



## SAN MATEO COUNTY LAW LIBRARY RESEARCH GUIDE #9

### **DIVORCE/DISSOLUTION OF MARRIAGE AND LEGAL SEPARATION**

This resource guide only provides guidance, and does not constitute legal advice. If you need legal advice you need to speak with an attorney. To find an attorney to assist you, you may contact the San Mateo County Lawyer Referral Service at (650) 369-4149.

California Law entitles you to a divorce (dissolution) based on irreconcilable differences. Before you file for divorce, understand that a divorce:

- Will legally end your marriage forever;
- May divide your property and debts;
- Provide for child support and if requested, spousal support; and/or
- Determine who will care for the children and be entitled to make decisions on their behalf.

If you are not sure that you are ready for a divorce, you may want to seek personal or marriage counseling.

**NOTE:** If you need to file for an *emergency order*, use the Family Law Ex Parte, [FL-305](#).

#### **WHERE DO I BEGIN?**

##### **DIVORCE**

##### **STEP 1: FILL OUT AND FILE THE NECESSARY FORMS**

**ALL FORMS REFERENCED IN THIS GUIDE ARE AVAILABLE ON THE [CALIFORNIA COURTS WEBSITE](#).**

The “Petitioner” (the person who is filing for divorce or legal separation with the court) fills out the forms and files the [FL-100: Petition-Marriage](#) and [FL-110: Summons with the Court](#). If there are children of the marriage, [FL-105/GC-120: Declaration Under Uniform Child Custody](#)

*Jurisdiction and Enforcement Act* needs to be filed as well. If this is a same-sex marriage or a registered domestic partnership, you must file form [FL-103: Petition – Domestic Partnership/Marriage](#), instead of [FL-100](#). If filing in San Mateo County, you must also file Local Form [FL-2: Notice of ADR Options](#).

After you file your paperwork, you must keep the court informed of any change in your mailing address or other contact information. You must file [MC-040: Notice of Change of Address or Other Contact Information](#) and serve it on the opposing party or his/her attorney.

## STEP 2: SERVE THE FORMS

Someone who is over the age of 18 (not the petitioner) needs to serve the spouse with a copy of all the filed forms indicated in Step 1, plus a blank [FL-120: Response –Marriage](#) and a blank Local Form [FL-2, Notice of ADR Options](#), if filing in San Mateo County. [FL-115: Proof of Service of Summons](#) also needs to be filed after serving the respondent, indicating how and when the respondent was served.

If you are serving by mail, NOTE: you need to include two copies of [FL-117: Notice and Acknowledgment of Receipt](#) and a postage-paid return envelope addressed to you.

The Respondent has 30 days to file a response to the Petition and serve it on the Petitioner.

## STEP 3: DISCLOSURE OF FINANCIAL INFORMATION

At the same time of STEP 1 or within 60 days of filing the Petition, the petitioner must fill out and serve the respondent these forms (together with blank ones):

- [FL-140: Declaration of Disclosure](#);
  - [FL-150: Income and Expense Declaration](#) (only required to be filed if spousal support or child support is requested);
  - [FL-142: Schedule of Assets and Debts](#);
  - [FL-160: Property Declaration](#); and
  - All tax returns that have been filed by the party for the past two years before serving the disclosure documents.
- 
- NOTE: You should file your [FL-150: Income and Expense Declaration](#), but do not file the other documents or your tax returns with the court. Keep the originals and bring them to your hearing in case you need them later.
  - Fill out and file [FL-141: Declaration Regarding Service of Declaration of Disclosure](#).

## STEP 4: FINISHING UP → 4 WAYS TO GO

1) IF THE RESPONDENT FILES A RESPONSE ([FL-120](#)) AND YOU HAVE A WRITTEN AGREEMENT, the Petitioner needs to file:

- [FL-130](#): *Appearance, Stipulations and Waivers*;
- [FL-170](#): *Declaration Regarding Default or Uncontested Divorce*;
- [FL-180](#): *Judgment*;
- [FL-190](#): *Notice of Entry of Judgment*.
- *Stipulated Judgment*, which is the agreement (NOTE, has to be notarized) that says how you will resolve all the details of the divorce like children, child and spousal support, property and debt, retirement plans, and anything else you may have together.
- 2 self-addressed stamped envelopes (1 addressed to your spouse; 1 addressed to you).

