

A complete do-it-yourself Divorce Kit containing all the forms for an uncontested divorce and/or response and/or restraining order using Microsoft Word-processor fill-in-the-blanks format may be obtained from:

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(Petition for Dissolution)

GOING TO COURT **WITHOUT A LAWYER**

A Guide for Handling Uncontested

- **DIVORCE**
- **LEGAL SEPARATION**
- **ANNULMENT**

This brochure will help you understand the court process and fill out the legal forms you will need for an ***uncontested Divorce, Legal Separation, or Annulment.*** “*Uncontested*” means that:

- You and your spouse can agree outside of court about how you want to handle money and parenting issues,
or
- Your spouse is unlikely to file any forms in court disagreeing with your requests.

You can also ask the court clerk or Family Law Facilitator to show you the video “*Going to Court Without a Lawyer.*”

This brochure can not help you with the court forms you need for a contested case or if you were never married.

Separation and divorce can be hard for everyone—even if you were the one who wanted it to happen. In addition, the legal process is complicated and often confusing. This is because the law must protect everyone’s interests when a couple separates or divorces.

If there’s been domestic violence, it is important to make a safety plan before you tell your spouse you want a divorce, legal separation, or annulment or file any legal papers. You can call your local domestic violence agency for assistance. If you want additional information you can ask for “*A Guide for Persons Applying for Domestic Violence Protection Orders.*”

There are many feelings and day-to-day problems to handle when your marriage ends, especially if you have children. Although going through the court process can be a challenge, many people are able to finish the legal process on their own or with limited help from attorneys or other professionals, even if they make mistakes at first. You can avoid delays and spend less time in court if you take time to read this brochure and watch the video before you fill out any court forms.

CHOOSING THE RIGHT LEGAL FORMS

After you finish reading this brochure, you will need to get copies of the forms the court will use to decide your case.

Once you get some understanding of the forms and of how the court process works, you will be better able to protect your legal interests, and the process should go more quickly. Most people need more information and help (in addition to watching the video and reading this brochure) in order to be able to fill out their court forms. For this kind of help, contact your local bar association or lawyer referral service for a list of attorneys, including those who will reduce his or her fees for people with low-income or who will help you with just part of your case.

WHY GO TO COURT?

You may wonder why you have to go through this legal process — especially if you and your spouse have already agreed about how you will handle money and parenting issues. Getting married was a legal process. So is ending your marriage. Unless you have a court order ending your marriage or granting you a legal separation, you may continue to be responsible to and for each other financially (including loans and credit cards). Until you have a court order ending your marriage, you cannot marry anyone else.

GET LEGAL INFORMATION

You should consider getting help from a lawyer before you file any of your court forms. If you cannot afford to hire a private attorney, you should know that each California court has hired an attorney to give free help with child and spousal support problems. These attorneys are called Family Law Facilitators. Although the Facilitators can’t represent either

SOME LEGAL TERMS YOU NEED TO KNOW

◆ **Annulment (“Nullity of Marriage”)**: A legal action that says your marriage was never legally valid because of unsound mind, incest, bigamy, being under the age of consent, fraud, force, or physical incapacity.

◆ **Arbitration**: In *Arbitration*, an unbiased third party (usually an attorney) makes a decision settling a dispute out of court.

◆ **Court Order**: A judge’s decision that gives you certain rights or tells you to do certain things is called a *Court Order*.

◆ **Dissolution**: A marriage that is ended by a judge’s decision. This is also known as a *Divorce*.

◆ **Divorce**: A common name for a marriage that is legally dissolved.

◆ **Family Law Case**: Your divorce, legal separation, or annulment is called a *family law case* in this brochure.

◆ **Fee Waiver**: Permission not to pay filing fees is given to some people with very low incomes. You can get fee waiver forms from the court clerk.

◆ **Filing a Form**: Court forms are only considered “filed” when they are stamped by the court clerk. You can either take your forms to the clerk’s office to be stamped, or mail them in.

◆ **Filing Fees**: Court fees that must be paid to file certain forms, unless your request for a fee waiver is granted.

◆ **Legal Separation**: You and your spouse can end your relationship but still remain legally married, and get court orders on parenting and money issues with a *Judgment of Legal Separation*.

◆ **Mediation**: In *Mediation*, an unbiased third party helps you and your spouse reach agreements you both think are fair.

◆ **Negotiation**: In *Negotiation*, you and your spouse find solutions on your own, or with the help of a lawyer or other third party.

◆ **Pro Per**: If you are going to court without a lawyer, you are called a *pro per*.

◆ **Petitioner**: This is the person who starts the family law case by filing the first court papers.

◆ **Respondent**: If you did not start the family law case and you are named in this case, you are the *Respondent*.

QUESTIONS TO ANSWER BEFORE YOU START YOUR FAMILY LAW CASE

1. DO YOU WANT A DIVORCE, ANNULMENT, OR LEGAL SEPARATION?

There are three types of family law cases discussed in this brochure. The first type of family law case is a divorce (which is called “dissolution of marriage”). The second type of case is an annulment (which is called “nullity of marriage”). This is a rarely used proceeding which establishes that the marriage was never legally valid because of unsound mind, incest, bigamy, being under the age of consent, fraud, force or physical incapacity. The third type of case is a legal separation. A couple might choose to get a Judgment of Legal Separation if they want to live apart but do not want to get divorced. This might be for religious reasons or because an ill spouse is still covered by the other spouse’s health insurance policy. A Judgment of Legal Separation will describe how you will handle the money and (if you have children) parenting issues. You cannot marry someone else if you are legally separated but not divorced.

If you were never married, you will need different forms to handle your case. Ask the Family Law Facilitator or an attorney about which court procedures and forms you must use.

2. IS YOUR FAMILY LAW CASE UNCONTESTED OR CONTESTED?

If you and your spouse can agree about the money and parenting issues in your divorce, legal separation, or annulment, then you have an “uncontested” case. For some, this means that your spouse won’t even have to file a *Response* to your court forms. Most uncontested cases can be handled by mail or brief contacts with the clerk or judge. You may not have to go into court to handle your case.

If you and your spouse cannot agree on one or more issues, then your case is “contested.” The judge will know that your case is contested if your spouse files a *Response* (a form that is explained in this brochure) that lists what he or she disagrees about. The judge cannot do anything to resolve the disagreement, however, unless you or your spouse files the necessary forms to set a court hearing or trial date so the judge can hear both sides. ***This brochure can not help you with the court forms you need for a contested case.*** If your case becomes contested, contact a private attorney or (if the case involves child or spousal support) a Family Law Facilitator.

