A chart setting out the comments received and the responses is attached at pages 36–124.

Rule 5.92. A number of comments concerned proposed rule 5.92. Many of the comments suggested that the rule be reorganized to provide greater clarity. The committees substantially reorganized the rule based on these comments.

¹ See <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=fam&group=00001-01000&file=210-217>.

One commentator suggested that the rule clarify that the *Request for Order* must be filed with the court to obtain a court date or to obtain ex parte court orders before service on the responding party. In some courts, the practice has been to allow attorneys to obtain court dates for motions without filing the motion first. The committees decided that the better practice was to require filing before service and made that change.

Two commentators suggested that the rule make clear that the *Request for Order* can be used to order a party who has not made an appearance in the case to appear in court in the same way that an order to show cause can be used now. One commentator suggested that ordering a party to court is not necessary because a party can be ordered to court with a notice in lieu of a subpoena under the Code of Civil Procedure. The committees agreed that the *Request for Order* should have the same function as an order to show cause and changed the rule and the *Request for Order* to include an order to appear. In addition, the rule was changed to clarify that the *Request for Order* must be served in the manner of a summons if the responding party has not made an appearance in the action and is ordered to appear at the hearing or when there are temporary emergency orders regardless of whether the responding party has appeared at court.

Several commentators questioned why the rule prohibited the use of the *Request for Order* in Domestic Violence Prevention Act (DVPA) cases and child support cases filed by the local child support agencies. At least one comment suggested that in some courts parties in DVPA cases have been using the family law notice of motion or order to show cause to modify custody, visitation, or child support orders issued in DVPA cases. Several comments from family law facilitators and self-help staff noted that the parents in the child support cases can file motions to establish custody and visitation in the local child support agency actions and that they currently use a notice of motion or order to show cause to seek such relief. The committees modified the rule to permit, but not require, the use of the *Request for Order* to modify existing orders in DVPA actions and by parties other than the local child support agencies in cases filed by the local child support agencies. The committees will explore creating a request for order for the local child support agencies in conjunction with the state Department of Child Support Services in a future public comment cycle.

Three commentators questioned why the proposed rule required the filing of a *Property Declaration* (form FL-160) when the relief requested in the *Request for Order* included temporary control of property or orders to pay community debts. The commentators felt that they did not need a completed *Property Declaration* in every case in which property orders were requested and that the court could order that the parties file one if the court needed the information to make the requested orders. The committees agreed and removed the requirement that a *Property Declaration* be filed when property orders were requested.

***Request for Order* (form FL-300).** The comments were overwhelmingly positive about creating a *Request for Order* to be used in lieu of the *Notice of Motion* and the *Order to Show Cause*. All but three of the commentators supported having one form to file either a notice of motion or an order to show cause in a family law case. A representative comment is, “Combining the *Notice of*

Motion forms with the *Order to Show Cause* forms makes sense and provides a simpler vehicle to make requests of the court.”

Many people supported revoking the *Application for Order and Supporting Declaration* (FL-310) and incorporating it into the *Request for Order*.

A number of substantive comments dealt with the form’s content. Many suggested the addition of check boxes describing the relief requested. Many of these suggestions were made to help the clerks sort cases for calendar-setting purposes, but the form lacks sufficient space to accommodate all of them. The committees decided to add one box, which indicates that temporary emergency orders are attached, and to study whether a cover sheet, which would assist the clerks in sorting cases, should be developed and circulated for comment in the future.

Several commentators pointed out that the notice to the responding party at the bottom of the first page incorrectly stated that service of the responsive declarations was nine calendar days instead of nine court days. The committees made this change. Three commentators suggested that it was not clear to whom the same notice was addressed. The committees added language to the notice making it clear that it was for the responding party.

Four commentators suggested that the language on the first page of the form informing parties with unresolved custody issues of the requirement to attend mediation before or concurrent to the hearing and telling them of the date, time, and location of the mediation session should be moved from the court order section of the form up to just before the notice of the date, time, and location of the hearing. The committees did move up the language informing the parties of the mediation requirement as suggested but left the language that specifically ordered the parties to attend the custody services in the court order section.

Five commentators suggested removing the language “Do not complete this section unless you are asking for orders that will be in effect before the hearing date,” which was located just before the court order section. They stated that court personnel, not the litigants or attorneys, should complete the court order section of the form. The committees agreed and removed the language from the form as suggested.

Two commentators suggested the inclusion of a statement that there are no filing fees for filing a responsive declaration, which is on the existing *Notice of Motion* and *Order to Show Cause* but not in the proposed *Request for Order*. They noted that the notice encourages parties to file responsive declarations. The committees agreed and restored the filing fee language.

Two commentators suggested that the proposed form is not simple enough for self-represented, low-literacy litigants. They suggested that the committees consider revising the *Request for Order* as a plain language form, similar to the domestic violence forms. A plain language form would be very different from the proposed form that was circulated for comment. The committees will

consider whether to develop a plain language form and circulate it for comment in a future public comment cycle.

Information Sheet for Request for Order (form FL-300-INFO). Several commentators suggested that the instructions concerning personal service and service by mail were incomplete and in some instances confusing. One commentator pointed out that the instructions did not explain the requirements for postjudgment service as specified in Family Code section 215. Another commentator suggested that the instructions clarify that temporary emergency orders should be personally served on the other party to be enforceable. Other commentators sought clarification on personal service on responding parties who had not previously appeared in the action but who were ordered to appear in court. The committees redrafted the service instructions to address those concerns.

Two commentators suggested adding the following language to item 1: “Check all boxes that apply to the order you are requesting. Mark the Modification box if you are requesting a change to an existing order.” This language was added.

A commentator suggested that information about filing fees and fee waivers should be added to the form. The committees added this information.

Two commentators requested that the bulleted item concerning the additional forms to be attached for spousal and child support be separated into two bulleted items because, for spousal support requests, the party must complete and file an *Income and Expense Declaration* (form FL-150). The attachment for a request for child support may be accompanied by either an *Income and Expense Declaration* (form FL-150) or a *Financial Statement (Simplified)* (form FL-155). The committees made this change.

The committees made additional changes to the *Information Sheet for Request for Order* to conform to changes that were made to the *Request for Order* in response to the comments.

Application and Order for Reissuance of Request for Order or Restraining Order (Juvenile) or Order to Show Cause (form FL-306/JV-251)

Several commentators stated that this form was confusing because it still referred to an *Order to Show Cause*. They suggested that the reference to *Order to Show Cause* be removed and that the form refer only to the *Request for Order*. One of the commentators who realized that the form was meant to be used in juvenile court proceedings as well as family law proceedings suggested that there should be separate forms for family law and juvenile court. The committees revised the form to clarify that it is designed to be used to reissue (1) an order to show cause that is issued on a form other than a *Request for Order*; (2) a temporary restraining order in juvenile court; or (3) a *Request for Order* in family court. The revisions deleted the repeated references to the forms that some of the commentators found confusing.

Request or Response to Request for Separate Trial (form FL-315). As circulated for comment, this form was titled “Application or Response to Application for Separate Trial.” A commentator suggested that the title be changed to “Request or Response to Request for Separate Trial” because it was simpler language. The committees agreed and made the change.

Witness List (form FL-321). Several commentators suggested removing the column listing the prospective witnesses’ contact information. The form as circulated had stated that providing the contact information for witnesses was optional. The commentators noted that contact information for witnesses is not routinely provided in civil and criminal cases. They further noted that contact information for witnesses can be obtained through discovery and that the court may continue a case if a party is prejudiced by not having the contact information. The committees agreed with these comments and removed the column requesting contact information.

Another commentator suggested removing the column requesting information about the witness’ profession or relationship to the party. The commentator noted that Family Code section 217 requires only a brief description of the intended testimony. The committees agreed and removed the column.

A commentator suggested that the form should not just be an attachment to the *Request for Order* or the responsive declaration but rather a standalone form that can be filed separately from the request for order or the responsive declaration. Although rule 5.119(e) of the California Rules of Court states that a witness list must be attached to a request for order or a responsive declaration, the committees agreed that there may be times where the form might be filed separately and changed the form as suggested.

A commentator recommended the addition of a notice stating that it is a crime to harass or dissuade a witness from testifying. The committees decided that this notice was not necessary since they decided to remove the column for prospective witnesses’ contact information.

Alternatives considered

Option 1: Adopt rule and approve and revise forms to be effective July 1, 2012, as recommended. The new *Witness List* form will help self-represented litigants comply with the new requirements in Family Code section 217(c) and reduce the number of hearing continuances resulting from the parties’ failure to comply with the new requirements. The new rule and new and revised forms would make case processing of self-represented cases more uniform throughout the state and more efficient for courts because they will reduce the number of multiple filings resulting from errors in the documents submitted. Initial minor costs for implementation should be offset by savings achieved through more efficient case processing once the rule and forms are implemented and in use. The committees strongly believe that the efficiencies that will be gained by simplifying the procedures will greatly outweigh the costs of change.

Option 2: Do not adopt rule or approve or revise forms. This would mean that the courts and the Administrative Office of the Courts (AOC) would not incur any implementation costs, but self-

represented parties would not have a form to help them comply with the requirements of Family Code section 217(c) and court continuances could increase when parties fail to comply. Existing procedures for filing motions and orders to show cause would remain, and courts would not realize savings from efficiencies in case processing.

Implementation Requirements, Costs, and Operational Impacts

There will be minimal costs for implementing the new procedures and forms. AOC staff from the Center for Families, Children & the Courts will develop training materials on the new procedures and forms and, when requested by the courts, provide training to court staff including clerks and self-help center staff. Some courts may have to revise local rules and materials used by family law facilitators and self-help center staff. Initial costs would be offset by savings achieved through more efficient case processing once the rule and forms are implemented and in use.

Relevant Strategic Plan Goals and Operational Plan Objectives

The proposal supports the policies underlying Goal I, Access, Fairness, and Diversity, because it helps remove barriers to the courts for all parties, especially self-represented litigants. These recommendations also serve Goal III B: Modernization of Management and Administration by adopting streamlined practice for filings in family law cases. *The Request for Order* would make procedures more uniform in the various courts. The *Information Sheet for Request for Order* will give self-represented litigants better access to the courts by providing information on completing their forms. The *Information Sheet* will also help the courts because it will reduce the number of filings that court clerks have to handle multiple times because litigants have not completed their forms correctly. The *Witness List* will help litigants better present their cases and comply with new Family Code section 217(c) and reduce the number of continuances that are granted due to the parties having not given appropriate notice about the witnesses they intend to call.

Attachments

1. Cal. Rules of Court, rule 5.92 and 5.93 at pages 11–13
2. Proposed forms, at pages 14–35
3. Chart of comments, at pages 36–124

Rule 5.92 of the California Rules of Court is adopted, and rule 5.93 of the California Rules of Court is amend, effective July 1, 2012, to read:

Title 5. Family and Juvenile Rules

Division 1. Family Rules

Chapter 6. Request for Order

Article 2. Filing and Service

Rule 5.92. Request for court order; response

(a) Request for order; procedures

- (1) In a family law proceeding other than an action under the Domestic Violence Prevention Act or a local child support agency action under the Family Code, a notice of motion or order to show cause must be filed on a *Request for Order* (form FL-300), unless another Judicial Council form has been adopted or approved for the specific motion or order to show cause.
- (2) In an action under the Domestic Violence Prevention Act, a notice of motion or order to show cause to modify existing orders that were entered after a hearing may be filed on a *Request for Order* (form FL-300).
- (3) In a local child support action under the Family Code, a notice of motion or order to show cause filed by any party other than the local child support agency may be filed on a *Request for Order* (form FL-300).
- (4) The *Request for Order* (form FL-300) must set forth facts sufficient to notify the other party of the declarant’s contentions in support of the relief requested.
- (5) A completed *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155) must be filed with the *Request for Order* (form FL-300) when relevant to the relief requested unless a current form is on file with the court.
- (6) The moving party must file the documents with the court to obtain a court date and then serve a copy on the responding party.
 - (A) If the request for order seeks court orders pending a hearing or seeks an order that the other party attend the hearing, the *Request for Order* (form FL-300) and appropriate attachments must be served in the manner specified for the service of a summons in Code of Civil Procedure section 413.10 et seq.
 - (B) If the *Request for Order* (form FL-300) is filed after entry of a judgment of dissolution of marriage, nullity of marriage, legal separation of the parties, or

1 paternity, or after a permanent order in any other proceeding in which the
2 visitation, custody, or support of a child was at issue, it must be served as
3 specified in Family Code section 215.

4
5 (C) All other requests for order and appropriate attachments may be served as
6 specified in Code of Civil Procedure section 1010 et.seq.

7
8 (7) The documents served must include a blank copy of the following:

9
10 (A) Responsive Declaration to Request for Order (form FL-320);

11
12 (B) Income and Expense Declaration (form FL-150) or Financial Statement
13 (Simplified) (form FL-155) when completed declarations are among the papers
14 required to be served.

15
16 **(b) Responding papers**

17
18 To respond to the issues raised in the Request for Order (form FL-300) and attached
19 papers, the responding party must complete, file, and serve a Responsive Declaration to
20 Request for Order (form FL-320).

21
22 (1) The Responsive Declaration to Request for Order (form FL-320) must set forth facts
23 sufficient to notify the other party of the declarant's contentions in response to the
24 request for order and in support of any relief requested.

25
26 (2) The responding papers may request relief related to the orders requested in the
27 moving papers. Unrelated relief must be sought by filing a separate request for order
28 as specified in (a).

29
30 (3) A completed Income and Expense Declaration (form FL-150) or Financial
31 Statement (Simplified) (form FL-155) must be attached to the Responsive
32 Declaration to Request for Order (form FL-320) when relevant to the relief
33 requested.

34
35 **(c) Memorandum of points and authorities**

36
37 No memorandum of points and authorities need be filed with a Request for Order (form
38 FL-300) or a Responsive Declaration to Request for Order (form FL-320) unless required
39 by the court on a case-by-case basis.

40
41 **(d) Additional documents**

42
43 As specified in these rules, the moving and responding parties may be required to
44 complete, file, and serve additional papers to request or respond to a Request for Order

1 (form FL-300) about child custody and visitation (parenting time), attorney fees and costs,
2 support, and other financial matters.

3
4 **Drafting Comment**

5
6 Existing rule 5.118 addressing the subject of applications for court order and supporting declarations is
7 repealed. Proposed new rule 5.92 includes content on the same subject.

8
9 **Division 1. Family Rules**
10 **Chapter 1. General Provisions**

11
12 **Rule 5.93. Attorney’s fees and costs**

13
14 (a) ***

15
16 (b) **Request**

17
18 (1) Except as provided in Family Code section 2031(b), to request attorney’s fees and
19 costs, a party must complete, file, and serve the following documents:

20
21 (A) Request for Order (form FL-300) Application for Order (form FL-310)
22 attached to an Order to Show Cause (form FL-300) or a Notice of Motion
23 (form FL-301);

24
25 (B)–(E) ***

26
27 (2) ***

28
29 (c) **Response to request**

30
31 To respond to the request for attorney’s fees and costs, a party must complete, file, and
32 serve the following documents:

33
34 (1) Responsive Declaration to Request for Order to Show Cause or Notice of Motion
35 (form FL-320);

36
37 (2) – (4) ***

38
39 (d)–(e) ***

40

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): <hr/> <p style="text-align: center;">TELEPHONE NO.: FAX NO. (<i>Optional</i>):</p> E-MAIL ADDRESS (<i>Optional</i>): ATTORNEY FOR (<i>Name</i>):	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">Not approved by the Judicial Council</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT:	
PROOF OF SERVICE OF SUMMONS	CASE NUMBER:

1. At the time of service I was at least 18 years of age and not a party to this action. **I served the respondent with copies of:**
 - a. Family Law—Marriage: *Petition—Marriage* (form FL-100), *Summons* (form FL-110), and blank *Response—Marriage* (form FL-120)
 - or—
 - b. Family Law—Domestic Partnership: *Petition—Domestic Partnership* (form FL-103), *Summons* (form FL-110), and blank *Response—Domestic Partnership* (form FL-123)
 - or—
 - c. Uniform Parentage: *Petition to Establish Parental Relationship* (form FL-200), *Summons* (form FL-210), and blank *Response to Petition to Establish Parental Relationship* (form FL-220)
 - or—
 - d. Custody and Support: *Petition for Custody and Support of Minor Children* (form FL-260), *Summons* (form FL-210), and blank *Response to Petition for Custody and Support of Minor Children* (form FL-270)

and

e. <input type="checkbox"/> (1) <input type="checkbox"/> Completed and blank <i>Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act</i> (form FL-105) (2) <input type="checkbox"/> Completed and blank <i>Declaration of Disclosure</i> (form FL-140) (3) <input type="checkbox"/> Completed and blank <i>Schedule of Assets and Debts</i> (form FL-142) (4) <input type="checkbox"/> Completed and blank <i>Income and Expense Declaration</i> (form FL-150)	(5) <input type="checkbox"/> Completed and blank <i>Financial Statement (Simplified)</i> (form FL-155) (6) <input type="checkbox"/> Completed and blank <i>Property Declaration</i> (form FL-160) (7) <input type="checkbox"/> <i>Request for Order</i> (form FL-300), and blank <i>Responsive Declaration to Request for Order</i> (form FL-320) (8) <input type="checkbox"/> Other (<i>specify</i>):
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2. Address where respondent was served:

3. I served the respondent by the following means (*check proper box*):
 - a. **Personal service.** I personally delivered the copies to the respondent (Code Civ. Proc., § 415.10) on (*date*): _____ at (*time*): _____
 - b. **Substituted service.** I left the copies with or in the presence of (*name*): _____ who is (*specify title or relationship to respondent*):
 - (1) **(Business)** a person at least 18 years of age who was apparently in charge at the office or usual place of business of the respondent. 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 home of the respondent. I informed him or her of the general nature of the papers.

PETITIONER:	CASE NUMBER:
RESPONDENT:	

3. b. (cont.) on (date): _____ at (time): _____
- I thereafter mailed additional copies (by first class, postage prepaid) to the respondent at the place where the copies were left (Code Civ. Proc., § 415.20b) on (date): _____
- A **declaration of diligence** is attached, stating the actions taken to first attempt personal service.
- c. **Mail and acknowledgment service.** I mailed the copies to the respondent, addressed as shown in item 2, by first-class mail, postage prepaid, on (date): _____ from (city): _____
- (1) with two copies of the *Notice and Acknowledgment of Receipt* (form FL-117) and a postage-paid return envelope addressed to me. **(Attach completed Notice and Acknowledgment of Receipt (form FL-117).)** (Code Civ. Proc., § 415.30.)
- (2) to an address outside California (by registered or certified mail with return receipt requested). **(Attach signed return receipt or other evidence of actual delivery to the respondent.)** (Code Civ. Proc., § 415.40.)
- d. **Other** (specify code section): _____
 Continued on Attachment 3d.
4. The "NOTICE TO THE PERSON SERVED" on the *Summons* was completed as follows (Code Civ. Proc., §§ 412.30, 415.10, 474):
- a. As an individual **or**
- b. On behalf of respondent who is a
- (1) minor. (Code Civ. Proc., § 416.60.)
- (2) ward or conservatee. (Code Civ. Proc., § 416.70.)
- (3) other (specify): _____

5. Person who served papers

Name:

Address:

Telephone number:

This person is

- a. exempt from registration under Business and Professions Code section 22350(b).
- b. not a registered California process server.
- c. a registered California process server: an employee or an independent contractor
- (1) Registration no.: _____
- (2) County: _____
- d. **The fee** for service was (specify): \$ _____

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

—or—

7. **I am a California sheriff, marshal, or constable**, and I certify that the foregoing is true and correct.

