


WELCOME TO...



CLERK PROCESSING

PLEASE TAKE A SEAT



19TH ANNUAL AB 1058
TRAINING
CONFERENCE

Court Clerk Training

MEET YOUR INSTRUCTORS:

HEATHER R. BARAJAS
5th year Training at AB 1058 Conference
Yuba County Superior Court
2009-Present (6 years)

MARISOL C. ALCANTAR
2ND year Training at AB 1058 Conference
Kern County Superior Court
1999-Present (16 years)




GO!

ICE BREAKER

Three Things In Common

The State of California is divided into 58 counties. Although each county has its own local rules, policies, and practices, this class will be taught according to California Code and Rules of Court – which are the same for each Court in California and, under the constitution and governance structure, take precedence over local rules.



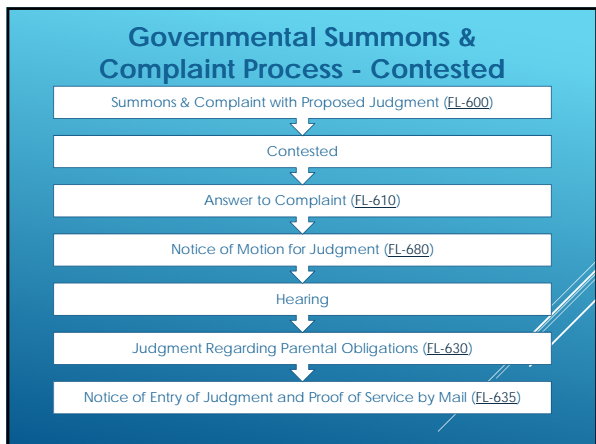
Our goal is to create a sense of uniformity and prevent confusion for filing parties as well as the Courts.

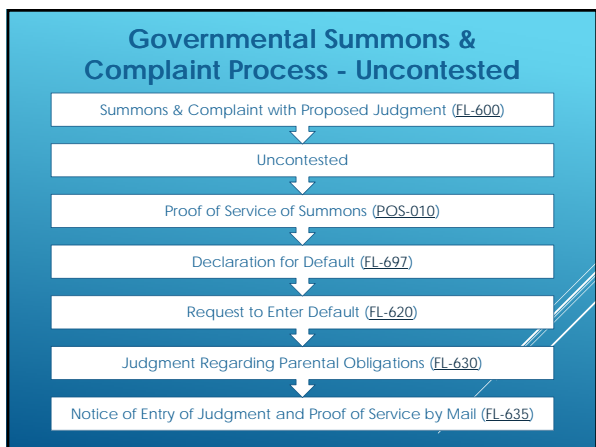
If your Court has a policy, procedure, or local rule that conflicts with one of today's lessons, please follow up with your Supervisor for direction on how you should proceed going forward.

LOCAL RULES vs. CALIFORNIA RULES OF COURT

PROCESSING AB1058 FILINGS

From Standard to Specialized





TYPES OF SERVICE

- ▶ Personal Service
 - ▶ Including Substituted Service
- ▶ Service by Mail
- ▶ Service by Certified Mail (outside of California)

DEFAULT CHECKLIST

- ▶ Documents for filing:
 - ▶ Request to Enter Default (FL-620)
 - ▶ Declaration for Default (FL-697)
 - ▶ Judgment Regarding Parental Obligations (FL-630)
- ▶ Is there an Answer on file?
 - ▶ Yes - Default can not be entered
- ▶ When and how was the party served?

DEFAULT TIME LINE

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Type of Service	When Default May be Entered
Personal	31st day after date of service
Substituted Service	41st day after date of mailing
Notice & Acknowledgement (POS-015)	31st day after NAR signed**
Certified Mail	41st day after date of mailing
Publication	59th day after 1st date of publication

**If NAR is not dated, service is not valid CCP 413.5(b) = can not process Request for Default unless other valid form of service is present.

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REQUEST FOR HEARING AND APPLICATION TO SET ASIDE VOLUNTARY DECLARATION OF PATERNITY (FL-280)

REQUEST FOR HEARING AND APPLICATION TO SET ASIDE VOLUNTARY DECLARATION OF PATERNITY (FL-280)

FC 7575(c), CCP 473

Required for Filing:

- Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity (FL-280)
 - Adopted for Mandatory use
- If an Order Shortening Time was requested, the request must be submitted to a judicial officer for signature prior to filing and being served.
- Fees as required

Why would there be fees?