If your case starts out or later becomes contested, you may be able to work out an agreement through negotiation, mediation, or some other process. If you are able to reach an agreement in this way, your case can then become uncontested. Once the case is uncontested, you can handle it without going to a

court hearing and can cancel any future court dates that may have already been scheduled.

➡ **ALERT!** If your spouse lives in another state or country with any of your minor children, *you should discuss your situation with a lawyer or Family Law Facilitator before you file any papers.*

3. DO YOU MEET CALIFORNIA'S RESIDENCY REQUIREMENTS?

To file for divorce in California, either you or your spouse must have lived in:

- California for the last six months, AND
- the county where you plan to file for the last three months.

If you and your spouse have lived in California for at least six months, but in different counties for at least three months, you can file your case in either county. The court you file in will be the court that handles any future legal actions regarding this case. This sometimes changes if you or your spouse establishes residency in another state.

⊕ **NOTE:** *You do not have to meet any residency requirements if you are asking for a legal separation or annulment.* If you want to file your family law case in a California county but do not yet meet the residency requirement, you can file first for legal separation, then file

and serve a revised *Petition* after you meet the residency requirement to ask the court to grant you a divorce.

4. WHAT ABOUT A SUMMARY DISSOLUTION?

Some people can use an even easier process to end their marriage called ***Summary Dissolution***. This is not covered in this brochure. If you meet the following requirements, ask your court clerk for the Summary Dissolution forms and the separate booklet. This process is for people who:

- have been married less than five years as of the date they file their *Joint Petition for Summary Dissolution of Marriage*;
- have no children together that were adopted or born before or during the marriage (and the wife isn't pregnant now);
- do not own or have an interest in any real estate. This means a house, condominium, rental property, land, or a one-year lease or option to buy;
- do not owe more than \$5,000 total for debts acquired since the date of the marriage (not counting vehicle loans);
- have less than \$25,000 total property (not counting any money owed on the property and not counting any cars) that was acquired during the marriage;
- do not have separate property (not counting any money owed on the property and not counting any cars) worth more than \$25,000;
- agree that neither spouse will ever get spousal support;
- both sign the *Joint Petition* and pay the court filing fees or get a fee waiver;

SIX STEPS FOR AN UNCONTESTED FAMILY LAW CASE

You must follow six steps to complete your family law case. You must complete each step correctly and in order. While it is possible to get all of your forms completed and processed by the court in about three months, your marriage *will not* end any earlier than six months from the date you have your spouse served with a copy of your *Summons* and *Petition*.

- 1: GET COURT FORMS
- 2: START YOUR CASE
- 3: SERVE THE FIRST SET OF COURT FORMS
- 4: SERVE THE DISCLOSURE FORMS
- 5: FINISH YOUR FAMILY LAW CASE
- 6: FILE THE JUDGMENT FORMS



✓ STEP 1: GET COURT FORMS

All California courts use the same basic set of forms, although some courts add other local forms. You usually can get all of the forms you need from the court clerk's office. Some court clerks will have one packet with a copy of each of the forms that you might need for regular dissolutions, legal separations, or annulments and a separate packet for summary dissolutions. (If your case is uncontested, you probably will not need to use every form that comes in the full packet.) In other clerks' offices, you must ask for the specific forms you want. Most court clerks charge a small fee for these forms. You can also find copies of the court forms you will need in certain self-help law books, at a law library, at the office of the court's Family Law Facilitator, or on the Internet at

www.LawCA.com.

Throughout this brochure, we will give the full name and form number for each of the forms discussed. You can compare the forms mentioned here to the ones you receive from the court clerk by reading the form name printed at the center of the bottom of each form. You should note that each form is revised and updated from time to time. You will find the form number and the date that the form was last revised in the bottom left corner of each form.

A LIST OF THE FORMS YOU MAY NEED

- Summons (Family Law)*, Form 1283
- Petition (Family Law)*, Form 1281
- Declaration Under Uniform Child Custody Jurisdiction Act*, Form MC-150
- Confidential Counseling Statement (Marriage)*, Form 1284
- Property Declaration (Family Law)*, Form 1285.55-56
- Local form on choosing the branch of the court for filing
- Proof of Service of Summons (Family Law)*, Form 1283.5
- Notice and Acknowledgment of Receipt*, Form 982(a)(4)
- Response (Family Law)*, Form 1282
- Declaration of Disclosure*, Form 1292
- Schedule of Assets and Debts*, Form 1292.11
- Income and Expense Declaration*, Form 1285.50 (a)–(c)
- Declaration Regarding Service of Declaration of Disclosure*, Form 1292.05
- Request to Enter Default (Family Law)*, Form 1286
- Appearance, Stipulations, and Waivers*, Form 1282.50
- Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law)*, Form 1286.50
- Judgment (Family Law)*, Form 1287
- Child Custody and Visitation Order*, Form 1296.31A
- Spousal or Family Support Order Attachment*, Form 1296.31C
- Child Support Information and Order Attachment*, Form 1296.31B
- Stipulation to Establish or Modify Child Support and Order*, Form 1285.27

- ❑ *Notice of Rights and Responsibilities — Health Care Costs and Reimbursement Procedures*, Form 1285.78
- ❑ *Information Sheet on Changing a Child Support Order*, Form 1285.79
- ❑ *Child Support Case Registry Form*, Form 1285.92
- ❑ *Wage and Earnings Assignment Order*, Form 1285.70
- ❑ *Notice of Entry of Judgment (Family Law)*, Form 1290
- ❑ *Proof of Service by Mail*, Form 1285.85

GENERAL INFORMATION ON COMPLETING COURT FORMS:

Most people find it easier to fill out court forms by approaching each one, one section at a time. If you have questions, leave that section blank until you can get your questions answered. You can ask a private attorney or legal aid clinic for help in understanding and completing your court forms. You can also go to the law library and ask for books on how to fill out the paperwork.

Many of the forms have printing on both sides. This means you will have to be careful when making copies. It's easiest if you use two separate pages for copying the two sides of a form.

You can get helpful information about your local court on the Internet at www.LawCA.com.

☛ **ALERT!** Out-of-date forms will not be filed. Court forms may change on January 1 or July 1 of each year. Out-of-date forms will be returned to you without being filed. It is important that you check with a private attorney, the court's Family Law Facilitator, or the court clerk or on the Internet at www.LawCA.com to make sure that the forms you use are the latest ones. You can check the date the form was released by looking on the bottom left-hand portion of the form.