Date:

 (NAME OF PERSON WHO SERVED PAPERS)

▶ _____
 (SIGNATURE OF PERSON WHO SERVED PAPERS)

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 <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">Not Approved by the Judicial Council</h3>																								
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:																									
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:																									
<table style="width:100%; border: none;"> <tr> <td style="border: none;">REQUEST FOR ORDER</td> <td style="border: none;"><input type="checkbox"/></td> <td style="border: none;">MODIFICATION</td> <td style="border: none;"><input type="checkbox"/></td> <td style="border: none;">Temporary Emergency Court Order</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Child Custody</td> <td style="border: none;"><input type="checkbox"/></td> <td style="border: none;"><input type="checkbox"/> Visitation</td> <td style="border: none;"><input type="checkbox"/></td> <td style="border: none;"><input type="checkbox"/> Other (specify):</td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Child Support</td> <td style="border: none;"><input type="checkbox"/></td> <td style="border: none;"><input type="checkbox"/> Spousal Support</td> <td style="border: none;"><input type="checkbox"/></td> <td style="border: none;"></td> <td style="border: none;"></td> </tr> <tr> <td style="border: none;"><input type="checkbox"/> Attorney Fees and Costs</td> <td style="border: none;"><input type="checkbox"/></td> <td style="border: none;"></td> <td style="border: none;"></td> <td style="border: none;"></td> <td style="border: none;"></td> </tr> </table>	REQUEST FOR ORDER	<input type="checkbox"/>	MODIFICATION	<input type="checkbox"/>	Temporary Emergency Court Order		<input type="checkbox"/> Child Custody	<input type="checkbox"/>	<input type="checkbox"/> Visitation	<input type="checkbox"/>	<input type="checkbox"/> Other (specify):		<input type="checkbox"/> Child Support	<input type="checkbox"/>	<input type="checkbox"/> Spousal Support	<input type="checkbox"/>			<input type="checkbox"/> Attorney Fees and Costs	<input type="checkbox"/>					CASE NUMBER:
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<input type="checkbox"/> Attorney Fees and Costs	<input type="checkbox"/>																								

1. TO (name):
2. A hearing on this *Request for Order* will be held as follows: **If child custody or visitation is an issue in this proceeding, Family Code section 3170 requires mediation before or at the same time as the hearing (see item 7.)**

a. Date:	Time:	<input type="checkbox"/> Dept.:	<input type="checkbox"/> Room.:
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b. Address of court same as noted above other (specify):

3. Attachments to be served with this *Request for Order*:

a. A blank Responsive Declaration (form FL-320) b. <input type="checkbox"/> Completed <i>Income and Expense Declaration</i> (form FL-150) and a blank Income and Expense Declaration	c. <input type="checkbox"/> Completed <i>Financial Statement (Simplified)</i> (form FL-155) and a blank Financial Statement (Simplified) d. <input type="checkbox"/> Points and authorities e. <input type="checkbox"/> Other (specify):
---	---

Date: _____
(TYPE OR PRINT NAME) ▶ (SIGNATURE)

COURT ORDER

4. YOU ARE ORDERED TO APPEAR IN COURT AT THE DATE AND TIME LISTED IN ITEM 2 TO GIVE ANY LEGAL REASON WHY THE ORDERS REQUESTED SHOULD NOT BE GRANTED.
5. Time for service hearing is shortened. Service must be on or before (date):
6. Any responsive declaration must be served on or before (date):
7. The parties are ordered to attend mandatory custody services as follows:
8. You are ordered to comply with the *Temporary Emergency Court Orders* (form FL-305) attached.
9. Other (specify):

Date: _____
JUDICIAL OFFICER

To the person who received this *Request for Order*: If you wish to respond to this *Request for Order*, you must file a *Responsive Declaration to Request for Order* (form FL-320) and serve a copy on the other parties at least nine court days before the hearing date unless the court has ordered a shorter period of time. You do not have to pay a filing fee to file the *Responsive Declaration to Request for Order* (form FL-320) or any other declaration including an *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155).

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:
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4. SPOUSAL OR PARTNER SUPPORT *(An earnings assignment order may be issued.)*
- a. Amount requested *(monthly)*: \$ c. Modify existing order
 b. Terminate existing order (1) filed on *(date)*:
 (1) filed on *(date)*: (2) ordering *(specify)*:
 (2) ordering *(specify)*:
 d. The *Spousal or Partner Support Declaration Attachment* (form FL-157) is attached *(for modification of spousal or partner support after judgment only)*
 e. An *Income and Expense Declaration* (form FL-150) must be attached
5. ATTORNEY FEES AND COSTS are requested on *Request for Attorney Fees and Costs Order Attachment* (form FL-319) or a declaration that addresses the factors covered in that form. An *Income and Expense Declaration* (form FL-150) must be attached. A *Supporting Declaration for Attorney Fees and Costs Order Attachment* (form FL-158) or a declaration that addresses the factors covered in that form must also be attached.
6. PROPERTY RESTRAINT **To be ordered pending the hearing**
- a. The petitioner respondent claimant is restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life.
 The applicant will be notified at least five business days before any proposed extraordinary expenditures, and an accounting of such will be made to the court.
 b. Both parties are restrained and enjoined from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties or their minor children.
 c. Neither party may incur any debts or liabilities for which the other may be held responsible, other than in the ordinary course of business or for the necessities of life.
7. PROPERTY CONTROL **To be ordered pending the hearing**
- a. The petitioner respondent is given the exclusive temporary use, possession, and control of the following property that we own or are buying *(specify)*:

 b. The petitioner respondent is ordered to make the following payments on liens and encumbrances coming due while the order is in effect:

<u>Debt</u>	<u>Amount of payment</u>	<u>Pay to</u>
8. OTHER RELIEF *(specify)*:

NOTE: To obtain domestic violence restraining orders, you must use the forms *Request for Order (Domestic Violence Prevention)* (form DV-100), *Temporary Restraining Order (Domestic Violence)* (form DV-110), and *Notice of Court Hearing (Domestic Violence)* (form DV-109).

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:
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9. I request that time for service of the *Request for Order* and accompanying papers be shortened so that these documents may be served no less than (*specify number*): _____ days before the time set for the hearing. I need to have this order shortening time because of the facts specified in item 10 or the attached declaration.

10. FACTS IN SUPPORT of orders requested and change of circumstances for any modification are (*specify*):
 Contained in the attached declaration. (*You may use Attached Declaration (form MC-031) for this purpose. The attached declaration must not exceed 10 pages in length unless permission to file a longer declaration has been obtained from the court.*)

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 APPLICANT)



Requests for Accommodations

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before the proceeding. Contact the clerk's office or go to www.courts.ca.gov/forms for *Request for Accommodations by Persons With Disabilities and Response* (form MC-410). (Civil Code, § 54.8.)

General Instructions

The *Request for Order* (FL-300) form replaces the old *Notice of Motion* and *Order to Show Cause* forms. Use the *Request for Order* form to ask for court orders in your family law case.

1. You must complete the top portion of page 1, including your name and address, the court address, case name, and number.
2. Check all the boxes that apply to the orders you are requesting. Check the Modification box if you are requesting a change to an existing order. Check the Temporary Emergency Court Order box if you are requesting that the court issue emergency orders that will be effective before the hearing date.
3. List the name of the other person in your case in item 1.
4. Leave item 2 blank. The court clerk will fill in the date, time, and location of the hearing.
5. In item 3 list all of the forms that you have completed and filed with the court. These are the forms that you will have to provide to the other party.
6. Check the box in front of "Court Order" on page 1 only when you are:
 - Asking the court for temporary orders to go into effect before the hearing; or
 - Asking that the court order the other person in your case to come to court; or
 - Need an order that allows you to give notice of the hearing after the deadline for giving notice has passed.
 Leave items 5 – 9 blank. The court clerk will fill in the information.
7. Complete the sections on pages 2 and 3 that apply to the orders that you are asking the court to make.
8. Date and sign on pages 1 and 3 of the form.
9. Complete any additional forms that you will need to file with your *Request for Order*.
10. File your completed *Request for Order* and other forms with the court clerk. (You may have to pay a filing fee. If you can't afford to pay the filing fee, you can ask the court to waive the fee by completing and filing a *Request to Waive Court Fees* (form FW-001)).

For example:

- If you are asking the court to make child custody orders, check the box marked Child Custody in the box just above item 1 on the first page and complete item 1 on page 2.

- If you are asking the court to make custody orders that go into effect before the hearing date, check the box "To be ordered pending the hearing" in item 1 on page 2 and check the box marked Temporary Emergency Court Order in the box just above number 1 on page 1.
- Complete the *Temporary Emergency Court Orders* (form FL-305) and file it with the *Request for Order*.
- Ask the family law facilitator or the self-help center staff to explain the procedures for requesting temporary emergency court orders at your court and follow those procedures.

Other forms to file with this *Request for Order*:

- If you are asking the court to make temporary orders that which will go into effect before the hearing date: a completed *Temporary Emergency Court Orders* (form FL-305).
- If you are asking the court to order spousal support: a completed *Income and Expense Declaration* (form FL-150).
- If you are asking the court to order child support: A completed *Income and Expense Declaration* (form FL-150) or a completed *Financial Statement (Simplified)* (form FL-155).
- If you are asking the court for child custody orders: See item 1e on page 2 of the *Request for Order* (form FL-300) for the list of forms that you may have to complete.
- If you plan on having witnesses testify at your hearing: a completed *Witness List* (form FL-321).

Note: Do not use *Request for Order* (FL-300) if you are filing a motion or order to show cause:

- For a contempt action in a family law case (use *Order to Show Cause and Affidavit for Contempt* (see form FL-410))
- To set aside a child support order (see form FL-361 or FL-640) or a voluntary declaration of paternity (see form FL-280)
- For a domestic violence protective order under the Domestic Violence Protection Act (see form DV-100). Note: You can use the *Request for Order* (form FL-300) in a domestic violence protective order case, but only if you have child custody, visitation, or support orders that you need modified.
- Other types of cases for which there are other Judicial Council forms just for those cases.

If you have a question about whether this is the right form for your situation or whether you need to complete additional forms, ask the family law facilitator, self-help center, or the clerk's office at the court.

Instructions for Giving the Other Party Notice (Service)

Service by Personal Delivery

- After you file the *Request for Order* and other forms with the court clerk, you will get them back with a court date and time stamped on the first page of the *Request for Order*. You must make sure that the other party receives a copy of the *Request for Order* and all the other forms so that he or she has notice of the date, time, and location of the hearing and of the orders that you are asking the court to make. This means that you must “serve” a copy of the *Request for Order* and all the other documents on the other party. If you completed and filed an *Income and Expense Declaration* (form FL-150) or a completed *Financial Statement (Simplified)* (form FL-155), you must include a blank copy of these forms for the other party to complete and file.
- In general, the other party must be served with the *Request for Order* and other forms at least 16 court days prior to the hearing. If service is by mail, you must add 5 days. The court may order that the time for service on the other party can be shorter (See item 9 on the *Request for Order* (form FL-300)).

Service by Personal Delivery

If you have asked the court for temporary emergency court orders or other orders that will go into effect before the hearing, or you have asked the court to order the other party to attend the hearing and the judicial officer has signed the “Court Order” portion of the *Request for Hearing* form:

- Have someone else (who is at least 18) personally give a copy the *Request for Order* with the other forms and blank responsive forms to the other party.
- After the person gives the forms to the other party, he or she should complete a *Proof of Personal Service* (form FL-330). *Information Sheet for Proof of Personal Service* (form FL-330-INFO) has instructions to help the person complete the form.
- You then file the *Proof of Personal Service* with the clerk of the court 5 court days before the hearing date.

Service by Mail

If you have not asked the court for orders that will go into effect before the hearing, or you have not asked the court to order the other party to attend the hearing and the “Court Order” portion on page 1 of the *Request for Order* has not been completed or signed by the judicial officer:

- You can ask another person (who is at least 18) to mail the *Request for Order* with the appropriate attachments and blank responsive forms to the other party.
- If you filed the *Request for Order* asking for orders after the judgment was entered in your case or after permanent orders were made in your case, you will need to verify the address of the person who is being served and file proof of the verification with the court.
- After the person mails the forms, he or she should complete a *Proof of Service by Mail* (form FL-335). *Information Sheet for Proof of Service by Mail* (form FL-335-INFO) has instructions to help the person complete the form.
- You then file the completed *Proof of Service by Mail* (form FL-335) with the clerk of the court 5 court days before the hearing date.

For more information about giving notice, see *Information Sheet for Proof of Personal Service* (FL-330-INFO) or *Information Sheet for Proof of Service by Mail* (FL-335-INFO).

If you have questions about service or need additional assistance, contact the family law facilitator or self-help center in your county.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT/PARTY:	CASE NUMBER:
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TEMPORARY EMERGENCY COURT ORDERS
Attachment to Request for Order (FL-300)

The court makes the following orders, which are effective immediately and until the hearing:

1. PROPERTY RESTRAINT
 - a. Petitioner Respondent Claimant is restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life.

The other party is to be notified of any proposed extraordinary expenditures, and an accounting of such is to be made to the court.
 - b. Both parties are restrained and enjoined from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage, including life, health, automobile, and disability, held for the benefit of the parties or their minor child or children.
 - c. Neither party may incur any debts or liabilities for which the other may be held responsible, other than in the ordinary course of business or for the necessities of life.

2. PROPERTY CONTROL
 - a. Petitioner Respondent is given the exclusive temporary use, possession, and control of the following property that the parties own or are buying (*specify*):

 - b. Petitioner Respondent is ordered to make the following payments on liens and encumbrances coming due while the order is in effect:

<u>Debt</u>	<u>Amount of payment</u>	<u>Pay to</u>

3. MINOR CHILDREN
 - a. Petitioner Respondent will have the temporary physical custody, care, and control of the minor children of the parties subject to the other party's rights of visitation as follows:

 - b. Petitioner Respondent must not remove the minor child or children of the parties
 - (1) from the state of California.
 - (2) from the following counties (*specify*):
 - (3) other (*specify*):
 - c. Child abduction prevention orders are attached (see form FL-341(B)).
 - d.
 - (1) Jurisdiction: This court has jurisdiction to make child custody orders in this case under the Uniform Child Custody Jurisdiction and Enforcement Act (part 3 of the California Family Code, commencing with section 3400).
 - (2) Notice and opportunity to be heard: The responding party was given notice and an opportunity to be heard as provided by the laws of the State of California.
 - (3) Country of habitual residence: The country of habitual residence of the child or children is the United States of America other (*specify*):
 - (4) **Penalties for violating this order: If you violate this order, you may be subject to civil or criminal penalties or both.**

4. OTHER ORDERS (*specify*):

Additional orders are listed on Attachment 4.

Date: _____ JUDGE OF THE SUPERIOR COURT

5. The date of the court hearing is (*insert date when known*):

CLERK'S CERTIFICATE

[SEAL] I certify that the foregoing is a true and correct copy of the original on file in my office.

Date: _____ Clerk, by _____, Deputy

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 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: <input type="checkbox"/> OTHER PARENT/PARTY:	
<div style="text-align: center;"> APPLICATION AND ORDER FOR REISSUANCE OF <input type="checkbox"/> REQUEST FOR ORDER <input checked="" type="checkbox"/> RESTRAINING ORDER (JUVENILE) <input type="checkbox"/> ORDER TO SHOW CAUSE </div>	CASE NUMBER(S):

1. Name of Applicant: _____
2. Applicant requests the court to reissue the:
 - a. Request for Order and Temporary Emergency Court Orders
 - b. Restraining Order – Juvenile
 - c. Order to Show Cause (specify): _____
3. The orders were originally issued on (date): _____
4. The last hearing date was (date): _____
5. Number of times the orders have been reissued: _____
6. Applicant requests reissuance of the orders because:
 - a. Respondent/Defendant Petitioner/Plaintiff Person to be restrained Other party could not be served as required before the hearing date.
 - b. The hearing was continued because the parties were referred to a court mediator or family court
 - c. Other (specify): _____

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)

ORDER

7. IT IS ORDERED that the Request for Order and Temporary Emergency Court Orders or Restraining Order (Juvenile) or Order to Show Cause issued as shown in item 3 above and any orders listed are reissued unless this order changes them. The hearing is reset as follows:

Date:	Time:	Dept.:	Room:
at the street address of the court shown above.			

8. Other (specify): _____

9. All orders will end on the date and time shown in the box above unless the court extends the time.

Date: _____ JUDICIAL OFFICER

PETITIONER: RESPONDENT:	CASE NUMBER:
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REQUEST FOR SEPARATE TRIAL

 OR

 RESPONSE TO REQUEST FOR SEPARATE TRIAL

Attachment to **Request for Order (form FL-300)**

 Responsive Declaration to Request for Order (form FL-320)

1. I am the petitioner respondent and request oppose the request that the court sever (bifurcate) and grant an early and separate trial on the following issue or issues:

a. Permanent custody and visitation of the children of the marriage or domestic partnership

b. Date of separation of the parties

c. Alternate valuation date for property

d. Validity of agreement entered into before or during the marriage or domestic partnership

e. Dissolution of the status of the marriage or domestic partnership

(1) I will serve with this application or response my preliminary *Declaration of Disclosure* (form FL-140) and completed *Schedule of Assets and Debts* (form FL-142) and *Income and Expense Declaration* (FL-150) unless they have been previously served or the parties have stipulated in writing to defer service.

(2) All pension or retirement plans in which the community has an interest are listed below or on attachment 1e(2):

(3) All pension or retirement plans listed in 1e(2) have been joined as a party to this proceeding, unless joinder is precluded or made unnecessary as a matter of law. (See *Retirement Plan Joinder—Information Sheet* (form FL-318-INFO) to determine if a joinder is required.)

(4) I understand that the court may make the orders specified or requested on pages 2 and 3 if the motion is granted to bifurcate the status of the marriage and the marriage is ended.

(5) I request that the court make the orders indicated on pages 2 and 3 and any attachments.

NOTE: A request for an early termination of your marital or partnership status may have a significant impact on your rights or responsibilities in your case. If you do not understand this form, you should speak with an attorney.

f. Other (specify):

2. a. I request that the court conduct this separate trial on the hearing date.

b. I will, at the hearing, ask the court to set a date for this separate trial.

3. The reasons in support of this request are (specify):

Memorandum attached. Supporting declarations attached.

PETITIONER: RESPONDENT:	CASE NUMBER:
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4. Conditions relating to bifurcation of the status of the marriage or partnership:

- a. I understand that the court must enter an order to preserve the claims of each spouse or domestic partner in all retirement plan benefits upon entry of judgment granting a dissolution of the status of the marriage or domestic partnership.
- b. I request that the court order the following as a condition of granting the bifurcation and ending the marriage upon an early and separate trial:

(1) **Division of property**

The petitioner respondent and his or her estate must indemnify and hold me harmless from any taxes, reassessments, interest, and penalties that I have to pay in connection with the division of the community estate that I would not have had to pay if we were still married or in a domestic partnership at the time the division was made.

(2) **Health insurance**

Until a judgment has been entered and filed on the remaining issues, the petitioner respondent must maintain all existing health and medical insurance coverage for me and any minor children as named dependents as long as he or she is eligible to do so. If at any time during this period, he or she is not eligible to maintain that coverage, he or she must, at his or her sole expense, provide and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage to the extent it is available.

To the extent that coverage is not available, the petitioner respondent must be responsible for paying, and demonstrate to the court's satisfaction the ability to pay, for health and medical care for me and the minor children to the extent that care would have been covered by the existing insurance coverage but for the dissolution of marital status or domestic partnership, and must otherwise indemnify and hold me harmless from any adverse consequences resulting from the loss or reduction of the existing coverage.

(3) **Probate homestead**

Until a judgment has been entered and filed on all remaining issues, the petitioner respondent must indemnify and hold me harmless from any adverse consequences if the bifurcation results in a termination of my right to a probate homestead in the residence in which I am residing at the time the severance is granted.

(4) **Probate family allowance**

Until a judgment has been entered and filed on all remaining issues, the petitioner respondent must indemnify and hold me harmless from any adverse consequences if the bifurcation results in the loss of my right to a probate family allowance as the surviving spouse or surviving domestic partner.

(5) **Retirement benefits**

Until a judgment has been entered and filed on all remaining issues, the petitioner respondent must indemnify and hold me harmless from any adverse consequences if the bifurcation results in the loss of my rights with respect to any retirement, survivor, or deferred compensation benefits under any plan, fund, or arrangement, or to any elections or options associated those benefits, to the extent that I would have been entitled to those benefits or elections as the spouse or surviving spouse or the domestic partner or surviving domestic partner.

(6) **Social security benefits**

The petitioner respondent must indemnify and hold me harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent that I would have been entitled to those benefits or elections as the surviving spouse or surviving domestic partner.

PETITIONER: RESPONDENT:	CASE NUMBER:
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(7) **Beneficiary designation—nonprobate transfer**

The petitioner respondent must maintain the beneficiary designation specified for each Nonprobate Transfer Asset (Probate Code section 5000) identified on the attached list in the percentage indicated. *(See Attachment 7 (not a form), which lists each asset and proposed percentage.)* This designation must stay in effect until judgment has been entered with respect to the community ownership of that asset and until my interest in it has been distributed to me.

(8) **Individual Retirement Accounts**

To preserve the ability of the nonowner to defer the distribution of an Individual Retirement Account (IRA) or annuity upon the death of the owner, the court should make the attached orders assigning and transferring the community interest of petitioner respondent in each listed IRA to that party. *(See Attachment 8 (not a form), which lists names of IRAs, account numbers, and amount to be awarded.)*

(9) **Enforcement of community property rights**

Because it will be difficult to enforce either of our community property rights if one of us dies before the division and distribution or compliance with any court-ordered payment of any community property interest, the court should make the attached order to provide enforcement security for petitioner respondent. *(See attachment 9 (not a form), which specifies the security interest to be ordered as provided by Family Code section 2337(c)(9).)*

(10) **Other conditions that are just and equitable**

The court makes the following additional orders:

5. Number of pages attached after this page: _____

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 DECLARANT)

PETITIONER: RESPONDENT:	CASE NUMBER:
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REQUEST FOR ORDERS REGARDING NONCOMPLIANCE WITH DISCLOSURE REQUIREMENTS

Attachment to Request for Order (form FL-300)

1. Petitioner Respondent has complied with mandatory disclosure requirements (you must attach a copy of your filed *Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration* (form FL-141)), and requests an order that
 - petitioner respondent
 - a. provide a
 - (1) preliminary declaration of disclosure under Family Code section 2104 as directed by court order.
 - (2) final declaration of disclosure under Family Code section 2105 as directed by court order.
 - b. provide a further response to his or her preliminary final declaration of disclosure under Family Code section 2107(b)(1).
 - c. has failed to comply with disclosure requirements and is prevented from presenting evidence on the issues that should have been covered in the declaration of disclosure under Family Code section 2107(b)(2).
 - d. be granted for good cause his or her request for voluntary waiver of receipt of preliminary final declaration of disclosure under Family Code section 2107(b)(3).
 - e. for the reasons described below, be ordered to pay money sanctions for failure to comply with disclosure requirements. The amount of the money sanctions should be in an amount sufficient to deter him or her from repeating the conduct or comparable conduct, including reasonable attorney fees, costs incurred, or both, unless the court finds that the noncomplying party acted with substantial justification or that other circumstances make the imposition of the sanction unjust. (Family Code, § 2107(c).)
 - f. be granted his or her request to set aside the judgment under Family Code section 2107(d).
 - g. be ordered to comply with other, or alternative, relief, requested (*specify*):

2. FACTS IN SUPPORT of relief requested are (*specify*):
 - Contained in the attached declaration. (You may use *Attached Declaration* (form MC-031) for this purpose).