2) IF THE RESPONDENT FILES A RESPONSE ([FL-120](#)), BUT NO SETTLEMENT AGREEMENT, the parties must go to trial and have a judicial officer resolve the issues.

3) IF THE RESPONDENT DOES NOT FILE A RESPONSE ([FL-120](#)), BUT NO SETTLEMENT AGREEMENT, the Petitioner needs to file:

- [FL-165](#): *Request to Enter Default*;
- [FL-170](#): *Declaration Regarding Default or Uncontested Divorce*;
- [FL-180](#): *Judgment*;
- [FL-190](#): *Notice of Entry of Judgment*;
- If you have children, are asking for child or spousal support, or property or debt division, you will need other forms;
- 3 self-addressed stamped envelopes (2 addressed to your spouse; 1 addressed to you).

4) IF THE RESPONDENT DOES NOT FILE A RESPONSE ([FL-120](#)), BUT PARTIES HAVE A SETTLEMENT AGREEMENT, the Petitioner needs to file:

- [FL-130](#): *Appearance, Stipulation, and Waivers*;
- [FL-170](#): *Declaration Regarding Default or Uncontested Divorce*;
- [FL-180](#): *Judgment*;
- [FL-190](#): *Notice of Entry of Judgment*;
- *Stipulated Judgment*, which is the agreement (NOTE, has to be notarized) that says how you will resolve all the details of the divorce like children, child and spousal support, property and debt, retirement plans, and anything else you may have together;
- 2 self-addressed stamped envelopes (1 addressed to your spouse; 1 addressed to you).

PLEASE NOTE: YOU ARE NOT DIVORCED OR LEGALLY SEPARATED UNTIL THE COURT ENTERS A JUDGMENT IN YOUR CASE.

If you need child support, custody, spousal support, visitation, restraining orders, or other orders prior to the finalization of the case, you can file a [FL-300: Request for Order](#). This requests temporary orders while the case is pending.

### **LEGAL SEPARATION**

The process for legal separation is identical to the divorce procedures except there will be no judgment for legal separation unless BOTH parties agree to a legal separation OR the respondent has not filed a Response. Also, a legal separation does not have residency requirements.

If both parties agree to be legally separated but do not agree on other issues, the parties must go to trial to have a judge resolve those issues. YOU ARE NOT LEGALLY SEPARATED UNTIL YOU RECEIVE A JUDGMENT signed by the court. If you decide you desire a divorce after your legal separation judgment, you must start a new case to request a divorce, and pay another filing fee.

### **WHERE CAN I OBTAIN ASSISTANCE WITH MY DIVORCE/LEGAL SEPARATION?**

This resource guide only provides guidance, and does not constitute legal advice. If you need legal advice you need to speak with an attorney. To find an attorney to assist you, you may contact the Lawyer Referral Service at (650)369-4149.

You may also seek assistance at Family Law Facilitator's Office through a [Live Chat](#).

### **WHAT IF THERE IS A PROTECTIVE ORDER IN PLACE?**

If there is a restraining order in effect, you need to speak with an attorney, mediator, or counselor prior to making arrangements.

For assistance with domestic violence situations, please call the National Domestic Violence Hotline at (800) 799-7233.

### **DISSOLUTION OF DOMESTIC PARTNERSHIP**

Domestic Partnerships in California are only available to same-sex couples, and opposite sex couples over the age of 65 whom are receiving Social Security benefits.

To end a domestic partnership, follow the steps above, except file form [FL-103: Petition – Domestic Partnership/Marriage](#), in lieu of [FL-100](#). The Petitioner must also serve Respondent with a blank [FL-123: Response – Domestic Partnership/Marriage](#).