TIPS FOR FILLING OUT COURT FORMS

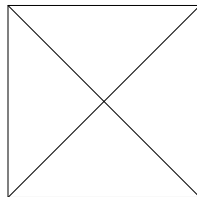
1. **All areas of the form must be filled out with complete, detailed, and accurate information** (or "N/A" if it does not apply to you).
2. **You should type each form.** However, some counties let you fill out your forms by hand. If they do, use ink only. Be sure your form is clear and readable. You may have to start over on a clean form if there are mistakes.
3. **Sign each form** in each place that requires your signature **IN BLUE OR BLACK INK ONLY.**
4. **Make copies of all forms** (including blank forms).
5. **Keep your court papers safe in a separate folder.** Be sure you keep a clean copy of all of your court papers.

- ***Declaration Under Uniform Child Custody Jurisdiction Act, Form MC-150*** (attach to *Petition* if you have children)

OTHER FORMS YOU MAY NEED:

If you want temporary orders regarding child or spousal support, bill payment, protection from domestic violence, or other issues, you will need to fill out and file other forms, which are not covered in this brochure. The Family Law Facilitator can help you with temporary orders for child or spousal support. The other forms you may need include:

- ***Property Declaration (Family Law), Form 1285.55.*** You can use this form to list your property and debts if you run out of room on your *Petition (Family Law), Form 1281.*
- ***Confidential Counseling Statement (Marriage), Form 1284.*** Some courts require you to fill out and file this form to say whether you want marriage counseling.
- ***Local form on choosing the branch of the court for filing your case.*** Some counties have many branches of the superior court and require you to fill out and file a special form listing the court where you file your case.



NOTE: You can use this brochure to find out the name of and get general information about how to fill out and file each of the court forms. However, this brochure does *not* give you line-by-line instructions on completing each form.



NAME OF FORM:	<i>Petition (Family Law), Form 1281</i>
PURPOSE OF FORM:	Used to start a Family Law Case; list dates, children, property, debts.

GENERAL INFORMATION:
Put your name, current address, and daytime phone number at the top of the form. If you do not have an attorney to represent you, you must add the words “in pro per” where the form says “Attorney for.” Next, fill in the court name and address (and if necessary the district courthouse where you will file your *Petition*). If you are the person who starts the court case, you are the Petitioner, and your spouse is the Respondent. The court clerk will assign a case number when you file the first set of forms. Use this case number on all your forms.

Date of Separation: This is usually the date when you or your spouse moved out, or when the two of you permanently stopped living as husband and wife, even if you stayed in the same house.

➡ **ALERT!** If you have significant property, or a pension, or if there will be spousal support issues, you should get legal advice from a family law attorney about figuring out what the “date of separation” was, especially if there have been times when you did not live together or had “trial separations”.

Minor Children: Only list the children under the age of 18 who were born to or adopted by you and your spouse together. You must fill out and file a *Declaration Under Uniform Child Custody Jurisdiction Act*, Form MC-150 to let the judge know where your child has been living and with whom, and if there are any other court cases involving custody of your child (including juvenile, guardianship, or domestic violence cases).

Listing of Property and Debts: First, you will have to list what you *own* (money or property) and what you *owe* (loans or debts). Then, you must say whether these things are

owned by both of you (*community property*) or owned by one of you (*separate property*).

The property and debts part of the legal process is often so complicated, and the cost of making a mistake is so high, that it makes sense to meet with an attorney before filing these papers with the court. If you leave the property section of your Petition blank, then you are saying that there is no property or debt to consider. Check the appropriate

boxes if you do not have p 24 or debt to consider, or if you and your spouse already reached an agreement settling all the issues in your case and had it notarized.

If you need more room, you can list more assets or debts on the *Property Declaration* form or use a blank page that you label “Attachment to Petition (*Separate or Community*), *Property Assets and Obligations*.” Try to fill in all the information for what you own and owe. Remember to list not only the house, cars, bank accounts, furniture, and appliances, but also any pension and retirement benefits, IRA accounts, 401k plans, life insurance policies, security deposits, and promissory notes. When listing debts, be sure to include unpaid taxes, medical bills, credit card accounts, and other loans or mortgages. You do not have to list individual personal property items (such as clothing, pots and pans, books, and other smaller items).

Community Property:

Except for those things covered in the definitions section below, everything you acquire while married is part of your “community property” (even if only one of you earned or spent the money). Community property should be divided equally.

➡ **ALERT!** Community property does not become separate property (even if you and your spouse have agreed about who gets what) until the judge signs the final court order.

Separate Property of a married person includes:

- All property owned by the person before marriage;
- All property acquired by gift or inheritance that is especially for that person;
- The rents, profits, or other money earned from the separate property; or
- Property that is acquired *after the date of separation*.

When listing separate property and debts, be sure to show whether it belongs to the Petitioner or the Respondent. *Some things might be part separate and part community.* For example, you or your spouse might have a pension or retirement benefit from a job you held both before the marriage and during the marriage, so the pension or retirement benefit would be part separate property and part community property. *If you have signed an agreement either before or during the marriage that might change how the law treats a particular asset or debt, you should meet*

with an attorney to find out how this affects your family law case before filing your papers with the court.

Grounds for Divorce or Separation: If you want either a dissolution (divorce) or a legal separation, check the appropriate box. Then, check the box next to your reason for wanting the divorce or legal separation. Most people choose *irreconcilable differences* (meaning that you and your spouse cannot resolve your differences well enough to stay married). California law does not ask either spouse to show who was “at fault” to get a divorce or legal separation.

Grounds for Annulment (Nullity of Marriage): You should know that courts rarely grant this type of request, and there are time limits for filing for annulment. If you ask the judge to annul your marriage, you will have to prove in a court hearing that at the time of the marriage both of you were closely related (incest), or one of you was either: underage; still married to someone else (bigamy); of unsound mind; tricked or forced into getting married; or not physically able to be married.

Child Custody and Visitation: If you have listed any children under the age of 18 on the petition, you must check the boxes to show how you want the custody and visitation issues to be decided.

Legal Custody: refers to who can make the decisions that affect a child’s health, education, and welfare. Usually, with

joint legal custody, both parents work together to make decisions regarding their child. However, unless the joint legal custody order lists the circumstances where joint consent is required, either parent alone can make these decisions. A parent with *sole legal custody* makes parenting decisions on their own, without consulting the other parent.