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 APPLICANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): <hr/> TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY <h2 style="margin: 0;">Draft Not approved by the Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: <div style="border: 1px solid black; padding: 2px; display: inline-block; margin: 5px 0;">OTHER PARTY:</div>	
<div style="background-color: #cccccc; padding: 5px; display: inline-block;">RESPONSIVE DECLARATION TO REQUEST FOR ORDER</div>	CASE NUMBER: _____
HEARING DATE: _____ TIME: _____ DEPARTMENT OR ROOM: _____	

1. CHILD CUSTODY
- a. I consent to the order requested.
- b. I do not consent to the order requested, but I consent to the following order:

2. CHILD VISITATION (PARENTING TIME)
- a. I consent to the order requested.
- b. I do not consent to the order requested, but I consent to the following order:

3. CHILD SUPPORT
- a. I consent to the order requested.
- b. I consent to guideline support.
- c. I do not consent to the order requested, but I consent to the following order:
- (1) Guideline
- (2) Other (*specify*): _____

4. SPOUSAL OR PARTNER SUPPORT
- a. I consent to the order requested.
- b. I do not consent to the order requested.
- c. I consent to the following order:

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: <div style="background-color: #cccccc; padding: 2px; display: inline-block;">OTHER PARTY:</div>	CASE NUMBER:
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5. **ATTORNEY'S FEES AND COSTS**
- a. I consent to the order requested.
 - b. I do not consent to the order requested.
 - c. I consent to the following order:

6. **PROPERTY RESTRAINT**
- a. I consent to the order requested.
 - b. I do not consent to the order requested.
 - c. I consent to the following order:

7. **PROPERTY CONTROL**
- a. I consent to the order requested.
 - b. I do not consent to the order requested.
 - c. I consent to the following order:

8. **OTHER RELIEF**
- a. I consent to the order requested.
 - b. I do not consent to the order requested.
 - c. I consent to the following order:

9. **SUPPORTING INFORMATION**
 Contained in the attached declaration. (You may use *Attached Declaration* (form MC-031) for this purpose).

NOTE: To respond to domestic violence restraining orders requested in the *Request for Order (Domestic Violence Prevention)* (form DV-100), you must use the *Answer to Temporary Restraining Order (Domestic Violence Prevention)* (form DV-120).

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

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY <h2 style="margin: 0;">DRAFT</h2> <h3 style="margin: 0;">Not Approved by the Judicial Council</h3>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER:	
ORDER TO PAY WAIVED COURT FEES AND COSTS (Superior Court)	CASE NUMBER:

1. This proceeding was heard as follows: Default or uncontested By declaration under Family Code section 2336
 Contested

on *(date)*: _____ at *(time)*: _____ in Dept.: _____ Room: _____

- a. by Judge *(name)*: Temporary Judge
- b. Petitioner/plaintiff present Attorney present *(name)*:
- c. Respondent/defendant present Attorney present *(name)*:
- d. Other present Attorney present *(name)*:
- e. On the request for order filed *(date)*: _____ by *(name)*:

2. THE COURT FINDS

- a. The court made an order waiving court fees and costs for petitioner respondent in this matter on *(date)*:
- b. The court made an order for support payable by petitioner respondent to petitioner respondent on *(date)*:
- c. After considering information in the court file and other evidence, petitioner respondent has the ability to pay all or part of the waived court fees and costs.

3. THE COURT ORDERS

- a. Petitioner Respondent must pay his or her own the other party's previously waived court fees in the total amount of *(specify)*:
- b. Payment be made:
 - (1) \$ _____ per month until paid in full, beginning *(date)*:
 - (2) Within 10 days from the date of service of this *Order to Pay Waived Court Fees and Costs* *(see attached Proof of Service)*.
 - (3) After all current support and accrued support arrears have been paid (if ordered to pay the other party's waived court fees). (Gov. Code, § 68637(d).)
 - (4) Other *(specify)*:
- c. Payment be sent to *(specify)*:

PETITIONER: RESPONDENT:	CASE NUMBER:
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4. NOTICE TO:

- Petitioner Respondent Initial fee waiver recipient, ordered to pay waived court fees and costs.
- Petitioner Respondent Support obligor ordered to pay the initial fee waiver recipient's waived court fees and costs
- The party ordered to pay fees and costs who did not receive the initial fee waiver AND was not present at the trial or hearing when the court ordered payment of waived court fees and costs.

**YOU HAVE AN OPPORTUNITY FOR A HEARING TO REQUEST THAT
THE COURT SET ASIDE THE ORDER TO PAY WAIVED COURT FEES AND COSTS**

- a. To request a hearing, complete and file with the court clerk:
 - (1) *Request for Order* (form FL-300) and
 - (2) *Application to Set Aside Order to Pay Waived Court Fees—Attachment* (form FL-337)
- b. The forms specified in item a must be completed and filed with the court clerk within 30 days from the date of service of this *Order to Pay Waived Court Fees and Costs* (see attached Proof of Service).
- c. In addition, the party requesting the hearing must serve the other party with:
 - (1) Copies of the documents in item a filed with the court; and
 - (2) A **blank** *Responsive Declaration to Order to Show Cause or Notice of Motion* (form FL-320).

You can obtain these forms from the clerk of the court, your county law library, or online at www.courts.ca.gov.
- d. If a request for hearing is filed with the court clerk within the time specified in item b, the order to pay waived court fees and costs will not be enforced until after the hearing.

WARNING: The court has ordered you to pay court fees and costs. If you do not pay the court fees and costs, the court can institute collection proceedings and charge you interest and a collection fee.

Date:

JUDICIAL OFFICER

PETITIONER: RESPONDENT:	CASE NUMBER:
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APPLICATION TO SET ASIDE ORDER TO PAY WAIVED COURT FEES—ATTACHMENT
Attachment to Request for Order (form FL-300)

1. I am the petitioner respondent . I request that the court set aside the *Order to Pay Waived Court Fees*
2. In making this request, I ask the court to consider the information in the court's case file, the information attached to this application, the information specified in the supporting declaration, and the evidence presented at the hearing.

NOTICE

To request a hearing, the party must complete and file with the court clerk the following: (1) *Request for Order* (form FL-300) and (2) *Application to Set Aside Order to Pay Waived Court Fees (Family Law)* (Form FL-337). These forms must be completed and filed with the court clerk within 30 days from the date of personal service of the *Order to Pay Waived Court Fees* **OR** within 35 days from the date the *Order to Pay Waived Court Fees* was served by mail.

In addition, the party requesting the hearing must serve the other party with (1) Copies of the above-listed documents filed with the court and (2) A **blank** *Responsive Declaration to Order to Request for Order* (form FL-320). You may obtain Judicial Council forms at the clerk of the court, your county law library, or at www.courts.ca.gov/forms.

If the request for hearing is filed with the court clerk within this time, the *Order to Pay Waived Court Fee* will not be enforced until after the hearing.

3. The reasons in support of this request are (*specify*):
- Supporting declarations attached. You may use *Attached Declaration* (form MC-031).

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 DECLARANT)

PETITIONER:	CASE NUMBER:
RESPONDENT:	

BIFURCATION OF STATUS OF MARRIAGE OR DOMESTIC PARTNERSHIP

ATTACHMENT TO JUDGMENT (FL-180) FINDINGS AND ORDER AFTER HEARING (FL-340)

The court grants the request of petitioner respondent to bifurcate and grant a separate trial on the issue of the dissolution of the status of the marriage or domestic partnership apart from other issues.

Date marital or domestic partnership status ends (specify):

THE COURT FINDS

1. A preliminary declaration of disclosure with a completed schedule of assets and debts and income and expense declaration has been served on the nonmoving party, or the parties have stipulated in writing to defer service of the preliminary declaration of disclosure until a later time.
2. Each retirement or pension plan of the parties has been joined as a party to the proceeding for dissolution unless joinder is precluded or made unnecessary by applicable law.

THE COURT ORDERS

3. a. To preserve the claims of each party in all retirement plan benefits on entry of judgment granting a dissolution of the status of the marriage or domestic partnership, the court makes one of the following orders for each retirement plan in which either party is a participant:
 - (1) A final domestic relations order or qualified domestic relations order under Family Code section 2610 disposing of each party's interest in retirement plan benefits, including survivor and death benefits.
 - (2) An interim order preserving the nonemployee party's right to retirement plan benefits, including survivor and death benefits, pending entry of judgment on all remaining issues.
 - (3) A provisional order on *Pension Benefits—Attachment to Judgment* (form FL-348) incorporated as an attachment to the judgment of dissolution of the status of marriage or domestic partnership (*Judgment (Family Law)*(form FL-180)). This order provisionally awards to each party a one-half interest in all retirement benefits attributable to employment during the marriage or domestic partnership.

b. Name of plan:		Type of order attached			
		3a(1)	3a(2)	3a(3)	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

See attachment 3b for additional plans.

- c. The moving party must promptly serve on the retirement or pension plan administrator a copy of any order entered under items a and b above and a copy of the judgment granting dissolution of the status of the marriage or domestic partnership (form FL-180).
4. Jurisdiction is reserved for later determination of all other pending issues in this case.
5. The court makes the following additional orders as conditions for granting the severance on the issue of dissolution of the status of marriage or domestic partnership. In the case of the moving party's death, the order continues to be binding on that moving party's estate and will be enforceable against any asset, including the proceeds thereof, to the same extent that these obligations would have been enforceable before the person's death.

- a. **Division of property**
 The petitioner respondent must indemnify and hold the other party harmless from any taxes, reassessments, interest, and penalties payable by the other party in connection with the division of the community estate that would not have been payable if the parties were still married or domestic partners at the time the division was made.

PETITIONER: RESPONDENT:	CASE NUMBER:
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5. b. **Health insurance**

Until a judgment has been entered and filed on all remaining issues, the petitioner respondent must maintain all existing health and medical insurance coverage for the other party, and that party must also maintain any minor children as named dependents, as long as that party is eligible to do so. If at any time during this period the petitioner respondent is not eligible to maintain that coverage, that party must, at his or her sole expense, provide and maintain health and medical insurance coverage that is comparable to the existing health and medical insurance coverage to the extent it is available.

If that coverage is not available, the petitioner respondent is responsible for paying the health and medical care for the other party and the minor children to the extent that care would have been covered by the existing insurance coverage but for the dissolution of marital status or domestic partnership, and will otherwise indemnify and hold the other party harmless from any adverse consequences resulting from the loss or reduction of the existing coverage. "Health and medical insurance coverage" includes any coverage under any group or individual health or other medical plan, fund, policy, or program.

c. **Probate homestead**

Until a judgment has been entered and filed on all remaining issues, the petitioner respondent must indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in a termination of the other party's right to a probate homestead in the residence in which the other party resides at the time the severance is granted.

d. **Probate family allowance**

Until a judgment has been entered and filed on all remaining issues, the petitioner respondent must indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the rights of the other party to a probate family allowance as the surviving spouse or surviving domestic partner.

e. **Retirement benefits**

Except for any retirement plan, fund, or arrangement identified in any order issued and attached as set out in paragraph 3, until a judgment has been entered on all remaining issues, the petitioner respondent must indemnify and hold the other party harmless from any adverse consequences to the other party if the bifurcation results in the loss of the other party's rights with respect to any retirement, survivor, or deferred compensation benefits under any plan, fund, or arrangement, or to any elections or options associated with them, to the extent that the other party would have been entitled to those benefits or elections as the spouse or surviving spouse or the domestic partner or surviving domestic partner of the moving party.

f. **Social security benefits**

The moving party must indemnify and hold the other party harmless from any adverse consequences if the bifurcation results in the loss of rights to social security benefits or elections to the extent the other party would have been entitled to those benefits or elections as the surviving spouse or surviving domestic partner of the moving party.

g. **Beneficiary designation— Nonprobate transfer**

Attachment 5(g), Order Re: Beneficiary Designation for Nonprobate Transfer Assets, will remain in effect for each covered asset until the division of any community interest therein has been completed.

h. **Individual Retirement Account**

Attachment 5(h), Order Re: Division of IRA Under Internal Revenue Code Section 408(d)(6), has been issued to preserve the ability of petitioner respondent to defer distribution of his or her community interest on the death of the IRA owner.

PETITIONER:	CASE NUMBER:
RESPONDENT:	

5. i. **Enforcement of community property rights**

Good cause exists to make additional orders as set out in Family Code section 2337(c)(9). See Attachment 5(i).

j. **Other conditions that are just and equitable**

Other:

6. Number of attachments: _____

WARNING: *Judgment (Family Law)* (form FL-180) (status only) must be completed in addition to this form for the status of the marriage or domestic partnership to be ended.

SPR11-38**Family Law: Request for Order in Lieu of Notice of Motion or Order to Show Cause and Witness List for Use in Family Law Proceedings** (adopt Cal. Rules of Court, rule 5.92; revise forms FL-300, FL-305, FL-306, FL-315, FL-320, FL-340, and FL-347; adopt FL-300-INFO and FL- 321; revoke FL-301 and FL-310)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Hon. Irma Poole Asberry, Supervising Judge Superior Court of Riverside County Riverside	A	Excellent	No response required.
2.	Association of Certified Family Law Specialist (ACFLS) Diane Wasznicky, President San Rafael	AM	<p>1. Rule 5.92(a)(1)(A) is vague and confusing. It leads one to believe that you do not have to file with the court the Request for Order (to obtain a hearing date) prior to serving it, if temporary orders are not being sought. Although some counties may allow for insertion of the court date (allowing for serving prior to filing) before actually filing the pleadings, some do not allow this and the motion (Request for Order) must be filed to obtain a valid date. This provision needs to be modified to clarify that a Request for Order must be filed, and a court date obtained, prior to serving it.</p> <p>2. Form FL-306 is confusing as it allows for re-issuance of Order to Show Cause, which has been eliminated under the proposed Rule of Court. To the extent that there remains certain motions which still are entitled Order to Show Cause (i.e. contempt), the re-issuance forms should be separate.</p>	<p>The committee has made this change</p> <p>The committee revised the form to clarify FL-306/JV-251 is designed to be used to reissue an order to show cause that is issued on a form other than a <i>Request for Order</i>, a <i>Temporary Restraining Order</i> in juvenile court as well as a <i>Request for Order</i> in family court.</p>
3.	Bay Area Legal Aid by Jerel McCrary Family Law Regional Counsel Oakland	AM	Rule 5.92 (a) (1) (A) should be changed to read "...unless the other party has made an appearance in the action, in which case service may be made on the attorney of record, if the other party is	The committee has changed Rule 5.92 to clarify that a <i>Request for Order</i> that has court orders issued pending a hearing or orders a party to appear in court must be served in the manner specified for the service of a summons in Code of

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Family Law: Request for Order in Lieu of Notice of Motion or Order to Show Cause and Witness List for Use in Family Law Proceedings (adopt Cal. Rules of Court, rule 5.92; revise forms FL-300, FL-305, FL-306, FL-315, FL-320, FL-340, and FL-347; adopt FL-300-INFO and FL- 321; revoke FL-301 and FL-310)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>represented.”</p> <p>I would change the order of sections (a)(3) and (a) (4), since section (a) (2) describes documents which must be filed, as does the current (a)(4). (a) (3) describes something that need not be filed.</p> <p>I would also change the language in current section (a) (3) so that is simply reads: “No memorandum of points and authorities need be filed with a request for orders unless required by the court.” (Eliminate the language “on a case by case basis”.)</p> <p>For clarity Section (a) (5) should be modified to read: “The moving party must file documents with the court and serve a copy on the person against whom relief is requested, as specified in sections (a) (1) (A) and (B), above...”</p> <p>(b) Responding Papers The section begins by saying that to respond a party must file a form 320, but the form is also listed as a subsection under the statement: “Respondent may also be required to complete the following: The Responsive Declaration to Request for Order...” To avoid confusion, the section should say: “To respond to the issues raised in Request for Order (FL-300) and attached papers, the party must complete, file and serve a Responsive</p>	<p>Civil Procedure section 413.10 et. seq.</p> <p>The order of the subsections has been changed.</p> <p>The language “on case by case basis” is intended to emphasize that a court may not make a blanket rule that points and authorities are required in all cases.</p> <p>The committee has changed the order of the subsections and clarified the service requirements.</p> <p>Rule 5.92(b) has been changed.</p>

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Family Law: Request for Order in Lieu of Notice of Motion or Order to Show Cause and Witness List for Use in Family Law Proceedings (adopt Cal. Rules of Court, rule 5.92; revise forms FL-300, FL-305, FL-306, FL-315, FL-320, FL-340, and FL-347; adopt FL-300-INFO and FL- 321; revoke FL-301 and FL-310)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Declaration to Request for Order (form FL-320). The Responsive Declaration to Request for Order (form FL 320) must set forth facts sufficient to notify the other party of the declarant’s contentions in response to the request for order and in support of any requested relief.</p> <p>Many people, including some attorneys, request unrelated relief in response to requests for orders, so in this section, I would change the wording of the current second sentence to read. “The responding papers may only request relief related to the orders requested in the moving papers.”</p> <p>(Then Eliminate section (b) (3).) For consistency sake I would then reverse the order of current sections (b) (1) and (b) (2).</p> <p>FL 300 The advisory section at the bottom of the first page misstates the requirement for service of responsive papers in CCP 1005. They must be served at least 9 court days before the hearing date.</p> <p>FL 300, page 2. The notice section relates to income information necessary for the court to make support orders. The text of new Rule 5.92 makes clear that parties must file completed</p>	<p>The committee has made this change.</p> <p>The committee has revised this subsection.</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p>

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Family Law: Request for Order in Lieu of Notice of Motion or Order to Show Cause and Witness List for Use in Family Law Proceedings (adopt Cal. Rules of Court, rule 5.92; revise forms FL-300, FL-305, FL-306, FL-315, FL-320, FL-340, and FL-347; adopt FL-300-INFO and FL- 321; revoke FL-301 and FL-310)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Income and Expense Forms if support is at issue. The notice should read “You must supply the court with information about your finances. Otherwise it seems like it is simply permissible, but not mandatory.</p> <p>FL 300-INFO The information concerning service is incomplete. It implies that you can serve any request by mail as long as you are not requesting temporary orders. It does not take into consideration post-judgment service as provided in FC Section 215.</p> <p>FL 306/JV-251 This form needs extensive revision. Because the form attempts to combine current Juvenile Form 251 with a new Application for Reissuance of Request for Order, it has become impossibly confusing and will be seriously misleading, particularly for self-represented litigants. Since it refers to reissuing “Temporary Restraining Orders”, some people will be tempted to use it to re-issue DVPAS. When an attempt has been made to rid family law of the terminology “Order to Show Cause” a new form using that terminology is not helpful.</p> <p>The current juvenile court form should not be modified. In none of the other areas-- Family Law, UPA or Governmental will there be</p>	<p>The section on service has been redrafted to address this issue.</p> <p>The committee revised the form to clarify FL-306/JV-251 is designed to be used to reissue an order to show cause that is issued on a form other than a <i>Request for Order</i> in a family law case, a <i>Temporary Restraining Order</i> in juvenile court as well as a <i>Request for Order</i> in family court</p>

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Family Law: Request for Order in Lieu of Notice of Motion or Order to Show Cause and Witness List for Use in Family Law Proceedings (adopt Cal. Rules of Court, rule 5.92; revise forms FL-300, FL-305, FL-306, FL-315, FL-320, FL-340, and FL-347; adopt FL-300-INFO and FL- 321; revoke FL-301 and FL-310)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>“Temporary Restraining Orders” or “Orders to Show Cause”—except as related to contempts. (There is no attempt to modify the current form to reissue DVPA’s, nor should there be a modification of the juvenile court reissuance form.)</p> <p>Therefore, all references to “Order to Show Cause” should be eliminated from this form. Temporary Restraining Order should be changed to “Temporary Orders” The statement of what area of law the form applies to should be changed.</p>	
4.	Hon. John Chemeleski Trial Court Commissioner Superior Court of Los Angeles Long Beach	A	Rule 5.92(a)(1)(A) is unnecessarily complicated. It should only refer to requests for orders with a pendente lite request and the “or seeks an order for the other party to attend ...” should be deleted. Compelling the attendance of a party is handled by a notice in lieu of subpoena under the CCP and having this language in this rule serves no legal function.	Other commentators have noted that the Order to Show Cause has been traditionally used to order the appearance of the other party. “An order to show cause is a notice of motion <i>and a citation to the party</i> to appear at a stated time and place to show cause why a motion should not be granted.” (<i>Difani v. Riverside County Oil Co.</i> (1927) 201 Cal. 210, 213-214 (emphasis added).) This is critical in cases where the respondent has not appeared, as the order serves “not only as a notice of hearing but also as a citation or summons, giving the court personal jurisdiction when served” on the party. (<i>Sarracino v. Super. Ct.</i> (<i>Sarracino</i>) (1974) 13 Cal.3d 1, 8, fn. 6.). The committee intends that the Request for Order be used in lieu of an Order to Show Cause.

