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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (Name) _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE _____ BRANCH NAME: _____	
PETITIONER/PLAINTIFF: _____ RESPONDENT/DEFENDANT: _____ OTHER PARENT: _____	
REQUEST FOR HEARING AND APPLICATION TO SET ASIDE VOLUNTARY DECLARATION OF PATERNITY	CASE NUMBER: _____

1. A hearing on this application will be held as follows (see Information Sheet on how to get a hearing date):

a. Date:	Time:	Dept.:	Div.:	Rm.:
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b. The address of court: same as noted above other (specify): _____

2. On (date): _____ I signed a voluntary declaration of paternity stating that I am the mother father
 of (child's name): _____ . A copy of the voluntary declaration of paternity is attached
 not attached (if not attached, explain why): _____

3. I request that the voluntary declaration of paternity be set aside. I understand that if my request to set aside is granted, genetic tests will be ordered.

4. Grounds for this request are (check the boxes that apply and explain in item 7 on page two):

- a. Mistake of fact or law, inadvertence, surprise, or excusable neglect. (Code Civ. Proc., § 473.)
- b. Fraud or perjury.
- c. Other (specify): _____

5. There is a judgment or order for paternity, child support, visitation, or custody based on the voluntary declaration of paternity and entered on (date): _____ I have complied with the time limits for filing this request to set aside (check one):

- a. **Request brought within six months after the entry of the order or judgment of paternity, based on mistake of fact or law, inadvertence, surprise, or excusable neglect. (Code Civ. Proc., § 473.)**
- b. Request brought within one year after the date I discovered or should have discovered fraud or perjury.
- c. Request brought as quickly as possible.

6. There is no judgment or order issued by a court or administrative agency for paternity, child support, visitation, or custody.

- a. There is an action pending for child support, visitation, or custody in (specify county): _____ County. (Attach copies of the papers served on you or by you, if available.)
- b. There is no action pending for child support, visitation, or custody.

(Continued on reverse)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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7. FACTS IN SUPPORT of this request are (specify):
(See Information Sheet for instructions on how to complete this section.)
 Contained in the attached declaration.

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)

NOTICE TO CLERK: This *Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity* shall be filed even if no court file currently exists concerning these parties. See Cal. Rules of Court, rule 1280.10.

(Continued on page three)

**INFORMATION SHEET FOR REQUEST FOR HEARING AND APPLICATION
TO SET ASIDE VOLUNTARY DECLARATION OF PATERNITY
(Form 1296.77)**

(Do NOT deliver this Information Sheet to the court clerk.)

If you do not have an attorney representing you, please follow these instructions to complete the *Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity* (form 1296.77). However, if you do have an attorney representing you, he or she should complete this form. **This form should be used if you want to set aside a voluntary declaration of paternity signed more than 60 days ago.** If the court grants the request, the court will require you, the other person who signed the voluntary declaration, and the child to submit to genetic tests to determine the child's parentage. If an order or judgment for paternity has been entered based on evidence other than the voluntary declaration of paternity, the court cannot set aside the voluntary declaration.

You must file the completed *Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity* and attachments with the court clerk. You may have to pay a filing fee when you file this form. **If you cannot afford to pay the filing fee, contact the court clerk. Keep three copies of the filed Request. Someone other than you, who is at least 18 years old, must serve the other party. Serve one copy of the Request on the other person who signed the voluntary declaration of paternity, along with a blank Responsive Declaration to Application to Set Aside Voluntary Declaration of Paternity (form 1296.78). Serve the second copy of the Request on the district attorney or other local child support agency if that office is providing services in this case. Keep the third copy for your records. Be sure to file your Proof of Service with the court clerk. The Information Sheet for Service of Process (form 1299.05) explains what you must do to serve your Request**

INSTRUCTIONS FOR COMPLETING THE REQUEST FOR HEARING AND APPLICATION TO SET ASIDE VOLUNTARY DECLARATION OF PATERNITY (TYPE OR PRINT IN INK):

PaQe 1

First box, top of form, left Side: Print your name, address, telephone number, and fax number, if any, in this box.

Second box, left side: Print the county name and the court address in the box. Use the same county name and court address that are on your judgment or order for paternity or support. If you do not have a paternity or support judgment, use the address listed in the telephone directory for the court clerk under "County Government Offices."

