

Name, Address & Telephone Number

In Propria Persona

STANISLAUS COUNTY SUPERIOR COURT, STATE OF CALIFORNIA

In re the Marriage of:
_____, Petitioner
and
_____, Respondent.

Case No. _____
**PREHEARING STATEMENT
(DEFAULT)**

1. STATUS OF CASE

- a. The parties were married on _____ and separated on _____.
- b. This is a marriage of _____ year(s) and _____ month(s).
- c. Respondent was served with a Summons and Petition on _____.
- d. Respondent has not filed a Response and default has been submitted or entered.
- e. There is/are _____ minor child(ren) of this marriage.

2. NAME CHANGE *(Only if you checked Item 7(1) of the Petition for Dissolution)*

The Petitioner requests his/her former name be restored to _____.

3. CHILD PATERNITY *(Select if your child was **born prior to the date marriage** AND checked Item 3(d), 7(d) or both in the Petition for Dissolution)*

Petitioner requests that the Court find the minor child(ren), listed below and named on the Petition, was/were born to the parties prior to their marriage and request that judgment of parentage be entered herein.

<u>Child's Name(s)</u>	<u>Date of Birth</u>
_____	_____
_____	_____

1 **4. CHILD CUSTODY AND VISITATION** *(Select all that apply)*

2 The minor child(ren) of the marriage are:

3 <u>Child's Name(s)</u>	<u>Date of Birth</u>
4 _____	_____
5 _____	_____

6 Petitioner requests that the custody and visitation ordered on _____ shall remain in full force and effect.

7 The child(ren) currently live with the **Petitioner** **Respondent**. The child(ren) visit
8 do not visit with the other parent. Since separation the current visitation pattern has been as follows: *(Example: FATHER IS VISITING ON THE 1ST, 3RD, AND WHEN APPLICABLE THE FIFTH WEEKEND BEGINNING FRIDAY 6PM TO SUNDAY 6PM.)*

9 _____
10 _____

11 I am proposing that the court make the following orders for custody *(Check both boxes for "joint custody")*:

12 Legal custody to: **Petitioner** **Respondent**
13 Physical Custody to: **Petitioner** **Respondent**

14 **Petitioner** **Respondent** to be the primary custodial parent. *(Not applicable is Physical Custody requested to only one parent.)*

15 I am proposing that the court make the following orders for visitation:

16 **Petitioner** **Respondent** to have reasonable rights of visitation as the parties can agree.

17 **Petitioner** **Respondent** to have no visitation rights for the following reasons:

18 _____
19 _____

20 **5. CHILD SUPPORT** *(Select one)*

21 Petitioner requests that the child support ordered on _____ shall remain in full force and effect.

22 Petitioner requests that the Court order child support as set forth in the attachment.

23 **6. SPOUSAL SUPPORT** *(Only if you checked Item 7(f), 7(g) or both in the Petition for Dissolution)*

24 Petitioner requests that the Court find that Petitioner has **WAIVED** spousal support and that Respondent has not requested spousal support. Accordingly, **spousal support is denied** to both parties and the Courts jurisdiction to award spousal support is terminated.

25 Petitioner requests that the Court find the issue of spousal support as to both parties is **RESERVED** effective forthwith upon entry of Judgment.

Petitioner requests that the Court order **permanent spousal support** based on the facts set forth in the attached Spousal Support Questionnaire, pursuant to Family Code Section 4320.

7. PROPERTY DIVISION *(Only if you checked Item 4, 5(a or b) or 7(h) of the Petition for Dissolution)*

Petitioner requests that the Court find that there are no community assets and or debts to divide.

Petitioner requests that the Court order the community assets and debts to be divided as set forth in the attached COMMUNITY PROPERTY DECLARATION (FL-160).

Petitioner requests that the Court confirm the separate property assets and/or debts as set forth in the attached SEPARATE PROPERTY ATTACHMENT.

8. OTHER ORDERS *(Optional)*

Petitioner requests that the Court make other orders as set forth on OTHER ORDERS attachment.

I declare under penalty of perjury under the laws of the State of California that the above stated facts are true and correct.

Dated: _____ (Sign)
_____ (Print name), Petitioner

CHILD SUPPORT

(Use this attachment if the Department of Child Support Services is NOT involved in your case AND no prior court order has been entered. SELECT ONLY ONE.)

The Petitioner requests that the Court order **Petitioner** **Respondent** to pay the sum of \$_____ per month for child support to **Petitioner** **Respondent**, payable on the first day of each month commencing _____. A computer calculation printout is attached as **Exhibit A**.

Petitioner requests that the obligation to pay child support shall continue until further order of the Court, or until the child(ren) marries, dies, is emancipated, or reaches age 18. The duty of support continues as to an unmarried child(ren) who has attained the age of 18 years, if a full-time high school student, and resides with a parent, until the time the child completes the 12th grade or attained the age of 19 years, whichever first occurs.