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Family Law: Request for Order in Lieu of Notice of Motion or Order to Show Cause and Witness List for Use in Family Law Proceedings (adopt Cal. Rules of Court, rule 5.92; revise forms FL-300, FL-305, FL-306, FL-315, FL-320, FL-340, and FL-347; adopt FL-300-INFO and FL- 321; revoke FL-301 and FL-310)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			The sentence about service on the attorney of record should be modified as follows: “. . . in which case service may be made on the attorney of record, if any, or on the party, as prescribed in CCP §§1010-1013.”	The committee has changed the rule to address this issue.
5.	Christine N. Donovan, CFLS Senior Staff Attorney Superior Court of Solano County Fairfield	AM	<p>Rule 5.92 I agree with the spirit of what Rule 5.92 is trying to accomplish, as having two forms is confusing to many litigants. However, I believe the rule needs to be modified to address one issue.</p> <p>I fear that Rule 5.92 is a departure from case law concerning issuance and service of orders to show cause on parties who have not yet appeared in the case. “An order to show cause is a notice of motion <i>and a citation to the party</i> to appear at a stated time and place to show cause why a motion should not be granted.” (<i>Difani v. Riverside County Oil Co.</i> (1927) 201 Cal. 210, 213-214 (emphasis added).) This is critical in cases where the respondent has not appeared, as the order serves “not only as a notice of hearing but also as a citation or summons, giving the court personal jurisdiction when served” on the party. (<i>Sarracino v. Super. Ct. (Sarracino)</i> (1974) 13 Cal.3d 1, 8, fn. 6.) This personal jurisdiction is absolutely required in order for the court to</p>	The committee has redrafted the rule and form FL-300 to address the issues raised by this commenter.

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Family Law: Request for Order in Lieu of Notice of Motion or Order to Show Cause and Witness List for Use in Family Law Proceedings (adopt Cal. Rules of Court, rule 5.92; revise forms FL-300, FL-305, FL-306, FL-315, FL-320, FL-340, and FL-347; adopt FL-300-INFO and FL- 321; revoke FL-301 and FL-310)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>make binding orders concerning the issues raised in the <i>Request for Order</i> on individuals who have not yet appeared in the case.</p> <p>Unfortunately, both the proposed rule and the proposed form implementing this rule don't provide the option of making the Request for Order the equivalent of an OSC when necessary. For example, Rule 5.92's language in (a)(1)(A) seems to suggest that the Temporary Court Orders form should be used when a party's personal appearance is needed at the hearing. It is confusing to require a separate form simply to order a party to appear in court. I suggest that this be revised. As for the form itself, there is no place on the proposed FL-300 to make the Request for Order into the equivalent of a citation, e.g. an order that requires the other party to appear without making other temporary orders. I suggest this option be included.</p> <p>I have included suggested language below for both the rule and the forms.</p> <p>Rule 5.92. Application for court order; response (a) Application for order; procedures (1) In a family law proceeding, other than an action under the Domestic Violence Prevention Act, local child support agency actions under the Family Code, or a contempt proceeding</p>	

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Family Law: Request for Order in Lieu of Notice of Motion or Order to Show Cause and Witness List for Use in Family Law Proceedings (adopt Cal. Rules of Court, rule 5.92; revise forms FL-300, FL-305, FL-306, FL-315, FL-320, FL-340, and FL-347; adopt FL-300-INFO and FL- 321; revoke FL-301 and FL-310)

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	Commentator	Position	Comment	Committee Response
			<p>relating to family law, a notice of motion or order to show cause must be filed on a <i>Request for Order</i> (form FL-300), unless another Judicial Council form has been adopted or approved for the specific motion or order to show cause.</p> <p><u>(A) If the request for order seeks an order that the other party attend the hearing, but does not request any other temporary orders pending the hearing, the <i>Request for Order</i> (form FL-300) and attachments as appropriate to the case must be filed with the court before service on the other party. It must be served in the manner specified for the service of a summons in Code of Civil Procedure section 413.10 et seq., unless the other party has made an appearance in the action, in which case service may be made on the attorney of record.</u></p> <p><u>(B) (A) If the request for order seeks court orders pending a hearing or seeks an order that the other party attend the hearing, the <i>Request for Order</i> (form FL-300), the Page 3 of <i>Temporary Orders</i> (form FL-305), and attachments as appropriate to the case must be filed with the court before service on the other party. <u>A complete copy of the <i>Request for Order</i> and a copy of the <i>Temporary Orders</i> (form FL-305) endorsed by the clerk must be served in the manner specified for the service of a summons</u></u></p>	

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			<p>in Code of Civil Procedure section 413.10.4.13.10 et seq., unless the other party has made an appearance in the action, in which case service may be made on the attorney of record. (CB) If the <i>Request for Order</i> (form FL-300) is filed after entry of a judgment of dissolution of marriage, nullity of marriage, legal separation of the parties, or paternity, or after a permanent order in any other proceeding in which the visitation, custody, or support of a child was at issue, it must be served as specified in Family Code section 215.</p> <p>(2)-(5) *** (b)-(c) ***</p> <p>Form FL-300 Overall, I like very much that the Request for Order and the Application for Order and Supporting Declaration are now one form. It will be much easier to use this way.</p> <p>• <i>Page 1</i> I suggest the phrase just above the words “Court Order” be revised as follows:</p> <p>Do not complete this section unless you are asking the court to make orders that will be in effect before the hearing date <u>or order that a party appear at the hearing</u>. I suggest that the following be added immediately under Item (7): 8. <input type="checkbox"/> You are ordered to appear in this court at</p>	<p>No response required.</p> <p>The language above the court order was deleted in response to comments made by others.</p>

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			<p><u>the date, time, and place stated above to give any legal reason why the relief sought in the attached application should not be granted.</u></p> <p>The proposed box of instructions on the bottom of Page 1 is confusing, in that the word “you” at the top part of the form refers to the moving party, but “you” in the box apparently refers to the responding party.</p> <p>The service deadline is inconsistent with CCP § 1005, subdivision (b), which requires service nine court days, not nine calendar days, prior to the hearing. It also does not warn the receiving party of the consequences of failing to respond. I suggest revising it as follows:</p> <p><u>To the person served with this <i>Request for Order</i>: If you wish to respond to this Request for Order, you must file a responsive declaration with the court. The original responsive declaration must be filed with the court and a copy of the responsive declaration must be served on the other party at least nine <u>court calendar</u> days before the hearing date unless the court has ordered a shorter period of time.</u></p> <p>Add five calendar days if you serve the other party by mail within California. (See Code of Civil Procedure section 1005 for other situations.) <u>If you do not respond, the court may</u></p>	<p>The language in the box has been changed to clarify that it is addressed to the responding party.</p> <p>The committee has made this change.</p> <p>The committee changed the advisory substantially in response to all the comments.</p>

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			<p><u>make orders based solely on the <i>Request for Order</i> and any testimony at the hearing.</u></p> <p>• <i>Page 2</i> I like that the form now includes a notice regarding the length of a child support obligation immediately following Item (3). However, I believe it could benefit from one additional clarification as follows:</p> <p>“Notice: The court is required to order child support based on the income of both parents. It normally continues until the child is <u>18 and no longer in high school</u>. You should supply the court with information about your finances. Otherwise, the child support order will be based on information about your income that the court receives from other sources, including the other parent.”</p> <p>This change is proposed because many self-represented litigants could mistakenly read the form to understand that support terminates on the child’s 18th birthday, even though the child is still a full-time high school student.</p> <p>FL-300-INFO General comments: I like the idea of an information sheet for the FL-300. I think it will prove useful for self-represented litigants as a checklist of sorts for them to follow.</p>	<p>The committee believes that the existing language is less confusing for self represented litigants. The notice is primarily intended to inform the responding party that the amount of support is determined by both parties’ income and that the party should submit his or her income information to ensure an accurate order. Adding “no longer in high school” does not inform the self represented litigant when the order will terminate. The word “normally” in the notice indicates that there are exceptions to the general rule that child support terminates at age 18.</p> <p>No response required.</p>

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			<p>The font on this form is Times New Roman, whereas the font on the FL-300 is Arial. Is this deliberate?</p> <p>I suggest the following revisions: General Instructions: *** 1. *** 2. Complete the court order section on page 1 of the form (items 4–86) only when you are asking the court for temporary orders to go into effect before the hearing <u>or for an order requiring the other party to appear at the hearing.</u></p> <p>At the bottom of the first column, there is a list of situations in which the <i>Request for Order</i> shouldn't be used. Although the list generally conforms with the proposed CRC 5.92, the statement "To set aside a child support order or a voluntary declaration of paternity" does not. Rule 5.92 does not list set aside of a child support order or voluntary declaration of paternity as being exempt from the <i>Request for Order</i> process. Is the reference to "setting aside" the child support order related to the <i>Notice and Motion to Cancel (Set Aside) Support Order Based on Presumed Income</i> (form FL-640)? If so, I suggest this be clarified. Otherwise, it doesn't make sense to tell a litigant not to use the FL-300. What else should</p>	<p>The font for the forms conforms to the requirements of the <i>Judicial Council Forms Manual</i>. Plain language forms are Times New Roman and other forms are Arial.</p> <p>There are specific Judicial Council forms for setting aside a child support order (FL-361, FL-640) or a voluntary declaration of paternity (FL-280) and therefore these actions come within the exception specified in the rule. The form name and number has been added.</p>

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			<p>they be using, if not the FL-300? The INFO sheet is otherwise clear that the Request for Order can't be used for specific kinds of situations. But, it would be helpful to a litigant if the form pointed them to other forms:</p> <p>Note: Do not use <i>Request for Order</i> (FL-300) if you are filing a motion or order to show cause: In a paternity or child support case filed by the local child support agency (see forms FL-600 et seq.) To set aside a child support order or a voluntary declaration of paternity (see form FL-640) For a domestic violence protective order under the Domestic Violence Protection Act (see forms DV-100 et seq.) <i>or</i> Other types of cases for which there are other Judicial Council forms</p> <p>1. FL-320, Caption box. I suggest the phrase "Other Party" be revised to read "Joined Party/Other Parent."</p> <p>2. FL-340. Caption box. I suggest the phrase "Other" be revised to read "Joined Party/Other Parent."</p>	<p>The committee has made this change</p> <p>1. The committee and task force recommend leaving it as "Other Party" in the caption box on form FL-320. The committee and task force recommend using the term "other party" instead of "joined party" or "other parent" in all of the proposed forms to be consistent.</p> <p>2. For consistency purposes, as described above, the committee and task force recommend changing the phrase "Other" to "Other Party".</p>
6.	Family Violence Law Center Kristie Whitehorse,	A	How would the service requirements be changed?	The committee does not intend to change the service requirements for motions and orders to

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	Managing Attorney Oakland			show cause.
7.	Roberta Fitzpatrick San Jose	AM	Witnesses: Each party should be entitled to witnesses who can directly testify to facts. If a party chooses, a sworn statement, subject to objection and requiring the witness to appear. Under no circumstances should a Family Court Services staff person be allowed to speak for persons, especially to make accusations about one party with no documentation to verify that information. Family Court must not be allowed to deteriorate into a kangaroo court. Parties must be given ample explanations of procedures and time to gather witnesses. I have spent many hours observing and experiencing the hostile, rude, and punitive behavior of clerks/attorneys toward the poor and traumatized. You need better and ongoing training and supervision in the self help and clerk's offices.	Family Code section 217 specifies that the parties are entitled to present live testimony unless the court finds good cause not to allow it. California Rule of Court 5.119 specifies the factors the court must consider in determining whether good cause exists to exclude live testimony. The committee agrees that self help and clerk's office staff should receive ongoing training and supervision.
8.	Susan Groves, Family Law Facilitator Superior Court of San Diego County San Diego	NI	<p><u>Page 4, line 27:</u> last sentence of Rule 5.92.(a)(A) – on the attorney of record, if any.</p> <p><u>Page 5, line 16:</u> (b)(1) – A memorandum of points and authorities, if ordered by the court.</p> <p>Form FL-300:</p> <p><u>After Item 7,</u> add: Item 8. <input type="checkbox"/> Other:</p> <p>Form FL-300-INFO: This form needs</p>	<p>The committee has redrafted Rule 5.92 to address these comments.</p> <p>The committee has made this change.</p>

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			<p>substantial revision.</p> <p><u>Page 1, left column, after #3, add:</u></p> <p>4. If you are asking the court for orders that will go into effect before the hearing or you are asking the court to order the other party to attend the hearing, ask the court clerk to have the judicial officer sign the “Court Order” portion of the Request for Order and return it and the other forms to you. [this section is being moved from the right column, the first paragraph under Notice (Service) by Personal Delivery with slight changes in wording as well]</p> <p><u>Page 1, right column, second bullet:</u> Other types of cases for which there are other special Judicial Council forms just for those cases.</p> <p>Page 1, right column, Instructions for giving the other party notice (Service) – needs to reformatted and rearranged as it does not flow logically. Suggestion contained below:</p> <p>Notice to the other party (Service) [Change title from “Notice (Service) by Mail”]</p> <p>You must inform the other party of your request. After you have filed your Request for Order and other forms with the court and have received a court date and time stamped on your</p>	<p>The committees revised the form to address this issue.</p> <p>The committee has made this change.</p> <p>The committee has revised this section of the form FL-300 INFO.</p>

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			<p>paperwork by the clerk of the court, you must SERVE a copy of all the documents upon the other party.</p> <p><u>Service By Personal Delivery [changed title by deleting “Notice]</u></p> <p>If you have asked the court for orders that will go into effect before the hearing or you have asked the court to order the other party to attend the hearing (the judicial officer will have signed the “Court Order” portion of the Request for Hearing form):</p> <ul style="list-style-type: none"> • Have someone else (who is at least 18) personally give the papers to the other party. • After the person personally delivers [original version says “mails” even though service is personal] the forms, he or she should complete a Proof of Service (FL-330). • You then file the completed Proof of Service with the clerk of the court before the hearing date. <p><u>Service by Mail [changed title by deleting “Notice”]</u></p> <p>If you have not asked the court for orders that will go into effect before the hearing or that the</p>	

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			<p>other party be ordered to attend the hearing:</p> <ul style="list-style-type: none"> • You can ask another person (who is at least 18) to mail the Request for Order, with any accompanying attachments, and a blank responsive form to the other party. • After the person mails the forms, he or she should complete a Proof of Service by Mail (FL-335) [do you want to say something about post judgment modification of child custody/visitation and support being served by mail with verification?] • You then file the completed Proof of Service by Mail with the clerk of the court before the hearing date. <p>Form FL-321</p> <p>Suggest adding to the header: <input type="checkbox"/> Other Parent/Party: _____</p>	<p>The committee has made this change.</p>
9.	<p>Harriett Buhai Center Erin Dabbs Senior Staff Attorney Los Angeles</p>	AM	<p>Proposed Rule of Court, Rule 5.92:</p> <p><u>Item (a)(5)(A)</u>: Form FL-320 is listed as “Responsive Declaration to Request for Order.” However, it does not appear that a new FL-320 is being proposed. Thus, the correct name of the form is still “Responsive Declaration to Order to Show Cause or Notice of Motion.” We</p>	<p>Form FL-320 was changed to <i>Responsive Declaration for Request for Order</i> and circulated for comment as part of the Family Law: Attorney Fees and Cost rules package (SPR11-35). It is now included in this package to take effect at the same time that the name of the FL-300 changes.</p>

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			<p>recommend that the Judicial Council either rename FL-320 or use the correct name of the form here in the Rules of Court.</p> <p><u>Item (b) Responding Papers:</u> The last sentence of the first paragraph should be changed to “The <i>responding party</i> may also be required to complete the following:” Currently it reads “The <i>Respondent</i> may also be” This is incorrect; it is the <i>responding party</i> that needs to file these documents. The Petitioner could in fact be the responding party if the Respondent filed the OSC. The word “Respondent” should only be used when describing the person who has responded to the underlying action. Further, to be consistent, the word “party” in the first sentence of this item should be changed to “responding party.”</p> <p><u>Item(b)(3):</u> We suggest deleting this section because it is redundant. The introductory paragraph to this item already states that the responding party must file a <i>Responsive Declaration to Request for Order</i> (same comment as above under item (a)(5)(A) that the FL-320 name has not been changed).</p> <p>Proposed Request for Order (FL-300):</p> <p><u>Page 1, Item 6:</u> We recommend moving the information about custody and visitation</p>	<p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee moved the information about custody mediation to item 2 on the Request for</p>

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			<p>mediation at item 6 up to item 2 as it is currently listed on the existing <i>Order to Show Cause</i> (FL-300) form. It is confusing to list the requirement that the parties attend conciliation court as a court order. Litigants who are not asking for ex parte orders might stop reading at item 3 because there is a note stating that they do not need to complete the below section unless they are asking for orders pending the hearing. There is no reason to list conciliation court here, where a litigant is unlikely to even notice it. Instead, conciliation court should be listed above, creating a new item 3 (and adjusting all subsequent numbers accordingly). Additionally, we noticed that there is no note that the Judicial Council is revoking the existing FL-300, <i>Order to Show Cause</i>. There is a note that it is revoking the existing FL-301, <i>Notice of Motion</i>. Presumably the <i>Order to Show Cause</i> form needs to be revoked as well, unless it will still be used in other types of cases.</p> <p>Proposed FL-306/JV-251:</p> <p>As noted above, we assume that the Judicial Council intends to revoke the current FL-300, <i>Order to Show Cause</i>, as it has introduced a new FL-300, <i>Request for Order</i>. Consequently, all references to the <i>Order to Show Cause</i> should be removed, unless there is a special <i>Juvenile Order to Show Cause</i> that is different</p>	<p>Order, but put the actual court order that the parties attend mediation as item 7 under the “court order” section.</p> <p>The existing FL-300 <i>Order to Show Cause</i> would be revised to become the new <i>Request for Order</i> and not revoked.</p> <p>The committee revised the form to clarify FL-306/JV-251 is designed to be used to reissue an order to show cause that is issued on a form other than a <i>Request for Order</i>, a <i>Temporary Restraining Order</i> in juvenile court as well as a <i>Request for Order</i> in family court.</p>

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			<p>from the FL-300.</p> <p>Additionally, as the form appears to also apply to reissuances of <i>Temporary Restraining Orders</i> as these are listed at items 2 and 4b, it seems that “Temporary Restraining Order” should also be listed as an option in the caption rather than just <i>Order to Show Cause</i> and <i>Request for Order</i>. Further, if this form is meant to be used to reissue a <i>Temporary Restraining Order</i> in some context, this should also be added to item 4, where currently only <i>Order to Show Cause</i> and <i>Request for Order</i> are listed. As one further correction on this point, at item 2, the word “or” should follow <i>Request for Order</i> to indicate that the <i>Temporary Restraining Order</i> is a third option.</p> <p>Witness List (FL-321):</p> <p>This form would benefit from a note at the bottom explaining that if the litigant has more than three witnesses, he or she could attach additional witness lists. Perhaps add a short note at the bottom along with a box to check that states “Additional witnesses are listed on attached FL-321.”</p> <p>FL-320, Item 5. Add boxes at items a, b and c, after the letter, and before the text, to be consistent with all other items on the form.</p>	<p>The committee added <i>Temporary Restraining Order-Juvenile</i> to the caption and substantially revised the form to clarify that the Restraining Order –Juvenile is one of the orders that may be reissued by using this form.</p> <p>The committee revised the Witness List form to provide space for 6 witnesses.</p> <p>This committee and task force agree to make this change.</p>

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10.	Robert K. Holmes, CFLS Attorney at Law Holmes & Holmes Glendale	A	Well thought out changes.	No response required.
11.	Legal Advocates for Children and Youth (LACY) Andrew Cain, Supervising Attorney San Jose	A	<u>FL-321</u> : The Judicial Council asked for ways to reconcile concerns about providing contact information of potential witnesses. LACY believes the Judicial Council chose the appropriate approach in allowing the option to provide contact information. Should a party lack access to a witness, the trial court can weigh the various interests at issue and determine whether, upon request of that party, disclosure of contact information is required and/or a continuance is needed. The need to make these considerations on a case-by-case basis suggests that a uniform statewide rule would be inappropriate.	The committee decided to delete the column seeking contact information based upon other comments.
12.	Los Angeles Center For Law And Justice (LACLJ) Suma Mathai, Supervising Family Law Attorney Los Angeles	AM	Form FL-300 On Page 1, Item 6 should be moved above the litigant's signature and re-numbered as Item 4 (and all subsequent items re-numbered accordingly). Underneath the litigant's signature line is a new advisory instructing the litigant not to complete the section below unless s/he is requesting temporary orders. However, Item 6 – which applies to every litigant requesting custody and visitation orders, not just those requesting orders pending the hearing date – is underneath this section. This placement may give litigants the impression that they are	The committee moved the information about custody mediation to item 2 on the Request for Order, but put the actual court order that the parties attend mediation as item 7 under the “court order” section.

