



# State of the court & how to prepare for an msc

BY COLLEEN A. WARREN, CLS-F



# State of the Family Law Court

- ▶ A few updates on the Family Law Court:
- ▶ E-filing: This is much better than 2021, but there are still significant delays in e-filing. Especially in North and South county divisions
- ▶ No Court Reporters: Must hire own court reporter except DV
- ▶ RFOs: All RFO hearings are now 20-minutes. No more 40-minute matters. Courts are oversetting their calendars. In certain departments, 20-minute RFOs are now being set in 2023.
- ▶ Trial Dates: Dates for trials more than 2-days are being set in approximately 12-15 months (if you are lucky). And it can take 6 months to even have a Trial Setting Conference



# Bottom Line:

- ▶ Make sure your clients are prepared for the slow timeline for both motions and trials
- ▶ Cases are not settling, so dates are not opening up on the court's calendar
- ▶ Court is expecting better “meet and confer” efforts before a hearing
- ▶ Schedule a court reporter in advance (many are not available)





# How to Prepare for a Mandatory Settlement Conference



# What is an MSC?

- ▶ An MSC is the parties last real chance to settle the case before trial dates are set.
- ▶ Both sides of the case are prepared to go to trial or settle.
- ▶ If an MSC is successful, the parties enter into an agreement that is enforceable under CCP Section 664.6.
- ▶ If the MSC is successful, the parties' marital status will be terminated at that time.
- ▶ If the MSC is unsuccessful, the court will either set trial dates then, or schedule a TSC



# What is an MSC?

- ▶ An MSC has a volunteer attorney who acts as a settlement judge pro tem (temporary judge).
- ▶ The pro tem reviews briefs, exhibits, Income & Expense Declarations, and any other document that a party would introduce as evidence at the time of trial.
- ▶ The pro tem is not a mediator but is able to make recommendations and give their opinion as to what will happen if the parties go to court.
- ▶ It is the pro tem's goal to settle all issues in the case so the parties walk away with a written final settlement.



# What does your MSC Pro Tem Want to See:

- Most people come to an MSC unprepared! Briefs are incomplete, Income & Expense Declarations do not have attachments, etc. THIS IS WASTING THE PRO TEM'S TIME
- For each issue, you need:
  - A position – what agreement do you want to reach?
  - Factual support for the agreement you believe is best.
  - All evidence that supports your position in settlement or trial.
  - A cogent argument as to why you have not been able to settle an issue.



# What does your MSC Pro Tem Want to See:

- MSC Brief: Try not to use D-241 form; if you have to use it, supplement it significantly.
- Final Declarations of Disclosure: If you think your matter is going to trial or there has been material changes to the value and/or type of assets and debts held by the parties, an updated Schedule of Assets and Debts needs to be submitted for the MSC.
- Income & Expense Declaration: If ANY financial issue is at issue for the MSC or trial, you must submit a current, full and complete Income & Expense Declaration.
  - Financial issue: Child Support, Spousal Support, Breach of Fiduciary Duty, Attorney Fees, Sanctions, Characterization and Division of Assets & Debts
  - Current: completed within the last 90 days
  - Full and complete: all information provided within the body of the IED; 2 months of paystubs provided; all required documentation for a self-employed person.
  - Know what is required and ensure the information is accurate



# What does your MSC Pro Tem Want to See:

- Is Custody and Visitation at issue?
- Provide your MSC pro tem with a copy of the current order and/or the outstanding FCS recommendation.
- Do not expect the pro tem to be able to make many changes to the custody and visitation schedule.
- Do expect some minor tweaks to the schedule or other custody provisions can be worked out at an MSC.
- Have reasons, supported by facts and evidence, to support your requested custody and visitation orders.



# What does your MSC Pro Tem Want to See:

- Is Child Support or Spousal Support at issue?
- Current and complete Income & Expense Declarations (FL-150) need to be submitted.
- What is current? Completed and executed within the last 90 days. However, if there has been a change in the party's income or expenses during the last 90 days, it must be resubmitted, even if still technically "current."
- What is complete? W-2, paystubs, 1099(s), Profit & Loss and Balance Sheet, Schedule C, tax returns, and proof of all other income
- Section 11 on IED must be completed



# What does your MSC Pro Tem Want to See:

- Is Child Support or Spousal Support at issue?
- What is the accurate timeshare? Is this per the court order or de facto timeshare?
- Has DCSS taken up child support?
- For Spousal Support, each party should complete a Spousal or Domestic Partner Support Declaration Attachment (FL-157). This form lays out the facts supporting each factor in Family Code Section 4320
- Are Dissomaster reports helpful at an MSC?



# What does your MSC Pro Tem Want to See:

- Is Property Division at issue?
  - What types of property to the parties own?
  - *Real Estate* – provide appraisal(s). If no appraisal, provide estimated value from multiple sources (Zillow, Redfin, Realtor.com; average those values)
  - *HHFFA* – Do you have values? What is the basis for the value? If not, what is the garage sale value of such items?
  - *Jewelry* – Each keep own? Investment pieces?
  - *Vehicles* – mid-Kelley Blue Book for all owned vehicles. Provide information on debt from DOS forward.
  - *Non-Retirement Financial Accounts* – Show us the DOS value and current value, at minimum. If transactions in account occurred, characterize and request reimbursement/assignment. Loans against accounts?