Third box, left side:

1. If there is NOT an order, judgment, or legal action already filed in the court based on the voluntary declaration of paternity:
 - a. Print your name in the space next to "Petitioner"
 - b. Print the name of the other person who signed the voluntary declaration next to "Respondent"; and
 - c. Leave the space next to "Other Parent" blank.
2. If there IS an order, judgment, or legal action already filed in the court based on the voluntary declaration of paternity, put the same names next to "Petitioner," "Respondent," and "Other Parent" as are on the order, judgment, or other legal action that was filed in the court.

First box, top of form, right side: Leave this box blank for the court to use.

Second box, right side: Print the case number shown on your judgment or order for paternity, child support, visitation, or custody. If you do not have a judgment or order, the court clerk will give you a case number.

(Continued on reverse)

Instructions for numbered Paragraphs:

Page 1

1. You must contact the court clerk's office and **ask that a hearing date be set for this request**. The court clerk will give you the information you need to complete this section. The hearing date must be written on the copies of the papers served on the other party.
2. Fill in the date you signed the voluntary declaration of paternity form in the space provided, Check the box indicating whether you are listed as the mother or the father on the voluntary declaration of paternity, and fill in the child's name. You must attach a copy of the signed voluntary declaration of paternity form to your request or explain why, in the space provided, you did not attach a copy.
4. Check the box(es) that best explain why you think your voluntary declaration of paternity should be set aside.
 - a. Check this box if any of the following statements describes the circumstances that existed at the time you signed the voluntary declaration of paternity:
 - You thought the facts were different from what they really are;
 - You misunderstood the law;
 - You did not pay attention to the consequences of signing the voluntary declaration of paternity, and your lack of attention could not have been avoided by reasonable care and good sense;
 - You were unexpectedly placed in the situation of signing the voluntary declaration of paternity, and you could not have avoided the situation by reasonable care and good sense; or
 - The voluntary declaration of paternity was signed due to your neglect, and you could not have avoided being neglectful by using reasonable care and good sense.
 - b. Check this box if either of the following statements describes the circumstances that existed at the time you signed the voluntary declaration of paternity:
 - You were kept in ignorance of the true facts; or
 - You signed the voluntary declaration because of perjury.
 - c. Check this box if neither 4a nor 4b describes your situation, but you believe there are other reasons to set aside the voluntary declaration of paternity, and you are filing your request as quickly as possible.
5. Check this box if there is a judgment or order for paternity, child support, visitation, or custody based on the voluntary declaration of paternity. Fill in the date the judgment or order was entered. If you check this box, your request must be filed within required time limits. If your request is not filed within those time limits, your voluntary declaration of paternity cannot be set aside. If there is no judgment or order for paternity, skip down to number 6.
 - a. Check this box if you are filing your request within six months after the entry of the order or judgment for paternity, and your reason for requesting the set aside is one (or more) of the following:
 - You thought the facts were different from what they really are, or you misunderstood the law.
 - You did not pay attention to the consequences of signing the voluntary declaration of paternity, and your lack of attention could not have been avoided by reasonable care and good sense;
 - You were unexpectedly placed in the situation of signing the voluntary declaration of paternity, and you could not have avoided the situation by reasonable care and good sense; or
 - The voluntary declaration of paternity was signed due to your neglect, and you could not have avoided being neglectful by using reasonable care and good sense.
 - b. Check this box if you are filing your request within one year of the date you either found out or should have found out that you were kept in ignorance of the true facts, or within one year of the date you either found out or should have found out that you signed the voluntary declaration of paternity because of perjury.
 - c. Check this box if none of the circumstances in items 5a-b applies to you, but you believe it would be reasonable and fair to set aside the voluntary declaration of paternity, and you are filing your request as quickly as possible. Include facts that would explain any delay in filing your request.

(Continued on page five)

6. Check this box if there is no judgment or order for paternity, child support, visitation, or custody. If there is a judgment or order, skip to number 7 on page 2.

- a. Check this box if an action for child support, visitation, or custody has been filed. Fill in the name of the county where the action is filed in the space provided. Attach a copy of the papers served on you or by you, if available.
- b. Check this box if no action for support, visitation, or custody has been filed.

Page 2

In the box at the top of page 2, left side, fill in the names of the parties exactly as you did in the third box on page 1. In the box at the top of page 2, right side, fill in your case number as listed on page 1. If you do not have a case number, the clerk will give you one.

7. You must fully explain all of the reasons that you checked in number 4 of this request. If you need additional space, you may attach additional sheets. Check the box if you are attaching a declaration or additional sheets explaining your reasons for this request.

You must date the form, print your name, and sign the form under penalty of perjury. When you sign the form, you are stating that the information you have provided is true and correct.

If you need additional assistance with this form, contact the family law facilitator in your county.