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			<p>not required to attend mediation if they are not requesting temporary orders, so we suggest that this item be moved for clarity.</p> <p>Form FL-300-INFO Regarding the instructions for service by mail, these instructions do not provide adequate information in the event that the opposing party has not been served with the initial Petition, or not yet made a general appearance or had default entered against them. In these cases, personal service of the OSC on the non-moving party is required. Thus, we propose that the language be revised as follows: “Notice(Service) by Mail If you are not asking the court orders that will go into effect before the hearing <i>and the other party has already filed their Petition or Response:...</i>”</p> <p>“Notice (Service) by Personal Delivery If you are asking the court for orders that will go into effect before the hearing or <i>the other party has not yet filed a Response you are asking the court to order the other party to attend the hearing.</i>”</p> <p>Form FL-321 For the protection of those litigants and/or potential witnesses who are victims of domestic violence, we strongly advocate that the</p>	<p>The committee revised this section to address this comment.</p> <p>The committee decided to delete the column seeking contact information based upon other comments.</p>

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			<p>inclusion of contact information for witnesses remain optional. In these cases, several options may be viable for the other party that wishes to depose and/or contact potential witnesses: (1) On the date of the hearing, a party may request a short continuance and, after having met and conferred with the moving party, request that the court order the potential witness to appear at a deposition or provide information to the other party. At that time, either party may raise objections with the court, which can make orders prohibiting witness tampering or proscribing the scope or manner of witness examination.</p>	
	<p>Los Angeles County Bar Association – Family Law Section Executive Committee, David P. Shebby, Esq. Claudia Ribet, Esq. Los Angeles</p>	<p>AM</p>	<p>SPR 11-38 - Rule 5.92 Application for Court Order; Response.</p> <p>Rule 5.92: The LACBA Family Law Section supports the new proposed Rule 5.92.</p> <p>Form FL-300 The proposed form FL-300 (the "proposed form") consolidates the current forms FL-300 (OSC), FL-30 I (Notice of Motion) and FL-310 (Application for Order and Supporting Declaration). However, the proposed form does not contain any language whereby a party may be ordered to appear at the hearing as is the case with the current FL-300. Nor does the proposed form instruct the responding party that, should</p>	<p>No response required.</p> <p>The committee has added language ordering the party to appear.</p>

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			<p>they fail to appear at the hearing, adverse orders may be made in their absence. We believe the Proposed form should be amended to permit a party to be ordered to appear at a hearing. Similarly, we believe the proposed form should be amended to include a warning the responding party of the consequence of failing to timely file and serve a response or attend the hearing.</p> <p>The proposed form, in the box at the bottom of page 1of 3, states that "the original responsive declaration must be filed with the Court and a copy of the Responsive Declaration must be served on the other party 9 calendar days before the hearing date unless the Court has ordered a shorter period of time." (Emphasis added). This is an incorrect statement of law. Code of Civil Procedure §1005(b) provides that a response is due 9 court days before the hearing date. We believe the Proposed form should therefore be amended to replace the term "calendar" with the term "court."</p> <p>The proposed form, in the box at the bottom of page 1 of 3, also instructs a party serving responsive papers to "add 5 calendar days if you serve the other party by mail within California." This is also incorrect statement of law. Code of Civil Procedure §1005(c) provides that responsive papers "shall be served in a manner ... reasonably calculated to ensure delivery to</p>	<p>The committee has changed 9 “calendar” to 9 “court” days.</p> <p>The committee has changed the information concerning service of responsive papers to conform to Code of Civil Procedure §1005(c).</p>

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			the other party not later than the close of the next business day" after the response is filed. The 5 calendar days referred to in the proposed form are only applicable to papers giving initial notice. Code of Civil Procedure §1005(b). See also R. Weil and I Brown Jr. California Practice Guide; Civil Procedure Before Trial (The Rutter Group 2011) at §9: 105.1, p 9(1) -75. We believe the proposed form should therefore be modified to state that the responsive papers must be served in a manner reasonably calculated to ensure delivery no later than the business day subsequent to filing.	
14.	Sasha Morgan Managing Attorney, Self Help Center/ Family Law Facilitator Superior Court of Santa Cruz County Watsonville	AM	This is great new process, which will make filing a motion much simpler. I do not understand a section on the Information Sheet – bottom left Note: Do not use... I do not understand why this form will not be allowed in a DCSS case. Currently if a SRL wants to request a modification of their support in a DCSS case or a variety of other things such as determine arrears we use the OSC or NOM. If we can't use this new form what will we use in a DCSS case? I was wondering if this note meant that DCSS cannot use it, but a SRL could. This was confusing.	The committee has changed the language to clarify that while DCSS and local child support agencies may continue to use the governmental child support forms for <i>Notice of Motion</i> and <i>Order to Show Cause</i> instead of the <i>Request for Order</i> , parents and other parties may use the new <i>Request for Order</i> in their DCSS cases.
15.	Kathleen Murphy Assistant Senior Family Law Facilitator	AM	Why can't this form also be used by a party trying to modify or get custody/visitation orders in a case filed by the LCSA (a DCSS case). So	The committee has changed the language to clarify that while DCSS and local child support agencies may continue to use the governmental

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	Superior Court of Contra Costa County Martinez		<p>long as venue is appropriate, parties are litigating custody/visitation in the DCSS case now, so why make them use a different form than everyone else? And what form would that be?</p> <p>All the forms should have Other in the caption and where necessary throughout the body of the forms (along with Petitioner and Respondent) so there is room for all the parties.</p> <p>On the FL-300 INFO under the section for Notice (Service) by Personal Delivery, the 3rd bullet point reads: “After the person mails the forms....” It should read “After the person gives the forms to the other party....”</p>	<p>child support forms for <i>Notice of Motion</i> and <i>Order to Show Cause</i> instead of the <i>Request for Order</i>, parents and other parties may use the new <i>Request for Order</i> in their DCSS cases.</p> <p>The committee has added “Other Parent/Party” to all of the forms, which a person other than petitioner or respondent might use.</p> <p>The committee has made this change.</p>
16.	Neighborhood Legal Services of Los Angeles County Carmen Goldberg, Esq. Pacoima	NI	<p>Comment Regarding all Forms in this Packet: NLSLA understands that part of the purpose of the Elkins committee was to create rules and forms using language that would be more accessible to a self-represented litigant. Other than replacing the term “Order to show Cause” with “Request for Order” on the FL-300, the Committee has not done anything to make these new forms easier to use for the self-represented litigant. NLSLA proposes that the Committee rewrite these forms for use by self-represented litigants.</p> <p>I. Form FL-321 Witness List</p>	<p>The committee will consider creating a simplified version of the <i>Request for Order</i> in a future RUPRO cycle in which the form would be circulated for comment.</p>

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			<p>A. Response to Specific Committee Question re Form FL-321 Witness List:</p> <p><u>1. Witness Contact Information:</u> Family Code §217 does not require that parties provide contact information for witnesses. Therefore, we feel this column is inappropriate in any case, regardless of whether there is domestic violence in the case or not. F.C. §217 only requires that the parties give a brief description of the anticipated testimony. Therefore, the Form FL-321 should only have two columns, one for “Name” and one for a “Brief Description of Testimony or What the Witness will Say.”</p> <p>An attorney representing a client (or a self-represented litigant who has learned about this procedure) can obtain witness contact information through discovery, such as interrogatories. If the court sees that a party has been unfairly prejudiced by a newly offered witness, the court has the ability to make orders ameliorating the prejudice, such as continuing the hearing.</p> <p>If the Committee was inclined to keep a witness contact column on this form, NLSLA believes that there must be an exception for domestic violence cases, where giving the Respondent</p>	<p>The committee has deleted the column requesting contact information for the witnesses.</p>

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			<p>notice of the witnesses’ contact information could place the witnesses in danger. Again, if the Court saw that a Respondent was unfairly prejudiced because they did not have contact information of witnesses (although the Code does not require it), the Court has the ability to make orders directly addressing that issue.</p> <p>B. Other Comments re Form FL-321 Witness List:</p> <p>1. “<u>Attachment to . . .</u>”: We anticipate that this form will not always be used as an attachment. Neither does F.C. §217 require that the witness list be served/filed along with the Request for Order or Response. Often, litigants do not know whom they can or will be calling as a witness when they file their Request or Response. Many self-represented litigants “SRL” may have no idea of this extra requirement of a witness list, and will be preparing and filing it at the hearing. Therefore, this form should be designed with a caption including a box for a file stamp. The form could contain its own proof of service section, or the parties could use the general proof of service form.</p> <p>2. We note that there is no equivalent form to be used in DVPA cases, although DVPA parties</p>	<p>Rule 5.119(e) of the California Rules of Court adopted by the Judicial Council effective July1, 2011 states that “[w]itness lists required by Family Code section 217 must be served along with the order to show cause, notice motion, or responsive papers in the manner required for service of those documents. If no witness list has been served, the court may require an offer of proof before allowing any nonparty witness to testify.” Nevertheless, the committee has redesigned the form as suggested.</p> <p>Parties in DVPA cases may use this form.</p>

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			<p>are also subject to F.C. §217.</p> <p>II. Proposed Rule 5.92:</p> <p><u>Comment re 5.92(a)(1)</u>: The Rule says, “In a family law proceeding, other than an action under the [DVPA] . . . a notice of motion or [OSC] must be filed on a Request for Order (form FL-300), unless another Judicial Council form has been adopted” This language could be confusing to DVPA litigants, because the language “other than an action under the [DVPA]” could be read to mean that requests for orders modifying DVPA orders are an exception to this rule.</p> <p>NLSLA believes that DVPA litigants should have a separate, simple-language form - consistent with the other DVPA forms - to make modifications to DVPA orders. However, if it is approved that requests for orders modifying DVPA orders must be made with an FL-300, we recommend modifying the language of this portion of the Rule in order to clarify this issue.</p> <p>III. Form FL-300 Request for Order</p> <p>A. Comments re Form FL-300 Request for Order:</p> <p>1. This form is inappropriate for use as a</p>	<p>The committee added language to clarify that the form may be used in a DVPA action. Some courts have indicated that they allow motions for modification in DVPA actions to be filed on the <i>Request for Order (DV-100)</i>.</p> <p>The committee will consider adopting a separate DVPA form that requests modification of orders in DV cases. In the meantime, this form may be used to modify DVPA orders.</p> <p>The committee will consider adopting a separate</p>

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			<p>Request to Modify an order in a DVPA case. First, this form is not consistent with the rest of the DVPA forms as this form is not in plain language or format. The policies, which are the reason for the plain language DVPA forms, apply equally to those forms modifying a DVPA order. The vast majority of DVPA litigants is self-represented and will have difficulty with these forms. Some of the courts in which NLSLA practices in Los Angeles use the DV-100 form both as an initial request form and a form to request an amended order. In the alternative, NLSLA suggests that the Committee create a simple language form to modify orders in DVPA cases.</p> <p>2. If the Committee were to choose to use this form to modify orders in DVPA cases, NLSLA suggests that the form be modified to have a check box in the caption specifically referring to “Modification of Domestic Violence Order.”</p> <p>3. Item 3.a. refers to form FL-310 as well as FL-320, both of which have been revoked.</p> <p>4. The new box on the bottom of page 1 is a</p>	<p>DVPA form that requests modification of orders in DV cases.</p> <p>The committee suggests checking the “Modification” box and the “Other” box and then specifying that it is a DVPA order.</p> <p>The reference to FL-310 has been deleted. Form FL-320 was changed to <i>Responsive Declaration for Request for Order</i> and circulated for comment as part of the Family Law Attorney’s Fees and Cost (SPR 11-35) rules package. It is now included in this package to take effect when the FL-300 changes.</p> <p>The committee has made this change.</p>

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			<p>message to the responding party. This box should contain an introductory phrase, such as: “To the party responding to this Request for Order: You must file a responsive declaration”</p> <p>5. Section headings: The heading on page 2 which reads, “Application for Order and Supporting Declaration” should read instead: “Request for Orders.” Then, on Page 3, above Item 10 Facts in Support, the Committee should insert the following heading: “Supporting Declaration.” This modification would at least partially clarify the two purposes of the form by dividing it into two sections.</p> <p>6. NLSLA notes an inconsistency in that the FL-300 is a Request for Order (singular), but the FL-305 is titled Temporary Court Orders (plural).</p> <p>IV. Form FL-306 Application and Order for Reissuance of Order to Show Cause . . .</p> <p>1. NLSLA finds the repeated use of separate boxes for Order to Show Cause and Request for Order to be confusing. We suggest eliminating or modifying this format in order to minimize this confusion. Without a specific explanation of the Committee’s reason for proposing this format, NLSLA is unable to propose an</p>	<p>The committee has changed the heading on page 2 to: “Request for Order and Supporting Declaration.”</p> <p>Agree</p> <p>The committee revised the form to clarify FL-306/JV-251 is designed to be used to reissue an order to show cause that is issued on a form other than a <i>Request for Order</i>, a <i>Temporary Restraining Order</i> in juvenile court, as well as a <i>Request for Order</i> in family court. The revisions deleted the repeated references.</p>

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			<p>alternative format.</p> <p>V. Form 315 Application or Response re Separate Trial</p> <p>1. NLSLA suggests that the Committee modify this form to replace the term “application” with the term “request.” This change is consistent with the changes to the FL-300 and is more simple language.</p>	The committee has made this change.
17.	Maralee Nelder, CFLS Attorney at Law Grass Valley	AM	FL 300 Notice block at the bottom of page 1 about the timing of filing responsive pleadings raises a query. Doesn't CCP 1005 (b) specify responsive / opposing pleadings be filed 9 court days in advance of the hearing, rather than 9 calendar days?	The committee has made this change.
18.	Orange County Bar Association	A	No narrative comments submitted.	No response required.
19.	Sonoma County Bar Association Family Law Section Best Practices Committee by Greg Jilka Santa Rosa	A	No narrative comments submitted.	No response required.
20.	Sonoma County Bar Association Family Law Section Carla Boyd Terre Santa Rosa	AM	1. FL-320, Item 5d. What is currently Item 5.d should be changed to its own item number (item 6) and the other numbers below should be renumbered accordingly. What is currently item 5d also applies to requests for child support, and	1. The committee and task force recommend deleting item 5d in its entirety. The committee and task force agree that a completed <i>Income and Expense Declaration</i> (form FL-150) is required for child support, spousal or partner support, and

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			<p>spousal support. By only listing the need to file FL-150 under attorney’s fees, the form may confuse self-represented litigants.</p> <p>2. FL-320, Item 5d. What is currently Item 5d should then read: “<u>If child support, spousal support, partner support, and/or attorney’s fees are at issue, then</u> you must also complete, file, and serve the following documents: . . .”</p>	<p>needs-based attorney’s fees and costs, but the committee and task force do not recommend including a reference to the <i>Income and Expense Declaration on Responsive Declaration to Request for Order</i> (form FL-320) because it does not fit the current format of form FL-320.</p> <p>In addition, information about filing form FL-150 is already included in other rule and form proposals currently being considered for adoption by the Judicial Council, including: the <i>Request for Attorney’s Fees and Costs Order Attachment</i> (form FL-319) (in item 7b of the “Notice to Responding Party” section) and <i>Information Sheet for Request for Order</i> (form FL-300-INFO).</p> <p>2. As described above, the committee and task force do not recommend adding additional language on the form describing which documents to attach. The committee and task force recommend eliminating item 5d in its entirety.</p>
21.	<p>The State Bar of California Standing Committee on the Delivery of Legal Services (SCDLS) Office of Legal Services By Sharon Ngim Program Developer and Staff Liaison, San Francisco</p> <p>[This position is only that of the State Bar of California’s Standing Committee on the</p>	AM	<p>Combining the Notice of Motion forms with the Order to Show Cause forms makes sense and provides a simpler vehicle to make requests of the court. Simplification of this process will provide more clarity to the method in which orders in a family law case are obtained. For both represented and self-represented litigants, the forms are clear and instructions in the rules are helpful to understand what is required when</p>	<p>No response required.</p>

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<p>Delivery of Legal Services. This position has not been adopted by the State Bar’s Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California. Committee activities relating to this position are funded from voluntary sources.]</p>		<p>filing these pleadings.</p> <p>Highlighting the need to file a Response to the Request for Order will be helpful as many people are not aware of the need to file a Responsive Declaration in these matters.</p> <p>The proposed witness list form helps litigants access their right to live testimony. The form is straightforward for use by both a represented and self-represented person. To help avoid harassment of witnesses, it would be helpful to place a warning at the top of this form indicating that it is a crime to harass or dissuade a person from testifying in court.</p> <p>In addition, to the comments above, technical changes are suggested below:</p> <ul style="list-style-type: none"> • Replace “Visitation” with “Parenting Time” throughout forms FL-300 and FL-315. <p><u>Form FL-300</u></p> <ul style="list-style-type: none"> • In title area of the form, add a box for Motion in the top row, next to the Modification box. Both Modification and Motion boxes should be on line of Request for Order. Hearings are calendared, cases prepped for hearing, legal research performs review and stats are maintained according to these hearing types, to not specifically identify these would create extra 	<p>No response required.</p> <p>The committees removed the column which requested contact information for the witnesses and therefore feel that the notice is not necessary.</p> <p>The committee decided to use “visitation (parenting time).”</p> <p>The comments include a number of suggestions for adding a number of different boxes to be checked in the area towards the top of the form. The committee will review whether to adopt a cover sheet to be completed by the attorney or litigant, which would help identify the types of motions and orders to show cause that courts need to identify for more efficient case processing. In</p>

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			<p>work for court staff and judicial officers as they try to identify the hearing through document review.</p> <ul style="list-style-type: none"> • In item 2, replace “relief” with “order”, as “relief” is not always requested. • In item 2(a), replace two entries of Dept: Room: as one entry labeled Dept/Room: • Expand box around 2(a) to include the information in 2(b) so that all the information regarding the hearing, including the location, is together. There is inconsistency in the forms in this area. • Section under party signature line is unclear and it appears that this information should be completed by the court, and as such, the checkbox in front of “COURT ORDER” should be removed. We suggest the wording above “COURT ORDER” read, “THIS SECTION FOR COURT USE”; this should be completed by the Court, if completed incorrectly it will need to be crossed out, or could be overlooked and not crossed out when it should be. <p><u>Form FL-300-INFO</u></p> <ul style="list-style-type: none"> • In item 1, add the following language: “Check all boxes that apply to the order you are 	<p>the meantime, courts can ask litigants to identify motions in the “Other box”.</p> <p>The committee has made this change.</p> <p>Some courts may still need both.</p> <p>All of the family law forms use this format and it conforms to the <i>Judicial Council Forms Manual</i>.</p> <p>The wording above the court order has been removed to accommodate courts that have court personnel complete the court order section. The check box in front of the court order remains since the form will sometimes be used as a notice of motion and no court orders will be required.</p> <p>The committee has made this change.</p>

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			<p>requesting. Mark the Modification box if you are requesting a change to an existing order.” (See suggestion re: Modification above.)</p> <ul style="list-style-type: none"> • Remove item 2; this section should be for court use only. (See suggestion above.) • In last bullet under Notice by Mail, to be consistent with the rest of the information sheet, the form number should be added after <i>Proof of Service by Mail</i> (FL-335). • In last bullet under Notice by Mail, pursuant to new rule 5.94(c), the last line should read “with the clerk of the court <u>five court days</u> before the hearing date.” <p><u>Form FL-321</u></p> <ul style="list-style-type: none"> • Under heading labeled “Witness List”, add box for “Other” and a line to specify the party, in the event another party (such as Minor’s Counsel) intends to call witnesses. • Contact information is not requested in witness lists for civil or criminal cases – why is this an optional requested item on the Family Law form? 	<p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p>
22.	Superior Court of Amador County Janet Davis, Court Manager	AM	The new FL-300 is to take the place of both the OSC and the NOM. There is no place on the proposed FL-300 that is an order to show cause	The committee has added the language from the <i>Order to Show Cause</i> ordering the party to attend the hearing, back into the form.