# What does your MSC Pro Tem Want to See:

- Is Property Division at issue?
  - *Taxes* – Outstanding as of separation? Refund for last year of marriage? Payments made? Have an accounting and proof for each tax year at issue.
  - *Life insurance* – Whole or Term? Anyone borrowed against it? Security for support? Provide copy of insurance declaration page.
  - *Retirement Assets* – Know the difference between a traditional retirement [401(k), IRA, SEP-IRA, Profit-Sharing, Deferred Compensation], pension, and annuities.
  - *Restricted Stock Units & Stock Options* – Before separation, these are assets owned by the community. Know how to divide, whether a non-employee can hold the assets, etc. Provide plan documents.
  - *Partnerships & Business Interests* – Have valuation completed if in dispute; have expert available to answer questions if necessary.
  - *Other Assets* – What other assets are owned by the parties? Cryptocurrency? Private Equity Investments? Accounts Receivable?



# What does your MSC Pro Tem Want to See:

- Is Property Division at issue?
  - What debts are owed by the parties?
    - Provide proof of amount of each debt at DOS and current.
    - If payments were made on debt during separation, provide proof of payment for reimbursement.
  - Student Loans – has the community benefitted and can you prove it?
  - Loans incurred after separation
  - Credit card debt – when was it incurred?



# What does your MSC Pro Tem Want to See:

- Are Reimbursements and/or Credits at issue?
  - Can you prove your claim for credits and reimbursement?
  - *Epstein*: Payment of community property debt with separate property asset or income.
    - Prove: debt existed at separation, each payment made post-separation, the source of funds used to pay the debt post-separation. Discretionary credit.
  - *Watts*: Charge to a party for the use of community property post-separation.
    - Prove: one party used the asset, FMV/FRV of asset, the party did not pay FMV/FRV for use of the asset and owes the community reimbursement for such use. The other party should receive ½ the community reimbursement value.
  - Did a party pay support to a child or spouse from a prior relationship during marriage? Need to show the amount paid, source of payment, and duration of payment for reimbursement.
  - Other reimbursements or credits



# What does your MSC Pro Tem Want to See:

- Are Attorney Fees and/or Sanctions at issue?
  - What is a reasonable expectation for an attorney fee request, or defense against such request?
  - Family Code Section 2030/2032 Fees – Must show the need of the requesting party through IED (including #11) and the ability of the other party. If requesting fees, show the exact source the other party can use to pay fees.
  - Family Code Section 271 Sanctions – Have proof of behavior that fails to promote settlement – letters between counsel, communications between the parties, proof of a party disposing of assets, etc. Must show the court why the behavior needs to be punished by sanctions.



# What does your MSC Pro Tem Want to See:

- Miscellaneous Issues:

- If there is a **prenuptial agreement**, bring this up as soon as possible in the MSC Brief. If there is a dispute over validity, make the full argument for this and provide proof, as such is a threshold issue to determining a settlement.
- **Other threshold issue:** If the client has a specific issue on which they will not budge, make sure MSC Pro Tem is aware from the beginning. Do not waste the pro tems time if your client will not settle anything unless they get full custody – be respectful of the pro tem's time.
- Explain what is going to happen at the MSC. **The Pro Tem is the Judge.** While it is more informal, the pro tem can report bad behavior to the court.
- If you are not prepared, **reschedule the MSC.** Parties wait months for their MSC and we do not have enough pro tems. If you are not ready, get a different date as early as possible, so that someone else can use the pro tem's time.



# QUESTIONS?

- ▶ CONTACT ME:
- ▶ COLLEEN A. WARREN,  
CLS-F
- ▶ [COLLEEN@WARRENFAMILYLAWFIRM.COM](mailto:COLLEEN@WARRENFAMILYLAWFIRM.COM)
- ▶ (858) 275-2055





ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   <div style="display: flex; justify-content: space-between;"> <div>TELEPHONE NO.:</div> <div>FAX NO. (Optional):</div> </div> E-MAIL ADDRESS (Optional):  ATTORNEY FOR (Name):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO</b> <input type="checkbox"/> CENTRAL DIVISION, COUNTY COURTHOUSE, 220 W. BROADWAY, SAN DIEGO, CA 92101 <input type="checkbox"/> CENTRAL DIVISION, FAMILY COURT, 1555 6TH AVE., SAN DIEGO, CA 92101 <input type="checkbox"/> CENTRAL DIVISION, MADGE BRADLEY, 1409 4TH AVE., SAN DIEGO, CA 92101 <input type="checkbox"/> EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020 <input type="checkbox"/> NORTH COUNTY DIVISION, 325 S. MELROSE DR., VISTA, CA 92081 <input type="checkbox"/> SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910	
PETITIONER	
RESPONDENT	
<input type="checkbox"/> <b>MANDATORY SETTLEMENT CONFERENCE BRIEF (MSC)</b> <input type="checkbox"/> <b>LONG CAUSE HEARING BRIEF (LCH)</b> <input type="checkbox"/> <b>TRIAL BRIEF (TRIAL)</b>	CASE NUMBER