Petitioner requests that the Court order that child support is **RESERVED** effective forthwith upon entry of Judgment. The request is being made without coercion or duress and in the best interest of the children involved as their needs will be adequately met. The right to support has not been assigned to the County pursuant to Section 11477 of the Welfare and Institutions Code and no public assistance application is pending. A computer calculation printout is attached as **Exhibit A**.

Petitioner requests that the obligation to pay child support shall continue until further order of the Court, or until the child(ren) marries, dies, is emancipated, or reaches age 18. The duty of support continues as to an unmarried child(ren) who has attained the age of 18 years, if a full-time high school student, and resides with a parent, until the time the child completes the 12th grade or attained the age of 19 years, whichever first occurs.

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CHILD SUPPORT

(Use this attachment ONLY if the Department of Child Support Services has established a support order)

Petitioner requests that the Court find the matter of child support is currently assigned to the County of Stanislaus. This case is currently enforced by the Department of Child Support Services under the jurisdiction of Superior Court case # _____, entitled _____ vs. _____, in the amount of \$ _____ per month.

Petitioner requests that the Court finds that sufficient notice has been given and payment shall be made to the Department of Child Support Services. **Only payments made to the Department of Child Support Services shall be considered as payments towards the above obligation.**

Petitioner requests that Respondent shall apply for, obtain, and maintain health insurance coverage of the minor if it is available at no or reasonable costs, and notify the Department of Child Support Services or the local child support agency within 30 days of obtaining such insurance coverage. A health insurance coverage assignment shall issue as provided by law.

Petitioner requests that Petitioner and Respondent are ordered to notify the Department of Child Support Services of any change of address, employment, or employment status within 10 days of such change.

Petitioner requests that the obligation to pay child support shall continue until further order of the Court, or until the child(ren) marries, dies, is emancipated, or reaches age 18. The duty of support continues as to an unmarried child(ren) who has attained the age of 18 years, if a full-time high school student, and resides with a parent, until the time the child completes the 12th grade or attained the age of 19 years, whichever first occurs.

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CHILD SUPPORT

(Use this attachment ONLY if you are receiving public assistance and the Department of Child Support Services has not yet established a support order)

Petitioner requests that the Court find the matter of child support is currently assigned to the County of Stanislaus. This case is pending enforcement by the Department of Child Support Services. A Superior Court case **WILL BE DETERMINED** in the monthly amount **TO BE DETERMINED**.

Petitioner requests that the Court finds that sufficient notice has been given and payment shall be made to the Department of Child Support Services. **Only payments made to the Department of Child Support Services shall be considered as payments towards the above obligation.**

Petitioner requests that Respondent shall apply for, obtain, and maintain health insurance coverage of the minor if it is available at no or reasonable costs, and notify the Department of Child Support Services or the local child support agency within 30 days of obtaining such insurance coverage. A health insurance coverage assignment shall issue as provided by law.

Petitioner requests that Petitioner and Respondent are ordered to notify the Department of Child Support Services or the local child support agency of any change of address, employment, or employment status within 10 days of such change.

Petitioner requests that the obligation to pay child support shall continue until further order of the Court, or until the child(ren) marries, dies, is emancipated, or reaches age 18. The duty of support continues as to an unmarried child(ren) who has attained the age of 18 years, if a full-time high school student, and resides with a parent, until the time the child completes the 12th grade or attained the age of 19 years, whichever first occurs.

SPOUSAL SUPPORT QUESTIONNAIRE

(Complete if requesting a permanent spousal support order)

The Petitioner requests spousal support commencing (date) _____, in the amount **TO BE DETERMINED** by court based upon the following facts:

EARNING CAPACITY/MARITAL STANDARD OF LIVING:

Marketable skills:

I have the following job skills:

Job market for those skills:

I am currently employed with (employer's name) _____ and have been since (date) _____. My position there is as a (position title) _____ earning \$_____ per hour/week/month.

I am currently unemployed. I am making the following attempts to seek employment:

I have been unable to find employment that utilizes my marketable job skills for the following reasons: (Describe the possible need for retraining or education to get more marketable skills or employment, the time and expense to get education/training to develop skills, and if your earning ability was impaired by periods of unemployment during the marriage devoted to domestic duties.)

CONTRIBUTIONS TO SUPPORTING SPOUSE:

During the marriage I contributed to the education, training, career, or license of my spouse or partner as follows:

///
///

vs.

Case No.

1 ABILITY TO PAY/EARNING CAPACITY:

2 The other party has the ability to pay spousal support because: *(Describe current employment and earning*
3 *capacity, all other sources of income other than employment and their current standard of living.)*

4
5
6 NEEDS OF EACH PARTY/MARITAL STANDARD OF LIVING:

7 During the marriage I was able to do the following which I am currently unable to do without an order for
8 spousal support: *(Describe whether you were able to buy property, vehicles or other assets; if you took vacations, had club*
9 *memberships, etc.; and, if you were able to build a savings or incurred debt.)*

10
11 OBLIGATIONS AND ASSETS:

12 I currently have the following assets and obligations:

13
14
15 The other party has the following assets and obligations:

16
17
18 DURATION OF MARRIAGE:

19 We were married on _____, and separated on _____, which is _____
20 year(s) and _____ month(s) of marriage.

21 GAINFUL EMPLOYMENT/INTERESTS OF CHILDREN:

22 My ability to work will will not unduly interfere with the interests of the dependent children in my
23 custody because:

1 AGE AND HEALTH:

2 I am _____ years old and my health is as follows:

5 The other party is _____ years old and his her health is as follows:

8 HISTORY OF DOMESTIC VIOLENCE:

9 There is is not a history of domestic violence between myself and the other party which has been
10 documented by the following: *(Describe any restraining orders, arrests, convictions and any emotional distress and
11 consequences of such violence against you by the other party.)*

13 TAX CONSEQUENCES:

14 I understand that any award of spousal support will be tax deductible to the other party and will be taxable
15 to me.

16 BALANCE OF HARDSHIPS:

17 I understand that the court will be considering the status of both parties based upon the information
18 contained herein.

18 GOAL OF BECOMING SELF-SUPPORTING:

19 I understand that it is the goal of the State of California that a supported party will be self-supporting
20 within a "reasonable period of time" and except in marriages of long duration (10 years or more, or as
21 determined by the court), a "reasonable period of time" to be self-supporting may be one-half the length of
22 the marriage (calculated from date of marriage to date of separation) or as determined by the court.

21 JUST AND EQUITABLE:

22 In considering this request, I ask the court to consider the following additional factors: *(Describe any other
23 factors you would like the court to know in making its order.)*

COMMUNITY ASSETS AND DEBTS

Petitioner requests that the Court order the community assets and or debts are divided as follows:

Petitioner be awarded the following community assets and or debts as his/her sole and separate property:

Description of Asset/Debt	Market Value		Loan or Debt		Net Value
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
Total awarded to Petitioner:					\$

Respondent be awarded the following community assets and or debts as his/her sole and separate property:

Description of Asset/Debt	Market Value		Loan or Debt		Net Value
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
		-		=	
Total awarded to Respondent:					\$

EQUALIZATION OF PROPERTY DIVISION

Equalizing Amount *(Check and complete only if property division was unequal)*

Petitioner requests that the Court find the division of assets and debts results in **Petitioner** **Respondent** receiving \$_____ more in net assets and debts resulting in an equalization payment due to **Petitioner** **Respondent** in the amount of \$_____ which is one-half the difference between the total net assets and debts going to each party.

Payment Terms *(Check and complete if you are NOT waiving an equalizing payment)*

In order to equalize the division of assets and debts, **Petitioner** **Respondent** requests that **Petitioner** **Respondent** pay the sum of \$_____, payable as follows:

\$_____ per month commencing within thirty (30) days of entry of judgment until paid in full.

Per the following terms:

Waiver of Equalizing Payment *(Check box below if you are waiving the right to receive an equalizing payment. Note: you CANNOT waive the Respondent's right to receive an equalizing payment.)*

Petitioner requests that the Court find the division of assets and debts results in Respondent more in net assets and debts than the other party. Petitioner knowingly, freely and without duress or undo pressure **WAIVES** and releases all rights and claims to receive an equalizing payment from the other party at any time.

Equal Division *(Check if the division of property was equal)*

Petitioner acknowledges the division of community assets and debts constitutes an equal division of property.

RETIREMENT BENEFITS

WAIVER OF RETIREMENT BENEFITS

Petitioner requests that the Court order that all benefits accrued during the marriage, now or in the future by Respondent under the employee benefit plan:

[Name of pension or other employee benefit plan]

based on Respondent's employment with _____, shall be awarded to Respondent as his/her sole and separate property. Petitioner will not assert any claim to these benefits, and **WAIVES** and releases all claims, rights, and interest in and to these benefits under the plan, including, but not limited to, survivor benefits and agrees to execute all documents required by the Plan or employer to release said interest.

DIVISION OF RETIREMENT BENEFITS

Petitioner requests that the Court find that based on **Petitioner's** **Respondent's** employment with _____, during the marriage, a community interest has arisen in the following plan:

[Name of pension or other employee benefit plan]

The parties shall cooperate in the preparation of a Qualified Domestic Relations Order (QDRO) or retirement benefits order for each plan, which proposed order(s) shall set forth the respective community interests of the parties and govern the disposition of benefits upon qualification by the plan(s) based upon the *time rule*. The court shall reserve jurisdiction over the preparation of the order(s), and division of said retirement benefits.

SEPARATE PROPERTY

Petitioner requests that the Court find the following assets and or debts shall be established as **Petitioner's** separate property:

Description of Asset/Debt	Date Acquired	Why do you believe this is Separate Property? (Examples: Acquired prior to Marriage, After Separation, Inheritance, Gift or Bequest)

Petitioner requests that the Court find the following assets and or debts shall be established as **Respondent's** separate property:

Description of Asset/Debt	Date Acquired	Why do you believe this is Separate Property? (Examples: Acquired prior to Marriage, After Separation, Inheritance, Gift or Bequest)

vs.

Case No.

OTHER ORDERS:

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