Physical Custody: refers to where the child lives. With *joint physical custody*, the child spends significant (but not necessarily equal) time living with each parent. When one parent has *sole physical custody*, the child lives primarily with that parent and has visitation with their other parent.

Child Visitation: Your visitation plan for your child can be either general or have lots of details. Many parents find that detailed plans work best. A detailed plan might list when and where the child will be picked up and dropped off, or how to split holidays and vacations or share birthdays. This kind of detail can help avoid arguments and help your children feel better, because everyone will understand how the agreement is supposed to work, and will know when they will spend time together. However, if you and your spouse can still decide things easily and cooperate regarding the children, a general agreement can be enough. For example, you might only list where your child will live during the school year and summer and that visits will happen every other weekend or when it's convenient.

Some parents ask the judge to decide that visits can happen only when another responsible adult is there. This is called *supervised visitation*. If you ask for supervised visits, you should say who the supervisor would be and how he or she will be paid.

Restriction on Travel with Child: A “*Standard Family Law Restraining Order*” (listed on the *Summons*) goes into effect as soon as the *Petition* is filed. This order stops either parent from taking the child out of California unless he or she gets the other parent's written consent before the travel occurs, or there is a court order allowing the travel. This restriction ends when the final *Judgment* has been signed by

the judge and filed with the court, unless the court continues that restriction in the *Judgment*.

Spousal Support: *Spousal support* is another name for “alimony” or “maintenance” in California. Spousal support is money that one spouse pays to help support the other after they separate. If you disagree about support, a judge or family law commissioner will decide who pays what, and how long support will last. The judge will consider the length of the marriage; what each person needs, earns or can earn, pays or can pay; whether having a job will make it too hard to take care of the children; the age and health of the parties; debts and property; and whether one spouse helped the other get an education, training, career, or professional license.

Either spouse can ask the court not to order support, or to decide when support will end. If you want there to be no spousal support, you can check the “terminate jurisdiction” box. If you agree, or the judge approves your request to have no support, neither of you may ever go back to court to ask for spousal support. If you are considering asking for spousal support, your petition must show a checked box asking that the court order spousal support. Also, be sure to check the box regarding whether spousal support should be paid to the Petitioner or Respondent.

➡ **ALERT!** Spousal support is a difficult legal issue. See a lawyer or the Family Law Facilitator about how much spousal support might be ordered, how long it might last, and how it might affect your taxes. In general, spousal support is tax-deductible for the paying spouse, and taxable income for the supported spouse.

Restoration of Former Name: Either spouse may ask to have their name changed back to the one he or she used before the marriage. To do this, check the appropriate box on the *Petition*, and then write or type in the former name.

Child Support: You do not need to check any boxes to request child support for minor children listed on the *Petition*. (See number 8 on the *Petition*.)



<u>YOUR NOTES:</u>



NAME OF FORM: *Summons (Family Law), Form 1283*

PURPOSE OF FORM: Tells your spouse that a court case has started and what will happen if they don't respond in 30 days.

GENERAL INFORMATION: Write your names, the court's name and address, and the case number in just the same way as on the *Petition*. Be sure to read all of the information on the back of this form, including

the restraining orders against out-of-state travel with your children without your spouse's prior written consent or a court order, canceling insurance, or getting rid of property without the other spouse's written permission or a court order unless you must sell the property to pay for the necessities of life. These orders affect you as soon as the *Petition* is filed. The orders affect your spouse as soon as he or she is served with the *Summons* and *Petition*. Step 3 explains how to file the *Petition*.



<u>YOUR NOTES:</u>



NAME OF FORM: *Declaration Under Uniform Child Custody Jurisdiction Act, Form MC-150*

PURPOSE OF FORM: Tells the court where and with whom your child has lived in the last five years and other custody or visitation cases affecting your child.

GENERAL INFORMATION:

Fill out the chart for each child under the age of 18. Be sure to fill out the information on the back regarding other court proceedings and other persons who have physical custody or claim to have custody or visitation rights. Attach this form to your *Petition*.



<u>YOUR NOTES:</u>



NAME OF FORM: *Property Declaration (Family Law), Form 1285.55*

PURPOSE OF FORM: Lists by category each item of property and debt that you contend is community or separate.

GENERAL INFORMATION:

You only need this form if you run out of room on the *Petition* to list community and separate property and debts.

Be sure to use separate copies to list your community and separate property and debts. You do not need to give values or list how everything will be divided when the forms are attached to your *Petition*. If you need more room to list everything, attach an extra page or use the last page where you will have more room.



FINISHING AND FILING THE FIRST FORMS:

It is a good idea to have your first set of forms reviewed by an attorney before filing them with the court. This will allow you to make any needed changes before filing the forms with the court clerk.

You need an original and two copies of each form you file with the court, except for the *Summons*. The clerk will file and keep the original of every form and stamp the two copies. The clerk will return the original *Summons* to you. (You will see a special stamp in the “seal” box on the lower left corner of the form.) Be sure to keep that original *Summons* with the seal in a safe place because it must be filed later with the *Proof of Service* form at the clerk’s office after your forms have been “served” on your spouse (the next step). You will not be able to get a final Judgment if you do not file the original *Summons* with the *Proof of Service* form (unless

there are grounds to file a *Declaration of Lost Summons*).

There is a fee of at least \$185 to file your first forms. The court clerk will tell you the exact amount. If you file by mail, be sure to include a money order. If you file in person, bring a money order or cash to cover the filing fee. (Some courts accept personal checks or credit cards. Check with your local court.) If you have a very low income or are receiving certain benefits, you may be able to get your court fees waived. Ask the court clerk for the *fee waiver forms* to see if you qualify. If you do qualify for a fee waiver, then fill out those court forms and bring them with you when you file your first forms.

✓ STEP 3: SERVE THE FIRST SET OF COURT FORMS

The law requires that your spouse be given formal notice that you have started the legal process to file for divorce, legal separation, or annulment. In fact, the judge cannot make any orders or judgments unless and until your spouse has been

properly “*served*.” Having your spouse properly served means that someone else either hands the forms to your spouse (known as “personal service”) or mails them to your spouse. Anyone other than you can serve the forms, including friends, relatives, the county sheriff, or a process server over 18 years of age who is not a party to your family law case. **You can’t be the one to serve these forms on your spouse.**

If you and your spouse are able to work together and are cooperating regarding your family law case, then the easiest and least expensive way to serve your spouse is by mail. The person serving the forms by mail must include two copies of the *Notice and Acknowledgment of Receipt*, Form 982 (a)(4) and an envelope with first class postage that is addressed to you, which your spouse must sign, date, and return to you.