<input type="checkbox"/> MSC/ <input type="checkbox"/> LCH/ <input type="checkbox"/> Trial Date: _____ at: _____ <input type="checkbox"/> a.m. <input type="checkbox"/> p.m. in Department: _____
---

### **MEET AND CONFER**

Date and Time: \_\_\_\_\_

Method: ☐ In person ☐ Telephone ☐ Letter ☐ Electronic Transmission

Participants: ☐ Petitioner ☐ Respondent ☐ Attorney for ☐ Petitioner ☐ Respondent ☐ Other: \_\_\_\_\_

☐ There was no meet and confer: (*state reason*) \_\_\_\_\_

### **ISSUES SETTLED**

- ☐ Child Custody
- ☐ Visitation
- ☐ Child Support
- ☐ Spousal/ Domestic Partner/ Family Support
- ☐ Attorney's Fees and Costs
- ☐ Property Division
- ☐ Characterization and Division of Assets
- ☐ Retirement/Pensions
- ☐ Claims for Credits and/or Reimbursements
- ☐ Other: \_\_\_\_\_

### **ISSUES TO BE LITIGATED**

- ☐ Child Custody
- ☐ Visitation
- ☐ Child Support
- ☐ Spousal/ Domestic Partner/ Family Support
- ☐ Attorney's Fees and Costs
- ☐ Property Division
- ☐ Characterization and Division of Assets
- ☐ Retirement/Pensions
- ☐ Claims for Credits and/or Reimbursements
- ☐ Other: \_\_\_\_\_

### **STATISTICAL FACTS**

Date of Marriage and/or Domestic Partnership: \_\_\_\_\_

Date of Separation: \_\_\_\_\_

Length of Marriage and/or Domestic Partnership: \_\_\_\_\_ years \_\_\_\_\_ months

Marital/Domestic Partnership Status: ☐ Not terminated. ☐ Terminated on: \_\_\_\_\_.

Petitioner's Information:

Age: \_\_\_\_\_

Occupation: \_\_\_\_\_

Monthly Income: Gross: \$ \_\_\_\_\_ Net: \$ \_\_\_\_\_

Pay Periods: ☐ Weekly ☐ Bi-Monthly ☐ Monthly ☐ Other: (*Explain*) \_\_\_\_\_

Cohabitee or New Spouse/Domestic Partner Monthly Income: Gross: \$ \_\_\_\_\_ Net: \$ \_\_\_\_\_



SHORT TITLE <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> MSC <input type="checkbox"/> LCH <input type="checkbox"/> Trial	CASE NUMBER
---	-------------

**Respondent's Information:**

Age: \_\_\_\_\_

Occupation: \_\_\_\_\_

Monthly Income: Gross: \$ \_\_\_\_\_ Net: \$ \_\_\_\_\_

Pay Periods: ☐ Weekly ☐ Bi-Monthly ☐ Monthly ☐ Other: (*Explain*) \_\_\_\_\_

Cohabitee or New Spouse/Domestic Partner Monthly Income: Gross: \$ \_\_\_\_\_ Net: \$ \_\_\_\_\_

**Minor Children:**

Name	Date of Birth	Age	Gender
			<input type="checkbox"/> Male <input type="checkbox"/> Female
			<input type="checkbox"/> Male <input type="checkbox"/> Female
			<input type="checkbox"/> Male <input type="checkbox"/> Female
			<input type="checkbox"/> Male <input type="checkbox"/> Female

☐ Information about additional children attached.

☐ **DISPUTES ABOUT STATISTICAL FACTS:** (*Provide brief summary of dispute(s) on statistical facts above, if any.*)

---

---

---

---

---

---

---

---

**SUMMARY OF CASE (HISTORY OF PROCEEDINGS):** (*Briefly summarize all prior court proceedings in chronological order starting with the filing of the petition or response.*)

Date	Event

☐ Additional summary of case attached.



SHORT TITLE	CASE NUMBER
<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> MSC <input type="checkbox"/> LCH <input type="checkbox"/> Trial	

**DISPUTED ISSUES, PROPOSED RESOLUTION, LEGAL ARGUMENT, AND SUPPORTING EXHIBITS:**

- Disputed Issues (*If an issue is disputed, check applicable box and briefly describe disagreement between the parties.*)
- Proposed Resolution (*Briefly state what you want the court to order and/or what you think is fair.*)
- Legal Arguments (*Briefly state legal arguments, if any, on which you intend to rely.*)
- Supporting Exhibits (*Attach a list of the proposed exhibits on which you intend to rely with a brief description of each.*)

1. ☐ CHILD CUSTODY ☐ *Additional pages attached.*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_

2. ☐ VISITATION ☐ *Additional pages attached.*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_