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			<p>or ‘orders the party to attend the court hearing.’ Below is the language from the current FL-300. It was my understanding if the court does not have jurisdiction of a party the order to show cause process is used to order the party to attend and allows the court to make orders upon valid proof of service.</p> <p>Accordingly the revised form FL-306 for reissuance is confusing in that it has many references to an “order to show cause” but there is no language on the proposed revised FL-300 that sets forth or contains the language it is an “order to show cause.” From what I can determine it is only a “Request for Order.” The references to order to show cause on the FL-306 is confusing since there is no order to show cause. Even the Proposed Revised FL-305 (temporary orders) does not contain order to show cause language.</p>	<p>The committee revised the form to clarify FL-306/JV-251 is designed to be used to reissue an order to show cause that is issued on a form other than a <i>Request for Order</i> , a <i>Temporary Restraining Order</i> in juvenile court as well as a <i>Request for Order</i> in family court.</p>
23.	<p>Superior Court of Contra Costa County Kathleen Shambaugh Business Operations Administrator Martinez</p>	AM	<p>Combining the Order to Show Cause and Notice of Motion forms is a very good idea; I have a few suggestions:</p> <p>1. Add “Other” in the box for Petitioner and Respondent. These forms are used to request custody orders and support modifications by respondents in DCSS cases. In those cases, the obligee/custodial parent is identified as the “Other Parent.”</p>	<p>The committee has made this change.</p>

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			<p>2. FL-300 – text box that begins “You must...” change to: “If you want to file a response to this request, you must file a responsive declaration...”</p> <p>Also, add that there is no filing fee to file a responsive declaration with the court.</p> <p>3. Address box at the top of all forms: many self-represented litigants are confused about the address box; they fail to complete it because it says “Attorney or party without attorney.” Could you change the caption to read, “Name and address of party OR Name, address and State Bar number of attorney.”</p> <p>4. Add “Other” to all of the caption boxes at the top of the other pages in the forms.</p> <p>5. FL-300 –INFO: Section 3: delete “In a paternity or child support case filed by the local child support agency.” Litigants do use these forms to request custody orders in governmental cases and to request child support modifications in governmental cases.</p> <p>6. FL-300-INFO: third paragraph from the top: add information about court filing fees and fee waivers after the information about asking for a court date and time.</p>	<p>The committee has made changes to address this comment.</p> <p>The committee has made this change.</p> <p>The address box has been changed to read:</p> <p>The committee has made this change.</p> <p>The committee has clarified that litigants in child support cases may use the form, but that DCSS is not required to use it</p> <p>The committee has made this change.</p>

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	Commentator	Position	Comment	Committee Response
			7. FL-305, section 3 add a checkbox for “Other.”	The committee has made this change.
24.	Superior Court of Los Angeles County Los Angeles	AM	<p>These changes are generally excellent. We have comments on two of the forms.</p> <p>Form FL-300 (Request for Order).</p> <p>The form should include an additional box on the front page under “Request for Order” for “Discovery” and a box for “Bifurcation.” We have historically treated discovery and other motions differently from OSC’s because we have research attorneys assisting some of our courtrooms with discovery and other motions. It would be very helpful to us to have these two boxes since these kinds of requests would be the majority of the motion-type requests we receive. It will save a great deal of our staff time to add these boxes so that the request can be routed to the appropriate person.</p> <p>The material which is in item 6 should be at the top as item 2 and sufficient space should be left to fill in the appointment information. Where it is now located, it appears that the requirement for mediation applies only if one is asking for orders before the hearing date.</p> <p>The instructions indicate that the applicant is to</p>	<p>The comments include a number of suggestions for adding a number of different boxes to be checked in the area towards the top of the form. The committee will review whether to adopt a cover sheet to be completed by the attorney or litigant, which would help identify the types of motions and orders to show cause that courts need to identify for more efficient case processing. In the meantime, courts can ask litigants to identify discovery motions and bifurcations in the “Other box”.</p> <p>The committee moved the information about custody mediation to item 2 on the Request for Order, but put the actual court order that the parties attend mediation as item 7 under the “court order” section.</p> <p>The committee has made the changes to the</p>

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			<p>fill out items 1 through 3. In our court, the filing window assigns the hearing dates and times. The instructions should state that the applicant should fill out items 1 AND 4 (assuming that item 6 becomes item 3). The form itself could indicate “For court use only” in the 2 box.</p> <p>The bottom part of the form (below “Do not complete this form...”) is confusing: it is not clear that it is to be used in connection with seeking ex parte relief. There is no place to indicate that the request is being made on an ex parte basis (a defect in the current forms, too) and the language suggests that the applicant is to fill out items 4 and 5. In Los Angeles, the court fills in the information about the shortened time since it is a Court Order. We do not want this information filled in by the applicant.</p> <p>It would be helpful to have another box at the top of the form for use for ex parte requests -- for example “Request for Temporary Order.”</p> <p>The language preceding items 4 and 5 (or 5 and 6 if item 7 is moved up) also suggests that items 4 and 5 would only be completed if temporary orders are made when often the only temporary orders made as a result of an ex parte request are those for shortened time. We suggest substituting “To be completed only by court” for the language “Do not complete...”</p>	<p>information sheet.</p> <p>The committee deleted the language “Do not complete...”</p> <p>The committee has added a box for “Request for Temporary Emergency Orders.”</p> <p>The committee deleted the language before the court order, but decided to leave it blank rather than add “For Court Use Only” in order to accommodate the practice in some courts that requires the litigant or attorney to complete this section before filing.</p>

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			<p>Item 7 should refer to the FL 305 which is the attachment on which the temporary orders would be indicated.</p> <p>The notice about ADA accommodation is missing.</p> <p>Draft Information Sheet for Request for Order (FL-300 INFO)</p> <p>The first instruction should be to complete items 1 and 3, not items 1 – 3. The court fills in the hearing date, time, department and room.</p> <p>On the right side, top of the page, the second bullet point states “Other types of cases for which there are other Judicial Council forms.” We propose that this be changed to “Other types of cases when there is a specific Judicial Council form for that type of relief.”</p> <p>Make it clear that notice is given <u>after</u> the hearing date is obtained. Specifically, add “Then” before the heading “Notice (Service) by Mail.”</p> <p>Either the term “court date” or “hearing” should be used but not both as self-represented litigants may be confused by the use of the different terms for the same meaning.</p>	<p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee changed the sentence to read: “Other types of cases when there is a specific Judicial Council form just for those types of cases”</p> <p>The committee has made changes that address this comment.</p> <p>“Court date” and “hearing” do not always have the same meaning. Court date only refers to the date of the hearing.</p>

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			The “Notice” section should contain the time requirement for service.	The committee has made this change.
25.	Superior Court of Monterey County Minnie Monarque Director of Civil & Family Law Division	A	Agree with proposed changes. With regard to proposed form FL-321 Witness List, It is noted that if a party wishes to obtain information from a witness to a party there are means through discovery to obtain information from proposed witnesses. Such witnesses are also welcome to seek protective orders either from discovery proceedings or in the form of civil harassment if the situation mandates it. This however can increase the amount of litigation, and will certainly increase the amount of cost to litigants as well as require additional court resources should discovery disputes arise.	The committee has deleted the column requesting contact information.
26.	Superior Court of Orange County Family Law Judicial Panel Santa Ana	AM	The “Request for Order” form does not provide for a box to be checked for law and motion matters. The form must include such a box or scheduling issues will arise which will result in increased continuances. Law and motion matters are to be accompanied by points and authorities pursuant to the CCP. There should be some reference to this requirement on the form as there is for the FC 4320 factors.	The comments include a number of suggestions for adding a number of different boxes to be checked in the area towards the top of the form. The committee will review whether to adopt a cover sheet to be completed by the attorney or litigant, which would help identify the types of motions and orders to show cause that courts need to identify for more efficient case processing. In the meantime, courts can ask attorneys and litigants to identify law and motion matters in the “Other box”. Rule 5.119 of the California Rules of Court state that: “No memorandum of points and authorities

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				need be filed with an application for a court order unless required by the court on a case-by-case basis.”
27.	Superior Court of Orange County Family Law Operations Staff Santa Ana	AM	<p>"Visitation" should be replaced with "Parenting Time" throughout forms FL-300 and FL-315</p> <p>Form FL-300</p> <p>-in title area of form, add a box for Motion in the top row, next to the Modification box. Both Modification and Motion boxes should be on line of Request for Order. Hearings are calendared, cases prepped for hearing, legal research performs review and stats are maintained according to these hearing types; to not specifically identify these would create extra work for court staff and judicial officers as they try to identify the hearing through document review.</p> <p>-in item 2, "relief" should be replaced with "order"; it is not always "relief" being requested.</p> <p>-in item 2(a), replace two entries of "Dept: Room:" as one entry labeled "Dept/Room:"</p> <p>-box around 2(a) should be expanded to include the information in 2(b) so that all the information regarding the hearing, including the location, is together. There is inconsistency in the forms in this area.</p>	<p>The committee has changed “Visitation” to “Visitation (Parenting time)”</p> <p>The comments include a number of suggestions for adding a number of different boxes to be checked in the area towards the top of the form. The committee will review whether to adopt a cover sheet to be completed by the attorney or litigant, which would help identify the types of motions and orders to show cause that courts need to identify for more efficient case processing. In the meantime, courts can ask attorneys and litigants to identify motions in the “Other box”.</p> <p>The committee has made this change.</p> <p>Some courts may still need both.</p> <p>All of the family law forms use this format and it conforms to the <i>Judicial Council Forms Manual</i>.</p>

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			<p>-section under party signature line is unclear. Seems that this information should be completed by the court, and as such, the checkbox in front of "COURT ORDER" should be removed. Suggest wording above COURT ORDER read: "THIS SECTION FOR COURT USE"; this should be completed by the court, if completed incorrectly it will need to be crossed out or could be overlooked and not crossed out when it should be.</p> <p>Form FL-300-INFO</p> <p>-in item 1, add the following language: "Check all boxes that apply to the order you are requesting. Mark the Modification box if you are requesting a change to an existing order." (See suggestion re: Modification above.)</p> <p>-remove item 2; this section should be for court use only. (See suggestion above).</p> <p>-in last bullet under Notice by Mail, to be consistent with the rest of the information sheet, the form number should be added after Proof of Service by Mail (FL-335)</p> <p>-in last bullet under Notice by Mail, pursuant to new rule 5.94(c), the last line should read "with the clerk of the court five court days before the hearing date"</p>	<p>The committee deleted the language before the court order, but decided to leave it blank rather than add "For Court Use Only" in order to accommodate the practice in some courts that requires the litigant or attorney to complete this section before filing.</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p>

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			<p>Form FL-320</p> <ol style="list-style-type: none"> 1. FL-320 and FL-340. Replace “Visitation” with “Parenting Time” throughout forms FL-320 and FL-340. 2. FL-320, Items 5a-c. Add checkboxes to items 5a, 5b, and 5c. 3. FL-320, Item 5d. Change “You must also complete, file, and serve the following documents” to “<u>I have completed, filed and served the following documents:</u>” <p>Form FL-321</p> <ul style="list-style-type: none"> -under heading labeled Witness List, add box for Other and a line to specify the party, in case another party (such as Minor's Counsel) intends to call witnesses. -contact information is not requested in witness lists for Civil or Criminal cases - why is this an optional requested item on the Family Law form? 	<ol style="list-style-type: none"> 1. The committee and task force agree to add a reference to “parenting time” next to “visitation” in forms FL-320 and FL-340. 2. The committee and task force agree to make this change. 3. The committee and task force recommend deleting item 5d in its entirety. This information is included on the <i>Request for Attorney’s Fees and Costs Order Attachment</i> (form FL-319), and it is unnecessary to include it in both places. <p>The committee has made this change</p> <p>The committee has deleted the column requesting contact information.</p>
28.	Superior Court of Riverside County Superior Court Staff Michael Capelli, General Counsel Riverside	AM	<p>It appears that the proposed rule is trying to combine two processes into one, but in the end it has not simplified the process. The following changes are suggested:</p> <p>Rule 5.92. Application for court order;</p>	

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			<p>response</p> <p>5.92(a)(1)(A) Typo re. CCP § 413.10 (not 4.13.10)</p> <p>Also, suggest following revision:</p> <p>(a) Application for order; procedures (1) In a family law proceeding, other than an action under the Domestic Violence Prevention Act, local child support agency actions under the Family Code, or a contempt proceeding relating to family law, a notice of motion or order to show cause must be filed on a <i>Request for Order</i> (form FL-300), unless another Judicial Council form has been adopted or approved for the specific motion or order to show cause.</p> <p>If the request for order seeks court orders pending a hearing or is seeking [is seeking] an initial orders that the other party attend the hearing, the <i>Request for Order</i> (form FL-300) and attachments as appropriate to the case must be filed with the court before service on the other party. and a copy of the <i>Temporary Orders</i> (form FL-305) endorsed by the clerk must be served [Service will be carried out] in the manner specified for the service of a summons in Code of Civil Procedure section 4.13.10 et seq., unless the other party has made an</p>	<p>The committee has made this change.</p>

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			<p>appearance in the action, in which case service may be made on the attorney of record.</p> <p>5.92(a)(1)(B): Modify the paragraph to clarify its applicability to orders sought after the initial order, but before judgment. Also, clarify what is meant by a “permanent order” in a custody visitation proceeding.</p> <p>“If the <i>Request for Order</i> (form FL-300) is filed to modify existing orders, or after entry of a judgment of dissolution of marriage, nullity of marriage, legal separation of the parties, or paternity, or after a permanent order (defined as : ...) in any other proceeding in which the visitation, custody, or support of a child was at issue, it must be served as specified in Family Code section 215.”</p> <p>5.92 (a)(5)(B) Make this provision consistent with 5.92(a)(4), concerning the moving parties obligations by clarifying that certain documents are “required” to be completed and served because they are relevant to the relief requested. Suggest:</p> <p>(B) <i>Income and Expense Declaration</i> (form FL-150) or <i>Financial Statement (Simplified)</i> (form FL-155) and <i>Property Declaration</i> (form FL-160), when completed declarations are among</p>	<p>This paragraph references Family Code section 215 which specifies that it applies to post judgment or permanent orders. It does not apply to prejudgment orders. The committee believes that any attempt at defining a permanent order must be circulated for comment</p> <p>The committee has made this change.</p>

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			<p>the papers <i>relevant to relief requested</i>.</p> <p>[(i) If the request for order seeks court orders pending a hearing, the Temporary Orders (form FL-305) must accompany the Request for Order (FL-300).]</p> <p>(B) If the <i>Request for Order</i> (form FL-300) is filed [to modify existing orders, or] after entry of a judgment of dissolution of marriage, nullity of marriage, legal separation of the parties, or paternity, or after a permanent order in any other proceeding in which the visitation, custody, or support of a child was at issue, it must be served as specified in Family Code section 215.</p> <p>(2) The <i>Request for Order</i> (form FL-300) must set forth facts sufficient to notify the other party of the declarant’s contentions in support of the relief requested.</p> <p>(3) No memorandum of points and authorities need be filed with an application for a court order unless required by the court on a case-by-case basis.</p> <p>(4) A completed <i>Income and Expense Declaration</i> (form FL-150) or <i>Financial Statement (Simplified)</i> (form FL-155) and <i>Property Declaration</i> (form FL-160) must be</p>	<p>This paragraph references Family Code section 215 which specifies that it applies to post judgment or permanent orders. It does not apply to prejudgment orders. The committee believes that any attempt at defining a permanent order must be circulated for comment</p> <p>This is existing language.</p> <p>This is existing language.</p> <p>The committee has made this change.</p>

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			<p>attached to <i>Request for Order</i> (FL-300) when relevant to the relief requested, [filed with the court when relevant to the relief requested in the Request for Order (FL-300), unless a current Income and Expense Declaration (form FL-150) or Financial Statement (Simplified) (form FL-155) and Property Declaration (form FL-160) is on file with the court.]</p> <p>(5) The moving party must file the documents with the court and serve a copy on the person against whom relief is requested, along with a blank copy of the following:</p> <p>(A) <i>Responsive Declaration to Request for Order</i> (form FL-320);</p> <p>(B) <i>Income and Expense Declaration</i> (form FL-150) or <i>Financial Statement (Simplified)</i> (form FL-155) and <i>Property Declaration</i> (form FL-160), when completed declarations are among the papers required to be served relevant to relief requested.</p> <p>Other Comments: Seeking clarification if using the new Request for Order (FL-300) for that purposes in DV cases when parties are asking to modify their custody, visitation and support orders, in a DVPA case. If so, I would modify the FL-300-</p>	<p>The committee has made this change.</p>

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			<p>INFO sheet as follows:</p> <p>To request a domestic violence protective order under the Domestic Violence Protection Act. You can use the Request for Order (FL-300) if you have child custody, visitation or support that you need modified in your domestic violence protective order case.</p> <p>It is further suggested that information on live testimony be provided on either the FL-300-INFO sheet or somewhere on the FL-300 form so litigants will know if the need to complete a FL-321.</p> <p>In addition to the forms already identified, the FL-336 would also need to be updated to reflect the new verbiage of “<i>Request for Order (FL-300)</i>” on the second page where it gives instructions for setting aside the court order.</p> <p>On the FL-300-INFO form, it is suggested that number 2 be removed:</p> <p>2. Complete the court order section on page 1 of the form (items 4–6) only when you are asking the court for temporary orders to go into effect before the hearing.</p> <p>On the FL-300 form, it is suggested as follows:</p>	<p>The committee has changed Rule 5.92 and the FL-300 INFO to clarify that the FL-300 may be used to modify custody, visitation or support orders in DVPA cases.</p> <p>The committee has made this change.</p> <p>The committee will seek to revise the FL-336 as a technical change.</p> <p>The committee has made this change.</p> <p>The committee has made these changes.</p>

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			Add a box at the top for <input type="checkbox"/> "Request Temporary Orders" Add a line below the Court Order section that states, "You are ordered to appear at the date, time and court location listed in 2(a) and (b)." 	The committee has made this change.
29.	Superior Court of Sacramento County Robert Turner, ASO II Finance Division	NI	Comment on SPR11-36, page 52. line 20: Rule 5.92: There needs to be an overlap period in which the old forms and the new forms are both eligible for use. Comment on SPR11-38: Page 4, line 9, Rule 5.92: should be consistent, change the word "application" to "request". Page 4, line 11: a: Should be consistent, change the word "application" to "request". Page 7: Form FL-300, page 2 of 3, #3.[Notice: text paragraph] word change: Change the word "should" to "must" Change the word "will" to "shall" Page 8: Form FL-300, page 3 of 3, #10:	Rule 1.42 of the California Rules of Court states that the court should not reject a Judicial Council form for filing because "it is not the latest version of the form adopted or approved by the Judicial Council." Courts should continue to accept the old versions of the forms. The committee has made this change. The committee has made this change. The committee changed "should" to "must" as suggested. The Judicial Council style for rules and forms does not include use of the word "shall." "Will" or "must" are used instead. The Judicial Council adopted the 10 page

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			<p>We do not agree with the limitation. There are too many exception pages to consider when determining 10-pg count.</p> <p>Page 9: Form FL-300-INFO, Page 1: These forms must be filed with this Request for Order (for child or spousal support):</p> <ul style="list-style-type: none"> • Can't lump child and spousal support together in same instruction as they require different forms. • This bullet point needs to be broke into two bullets. <p>Notice (service) Personal Delivery:</p> <ul style="list-style-type: none"> • this bullet "notice by personal delivery" should be placed before "notice by mail" as the majority of service are done by person. • Over-reaching; it should simply state "file with the court." • Change the word "mails" to "serves" <p>Page 13: Form FL-306/JV-251 The "order to show cause" language has been removed and the form has been revised, yet the language appears in this form. This transition period between the old and new forms, in which both languages need to be presented in this form, will be confusing for SRL.</p>	<p>limitation in rule 5.118 of the California Rules of Court effective July 1, 1011.</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee revised the form to clarify FL-306/JV-251 is designed to be used to reissue an order to show cause that is issued on a form other than a <i>Request for Order</i> , a <i>Temporary Restraining Order</i> in juvenile court as well as a <i>Request for Order</i> in family court.</p>

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			<p>It doesn't appear all this effort to change the form name, etc, is value-added.</p> <p>Page 20: Form FL-347, first text paragraph: Why is this form included? It seems very random to be included. No referenced rules.</p>	<p>The committee believes that once the new form and procedures are fully implemented, the courts will see increased efficiencies in the family law facilitator, self-help services, and the clerk's office and less confusion among self represented litigants.</p> <p>The word "motion" is changed to "request" in the first paragraph of the FL-347.</p>
30.	Superior Court of San Bernardino County, Staff Debra Meyers, Director	AM	<p>Rules of Court</p> <p>1. 5.92(a)(1)B refers to post-judgment activity. But what about some rule clarifying obligation for pre-judgment? The FL-300 INFO attempts to do so, but that language is very unclear.</p> <p>2. 5.92(b) states "complete, file and serve" but our court looks for the completed proof of service prior to filing a response.</p> <p>3. 5.92(b)(1) requires Ps&As, but the moving papers do not. From a parity standpoint, that doesn't make sense. (see 5.92(a)(3))</p> <p>4. 5.92 (b)(3) – is this out of order? It seems like mentioning the Responsive Declaration with facts would go first and then the stuff that gets attached, or is it a duplication from</p>	<p>The committee revised the rule to clarify that pre-judgment Request for Order must be served as specified in Code of Civil Procedure section 1010 et.seq. unless they contain temporary emergency orders or an order to appear in court.</p> <p>The committee has made this change.</p> <p>The committee has changed the rule to address this issue.</p> <p>The committee has changed this section to address this issue</p>

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			<p>5.92(b)?</p> <p>Form</p> <p>1. FL-300 #3a -- Application for Order referenced is being withdrawn, as the information is being included on the FL-300. Also, is a blank form a “supporting attachment”? Literally, that would mean that on the filed & conforming copies, all would need the blank form (which would be a waste).</p> <p>2. FL-300 caption – what about adding a check box section for “emergency orders” under proposed 5.151?</p> <p>3. FL-300 #3b/c -- what about combining and making it an “or”.</p> <p>4. FL-300 above #4 – that language doesn’t make sense as there is always a court date for an order.</p> <p>The FL-300-INFO includes a direction to give for judge’s signature, but that might be misleading to the litigant if the judge doesn’t sign it personally and a clerk has been delegated with certain authority.</p> <p>5. FL-300 below signature – a. Perhaps it would be helpful to add some language to make it clear that the information in</p>	<p>The reference to the “Application for Order” has been deleted.</p> <p>The committee has made this change.</p> <p>A check box for “Temporary Emergency Orders” has been added.</p> <p>Some courts prefer to know which form is attached.</p> <p>The committee has deleted this language.</p> <p>The committee changed to “file with the court” in response to another comment.</p> <p>The committee has made this change.</p>