If your spouse does not sign, date, and return the *Notice and Acknowledgment of Receipt* to you, you must have him or her personally served with the forms.

The other method of service is personal service, or having someone hand the forms to your spouse. If you hire a professional “process server,” it helps to give him or her a picture of your spouse, and a list of times and places when it will be easier to find your spouse. You should also try to find a process server who is close to where your spouse lives or works, since a process server’s fee is often based on how far he or she has to travel to serve your forms.

Whoever serves these forms must give your spouse a clear copy of:

- Each of the forms you filed with the court;
- A blank *Response*, Form 1282; and
- (if service is by mail), two copies of the *Notice and Acknowledgment of Receipt*, Form 982 (a)(4), and an envelope addressed to you with first class postage on it.

NOTE: You cannot finish your family law case until you have served your spouse *and* filed the *Proof of Service of Summons* and other necessary forms with the court. Your divorce cannot be final faster than six months after your spouse was served with the *Summons* and *Petition* that have been stamped by the court clerk.

After your spouse has been served, you must show the court that your spouse was properly served. This process for proving how your forms were served varies, depending on how your spouse was served:

- **If your spouse was served in person:** the person who served the forms must fill out a *Proof of Service of Summons (Family Law)*, Form 1283.5 indicating when and where the papers were given to your spouse and file it with the original *Summons*.
- **If your spouse was served by mail:** the person who served the forms must fill out a *Proof of Service of Summons (Family Law)*, Form 1283.5 indicating that your

- *Declaration of Disclosure*, Form 1292;
- *Income and Expense Declaration*, Form 1285.50;
- *Schedule of Assets and Debts*, Form 1292.11; and
- Disclosure of investment opportunities since you separated, if any, that you write out on a clean sheet of paper. This is not a form.

●NOTE: Both you and your spouse are responsible for making sure that the financial information you give each other is current. Therefore, one or both of you may need to fill out and serve new *Preliminary Declaration of Disclosure* forms as changes occur or you get new information about what is owned and what is owed. This rule applies until your property is distributed by agreement or court order.



NAME OF FORM: *Declaration of Disclosure, Form 1292*

PURPOSE OF FORM: Face sheet listing what is included with your *Preliminary Disclosure*.

GENERAL INFORMATION:
 For the *preliminary disclosure*, check the box on Form 1292 identifying you as the Petitioner or Respondent and the box indicating that this is your *Preliminary Disclosure*. Then check the boxes, and complete and attach the *Income and Expense Declaration*, Form 1285.50, and the *Schedule of Assets and Debts*, Form 1292.11. If either you or your spouse

made any investments during the marriage, you must each inform the other in writing of any opportunities that occur as a result of those investments. If this applies to you, check the box regarding investment opportunities and attach a piece of paper explaining what the opportunity is, so that your spouse can decide whether he or she wishes to participate.



<u>YOUR NOTES:</u>



NAME OF FORM: *Income and Expense Declaration, Form 1285.50*

PURPOSE OF FORM: Gives your spouse financial information.

GENERAL INFORMATION:
 This four-page form can take a lot of time to complete. You may need help from an attorney or the Family Law Facilitator. You need to gather financial information from tax forms, your checkbook, bank or other account statements, mortgage statements, and/or other loan papers. You might also need a calculator. You don't have to fill out the last

page, Form 1285.50c, if you and your spouse do not have any children under the age of 18.

NOTE: FILL OUT PAGE 1 OF THIS FORM LAST!

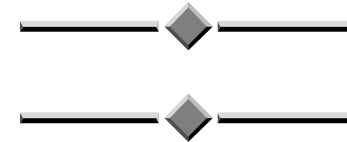
Start with page 2, *Income Information*. Make a list and add up all of the income you have gotten from all sources in the last 12 months. You will need to have a total for both the last 12 months *and* the most recent month. You must also give information about the deductions from your paycheck. All of the numbers you list must be *monthly* totals. You must state the value of any property you own. Be sure to attach copies of your three most recent pay stubs.

On page 3, *Expense Information*, list your average monthly expenses for each item on the form. One way to do this is to take the total of your household expenses for 12 months, then divide the total by 12 to get an average. If you own a house, this includes your monthly mortgage interest payment, property taxes, and homeowner’s insurance. You must also list your debts.

Only fill out page 4, *Child Support Information*, if you and your spouse are the parents of children under age 18. Here, you must figure out the percentage of time you and your spouse each have, or will have, with your child. Unless your court has a different way for figuring this out (check with the clerk for any local rules about this or check with an attorney),

add up all the hours that the child spends each year with one parent (including holidays and vacation periods). Then, divide that by the total number of hours in the year (8,760) to get a percentage. The other parent has the remaining percentage. If you have children under the age of 18 from another marriage or relationship who live with you and whom you are legally required to support, be sure to list their names and ages under the “*hardship*” section.

On page 1, *Income and Expense Declaration*, you must give information about you and your spouse and list the totals from certain lines of the other three pages of the form.



NAME OF FORM:	<i>Schedule of Assets and Debts, Form 1292.11</i>
PURPOSE OF FORM:	List of property and debts.

GENERAL INFORMATION:

You can list this information in one of two ways. You can either use the *Schedule of Assets and Debts*, Form 1292.11, or you can make your own form on a clean sheet of paper by putting “*Preliminary Declaration of Disclosure*” and your name and case number at the top of the page.

If you use the *Schedule of Assets and Debts* form, you can simply list your assets and liabilities and your percentage of ownership or responsibility for debts. If you and your spouse own property (or have a debt) with a third party, you must state your individual percentage of ownership or liability. You can wait until you prepare the *Final Declaration of Disclosure* to provide the other information requested on the *Schedule of Assets and Debts* form (date you acquired the asset or liability, current gross fair market value, and the amount of money owed or encumbrance).

➤ **ALERT!** Most people need legal advice to know how to fill out and file the *Schedule of Assets and Debts*.