- If there is not a legal action already filed in the court based on the Pop-Dec, this document will initiate a new case and will be filed as a Family Law case.
- This document will only be filed in an AB1058 case, which does not require filing fees, if an AB1058 case has already been opened.

REQUEST FOR HEARING AND APPLICATION TO SET ASIDE VOLUNTARY DECLARATION OF PATERNITY (CONT'D)

What happens next?

1. The party is required to serve the other parent as well as the local child support agency with a copy of their request and blank response forms.
2. Both the other parent and local child support agency may file a response.
3. A hearing will take place and the judicial officer will rule on the matter.
4. If the POP-Dec is set aside, the court clerk must send a copy of the order to:

California Department of Child Support Services
 P.O. BOX 980218
 West Sacramento, CA 95798-0128

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NOTICE OF MOTION FOR JUDICIAL REVIEW OF LICENSE DENIAL (FL-670)

NOTICE OF MOTION FOR JUDICIAL REVIEW OF LICENSE DENIAL (FL-670)

FC17520

Required for Filing:

- Notice of Motion for Judicial Review of License Denial (FL-670)
 - Adopted for Mandatory Use

Note:

- The Party **must** complete item #1, which refers to the date they met with the local child support agency and the agency denied a release of their license.
- Per FC 17520(k), the court must hold an evidentiary hearing within 20 **calendar** days of the motion being filed.
- The party must serve the local child support agency no later than seven (7) days after filing.

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REQUEST FOR TELEPHONE APPEARANCE (FL-679)

REQUEST FOR TELEPHONE APPEARANCE (FL-679)

CRC 3.670, CRC 5.324

Required for Filing:

- Request for Telephone Appearance (FL-679)
 - Adopted for Mandatory Use
- Per page 2 of 3, item 11, the party acknowledges they must also file and serve an I&E as well as any "...necessary pleadings"; therefore, they may also be required to file or have filed previously:
 - Response to Governmental Notice of Motion (FL-685)
 - Income and Expense Declaration (FL-150)

REQUEST FOR TELEPHONE APPEARANCE (CONT'D)

When is a telephonic appearance not allowed?

Per CRC 5.324:

(d) Except as permitted by FC 4930, a telephone appearance is not permitted for any of the following :
(1) Contested trials, contempt hearings, orders of examination, and any matters in which the party or witness has been subpoenaed to appear in person; and
(2) Any hearing or conference for which the court, in its discretion on a case-by case basis, decides that a personal appearance would materially assist in a determination of the proceeding or in resolution of the case.

(Subd (d) amended effective January 1, 2008.)

REQUEST FOR TELEPHONE APPEARANCE (CONT'D)

Who can file a request for telephone appearance?

▶ According to CRC 5.324(e)(2):

"A party, an attorney, a witness, a parent who has not been joined to the action, or a representative of a local child support agency or government agency who wishes to appear by telephone at a hearing must file a request with the court clerk at least 12 court days before the hearing...."

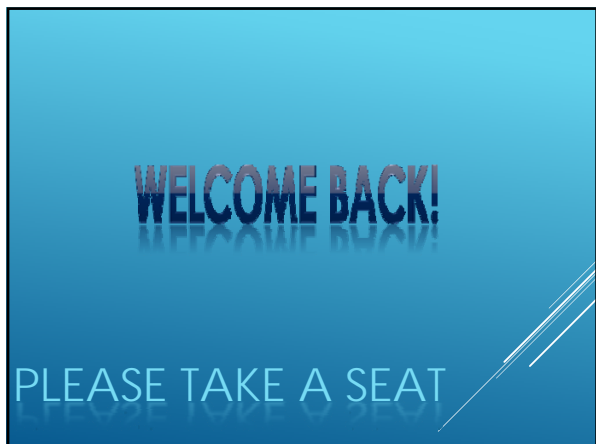
Governmental Request for Telephone Appearance

Request for Telephone Appearance (FL-679)
This form must be filed 12 court days before the hearing and served on the other parties.

Fee Waivers (FW-001 AND FW-003) *If applicable for Court Call

Opposition to telephone appearance request.
Done in declaration format, filed 8 court days before the hearing, and served on the other parties. It must be delivered to the other parties by close of the next court day after the form is filed.

Court's Decision on Telephone Appearance
5 court days before the hearing the court will give notice of its decision on the request either by telephone, fax, express mail, e-mail, in person, or other reasonable means to ensure notification.