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	Commentator	Position	Comment	Committee Response
			<p>the box is directed to the other party.</p> <p>b. It is 9 COURT days, not calendar days.</p> <p>c. CCP 1005, the extra 5 days does not apply to motions: “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.”</p> <p>6. FL-300 INFO Notice issue confusing in a few ways:</p> <p>a. How do you get the court date if you are not filing it until after service? Someone following these instructions might not realize that the service instructions are meant to follow the filing instructions and read it separately. That person could easily believe that you serve it and then file.</p> <p>b. How does a person determine whether personal service is required? Language is vague – who decides if you want the court to order the party to court? When would you do that? Under the OSC format, the OSC was an order for the person to attend court. But if it was a</p>	<p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee has made changes to the FL-300-INFO to address this comment.</p> <p>The Request for Order is to be used in lieu of a notice of motion or an order to show cause. Therefore the service rules are not changed. If it is being used for a notice of motion, service rules for motions apply. If it is being used to obtain temporary emergency orders or to order a party</p>

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			<p>motion, then mail service is permissible. But if the end result is the same – you are putting a matter before the court, wouldn't the motion rules always apply? If the court has personal jurisdiction already over the other party via service of the summons, then wouldn't the papers just need service by mail?</p> <p>7. FL-300 INFO – confusing about court's processing. When does a judge need to sign the FL-300 and when not? How will the clerks know which is the correct method and will they then be asked to provide a legal analysis of the paper to determine which ones should be signed and which not? What about the burden on the judicial officer to sign each of these temporary order sections and make that legal determination?</p> <p>8. FL-300INFO – use of FL-160 as a requirement for when asking the court for orders concerning the real property. Why add in an extra form if the person is able to adequately describe the property in question in the rest of the paperwork? Would the person need to list all the property in the FL-160, even if not subject to the motion? And if not, then would there be confusion regarding the extent of the property at a later time?</p> <p>9. FL-321- suggest more column space for the</p>	<p>that has not made an appearance in the case to attend a hearing, service rules for a summons apply.</p> <p>The judicial officer's signature is needed when the form is being used as an order to show cause. The workload should not increase since the judicial officer already signs orders to show cause. The clerk's will know if the court order box is checked and the portion below is completed or a completed <i>Temporary Emergency Court Orders</i> (form FL-305 is attached).</p> <p>Rule 5.118(b) currently requires the filing of a <i>Property Declaration</i> (form FL-160) when "relevant to the relief requested." However, the committee decided to delete this requirement in the rules in response to this and other comments.</p> <p>More column space was created for the name.</p>

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			name; does the person need to list both the relationship and the profession?	The committee deleted the column for relationship/profession.
31.	Superior Court of San Diego Michael M. Roddy, Court Executive Officer San Diego	AM	<p>Rule 5.92 – Why call it an “application” for court order when the form says “request” – make it consistent and use “request”.</p> <p>Rule 5.92(a)(1)(A): Add the following to the last sentence, "... on the attorney of record, if any."</p> <p>Rule 5.92(b)(1): Add, "A memorandum of points and authorities, if ordered by the court." Why would the respondent be ordered to file Points and Authorities, but not the petitioner?</p> <p>Rule 5.92(a)(4): Why is Form FL-160, Property Declaration required? Issues – division of property, debt – are generally trial issues, not pendente lite issues.</p> <p>Form FL-300, general: 1. Would it be possible to add a box on FL-300 for child custody recommending counseling appointment date and time, and also on the FL-306 for re-issuance requests? That information is required in 2c. on the current FL-300.</p> <p>2. This court currently uses a stamp on the FL-</p>	<p>The committee has made this change.</p> <p>The committee has deleted references to the attorney of record.</p> <p>The committee has made changes that address this issue.</p> <p>Rule 5.118(b) of the California Rules of Court currently requires the filing of a <i>Property Declaration</i> (form FL-160) when “relevant to the relief requested.” However, the committee has deleted this requirement.</p> <p>Item 7 of the FL-300 provides space to put the date, time and location of the mandatory custody services just like the current order to show cause and notice of motion. The reissuance form states that all orders contained in the request for order remain in effect. This would include any order to attend mandatory custody services</p> <p>Not all courts use child custody recommending</p>

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			<p>300 advising litigants: "Sanctions pursuant to CCP 177.5, up to \$1500, may be imposed against either party for failure to appear at the child custody recommending counseling, or against the moving party for failing to cancel the appointment if the moving party is unable to serve the other party before the appointment." Can this language be added to FL-300?</p> <p>Form FL-300: Add an additional item for "other." (Ex. 8. 0 Other:)</p> <p>Form FL-300, Item 6: The term "mediation" should be replaced with "child custody recommending counseling."</p> <p>Form FL-300-INFO, left column: After item 3, add new item 4, "If you are asking the court for orders that will go into effect before the hearing or you are asking the court to order the other party to attend the hearing, ask the court clerk to have the judicial officer sign the "Court Order" portion of the Request for Order and return it and the other forms to you." [this section is being moved from the right column, the first paragraph under Notice (Service) by Personal Delivery with slight changes in wording as well]</p> <p>Form FL-300-INFO, right column, 2nd bullet:</p>	<p>counseling. Nor do all courts impose similar sanctions.</p> <p>The committee has made this change.</p> <p>Some courts continue to provide mediation services instead of child custody recommending counseling. The form uses the term "mandatory custody services" to encompass both mediation and child custody recommending counseling.</p> <p>The committee changed the form to address this issue.</p> <p>The committee has made this change.</p>

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			<p>Reword: "Other types of cases for which there are other special Judicial Council forms just for those cases."</p> <p>Form FL-300-INFO, page 1, right hand column: Change this sentence to read, "If you have a question about whether this is the right form for your situation, ask the family law facilitator or find a self-help center." Clerks cannot give legal advice.</p> <p>Form FL-300-INFO, right column, notice instructions: Currently does not flow logically. Suggest it be rearranged as follows:</p> <p>Notice to the other party (Service) [Change title from "Notice (Service) by Mail"]</p> <p>You must inform the other party of your request. After you have filed your Request for Order and other forms with the court and have received a court date and time stamped on your paperwork by the clerk of the court, you must SERVE a copy of all the documents upon the other party.</p> <p>Service By Personal Delivery [changed title by deleting "Notice]</p> <p>If you have asked the court for orders that will go into effect before the hearing or you have</p>	<p>The committee believes that telling a self represented litigant which form is appropriate for their case is legal information and not legal advice.</p> <p>The committee has changed the FL-300-INFO to address this comment.</p>

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			<p>asked the court to order the other party to attend the hearing (the judicial officer will have signed the “Court Order” portion of the Request for Hearing form):</p> <ul style="list-style-type: none"> • Have someone else (who is at least 18) personally give the Request for Order to the other party with any accompanying attachments, and a blank responsive form to the other party. • After the person personally delivers [original version says “mails” even though service is personal] the forms, he or she should complete a Proof of Service (FL-330). • You then file the completed Proof of Service with the clerk of the court before the hearing date. <p>General comment: Why are these forms referring to both petitioner/plaintiff and respondent/defendant. This seems unnecessary.</p> <p>FL-320, footer, page 2. The title of the form should match the footer on page 1.</p> <p>Form FL-321, header: Add: <input type="checkbox"/> Other Parent/Party</p>	<p>The forms will be used in DCSS cases, which still use the terms plaintiff and defendant.</p> <p>The committee and task force agree to make this change.</p> <p>The committee has made this change.</p>
32.	Superior Court of San Francisco, Unified Family Court Hon. Rebecca Wightman, Commissioner (Child Support IV-D)	AM	The proposed rule 5.92 should not exempt Title IV-D, and there should be a corresponding effort to combine/simplify the virtually identical “dual” NOM and OSC forms (FL -680 and FL-683) used in family law child support	Proposed Rule 5.92 has been changed to permit the use of the new Request for Order form in Title IV- D child support cases by parties other than DCSS. The AOC will work with DCSS to combine FL-680 and FL-683 into one Request for

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			<p>proceedings at the same time. The Elkins Task Force Recommendation is very clear regarding trying to simplify the forms for motions in family law proceedings. The exact same “confusion” identified by the Elkins Task Force exists with the forms FL-680 and FL-683. While the Elkins Task Force identified the specific forms (FL-300 and FL-301), and urged that they be combined for use in all matters except domestic violence and contempt, it did not exempt the Dept. of Child Support Services (DCSS). This is a golden opportunity to clarify the same “confusion” that cuts across all family law proceedings, including child support. The problem with exempting “cases filed by the local child support agency” in the current proposed rule 5.92 is that it fails to take into consideration the fluid nature of how DCSS becomes involved in a “case”: indeed, DCSS often simply substitutes itself into a family law dissolution (instead of opening up a brand new action) – does that mean that they must use the new combined form for those cases (that they did not file themselves)? Conversely, the “cases filed by the local child support agency” (as mentioned in the proposed rule), often become regular family law proceeding type cases, if/when DCSS “closes” its internal case and is no longer enforcing child support. These latter cases, when a motion to modify support and/or a motion for custody/visitation needs to be filed,</p>	<p>Order form to be used by DCSS in a future rules and forms cycle.</p>

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			<p>will then be heard in regular family law departments. By simply “exempting” the local child support agency in the proposed rule – you are creating a two-tiered system where the message is that it is okay to keep the “confusion” identified by the Elkins Task Force in place. In addition, the confusion as to which form(s) can be used when is only going to increase with the current proposal, given the back-and-forth nature of family law cases – whether “filed” by DCSS (and then heard in a family law department because DCSS is no longer providing enforcement services) or whether DCSS is involved in a case “filed” by the litigant (e.g. Dissos or UPAs, because they “substituted” in as a payee, which is then supposed to be heard in the Title IV-D department). SUGGESTION: Ideally, there should be one Request For Order form that should be used by all (this might require a few additional changes & notices, but can certainly be accomplished). Alternatively, at a minimum, the same “combined” Request for Order form (combining FL-680 and FL-683) should be developed for the governmental forms, with a corresponding rule, as is being proposed now.</p> <p>The bolded instruction just above the check-box that says COURT ORDER is confusing because of the use of the word “you” – which makes it seem as if the litigant is supposed to fill out the</p>	<p>The committee deleted the language before the court order, but decided to leave it blank rather than add “For Court Use Only” in order to accommodate the practice in some courts that</p>

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			<p>bottom part if the litigant is asking for temporary orders, when in fact it is the court (bench officer) that is supposed to fill out that section if temporary orders are being requested in the papers. SUGGESTION(S): (1) Add a checkbox above the solid line for the litigant to check if they are seeking temporary orders that says something to the effect of: <input type="checkbox"/> I am seeking temporary orders before the hearing. (2) Modify the bolded instruction to indicate the bottom section is to be filled out by and/or for court use only (or something to that effect). These two suggestions combined will both alert court staff/bench officer of the need to fill out the bottom section, and will also prevent litigants from inadvertently filling out the bottom part.</p> <p>The part of the outlined-boxed Notice on the front of the existing forms FL-300 and FL-301 that was moved to just below item #3 c on the second page, should be bolded and put in an outlined-box as well. This information was important enough to highlight on the front page, there is absolutely no reason to treat it any differently just because it has been moved.</p> <p>Unless there was a law change, is there a reason why the part of the front page outlined-boxed bolded notice was deleted? (The part regarding not having to pay a fee to file declarations in response on the current FL-300 and FL-301.)</p>	<p>requires the litigant or attorney to complete this section before filing.</p> <p>A check box was added to indicate that temporary emergency orders are attached.</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p>

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			This information was deemed very important to include, and should not be sacrificed just because the forms are being revised. Many pro pers may be discouraged from filing a response unless it is clear that they will not have to pay a fee to respond. This sentence (regarding do not have to pay a fee for filing declarations in response) – whether a modified or shortened version of it – should be put back in.	
33.	Superior Court of Santa Clara County - Family Court Superior Court Judges: Hon. Mary Ann Grilli Hon. Mary E. Arand Hon. L. Michael Clark Hon. Neal Cabrinha San Jose	AM	RULE 5.92(b): Consider moving the reference to Memorandum of Points and Authorities to be the last in the sequence of listed optional documents. 5.92(b)(3) is repetitive of the main section of the proposed rule and should be included in the opening to 5.92(b). The reference to the Income and Expense forms should be moved to 5.92(b)(1). 5.92(b)(2) would be : A memorandum of points and authorities, which are not required in Family Law matters, but may be ordered by the court or submitted in cases substantial legal issues are involved. As drafted, the rule assumes only the Petitioner as the moving party. Respondents are often the moving party. Thus, the rule needs to be amended as follows: in the second line, insert “responding” before “party”. In the second to last line, replace “Respondent” with “responding party”.	The committee has made changes to address this comment. The committee has made this change.

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			<p>FORM FL-300- REQUEST FOR ORDER:</p> <p>1. Page 1, TITLE IN HEADER: The form title should have an additional optional box for “Order” with a box to check. Otherwise, the form reads only as a request and responding parties will not easily understand that there may be temporary orders in the document itself.</p> <p>2. Page 1, BOX AT BOTTOM: This box states that you must file a responsive declaration: add an introduction that reads “To answer this Request for Order”, you must file a responsive declaration with the court. The balance of the paragraph could remain.</p> <p>3. Page 2, APPLICATION FOR ORDER: In section 1.e., it would be helpful if the forms are referred to by name as well as form number. Most attorneys and judges do not memorize the form numbers.</p> <p>4. Page 2, section 3, CHILD SUPPORT, there is no reference to requesting guideline child support. This option should not be eliminated. It should, instead, be the first option. Item 3.b. should read: I am requesting guideline child support. Current item 3.b should be moved to 3.c.</p> <p>5. Page 2, item 4, add an option for requesting</p>	<p>The committee changed the form to include a box for “Request Temporary Emergency Court Orders.”</p> <p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee has made this change. “I am requesting guideline support” was added as suggested.</p> <p>The suggested language was not added due to</p>

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			<p>guideline temporary spousal support. It would also be helpful in item 4.b. or c., (request to modify or terminate spousal support), if a box is there to indicate if the request is to modify post judgment spousal support.</p> <p>6. Page 3, item 6 and 7, PROPERTY RESTRAINT AND PROPERTY CONTROL: the request sentence is missing There should be an introductory sentence, such as: I am requesting that:</p> <p>7. Page 3, item 9: This section should have a heading such as REQUEST FOR ORDER SHORTENING TIME.</p> <p>FORM FL-300- INFORMATION SHEET FOR REQUEST FOR ORDER</p> <p>1. The section on Notice (Service by Personal Delivery) gives the mistaken impression that all that is needed to obtain temporary orders is to “ask the court clerk to have the judicial officer sign the completed Request for Order and other forms and return them to you.” Instead, this needs to refer to the procedures to obtain emergency orders found in proposed Rule 5.151.</p> <p>2. Forms to be filed with Request: The form indicates that a Simplified Financial Declaration may be submitted with a request for spousal support. The longer form Income and Expense</p>	<p>space limitations. Although the committee believes it would be helpful in some cases, it is not on the existing forms.</p> <p>Introductory sentence is not in existing forms or in any other item.</p> <p>This item does not have a heading on the existing form.</p> <p>A reference to the procedures in Rule 5.151 was added.</p> <p>The committee has made this change.</p>

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			<p>Declaration is required with any request for spousal or partner support.</p> <p>3. The reference to requiring a Property Declaration with a request for use of an asset would be a new requirement. Query, is it necessary to have a property declaration with every request for order that deals with property issues?</p> <p>4. The form states that the Request for Order is not to be used in a case filed by the Child Support Agency. If a party is filing to establish custody orders within a DCSS action, what forms are they to use? This form should give that information, so that parties do not have to look many other places to find the information.</p> <p>5. In the section on Service by Personal Delivery, the form should clearly state that the serving party must not be listed on the forms as a protected party or other type of party.</p> <p>6. The form mentions contacting the facilitator, but does not mention the option of obtaining counsel. We should encourage folks to obtain counsel early and often.</p> <p>FL-305, TEMPORARY COURT ORDERS: 1. Unlike the DV forms, there are no options to</p>	<p>Rule 5.118(b) of the California Rules of Court currently requires the filing of a <i>Property Declaration</i> (form FL-160) when “relevant to the relief requested.” However, the committee deleted the requirement in the rule in response to this comment.</p> <p>The committee has changed the rule and the INFO sheet to state that parties other than DCSS may use the Request for Order form.</p> <p>The committee has made this change.</p> <p>The committee agrees that parties should be encouraged to seek representation. However, the reference to the facilitator on the form refers to seeking information about whether the Request for Order is the appropriate form to use.</p> <p>The committee will consider whether this suggestion should be circulated for comment in a</p>

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			<p>have the judicial officer indicate whether the orders are granted, denied, or not requested. Law enforcement has been very pleased with this change in the orders. Query, should this format be used here as well?</p> <p>1. FL-320, Footer. The footer needs to be the same on both pages of the form.</p> <p>2. FL-320, Item 3. There should be a reference to the need to file an Income and Expense Declaration or the simplified form, if appropriate.</p>	<p>future RUPRO cycle.</p> <p>1. The committee and task force agree to make this change.</p> <p>2. The committee and task force do not recommend including a reference to the need to file an <i>Income and Expense Declaration</i> (form FL-150) on form FL-320. The committee and task force agree that a completed <i>Income and Expense Declaration</i> (form FL-150) is required for child support, spousal or partner support, and needs-based attorney’s fees and costs, but it does not fit with the current format of form FL-320 to include a reference.</p> <p>After reviewing the comments, the committee and task force recommend deleting the list of documents to attach in item 5d. In addition, information about filing an FL-150 is already included in several rule and form proposals currently being considered for adoption or approval by the Judicial Council: the <i>Request for Attorney’s Fees and Costs Order Attachment</i> (form FL-319) (in item 7b of the “Notice to Responding Party” section), <i>Information Sheet for Request for Order</i> (form FL-300-INFO), and rule</p>

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			<p>3. FL-320, Item 4. There should be a reference to the FL-150, the Income and Expense form, which is required.</p> <p>4. FL-320, Item 5. It would be helpful if there were boxes that referenced the attached documents.</p> <p>FL-321, WITNESS LIST: There are two suggestions regarding this form: 1. The form should indicate which hearing is referenced by this list. For example, if there are a series of hearings upcoming, it would be very helpful to know which one the list is referencing.</p> <p>2. The amount of space for each witness listed is large. The last column heading is “Subject of Testimony and What the Witness Will Say”. This might be difficult for most self represented parties to complete, and to list everything a witness will say is problematic at best and not required. It may be best to have the column heading read only “Subject of Witness Testimony”.</p>	<p>5.92 of the California Rules of Court.</p> <p>3. As described above, including a reference to form FL-150 does not fit the current format of form FL-320 and would be duplicative given that the documents necessary for filing are listed in several other places (if those rule and form proposals are adopted).</p> <p>4. The committee and task force recommend deleting item 5d in its entirety, so adding check boxes is unnecessary. The committee and task force determined that it does not fit the format of form FL-320 to add a list of documents to attach.</p> <p>The committee has made this change.</p> <p>The committee has reduced the space for each witness.</p> <p>The committee has changed the language to say: “ Subject and Brief Description of Testimony” which follows the language of the statute.</p>

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	Commentator	Position	Comment	Committee Response
			FL-347, BIFURCATION OF STATUS: The title of the document refers to bifurcation, but the application refers to a separate trial. The forms should be consistent and one title used between the forms.	The committee will consider whether to change the title of the FL-347 and circulate it for comment in a future RUPRO cycle.
34.	Superior Court of Shasta County Stacy Larson, Family Law Facilitator Redding	AM	<ul style="list-style-type: none"> • In CRC 5.92(a)(1)(A), the third line should be revised to read more smoothly such as, “and appropriate attachments must be filed with the court before . . .” • In CRC 5.92(a)(1)(A), the correct CCP code section should be “413.10 et seq.” Additionally, the last clause “unless the other . . . attorney of record” indicates that an OSC with temporary orders can be served on a party’s attorney of record if the party has appeared in the case. This is a substantial change from the current procedure that requires the OSC to be personally served on the other party. This would seem to dilute the necessity that the other party be personally served a copy of the temporary order, an order that would bind the party himself/herself. This seems unwise as some attorneys may delay in giving their clients this signed temporary order, prejudicing their clients who may well be held accountable by law enforcement for violating the order once it is served on the attorney of record. It may also prejudice the party who obtained the temporary 	<p>The committee has made this change.</p> <p>The committee has changed the Code section to Code of Civil Procedure 413.10.</p> <p>The committee changed the language concerning service to address this comment.</p>