Final Disclosure: The *Final Declaration of Disclosure* is more detailed than the *preliminary disclosure*. However, you do not have to file a *Final Declaration of Disclosure* if:

- You and your spouse agree to skip (“waive”) your *Final Declarations of Disclosure*;

OR

- your spouse has not filed a *Response* to your *Petition for Dissolution of Marriage, Legal Separation, or Nullity* or any other papers with the court and has not signed a written and notarized settlement agreement (in Step 5 this is called an “option A” case).

If you and your spouse agree to skip (“waive”) your *Final Declaration of Disclosure*, there must be very specific language in your written settlement agreement about the waiver. If you and your spouse want to waive your *Final Declaration of Disclosure*, be sure to check with an attorney about how to do it.

● **NOTE:** If you do not need to fill out a *final disclosure*, you can go directly to Step 5.

If you need to do a *final disclosure*, you must fill out all of your *Final Declaration of Disclosure* forms, keep the original set of forms, and make one copy of everything for your spouse. You must have these forms served by mail or in person before or at the time the two of you sign your settlement agreement. If your case is contested, all of this must happen at least 45 days before your “*first assigned trial date*.” You may have the final disclosure either mailed or hand delivered to your spouse by an adult other than yourself.

For your final disclosure, you need to fill out:

- ***Declaration of Disclosure, Form 1292;***
- ***Income and Expense Declaration, Form 1285.50;***
- ***Schedule of Assets and Debts, Form 1292.11;***
- Statement of material facts and information regarding valuation of community property assets and regarding community obligations (not a form);

- Disclosure of investment opportunities since you separated, if any, that you write out on a clean sheet of paper. This is not a form; and
- ***Declaration Regarding Service of Declaration of Disclosure, Form 1292.05.***

<u>YOUR NOTES:</u>



NAME OF FORM: *Declaration of Disclosure, Form 1292*

PURPOSE OF FORM: Cover sheet listing completed forms.

GENERAL INFORMATION:
 Fill out a new *Declaration of Disclosure, Form 1292* face sheet. Check the “Final” box, as well as the boxes for all other attachments that apply in your case. You must attach an updated *Income and Expense Declaration, Form 1285.50*, and

a *Schedule of Assets and Debts, Form 1292.11* (remember that this time you have to fill out all the columns on this form). You must also provide a “statement of material facts and information” regarding the value of community property assets and liabilities. Check with an attorney if you have any questions about this. Also be sure to attach a list of any investment opportunities that have come up when you file your *Final Declaration of Disclosure*.



<u>YOUR NOTES:</u>



NAME OF FORM: *Declaration Regarding Service of Declaration of Disclosure, Form 1292.05*

PURPOSE OF FORM: Shows when and how the *preliminary and final disclosures* were served.

GENERAL INFORMATION:

Be sure to list yourself and your spouse correctly as the *Petitioner* or *Respondent*. Have the person who served your completed *Declaration(s) of Disclosure* form on your spouse sign this form.



A quick review. Do *not* file either your preliminary or final *Declaration of Disclosure* with the court. Instead, each of you must file with the court the *Declaration Regarding Service of Declaration of Disclosure*, Form 1292.05, to show that you have completed these steps. You cannot get a final *Judgment* without filing this form.

<u>YOUR NOTES:</u>

STEP 5: FINISH YOUR FAMILY LAW CASE
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In Step 5, you will fill out and file the last set of forms before you fill out the *Judgment*, which is the last step of your family

law case. The forms you fill out in Step 5 vary, depending on your individual situation. To make this easier to understand, we have created three “options” that describe most uncontested cases. Once you decide which type of case you have, you only need to follow the instructions that apply to you (option A, B, or C). Some of the forms you need are described on pages 57 through 61. Check with an attorney or the court clerk for any local rules that apply to the forms used in Step 5.

❑ “OPTION A”: YOUR SPOUSE DOES NOT FILE OR SIGN ANY FORMS.

If your spouse chooses NOT to file a *Response* and does not wish to sign any agreement or participate in these proceedings, we will call yours an *option A* case. For *option A* cases, you only need to fill out and serve a *preliminary disclosure* during Step 4. During Step 5, people with *option A* cases must complete and file the following forms:

- ***Request to Enter Default (Family Law)*, Form 1286** with completed *Proof of Service* section;
- ***Income and Expense Declaration*, Form 1285.50** if support is requested in the *Judgment*, or you’ve been married at least 10 years;
- ***Property Declaration (Family Law)*, Form 1285.55** if there is separate property or debts to confirm, or community property or debts to divide in the *Judgment*.

Step 6 describes how *option A* people must prepare and file the following additional forms:

- ***Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law), Form 1286.50*** if you want your proposed *Judgment* reviewed and filed without a court hearing;
- ***Notice of Entry of Judgment (Family Law), Form 1290;***
- ***Judgment (Family Law), Form 1287,*** a face sheet with attachments that you prepare on blank paper and/or form attachments: ***Child Custody and Visitation Order, Form 1296.31A.***

If support orders are being requested in the *Judgment*, also include the following forms:

- ***Spousal or Family Support Order Attachment, Form 1296.31C;***
- ***Child Support Information and Order Attachment, Form 1296.31B;***
- ***Notice of Rights and Responsibilities—Health Care Costs and Reimbursement Procedures, Form 1285.78;***
- ***Information Sheet on Changing a Child Support Order, Form 1285.79;***
- ***Child Support Case Registry, Form 1285.92;***
- ***Wage and Earnings Assignment Order, Form 1285.70*** (if spousal support is requested);
- ***Order/Notice to Withhold Income for Child Support, federal Form 0970-0154*** (if child support or family support is requested).



<u>YOUR NOTES:</u>

□ “OPTION B”: YOUR SPOUSE DOES NOT FILE A RESPONSE BUT DOES SIGN A SETTLEMENT AGREEMENT.

If your spouse chooses NOT to fill out and file a *Response*, and both of you have signed and notarized a *marital settlement agreement* or *stipulated judgment* that covers all of your money and parenting issues, then we will call yours an *option B* case. In some counties, your spouse won’t have to pay a filing fee for this step.

Step 6 describes how *option B* people must prepare and file the following additional forms:

- ***Request to Enter Default, Form 1286;***
- ***Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law), Form 1286.50*** if you want your proposed *Judgment* reviewed and filed without a court hearing;

- **Judgment (Family Law), Form 1287**, is a cover sheet to which you attach the *marital settlement agreement* or *stipulated judgment*;
- **Notice of Entry of Judgment (Family Law), Form 1290**;
- **Income and Expense Declaration, Form 1285.50** (some counties require you to file this form whenever you ask for support orders in the *Judgment*, or if the marriage lasted more than 10 years, even if you haven't asked for support orders). You may be able to use the same one you completed as part of your *Final Declaration of Disclosure*.