► Filed with Assignment of Support in Existing Cases as:
► Notice of Assigned Support

NOTICE RE PAYMENT OF SUPPORT

► Changes Managing County not Necessarily Court

► Filed in Existing LCSA Cases

► Different that the Notice Regarding Payment of Support (FL-634)

NOTICE OF CHANGE OF RESPONSIBILITY FOR MAINTAINING CHILD SUPPORT CASE

CONSOLIDATION PRIORITY

RELEVANT CODE SECTIONS: CCP 1048(A), CRC 5.365, FC 17408

<p><u>Cases</u></p> <ul style="list-style-type: none"> IV-D & Dissolution IV-D & Domestic Violence Dissolution & DV IV-D & Paternity Paternity & DV DV & Petition for Custody* IV-D & Petition for Custody* Dissolution & Petition for Custody* 	<p><u>Parent Case</u></p> <ul style="list-style-type: none"> Dissolution IV-D Dissolution Paternity Paternity Petition for Custody* Petition for Custody* Dissolution
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*The Petition for Custody is generally filed when the parties are married (do not wish to file dissolution) and there is no other case involving the parties; the parties have signed a Voluntary Declaration of Paternity; or there is a DCSS matter with a paternity judgment on file. By its very nature, the Petition for Custody would be subordinate to any other action, except DV or IV-D Case, as it does not establish parentage or address dissolution issues.




ENFORCEMENT


- Order to Show Cause and Affidavit for Contempt FL 410
 - Affidavit FL 411 (Revised) FL 412 (DVS)
 - Completion/Signatures
 - Service must be on Party
- Claim of Exemption FL 466 and Notice of Opposition and Motion to Dismiss FL 477
 - Must be filed by DCS or Child in other venue of Opposition by party
 - Must be Judgment Order usually LCA
 - Includes Opposition to Claim
 - Hearing/Order must occur 20 days from filing of Motion
 - Includes Order to Show Cause hearing on contempt not less than 10 days prior to hearing
 - Service: Enforcement
- Request for Judicial Determination of Arrearages/Adjustment Due to the Debtor FL 576
 - Must be completed on Arrear
 - Service: Enforcement/DCS
 - Hearing on Arrearage/Adjustment
- Vol of Enforcement FL 578
 - Completion/Signatures
 - Service on Enforcement/DCS

- Notice of Motion for Judicial Review of License Denial FL 670
 - Completed by Party
 - Dated/Signed
 - Hearing held within 20 days of filing
 - Proof of service on Enforcement Agency - At Least 7 Calendar Days of Filing
 - Clerk: Office Does NOT Provide Notice
- Request for Hearing/Recovery Earnings Assignment FL 450 (Revised) Notice Regarding Health Insurance Adjustments FL 470
 - Completed by Party within 10 days of Disposal
 - Hearing/Notice (HE or Financial Statement)
 - Dated/Signed
 - Hearing/Order within 20 days of Filing
 - Clerk: Office provides Notice of the Hearing to LCAVA (unless no later than 10 days after the hearing)
 - Conditions of Making Payment
 - Other Parties on Request: Notice Disposed Also
 - LCAVA Not Withholding Order upon Notice
- Request for Hearing/Registration of Support Order FL 574
 - Completed by Party within 20 days of Disposal
 - Dated/Signed
 - Hearing/Order on Making Payment
 - Completion/Signatures
 - Clerk: Office provides Notice of the Hearing to LCAVA (unless no later than 10 days after the hearing)
 - Conditions of Making Payment
 - Hearing/Order within 10-15 days of Disposal (unless Court Order otherwise)

ABSTRACT OF SUPPORT JUDGMENT (OPPOSED BY MOTION)



INCOME WITHHOLDING ORDER FOR SUPPORT (OPPOSED BY MOTION/REQUEST FOR HEARING)



ADMINISTRATIVE ENFORCEMENT

RULE 9.125 IN DCSS

- ▶ Court May Waive Requirement
- ▶ Problem area in DCSS
 - ▶ Rule Designates, in relevant part:
 - ▶ Contested Cases-OAH must be exchanged and reviewed for Form and Content Prior to Submission
- ▶ Handling of Compliance
 - ✘ Varies from Court to Court
 - ✘ Commissioner Input should be obtained
 - ✘ Subject for Monthly Meetings
- ▶ Proposed New Rule