3. ☐ CHILD SUPPORT ☐ *Additional pages attached.*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_

4. ☐ SPOUSAL/DOMESTIC PARTNER SUPPORT ☐ *Additional pages attached.*

*(All Family Code § 4320 factors must be addressed. Use of Spousal or Partner Support Declaration Attachment (JC Form #FL-157) as an attachment is encouraged.)*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_



SHORT TITLE <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> MSC <input type="checkbox"/> LCH <input type="checkbox"/> Trial	CASE NUMBER
---	-------------

5. ☐ ATTORNEY'S FEES AND COSTS ☐ *Additional pages attached.*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_

6. ☐ PROPERTY DIVISION ☐ *Additional pages attached.*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_

7. ☐ CHARACTERIZATION AND DIVISION OF ASSETS ☐ *Additional pages attached.*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_

8. ☐ CHARACTERIZATION AND DIVISION OF DEBTS ☐ *Additional pages attached.*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_

9. ☐ RETIREMENT/PENSIONS ☐ *Additional pages attached.*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_



SHORT TITLE <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> MSC <input type="checkbox"/> LCH <input type="checkbox"/> Trial	CASE NUMBER
---	-------------

10. ☐ CLAIMS FOR CREDITS AND/OR REIMBURSEMENTS   ☐ *Additional pages attached.*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_

11. ☐ OTHER ISSUE(S)   ☐ *Additional pages attached.*

Issue: \_\_\_\_\_

Proposed Resolution: \_\_\_\_\_

Legal Argument: \_\_\_\_\_

**ATTACHMENTS:**

- ☐ Proposed Division of Community Assets and Debts – Stipulated and Disputed
- ☐ Index of Proposed Exhibits
  - 1. Attach or lodge a separate packet of exhibits with index page showing:
    - a. Exhibit number (petitioner) or exhibit letter (respondent)
    - b. Exhibit name or description
    - c. Issue the exhibit applies to
    - d. Description of the purpose of the exhibit
- ☐ A brief statement summarizing the contents of all written appraisals you intend to offer.
- ☐ A brief statement summarizing the contents of all expert witness reports you intend to offer.
- ☐ List of Witnesses\*
  - 1. Include name and brief description of the anticipated testimony of each witness
  - 2. For each expert witness, also include business address and statement of qualifications

\* *Parties are encouraged to use Witness List (JC Form #FL-321).*
- ☐ Other matters determined by the judge or commissioner to be necessary and previously provided to the party in writing.

**ADDITIONAL FORMS:** *(Include as packet with brief, if applicable.)*

- ☐ Final Declaration of Disclosure (JC Form #FL-140)
- ☐ Current Income and Expense Declaration (JC Form #FL-150)
- ☐ Schedule of Assets and Debts (JC Form #FL-142)

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Signature of ☐ Attorney for ☐ Petitioner ☐ Respondent



SHORT TITLE <input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> MSC <input type="checkbox"/> LCH <input type="checkbox"/> Trial	CASE NUMBER
---	-------------

**STIPULATED DIVISION OF COMMUNITY ASSETS AND DEBTS**

ASSET/DEBT <i>(briefly describe)</i>	FAIR MARKET VALUE	DEBT	NET	TO PET	TO RESP

☐ Additional pages attached.

**PROPOSED DIVISION OF DISPUTED COMMUNITY ASSETS AND DEBTS**

ASSET/DEBT <i>(briefly describe)</i>	FAIR MARKET VALUE	DEBT	NET	TO PET	TO RESP

☐ Additional pages attached.







SHORT TITLE	CASE NUMBER
<input type="checkbox"/> Petitioner <input type="checkbox"/> Respondent <input type="checkbox"/> MSC <input type="checkbox"/> LCH <input type="checkbox"/> Trial	

**SUMMARY OF WRITTEN APPRAISALS**

Appraisal #1 from: \_\_\_\_\_

Summary: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Appraisal #2 from: \_\_\_\_\_

Summary: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Appraisal #3 from: \_\_\_\_\_

Summary: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

☐ *Additional pages attached.*

**SUMMARY OF EXPERT WITNESS REPORTS**

Expert Witness List #1 from: \_\_\_\_\_

Summary: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Expert Witness List #2 from: \_\_\_\_\_

Summary: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Expert Witness List #3 from: \_\_\_\_\_

Summary: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

☐ *Additional pages attached.*



PARTY WITHOUT ATTORNEY OR ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	
<b>INCOME AND EXPENSE DECLARATION</b>	CASE NUMBER:

**1. Employment** (Give information on your current job or, if you're unemployed, your most recent job.)

Attach copies of your pay stubs for last two months (black out Social Security numbers).	a. Employer: b. Employer's address: c. Employer's phone number: d. Occupation: e. Date job started: f. If unemployed, date job ended: g. I work about _____ hours per week. h. I get paid \$ _____ gross (before taxes) <input type="checkbox"/> per month <input type="checkbox"/> per week <input type="checkbox"/> per hour.
--	--

(If you have more than one job, attach an 8 1/2-by-11-inch sheet of paper and list the same information as above for your other jobs. Write "Question 1—Other Jobs" at the top.)