If support orders are being requested in the *Judgment*, also include these forms:

- **Notice of Rights and Responsibilities—Health Care Costs and Reimbursement Procedures, Form 1285.78**;
- **Information Sheet on Changing a Child Support Order, Form 1285.79**;
- **Child Support Case Registry, Form 1285.92**;
- **Wage and Earnings Assignment Order, Form 1285.70** (if spousal support is requested);
- **Order/Notice to Withhold Income for Child Support, federal Form 0970-0154** (if child support or family support is requested).

YOUR NOTES:

“OPTION C”: YOUR SPOUSE HAS FILED A RESPONSE AND SIGNED A SETTLEMENT AGREEMENT.

If your spouse has filed a *Response* and you both have signed a written *marital settlement agreement* or *stipulated judgment* resolving all issues, then we will call yours an *option C* case. You will have to fill out and both of you must sign an *Appearance, Stipulations, and Waivers* form. After your spouse has signed and returned this form to you, you will need to file this form with the court.

Step 6 describes how *option C* people must prepare and file the following additional forms:

- **Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law), Form 1286.50** if you

mailed your spouse a copy of this form. You can sign and date the remaining portions of this form. You will have to give the clerk an extra copy and a stamped envelope addressed to your spouse so that the clerk can mail a filed copy of this form to your spouse.



ALERT! You need to get legal advice if your spouse is currently in the military. Special rules apply if you are attempting to ask for a default judgment against a member of the military.

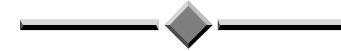


NAME OF FORM: *Property Declaration (Family Law), Form 1285.55*

PURPOSE OF FORM: Used in *option A* cases to list separate property, community property, debts.

GENERAL INFORMATION:
You may already have filled out this form as an attachment to your *Petition*. If so, this time you may need to add some information. Be sure to use different forms for your *community* and *separate* property and debts. This time, you have to fill in all of the columns showing how much things

are worth and how you think they should be divided between you and your spouse. California law requires an equal division of the community property and debts. For this reason, you need to make sure that the total value of property less the debts is nearly equal for each spouse, or the judge may not approve your proposed *Judgment*. If you need more room to describe the property, make an attachment, use the last page, or use the *Property Declaration, Form 1285.55* to continue the listings that you can't fit on the first two pages.



NAME OF FORM: *Income and Expense Declaration, Form 1285.50*

PURPOSE OF FORM: Used in all *option A* cases, some *option B* and *C* cases to calculate support, ask for cost reimbursements.

GENERAL INFORMATION:
You should have already filled out this form for your *preliminary disclosure* (Step 4). If the information is the same, you can make a photocopy of the same form you already filled out (but put the current date on the form and sign it again), and attach your three most recent pay stubs. If there have been changes, then you must fill out a new form

face more delays if you have to either change something on your forms or schedule a court hearing. The court is also likely to reject your *Judgment* form if:

- the *Judgment* form includes property and debts or other issues which were not listed in the *Petition* or the *Property Declaration*, unless you included a phrase on those forms saying the value of the assets and debts are unknown at this time;
- the property division requested on *Property Declaration* forms or agreed to in the settlement agreement appears to be one-sided or unfair;
- your forms do not give enough information on your finances or how much time each of you spends with your child for the court to figure out support orders;
- you did not get the necessary approval for proposed child support payments from the district attorney;
- the judge cannot see when, or if, the Respondent was served with both the *Summons* and the *Petition*;
- you didn't include a required court form in your *Judgment* packet.

When You Need the District Attorney's Approval for Child Support Payments

If one parent gets welfare benefits for a child of this marriage, the district attorney (DA) has to approve the amount of child support that will be paid. You must go to the DA in the county that is paying the benefits or has filed papers in this or

any child support proceeding involving a child of this marriage. Send a copy of your final forms to the DA's office before giving them to the court. The DA must read and sign your proposed *Judgment* (and *Stipulation to Establish or Modify Child Support and Order* if you use this form) to show that they approve. Then, file this signed original of the final documents with the court clerk, along with your other forms.

<u>YOUR NOTES:</u>

NAME OF FORM: *Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law), Form 1286.50*

PURPOSE OF FORM: Used in *option A, B, and C* cases to finish by mail, unless requesting an annulment.

GENERAL INFORMATION:

Use this form if you want the court to grant your divorce or legal separation without a court hearing. Read this form carefully and check all of the boxes that apply, including the name change box if either or both of you want to use a previous name. Be sure to check the box if either spouse has applied for, or is getting, public assistance for a child of this marriage.

- **For option A cases:** this form lets you tell the court that you don't want to do *final disclosures*.



<u>YOUR NOTES:</u>



NAME OF FORM: *Judgment (Family Law), Form 1287*

PURPOSE OF FORM: Face sheet with attachment prepared on blank paper stating the *Judgment* terms. (*option A, B, and C* cases)

GENERAL INFORMATION:
 This form states what you and your spouse want the judge to order, a spouse's restored legal name, and the date your "marital status ends" (that is, when the divorce is final and

you and your spouse are no longer married to each other). It includes only what you have in your written settlement, or what you asked for in your *Petition*. Most people attach extra pages (prepared on blank paper) to list what decisions they want the judge to make. You can also use forms *Child Custody and Visitation Order*, Form 1296.31A; *Child Support Information and Order Attachment*, Form 1296.31B; or *Spousal or Family Support Order Attachment*, Form 1296.31C. Be sure to check the box showing whether you want a divorce, legal separation, or annulment ("nullity").

◆ **ALERT!** You should get legal advice about how to state in writing the terms of your *Judgment*.

Filling in important dates:

- If you are asking for a dissolution and you are submitting your forms before six months have passed from the date the Respondent was served, fill in the date that is six months plus one day after the Respondent was served with the *Summons* and *Petition* as the date the marital status ends. If it has been more than six months since the Respondent was served, leave this space blank and the court will fill it in for you. If you are asking the court to approve your forms by mail, leave the information about the hearing blank.
- The date "the court acquired jurisdiction" of the

Respondent is whichever date below came first:

- the date the Respondent was served with the *Summons* and *Petition* (see date on completed and filed *Proof of Service of Summons (Family Law)*, Form 1283.5), **OR**
- the date the Respondent appeared (filed a *Response* or an *Appearance, Stipulations and Waivers* form).