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			<p>order as the order may not be deemed enforceable if the other party is not proven to have received notice. Additionally, depending on the court’s local rules for obtaining temporary orders, this will create difficulty for the processing clerks who must fill in a checklist regarding whether service was valid. The clerks presumably would have to first check whether temporary orders are attached, triggering personal service instead of mail service, then check whether the party was served or whether the attorney for the party was served, and then check whether the attorney who was served was actually the attorney of record at the time of service.</p> <ul style="list-style-type: none"> • In CRC 5.92(a)(1)(B), we should add “domestic partnership” and “petition to establish custody and support” to the types of cases to which the rule applies. • In CRC 5.92(a)(1)(B), it is unclear whether motions/OSCs filed that address issues other than custody, visitation, or child support must comply with FC §215 requirement. Similarly, it is unclear whether motions that address other issues in addition to custody/visitation/child support must comply with FC §215. 	<p>This language tracks Family Code section 215. Family Code section 215 applies to <i>Request for Orders</i> filed after a permanent order has been entered for custody, visitation or child support in domestic partnership dissolutions and actions to establish custody and support.</p> <p>The language in the rule tracks Family Code section 215.</p>

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			<ul style="list-style-type: none"> • In CRC 5.92(b)(1) may imply to self-represented litigants that points and authorities are often required, when the opposite is true. We should do one of the following: <p>Eliminate CRC 5.92(a)(2) and CRC 5.92(b)(1) and include a section under CRC 5.92(c) that clarifies that no P & A is required absent the court directing otherwise. E.g., “No memorandum of points and authorities need be filed with an application for or response to a court order unless required by the court on a case-by-case basis.”</p> <p>Alternatively, we could place this clarification under a new subsection, CRC 5.92(d) Memorandum of Points and Authorities.</p> <p>Alternatively, we could reword CRC 5.92(b)(1) to read the same as CRC 5.92(a)(2), “No memorandum of points and authorities need be filed with a response to an application for a court order unless required by the court on a case-by-case basis.”</p> <ul style="list-style-type: none"> • In CRC 5.92(b)(3) is somewhat redundant with the first paragraph of CRC 5.92(b) as it restates that an FL-320 is required while also adding that the declarant’s contentions must be in the response. I would suggest that subsection 	<p>The committee changed the rule to clarify that a memorandum of points and authorities is not required to file a request for order or a responsive declaration unless ordered by a court in a particular case.</p> <p>The committee made the change suggested in the third alternative below.</p> <p>The committee has made this change.</p>

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			<p>(3) be integrated in the first paragraph, such as, “To respond to the issues raised in the . . . moving papers. The Responsive Declaration to Request for Order (form FL-320) must set forth facts sufficient to notify . . . support of any relief requested. Unrelated relief must be sought . . . complete the following:”</p> <ul style="list-style-type: none"> • In FL-300, page one, the caption should include “Other Party:” for the many cases where DCSS files the initial parentage case and now the “Other Parent” wishes to request an order. • FL-300, page one, Caption “Request for Order”: Since we’re already revising the FL-300, it would be helpful to add a few more options in the “Request for Order” caption such as move-away, drug testing, property control/restraint/payments, establish arrears, etc. • FL-300, page one, Caption “Request for Order”: Since we’re already revising the FL-300, it would be helpful to add a few more options under “Supporting Attachments” such as FL-311, MC-031, MC-030 or MC-020, etc. 	<p>The committee added “Other Parent/Party”</p> <p>The comments include a number of suggestions for adding a number of different boxes to be checked in the area towards the top of the form. The committee will review whether to adopt a cover sheet to be completed by the attorney or litigant, which would help identify the types of motions and orders to show cause that courts need to identify for more efficient case processing. In the meantime, the other attachments that are listed should be included in the “Other” box.</p> <p>These attachments should be listed under the “Other” box.</p>

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			<ul style="list-style-type: none"> • FL-300, page one, Information Box at Bottom of Page: In the box at the bottom of the page, we should change “party” to “parties” to assist litigants in recognizing that they need to serve all parties in the case, including DCSS. • FL-300, page two, subsection (1)(a) should be moved one line down to be even with subsections (b) and (c). Otherwise, when we fill in subsection (a) with more than one child, the correlating information in subsection (b) and (c) does not line up properly. Additionally, more space should be provided, so we can enter/type at least three children in subsection (1). • FL-300, page two, subsection (3)(a), more space should be provided, so we can enter/type at least three children in subsection (a). • FL-300, page two, subsection (3), we should add a subsection (d), requesting that arrears and/or arrears payment be established or modified. • FL-300, page two, subsection (3), the information box giving notice that financial information must be provided should specify that either FL-150 or FL-155 should be submitted with the Request for Order. • FL-300, page two, subsection (4), we should 	<p>The committee has made this change.</p> <p>The format conforms to the Judicial Council Forms Manual. The committee has added additional space to allow room for 3 children.</p> <p>The committee has added additional space to allow room for 3 children.</p> <p>The committee has added additional space to allow room for 3 children.</p> <p>The committee has made this change.</p> <p>Parties seeking to establish arrears and/or</p>

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			<p>add a subsection (d), requesting that arrears and/or arrears payment be established or modified.</p> <ul style="list-style-type: none"> • FL-300, page three, subsection (5), we should place a period at the end of the sentence, e. g., “Costs Order Attachment.” • FL-300, page three, subsection (7) (a) and (b), we should add a box for “claimant” or “other party.” • FL-300, page three, subsection (8): More space is needed for “Other Relief.” The requests for other relief are often quite lengthy, and there is not nearly enough space here. Alternatively, we could add a box that additional requests for other relief are continued on Attachment 8(a). • FL-300, page three, subsection (10), sub-box pertaining to the attached declaration: We should add that they can use MC-031 and, if additional pages are necessary, MC-020 when preparing their supporting evidence/facts. 	<p>payments on arrears should use item 8 “Other Relief”</p> <p>The committee has made this change.</p> <p>The committee believes that there are very few instances when a claimant files a motion in a family law proceeding asking the court to give one of the parties control of the property pending trial or that one of the parties make payments on debts. In those few instances where this occurs, the claimant can check the box in item 8 “Other Relief.”</p> <p>Additional space would require that an additional page be added to the form. Parties can add an attachment as necessary.</p> <p>The form already indicates that they can use <i>Declaration</i> MC-031 as an attachment.</p>

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			<ul style="list-style-type: none"> • FL-300-INFO, subsection (2): We should replace “court order” with “Court Order” (in quotation marks) to help the litigants find the appropriate section on page 1. • FL-300-INFO, subsection (3): We should remind the parties that they must date, print, and sign page 3 of the FL-300. • FL-300-INFO, paragraph after subsection (3): We should clarify this section as follows: “For example, if you are . . . check the box ‘To be ordered pending the hearing’ on page 2, complete the ‘Court Order’ section on page 1, and . . .” • FL-300-INFO, “These forms must be filed with this Request for Order:”: This heading is bulky and not conducive to quick reference. We should replace it with a subheading such as “Attached Forms” or “Forms to Attach.” An extra bullet should be added for necessary forms in requesting attorney’s fees/costs. • FL-300-INFO, “These forms must be filed with this Request for Order:”: The fourth bullet is unclear. We should either clarify this or delete it. • FL-300-INFO, “Note: Do not use . . . to show cause:”: The heading for this section is unclear. 	<p>The committee has made this change.</p> <p>The committee has made this change.</p> <p>The committee has changed the form to address this comment.</p> <p>The heading was changed to read: “Other forms to file with this Request for Order”</p> <p>The committee has changed the language to address this issue.</p> <p>“Improper Uses” is not language that many self represented litigants will understand. The</p>

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			<p>It should be reworked, as follows: “Improper Uses for FL-300” then “Do not use the Request for Order (FL-300) if you are requesting an order (1) in a paternity or . . . child support agency; (2) to set aside . . . paternity; (3) for a domestic violence . . .; or (4) other types of . . . forms.” On a separate note, our court commonly allows parties to use the current FL-300 or FL-301 sequence of forms to file into a DCSS paternity action for custody/visitation and other orders. Clarification of when this can and cannot be done should be provided.</p> <ul style="list-style-type: none"> • FL-300-INFO, “Instructions for giving the other party notice (Service)”: This subheading is bulky and not conducive to quick reference. It should be reworked as “Required Service/Notice to Other Parties.” The first section does not read smoothly. It should be placed in one sentence: “After you file your completed Request for Order (form FL-300) and attachments with the court and obtain a date/time of hearing, you must inform the other party/parties of your request.” Then we can have the subheadings for Service by Mail and Service by Personal Delivery. Form numbers should be included each time an italicized form is named. A comma should go after “appropriate attachments” in the first bulleted point under Service by Mail. A section should be added to clarify the need for an address 	<p>committee has changed the section to clarify that parties may use the form to file for custody/visitation and other orders in a DCSS child support case.</p> <p>The committee has changed this section to address this issue.</p>

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			<p>verification for post-judgment or post-permanent order requests.</p> <ul style="list-style-type: none"> • FL-300-INFO, “Notice (Service) by Personal Delivery”: The third bullet appears incorrect. Personal delivery would not allow for mailing the forms. Additionally, if CRC 5.92(a)(1)(A) goes into effect allowing service upon the attorney in place of the party for temporary orders, etc., a new paragraph should be added to explain this procedure. • FL-305, subdivision (1), (2) a) and (2)(b): A box should be added for “Claimant.” • FL-305, subdivision (3): Space should be provided to list the minor children’s names, so it is clear the specific children the form is applicable to. • FL-305, subdivision (3)(a) and (b): A box should be added for “Claimant.” • FL-305, subsection (4): More space is needed for “other Orders” or a box should be added clarifying that additional orders are listed on Attachment 4(a). • FL-305: An additional paragraph should be 	<p>“Claimant” was added to item 1. It was not added to Item 2 because the court will rarely if ever order that a claimant be given possession of the parties property or that a claimant pay the parties debts in a family law proceeding</p> <p>Children’s names can be listed as part of the order in the space provided.</p> <p>If a claimant is granted custody or visitation or, the order should be in “Other Orders.”</p> <p>The committee added a box indicating that additional orders are listed on an attachment.</p> <p>The committee will consider circulating this</p>

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			<p>added that states whether the temporary order replaces all former custody/visitation orders or merely supplements any previous orders that are not inconsistent.</p> <ul style="list-style-type: none"> • FL-306, Caption: The FL-300 can be used interchangeably for our current FL-300 OSC and FL-301 Notice of Motion. The self-represented litigants are not going to understand the difference other than the distinction between requesting temporary orders and not request temporary orders. This reissuance form infers in the caption that any FL-300 Request for Order can be reissued; however, subsection (2) implies that only OSCs may be reissued. The added sections (a) through (c) will be indecipherable to most self-represented litigants. “Order to Show Cause” appears to be encompassed within the “Request for Order,” so we should delete this option from the caption and replace it with the Temporary Restraining Order to be consistent with subsection (2). The same is true for all the subsections under subsection (2). Alternatively, we should delete “and Temporary Restraining Order” from subsection (2). On a separate note, we are not currently able to “reissue” a notice of motion. Now that the “Request for Order” appears to encompass the notice of motion, can we do so? This point should be clarified. 	<p>additional language for comment in a future cycle.</p> <p>The committee revised the form to clarify FL-306/JV-251 is designed to be used to reissue an order to show cause that is issued on a form other than a <i>Request for Order</i> , a <i>Temporary Restraining Order</i> in juvenile court as well as a <i>Request for Order</i> in family court.</p>

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			<ul style="list-style-type: none"> • FL-306, subsection (3)(a): “Other Party” should be capitalized for consistency. • FL-306, Order, subsection (4): The same problem with nomenclature is present. “Request for Order” appears to encompass “Order to Show Cause,” which would indicate that we need to delete all reference in this form to “Order to Show Cause” or all reference to “Request for Order.” We also need to add “Temporary Restraining Order” in the caption and in the “Order” at subsection (4) if this form can be used to reissue restraining orders as well. Finally, we should add a clause allowing the judge to shorten time for service or change the method of service at the time of reissuance if he did not formerly do so. • FL-306, Order, subsection (4)(a): “Other Party” should be capitalized for consistency. • FL-315, subsection (1): A box should be added for “Claimant” or “Other Party.” • FL-315, subsection (1)(a): We should add “or domestic partnership” at the end of this sentence. • FL-315, subsection (1)(b): We should reword 	<p>“Other party” conforms to the Judicial Council Forms Manual.</p> <p>The committee revised the form to clarify FL-306/JV-251 is designed to be used to reissue an order to show cause that is issued on a form other than a <i>Request for Order</i>, a <i>Temporary Restraining Order</i> in juvenile court as well as a <i>Request for Order</i> in family court.</p> <p>“Other party” conforms to the Judicial Council Forms Manual.</p> <p>This form is intended to be used to request that the court bifurcate the trial and grant a status only dissolution. Claimants or other parties should not be making this kind of request.</p> <p>The committee has made this change.</p> <p>Checking the box to request a trial on the issue of</p>

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			<p>to “Date or dates of separation . . .” to clarify that there may be more than one relevant date.</p> <ul style="list-style-type: none"> • FL-315, subsection (1)(e): We should add a requirement that the party file his/her FL-141 upon completion of this step. • FL-315, subsection (4)(b)(8): We should make “retirement accounts” lowercase for consistency. <p>Form FL-320, Caption. The caption has a space for “Other Parent.” I agree that we need a space for joined parties, but other forms refer to this party as “Other Party” or the less favorable “Joined Party.” We should be consistent. I favor “Other Party” as this would encompass a variety of parties that may be joined.</p> <ul style="list-style-type: none"> • FL-321: FC §217 does not require the parties to state the Relationship/Profession of the anticipated witnesses. This requirement should be deleted or at the very least identified as “optional.” • FL-321: a period should be placed after “trial” under “WITNESS LIST.” • FL-347, first paragraph: The boxes and designations for “petitioner” and “respondent” 	<p>date of separation would allow the parties to litigate and the court to determine whether there is more than one relevant date.</p> <p>This is an order to provide the declaration of disclosure to the other party.</p> <p>Capitalizing “retirement accounts” is appropriate in this context and conforms to the Judicial Council Forms Manual.</p> <p>The committee and task force recommend changing “Other Parent” to “Other Party” in the caption box on form FL-320. The committee and task force agree that it is best to use the term “other party” instead of “joined party” or “other parent” in all of the proposed forms to be consistent.</p> <p>The committee has made this change.</p> <p>The committee made this change.</p> <p>The committee has deleted the second set of boxes.</p>

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			should be deleted as unnecessary and confusing.	
35.	Superior Court of Ventura County Caron Smith, Family Law Case Coordinating Attorney	AM	<p>Access to Justice</p> <p>True access to justice includes that the people we serve are able to read, understand, and complete the court forms on their own. “Go to Self Help Center or the Facilitator’s Office for assistance” works if you secure a spot on the long waiting list. The Ventura Self Help Center is overwhelmed and under staffed. If the Center reaches the limit of people they can assist on a particular day, many litigants receive a packet and are told to come back another day. People must make a difficult choice. Hourly employees have already lost pay waiting in long lines. They cannot afford to ask for more time off, they need the money. It is also possible, that if they ask for more time off they might lose their job. Yet, some have not seen their children for weeks; the other parent will not let them. Some need support immediately; they are not sure if they can pay the rent next month. They try to do the packet on their own. However, it is beyond their understanding.</p> <p>There is no access to justice for these litigants.</p> <p>Readability</p> <p>Access to justice is a principle embraced by the</p>	<p>The committee will consider creating plain language family law forms for the low literacy reader in a future cycle. While it is apparent that a great deal of thought has gone in the alternative form presented, it is very different than the current format for family law forms and therefore the proposed form should be circulated for comment. The committee will consider whether changing one form at a time into this new format would be best the approach or whether all of the appropriate family law forms should be made plain language at the same time.</p>

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			<p>Judicial Council. However, without a commitment to creating useful forms for the low literacy reader, the commitment to access is illusory. This is an opportunity to change how court forms are written in California. Many states and countries make readability of court forms a priority. On October 12, 2010, President Obama signed the Plain Writing Act of 2010. Using plain language in the government is now the law, at least in the federal government.</p> <p>According to readability experts 43% of the population read at or below the 4th grade level. Readability experts use two readability instruments to initial evaluate written documents. The instruments evaluate the grade level and the reading ease of the text. Reading ease looks at the quantifiable aspects of text and grammar. Reading ease is rated 0 to 100, with 0 being very difficult; and 100 being very easy.</p> <p>The Ventura Superior Court rewrote the first page of the proposed “Request for Order.” The text of the rewritten first page was evaluated with the readability instruments. The results were:</p> <p style="text-align: center;">Grade Level 5.2 Reading Ease; 80.4</p>	

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			<p>The readability instruments were also used to evaluate the first page of the proposed “Request for Orders.” The results were:</p> <p style="text-align: center;">Grade Level 10.2</p> <p style="text-align: center;">Reading Ease; 51.5</p> <p>The rewritten form is much more readable to a significant number of self-represented litigants. Equally important, the rewritten page contains all the information that is legally required in an understandable and manageable format.</p> <p>The court is submitting this rewritten page to demonstrate that it is possible to create such court forms. The rewriting of the California forms is a major task. We believe, however, the principles of access to justice mandate that forms and court rules be written in plain language. Millions of people will be helped.</p> <p>Efficient Use of Self Help Services</p> <p>If litigants are able to complete all or substantial part of their forms on their own, self help services could be used more efficiently. If needed, forms could be checked by self help staff. Much of their time, however, could be devoted to assisting litigants with more complex</p>	

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			<p>legal issues. Additionally, litigants would have a better understanding of the legal process.</p> <p>Changes made to Proposed FL-300</p> <p>To make the explanation of the changes easier, the person who files the “Request for Order” is referred to as the “requestor” and the other side is the “responder.”</p> <p>1. Confusing information is removed. Looking at the forms, we asked ourselves: Why is this here? Does it need to be here? Is it legally required to be on the form? Is there a simpler way to say the same thing?</p> <p>2. FL-300, with the name added, is enlarged and moved to the right hand side. This makes it easier to identify the form.</p> <p>3. Words were changed if they presupposed a legal education, or familiarity with the courts. For example, “relief” becomes “orders” and “Department” becomes “courtroom.”</p> <p>4. References to codes are removed. Codes do not have to be included, nor does their inclusion educate litigants. Few self-represented litigants will look up the sections. If they do, the section will not likely illuminate anything for them. It is not clear why some codes are included and</p>	

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Family Law: Request for Order in Lieu of Notice of Motion or Order to Show Cause and Witness List for Use in Family Law Proceedings (adopt Cal. Rules of Court, rule 5.92; revise forms FL-300, FL-305, FL-306, FL-315, FL-320, FL-340, and FL-347; adopt FL-300-INFO and FL- 321; revoke FL-301 and FL-310)

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			<p>others are not. For example, Family Law Code §3622 could be cited to justify or to explain that the Income and Expense Declaration or Financial Statement (Simplified) must be filed if requesting child support.</p> <p>5. In the box at the bottom of the form, the responder is told they “must” file a response. This is not true. No one is required to file a response.</p> <p>6. The first page is made into an order by the court, as does the current FL-300. The proposed form splits the page, the requestor signs the top, and the judicial officer signs the bottom. This split adds confusion and creates many inconsistencies. The judicial officer is the person making orders. In number 6, the responder is ordered to attend mediation, however, in number 2 the responder is not ordered to attend the hearing. Attending the hearing is not an order in the proposed form because it is in the portion signed by the requestor.</p> <p>7. Number 3, “Supporting attachments” should not appear on the first page, First, blank forms, as indicated on the form, are not supporting, nor would they be attached. This section is an order on the current FL-300. Removing the reference to the blank forms would not fix the problem. It</p>	

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			<p>seems the intent is to inform the responder what the requestor has attached. However, the requestor is not signing under penalty of perjury. In addition, the requestor cannot assure that blank forms have been served. They are not the server. Making it an order to the requestor is inconsistent and confusing. Number 1, indicates the form is directed to one person, the responder.</p> <p>FL-300 REQUEST FOR ORDER</p> <p>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 Not Approved by the Judicial Council SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: REQUEST FOR ORDER MODIFICATION Child Custody Visitation</p>	

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			<p>Child Support Spousal Support Attorney Fees and Costs Injunctive Order Other (specify): CASE NUMBER:</p> <p>COURT ORDER TO: _____</p> <p>Hearing:</p> <p>The other side is asking the court to make orders in your family law case. You are ordered to come to the hearing about these orders on:</p> <p>Hearing: Date: Time: In courtroom: or Room Court address:</p> <p>Custody, Visitation and Mediation:</p> <p>If this is about custody or visitation, you are ordered to go a class about mediation and to mediation, to see if we can help you work out an agreement. You are ordered to go:</p> <p>Class: Date: Time: Room.:</p> <p>Mediation: Date: Time: Room</p> <p>Time for you to be Served or Given a Copy</p>	

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	Commentator	Position	Comment	Committee Response
			<p>You must be served by XXX days before the hearing, unless the judge makes it less days.</p> <ul style="list-style-type: none"> • The judge gives the other side until _____ to serve you. <p>Your Response:</p> <p>If you want to say what you want these orders to be and why, file FL-320 Response to Request for Order. Check FL-320 to see when you must serve the other side.</p> <p>Form Adopted for Mandatory Use Judicial Council of California FL-300 [Rev. January 1, 2012]</p> <p style="text-align: center;">REQUEST FOR ORDER Family Code, §§ 2045, 2107, 6224, 6226, 6320–6326, 6380–6383 Government Code, § 26826</p> <p style="text-align: center;">www.courts.ca.gov</p> <p>The form will be emailed since the format of the form cannot be seen.</p>	