**2. Age and education**

- a. My age is (specify): \_\_\_\_\_
- b. I have completed high school or the equivalent: ☐ Yes ☐ No If no, highest grade completed (specify): \_\_\_\_\_
- c. Number of years of college completed (specify): \_\_\_\_\_ Degree(s) obtained (specify): \_\_\_\_\_
- d. Number of years of graduate school completed (specify): \_\_\_\_\_ Degree(s) obtained (specify): \_\_\_\_\_
- e. I have: ☐ professional/occupational license(s) (specify): \_\_\_\_\_  
☐ vocational training (specify): \_\_\_\_\_

**3. Tax information**

- a. ☐ I last filed taxes for tax year (specify year): \_\_\_\_\_
- b. My tax filing status is ☐ single ☐ head of household ☐ married, filing separately  
☐ married, filing jointly with (specify name): \_\_\_\_\_
- c. I file state tax returns in ☐ California ☐ other (specify state): \_\_\_\_\_
- d. I claim the following number of exemptions (including myself) on my taxes (specify): \_\_\_\_\_

- 4. Other party's income.** I estimate the gross monthly income (before taxes) of the other party in this case at (specify): \$ \_\_\_\_\_  
 This estimate is based on (explain): \_\_\_\_\_

(If you need more space to answer any questions on this form, attach an 8 1/2-by-11-inch sheet of paper and write the question number before your answer.) Number of pages attached: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the information contained on all pages of this form and any attachments is true and correct.

Date: \_\_\_\_\_



(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
--	--------------

**Attach copies of your pay stubs for the last two months and proof of any other income. Take a copy of your latest federal tax return to the court hearing. (Black out your Social Security number on the pay stub and tax return.)**

5. **Income** (For average monthly, add up all the income you received in each category in the last 12 months and divide the total by 12.)

	Last month	Average monthly
a. Salary or wages (gross, before taxes).....	\$	_____
b. Overtime (gross, before taxes).....	\$	_____
c. Commissions or bonuses.....	\$	_____
d. Public assistance (for example: TANF, SSI, GA/GR) <input type="checkbox"/> currently receiving .....	\$	_____
e. Spousal support <input type="checkbox"/> from this marriage <input type="checkbox"/> from a different marriage <input type="checkbox"/> federally taxable* .....	\$	_____
f. Partner support <input type="checkbox"/> from this domestic partnership <input type="checkbox"/> from a different domestic partnership .....	\$	_____
g. Pension/retirement fund payments.....	\$	_____
h. Social Security retirement (not SSI).....	\$	_____
i. Disability: <input type="checkbox"/> Social Security (not SSI) <input type="checkbox"/> State disability (SDI) <input type="checkbox"/> Private insurance .....	\$	_____
j. Unemployment compensation.....	\$	_____
k. Workers' compensation.....	\$	_____
l. Other (military allowances, royalty payments) (specify): .....	\$	_____

6. **Investment income** (Attach a schedule showing gross receipts less cash expenses for each piece of property.)

a. Dividends/interest.....	\$	_____
b. Rental property income.....	\$	_____
c. Trust income.....	\$	_____
d. Other (specify): .....	\$	_____

7. **Income from self-employment, after business expenses for all businesses**..... \$ \_\_\_\_\_

I am the ☐ owner/sole proprietor ☐ business partner ☐ other (specify): \_\_\_\_\_

Number of years in this business (specify): \_\_\_\_\_

Name of business (specify): \_\_\_\_\_

Type of business (specify): \_\_\_\_\_

**Attach a profit and loss statement for the last two years or a Schedule C from your last federal tax return. Black out your Social Security number. If you have more than one business, provide the information above for each of your businesses.**

8. ☐ **Additional income.** I received one-time money (lottery winnings, inheritance, etc.) in the last 12 months (specify source and amount): \_\_\_\_\_

9. ☐ **Change in income.** My financial situation has changed significantly over the last 12 months because (specify): \_\_\_\_\_

10. **Deductions**

	Last month
a. Required union dues.....	\$ _____
b. Required retirement payments (not Social Security, FICA, 401(k), or IRA).....	\$ _____
c. Medical, hospital, dental, and other health insurance premiums (total monthly amount).....	\$ _____
d. Child support that I pay for children from other relationships.....	\$ _____
e. Spousal support that I pay by court order from a different marriage <input type="checkbox"/> federally tax deductible*.....	\$ _____
f. Partner support that I pay by court order from a different domestic partnership.....	\$ _____
g. Necessary job-related expenses not reimbursed by my employer (attach explanation labeled "Question 10g").....	\$ _____

11. **Assets**

	Total
a. Cash and checking accounts, savings, credit union, money market, and other deposit accounts.....	\$ _____
b. Stocks, bonds, and other assets I could easily sell.....	\$ _____
c. All other property, <input type="checkbox"/> real and <input type="checkbox"/> personal (estimate fair market value minus the debts you owe).....	\$ _____

\* Check the box if the spousal support order or judgment was executed by the parties and the court before January 1, 2019, or if a court-ordered change maintains the spousal support payments as taxable income to the recipient and tax deductible to the payor.



PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
--	--------------

**12. The following people live with me:**

Name	Age	How the person is related to me (ex: son)	That person's gross monthly income	Pays some of the household expenses?	
a.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
b.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
c.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
d.				<input type="checkbox"/> Yes	<input type="checkbox"/> No
e.				<input type="checkbox"/> Yes	<input type="checkbox"/> No

**13. Average monthly expenses**    ☐ Estimated expenses    ☐ Actual expenses    ☐ Proposed needs

a. Home: (1) <input type="checkbox"/> Rent    or <input type="checkbox"/> mortgage..... \$ _____ If mortgage: (a) average principal:    \$ _____ (b) average interest:    \$ _____ (2) Real property taxes..... \$ _____ (3) Homeowner's or renter's insurance (if not included above)..... \$ _____ (4) Maintenance and repair..... \$ _____ b. Health-care costs not paid by insurance..... \$ _____ c. Child care..... \$ _____ d. Groceries and household supplies..... \$ _____ e. Eating out..... \$ _____ f. Utilities (gas, electric, water, trash)..... \$ _____ g. Telephone, cell phone, and e-mail..... \$ _____	h. Laundry and cleaning..... \$ _____ i. Clothes..... \$ _____ j. Education..... \$ _____ k. Entertainment, gifts, and vacation..... \$ _____ l. Auto expenses and transportation (insurance, gas, repairs, bus, etc.)..... \$ _____ m. Insurance (life, accident, etc.; do not include auto, home, or health insurance)..... \$ _____ n. Savings and investments..... \$ _____ o. Charitable contributions..... \$ _____ p. Monthly payments listed in item 14 (itemize below in 14 and insert total here)..... \$ _____ q. Other (specify): \$ _____ <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">           r. <b>TOTAL EXPENSES</b> (a-q) (do not add in the amounts in a(1)(a) and (b)) \$ _____         </div> s. <b>Amount of expenses paid by others</b> \$ _____
--	--

**14. Installment payments and debts not listed above**

Paid to	For	Amount	Balance	Date of last payment
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	
		\$	\$	

**15. Attorney fees** (This information is required if either party is requesting attorney fees):

- a. To date, I have paid my attorney this amount for fees and costs (specify): \$
- b. The source of this money was (specify):
- c. I still owe the following fees and costs to my attorney (specify total owed): \$
- d. My attorney's hourly rate is (specify):

I confirm this fee arrangement.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

PETITIONER: RESPONDENT: OTHER PARTY/PARENT/CLAIMANT:	CASE NUMBER:
--	--------------

**CHILD SUPPORT INFORMATION**  
**(NOTE: Fill out this page only if your case involves child support.)**

**16. Number of children**

- a. I have *(specify number)*: \_\_\_\_\_ children under the age of 18 with the other parent in this case.
- b. The children spend \_\_\_\_\_ percent of their time with me and \_\_\_\_\_ percent of their time with the other parent.  
*(If you're not sure about percentage or it has not been agreed on, please describe your parenting schedule here.)*

**17. Children's health-care expenses**

- a. ☐ I do ☐ I do not have health insurance available to me for the children through my job.
- b. Name of insurance company: \_\_\_\_\_
- c. Address of insurance company: \_\_\_\_\_
- d. The monthly cost for the **children's** health insurance is or would be *(specify)*: \$ \_\_\_\_\_  
*(Do not include the amount your employer pays.)*

**18. Additional expense for the children in this case**

- |   | Amount per month |
|---|------------------|
| a. Childcare so I can work or get job training.....                           | \$ _____         |
| b. Children's health care not covered by insurance.....                       | \$ _____         |
| c. Travel expenses for visitation.....  | \$ _____         |
| d. Children's educational or other special needs <i>(specify below)</i> ..... | \$ _____         |

**19. Special hardships.** I ask the court to consider the following special financial circumstances  
*(attach documentation of any item listed here, including court orders):*

- |  | Amount per month | For how many months? |
|--|------------------|----------------------|
| a. Extraordinary health expenses not included in 18b.....  | \$ _____         | _____                |
| b. Major losses not covered by insurance <i>(examples: fire, theft, other insured loss)</i> .....  | \$ _____         | _____                |
| c. (1) Expenses for my minor children who are from other relationships and are living with me..... | \$ _____         | _____                |
| (2) Names and ages of those children <i>(specify)</i> : _____                                      |                  |                      |

(3) Child support I receive for those children..... \$ \_\_\_\_\_

The expenses listed in a, b, and c create an extreme financial hardship because *(explain)*: \_\_\_\_\_

**20. Other information I want the court to know concerning support in my case *(specify)*:**



PETITIONER:  RESPONDENT:	CASE NUMBER:
--------------------------------	--------------

**SPOUSAL OR DOMESTIC PARTNER SUPPORT DECLARATION ATTACHMENT**

- ☐ **Declaration for Default or Uncontested Judgment (form FL-170)**
☐ **Supporting Declaration for Attorney's Fees and Costs Attachment (form FL-158)**
- ☐ **Request for Order (form FL-300)**
- ☐ **Other (specify):**