For option A cases, the court can only:

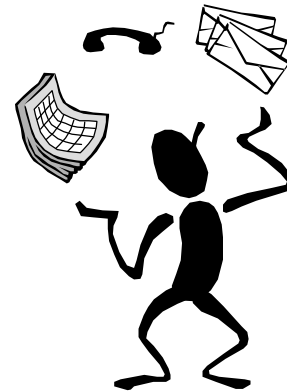
- divide equally the community property and debts listed on the *Petition* and/or the *Property Declaration* attached to the *Petition*;
- make custody and visitation orders that are the same as what you asked for in your *Petition*;
- award spousal support when requested on the *Petition* and the *Income and Expense Declaration* is complete;

- award child support if there is enough information on each spouse's finances and the amount of time each parent spends with the child;
- terminate (end) the court's jurisdiction (ability) to award spousal support to Respondent;
- make other orders that were specifically requested in the petition.

For option B and C cases, the court can only approve a *Judgment* that is the same as the *marital settlement agreement*

or *stipulated judgment*. Your spouse's signature must be notarized.

For option C cases, your agreement can be called either a *stipulated judgment* or a *marital settlement agreement*. In some counties, both of your signatures must be notarized.



NAME OF FORM:

Notice of Entry of Judgment (Family Law), Form 1290

PURPOSE OF FORM:

Used in *option A, B, and C* cases to list the type of *Judgment* granted (dissolution, separation, nullity), date marital status

changed, and when final Judgment entered.

GENERAL INFORMATION:

Fill in the same information you put on your proposed *Judgment* to reflect the type of *Judgment* you will be getting. If your judgment is for dissolution (divorce), fill in the date the marital status ends (either six months plus one day after serving the *Summons* and *Petition* or leave it blank so that the judge can fill it in). You must fill in each spouse's name and address in the empty boxes at the bottom of the form.



<u>YOUR NOTES:</u>

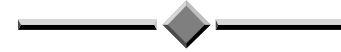


NAME OF FORM: *Wage and Earnings Assignment Order, Form 1285.70*

PURPOSE OF FORM: Used in *option A, B, and C* cases to order the paying spouse's employer to withhold spousal support from the paycheck and send it to the other spouse.

GENERAL INFORMATION:

This form is required with all spousal support orders. Use federal Form 0970-0154, *Order/Notice to Withhold Income for Child Support*, to have child support or family support withheld from your spouse's paycheck. Note that if the parties agree that support will be paid voluntarily by one party to the other party, the *Wage and Earnings Assignment Order* is not sent to the support payor's employer, unless he or she misses one or more voluntary payments.



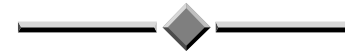
NAME OF FORM: *Stipulation to Establish or Modify Child Support and Order, Form 1285.27*

PURPOSE OF FORM: Tells parties what guideline support is; allows them to agree on an amount if no welfare issues are involved.

GENERAL INFORMATION:

Some courts require you to get a computer printout that shows what child or spousal support should be. You can get this from a private attorney, the district attorney, your court’s Family Law Facilitator, or search on the Internet for a program that calculates child support using California’s guideline. If there is more than one minor child of this marriage, you must say how much support is for each child. You must list the amount of any standard child support “add-ons” (which are childcare costs related to employment or to reasonably necessary education or training for employment skills, and reasonable uninsured health care costs for the children). You and your spouse can also agree to share the “add-on” costs for your child’s educational or other special needs and travel expenses for visitation. If the paying spouse wishes to claim a “hardship deduction,” he or she must state the reason and the monthly amount he or she will pay because of the hardship. Consult with an attorney, a Family Law Facilitator, or the district attorney regarding the definition of a “hardship deduction.” You must also say who will provide health insurance for the child⁷¹ and how uninsured health care costs will be shared.

For option B cases: Your spouse may need to pay a first appearance filing fee when they sign and file this form. If you have a low income, you may qualify to have this fee waived (you would not pay). You can get the court form to apply for the fee waiver from the court clerk.



➡ **ALERT!** Once you have finished filling out the last set of forms, you should have them reviewed by an attorney to make sure that you have completed all of the required forms correctly.

FILING THE LAST SET OF COURT FORMS

For all cases: Mail or deliver to the court clerk the original and two copies of all the forms you’ve prepared (except for the *Judgment* – the clerk will need the original and four copies of that form and its attachments). Include two 8 ½" by 11" (or larger) envelopes with first class postage on them, one addressed to you, one addressed to your spouse. It will take several days or weeks before you receive these forms back.

<u>YOUR NOTES:</u>

2. **Motor Vehicles:** If your *Judgment* provides for only one of you to own a motor vehicle that you used to own together, prepare and file a DMV form to change title to the motor vehicle.
3. **Retirement Benefits:** If your *Judgment* provides for one spouse to receive a portion of the other spouse's "retirement benefits" at some future date, you must prepare and file an additional court order called a Qualified Domestic Relations Order (or "QDRO"). The QDRO must be approved by both the benefits provider and the judge to assure that the spouse who is not the employee of the company or organization will receive those future benefits. Because this is not a standard court form, you should get help from an attorney to file a QDRO, and any other necessary forms to handle these matters.

MORE TIPS TO HELP YOU MANAGE YOUR FAMILY LAW CASE:

Separation or divorce is as much an emotional experience as it is a legal process. This means that just as you must handle the legal issues around legal separation, annulment, or divorce, you will also find that the emotional issues can have

a big impact on you, and—if you have them—your children. Following are a few suggestions that may help you manage your family law case more effectively:

1. Get help with emotional issues—especially if you and your spouse can't seem to get past arguing about how to share and divide your parenting responsibilities or divide your money or other assets and debts.
2. Protect your children from the conflict between you and your spouse.
3. Prepare your court forms slowly and carefully and keep copies of everything either of you submits to the court.
4. If you go to court to handle any step of the process, listen carefully and answer the exact question that is asked; don't interrupt or argue with your spouse or with the judge; treat both your spouse and the judge with respect.
5. If there's been domestic violence, make a safety plan before you tell your spouse you want a divorce, legal separation, or annulment. Call your local domestic violence agency for assistance.

Although the legal process for getting a legal separation, annulment, or divorce is complicated, remember that each form and each step you must take has a purpose. Most importantly, the court forms, requirements regarding service of court documents on your spouse, and other legal steps help to ensure that everyone's legal rights are understood and protected.