**1. Spousal or domestic partner support.**

- a. I am the *(specify all that apply)*:
- (1) ☐ petitioner ☐ respondent.
- (2) ☐ support payee (party asking for support) ☐ support payor (party being asked to pay support).
- b. I request that the court *(check all that apply)*
- (1) ☐ enter a judgment for spousal or domestic partner support for ☐ petitioner ☐ respondent.
- (2) ☐ modify the judgment for spousal or domestic partner support for ☐ petitioner ☐ respondent.
- (3) ☐ deny the request to modify the judgment for spousal or domestic partner support.
- (4) ☐ terminate jurisdiction to award spousal or domestic partner support to ☐ petitioner ☐ respondent.

**2. ☐ Attorney fees and costs.** I request that the court *(check one)*

- a. ☐ order my attorney fees and costs to be paid by ☐ my spouse or domestic partner ☐ a joined party *(specify)*:
- b. ☐ deny the request for attorney fees and costs.

**SECTION 1: FACTS ABOUT BOTH PARTIES**

**3. Length of marriage or domestic partnership**(Family Code section 4320(f))

- a. (1) Date of marriage:
- (2) Date of separation:
- (3) Time from date of marriage to date of separation:..... years months
- b. (1) Date domestic partnership was registered:
- (2) Date of separation:
- (3) Time from date of registration of the domestic partnership to date of separation: years months
- c. If applicable, total combined years and months for the marriage (a(3)) and the domestic partnership (b(3))..... years months

**4. Standard of living of the marriage or domestic partnership** (Family Code section 4320(a)) ☐ [See Attachment 4](#)

The standard of living established during the marriage or domestic partnership was *(describe, for example, information from your income tax return, type and frequency of vacations, value of home and other real estate, value of investments, type of vehicles owned, credit card use or nonuse, ability to save for retirement)*:

PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

**5. Age and health of the parties** (Family Code section 4320(h))

- a. The age of the party asking for support is:
- b. The age of the party being asked to pay support is:
- c. The health condition of the party asking for support is *(describe)*: ☐ [See Attachment 5c](#)
- d. The health condition of the party being asked to pay support is *(describe)*: ☐ [See Attachment 5d](#)

**6. Documented history of domestic violence** (Family Code section 4320(i))

☐ [See Attachment 6](#)

The court will consider all documented evidence of any history of domestic violence between the parties or perpetrated by either party against either party's child, including but not limited to the following:

- a. A plea of nolo contendere ("no contest").
- b. Emotional distress resulting from domestic violence against the party asking for support by the party being asked to pay support.
- c. Any history of violence against the party being asked to pay support by the party asking for support.
- d. A *Restraining Order After Hearing* (form DV-130).
- e. A finding by a court as part of a case involving divorce, separation, or a child custody proceeding, or any other proceeding in family court in which the court has found that the spouse or domestic partner committed domestic violence.
- f. Other evidence of any history of violence between the parties.

*Attach to this form copies of the documents that you want the court to consider. Label them "Attachment 6."*

**7. Documented evidence of criminal conviction** (Family Code section 4320(m))

a. ☐ **Felony conviction of the party asking for support**

The party being asked to pay support requests that the court find that the party asking for support is prohibited by law from receiving support (including medical, life, or other insurance benefits or payments) under Family Code section 4324.5 because:

- (1) The party asking for support was convicted of a violent sexual felony or domestic violence felony against the party being asked to pay support within five years after the conviction (and any time served in custody, on probation or on parole); and
- (2) The petition for divorce was filed within five years after the spouse's or domestic partner's conviction (and any time served in custody or on parole).

b. ☐ **Misdemeanor conviction of the party asking for support**

☐ [See Attachment 7b](#)

- (1) There is a rebuttable presumption that the party asking for support is prohibited from receiving support from the party being asked to pay support under Family Code section 4325 because:

(A) The party asking for support was either convicted of a domestic violence misdemeanor against the party being asked to pay support in this case or convicted of a misdemeanor against the other party that resulted in a term of probation under Penal Code section 1203.097; and

(B) The conviction was entered by the court within five years before the petition for divorce was filed (or the conviction was entered at any time during the divorce case).

- (2) Based on a preponderance of the evidence,

(A) ☐ The party being asked to pay support asks the court to find that the presumption has not been rebutted.

(B) ☐ The party asking for support asks the court to find that the presumption has been rebutted.

*Attach to this form a declaration and documents that you want the court to consider. Label them "Attachment 7b"*



PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

**SECTION 2: FACTS ABOUT THE PARTY ASKING FOR SUPPORT**

**8. Earning capacity** (Family Code section 4320(a)(1))

a. The marketable skills (training, job skills, and work history) of the party asking for support (*describe*): ☐ [See Attachment 8a](#)

b. The current job market for the job skills of the party asking for support is (*specify*): ☐ [See Attachment 8b](#)

c. The time and expenses required for the party asking for support to acquire the appropriate education and training to develop the skills for the job market described in (b) (*specify*): ☐ [See Attachment 8c](#)

d. The possible need for retraining or education to acquire other, more marketable skills or employment (*specify*): ☐ [See Attachment 8d](#)

e. Indicate the extent to which the party asking for support is able to earn enough money to maintain the standard of living established during the marriage or domestic partnership.

PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

9. **Earning capacity** (Family Code section 4320(a)(2))

☐ [See Attachment 9](#)

- a. The party asking for support ☐ has ☐ has not had periods of unemployment because of the time needed to attend to domestic duties. *(Complete (b) if there were periods of unemployment.)*
- b. Specify the extent to which the present or future earning capacity of the party asking for support is impaired by periods of unemployment to devote time to domestic duties during the marriage or domestic partnership.

10. **Contributions to the education and training of the party being asked to pay support**

☐ [See Attachment 10](#)

- a. The party asking for support ☐ did ☐ did not contribute to the education, training, career position, or license of the party being asked to pay support *(If the party asking for support did contribute, complete item b below.)*
- b. Specify the extent to which the party asking for support contributed to the education, training, career position, or license of the party being asked to pay support.

11. **Care for children** (Family Code section 4320(g))

☐ [See Attachment 11](#)

- a. The party asking for support ☐ has ☐ has not had periods of unemployment to care for the children of the marriage or domestic partnership. *(Complete (b) if there were periods of unemployment.)*
- b. The party asking for support ☐ is ☐ is not able to be gainfully employed without unduly interfering with the interests of the children in the care of the party asking for support *(specify)*:

12. **Needs of the party asking for support** (Family Code section 4320(d))

☐ [See Attachment 12](#)

Specify the needs of the party asking for support based on the standard of living established during the marriage or domestic partnership, as described in question 4.

13. **Assets and debts** (Family Code section 4320(e))

☐ [See Attachment 13](#)

- a. The assets, including separate property, of the party asking for support are *(specify)*:



PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

b. The debts, including separate property, of the party asking for support are *(specify)*:

14. **Tax consequences** (Family Code section 4320(j))

☐ [See Attachment 14](#)

The immediate and specific tax consequences for the party asking for support are (specify):

15. **Goal to become self-supporting** (Family Code section 4320(l))

☐ [See Attachment 15](#)

**Notice:** When ordering spousal or domestic partner support in a judgment, the court may advise (warn) the party asking for support to make reasonable efforts to become self-supporting within a reasonable period of time, considering all the factors in Family Code section 4320. The court may decide that this warning (often called a "Gavron" warning) is not appropriate if the case involves a marriage or domestic partnership of long duration (about 10 years or longer). Generally, failure to become self-supporting after the court gives the warning can result in an order to reduce the amount of the support award.

- a. This ☐ is ☐ is not a marriage or domestic partnership of long duration (ten years or more).
- b. The party asking for support ☐ is ☐ is not self-supporting *(If not, specify below what steps, if any, the party asking for support will take to become self-supporting within a reasonable period of time)*:

c. Other *(specify below)*:

PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

**SECTION 3: FACTS ABOUT THE PARTY BEING ASKED TO PAY SUPPORT****16. Ability to pay support / earning capacity** (Family Code sections 4320(a) and (c))☐ [See Attachment 16](#)

- a. The earned income of the party being asked to pay support is (*specify*): ☐ unknown
- b. The unearned income of the party being asked to pay support is (*specify*): ☐ unknown
- c. This party ☐ does ☐ does not have the ability to earn enough money to maintain the standard of living described in 4 for both spouses or domestic partners. (*If not, explain why below.*)

- d. Based on the above responses, this party ☐ is ☐ is not able to pay spousal or domestic partner support.

**17. Needs of the party being asked to pay support** (Family Code section 4320(d))☐ [See Attachment 17](#)

Specify the needs of the party being asked to pay support based on the standard of living established during the marriage or domestic partnership, as described in question 4.

**18. Assets and debts** (Family Code section 4320(e))☐ [See Attachment 18](#)

- a. The assets, including separate property, of the party being asked to pay support are (*specify*):

- b. The debts, including separate property, of the party being asked to pay support are (*specify*):

**19. Tax consequences** (Family Code section 4320(j))☐ [See Attachment 19](#)

The immediate and specific tax consequences for the party being asked to pay support (*specify*):



PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

**SECTION 4: BALANCE OF HARDSHIPS AND OTHER FACTORS**

20. **Balance of hardships** (Family Code section 4320(k)) ☐ [See Attachment 20](#)  
 Describe below any special financial difficulties to the party if ordered to pay support compared to the hardship to the party who is asking for support. *(For example, consider the ability of a party to pay support versus the need of the other party to receive financial support).*

21. Indicate below other factors, if any, that the court should consider that are just and equitable in ordering ☐ [See Attachment 21](#)  
 spousal or domestic partner.(Family Code section 4320(n))

Number of pages attached: \_\_\_\_\_